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**PLANNING & DEVELOPMENT DEPARTMENT  
STAFF REPORT  
SEPTEMBER 10, 2024**

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<b>Application #:</b>	<b>2024-09</b>
<b>Application Name:</b>	<b>Title 17 – Land Use Code Amendments</b>
Application Type:	Land Use Code Amendment
Representative:	City of Fruita
Description:	This is a request for approval of amendments to Title 17 of the Fruita Municipal Code concerning Conditional Uses in Section 17.05.090, Call Up Provisions in Section 17.21.030 (2), Appeals in Section 17.25, and the Exempt Signs in the Sign Code in Section 17.15.040.

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### **BACKGROUND**

These proposed amendments to Title 17 of the Fruita Municipal Code, also known as the Fruita Land Use Code, include Fuel Sales in the Downtown Mixed-Use (DMU) Zone, Call-Up Provisions, Appeals, and the Sign Code. A description of each amendment is included below.

Following direction from the City Council, Staff put together the amendments and presented them to the Planning Commission on July 7, 2024, and then presented them to City Council on July 23, 2024, for final direction. Staff received direction to move forward with the proposed amendments with a few changes to the Appeals and Sign Code which have been included.

#### **Conditional Use Permits:**

The proposed amendment shows a change from Fuel Sales as an Allowed land use to a Conditionally Allowed Use in the DMU zone. This means that if a Fuel Sales business is proposed in the DMU zone, a Conditional Use Permit would be required. This amendment is proposed for Section 17.05.090.

#### **Call-Up Provisions:**

This code language needs to be relocated from Section 17.21.030(2) to Section 17.07.040 (G). The reason for relocating the language from the Subdivisions chapter to the Standard Review Procedures chapter is because the language now includes Site Design Review as

a project subject to call up. These call-up provisions will allow the Community Development Director to decide whether a project or application should be called up. The call-up provisions would likely not be used for every project.

### **Appeals:**

The proposed changes will ensure that if an application for appeal of a decision the application is not reheard. The proposed changes reflect best practices from around the state and mean that an appeal is based on whether or not a decision or determination shall not be reversed or modified unless there is a finding that there was a denial of due process or the administrative body has acted arbitrarily and capriciously, exceeded its jurisdiction or abused its discretion.

### **Sign Code:**

The proposed amendments to the Sign Code are directly related to Supreme Court rulings regarding compliance with the First Amendment to the United States Constitution regarding municipal regulation of signs across the nation. With this ruling, municipalities are not allowed to regulate signage based on what the sign says. However, municipalities still can regulate signage location, size, height, brightness, and quantity. The proposed changes are to Section 17.15.040 Exempt Signs section of the Land Use Code. The Exempt Sign regulations explain the types of signage which do not require a Sign Permit.

## **REVIEW OF LAND USE CODE REQUIREMENTS:**

**17.09.080 (B) Approval Criteria. Amendment to this Title may be made upon a finding that the amendment is consistent with the city's goals, policies and Comprehensive Plan.**

It is the commitment of Staff and City Council to continue to review the Land Use Code to help ensure that the regulations reflect the best promotion of Fruita's Core Services. The Core Services (Quality of Place, Economic Health, and Lifestyle) aim to meet the intents of the City's vision contained in the Comprehensive Plan which states, "The City of Fruita values quality of place. It's an inclusive city, with a small-town feel and vibrant downtown, surrounded by public lands. People love to live, work, and play in Fruita because the City facilitates community, safe neighborhoods, family-friendly events, and walking and biking. The City governs in a way that's responsive to its citizens and prioritizes high-impact services and projects. Fruita fosters a fun and funky ambiance around the arts, agriculture, and recreation." (Page 3, Comprehensive Plan).

Although some of the proposed amendments are required by law to be modified, the proposed amendments do not appear to deviate from the approval criteria needed to make a Land Use Code amendment. Staff believes these amendments meet this criterion.

## **REVIEW COMMENTS:**

No reviewer expressed concerns regarding this proposed Land Use Code amendments.

**PUBLIC COMMENTS:**

At this time, no written public comments have been received regarding this proposed Land Use Code amendment.

**LEGAL NOTICE:**

17.07.040 (E)(3)

When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

Legal Notice in Paper- August 23, 2024 (18 days prior to public hearing)

Posted Legal Notice- August 23, 2024 (18 days prior to public hearing)

**STAFF RECOMMENDATION:**

Because the proposed amendments meet or can meet Section 17.09.080 (B) of the Fruita Land Use Code, Staff recommends **approval** of the proposed Land Use Code amendments as proposed.

**SUGGESTED MOTION:**

Mr. Chair, because the proposed amendments meet or can meet Section 17.09.080 (B) of the Fruita Land Use Code, I move we recommend (**approval**/denial) of the proposed Land Use Code amendments to the Fruita City Council.

<b><u>FRUITA PLANNING COMMISSION: SEPTEMBER 10, 2024</u></b>
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<b><u>FRUITA CITY COUNCIL: OCTOBER 1, 2024</u></b>
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