



Community Matters Institute

Tel: ++303 730 0396

barbcole@communitymattersinstitute.org

MEMO

To: Palmer Lake Planning Commission
 Thru: Dawn Collins, CMC, Town Administrator/Clerk
 From: Barb Cole, Executive Director, CMI
 CC: Mike Davenport, CMI, Mark Morton, GMS, and Scott Krob, Town Attorney
 Date: September 13, 2024
 RE: Article 2- Zone Districts Overview and Responses to Planning Commissioner Comments and Suggestions

Your packet includes the following items:

1. Overview and Responses to Planning Commission:
 - a. Overview of the Code (statutory considerations)
 - b. Review of Land Uses per Zone District- table for review
 - c. Review of Dimensional Standards – table for review
 - d. Specific answers to Amy, Bill, and Susan’s comments are highlighted in yellow and underlined.
2. Specific questions for the PC (see below_
3. ARTICLE 2 draft in progress
4. Bill Fisher’s graphic on height in the downtown district.
5. Draft PD ordinance.

Question # 1: Please review the list of principal uses for each zone district using the newly created land use table. Remember that all terms that are not commonly used will be included in Article 7: definitions.



Do any principal uses need to be added?

1. Light assembly including arts/crafts shops such as woodworking, pottery, jewelry or other craft-based industries – add principal to C1/BI MU 2. Medical and dental clinics – add principal to C1/ BI MU **I am okay with adding these- listed use and it appears it is already on the list**

3. Retail sales – add principal to CC/D MU & C2 / VMU – **has been added**
4. retail establishments on the ground floor level – add principal to C1/BI MU & C2/VMU- **I don't think we need this?? If you allow retail it doesn't always need to be on the ground level**



Do any principal uses need to be removed?

1. Duplexes in R3/R SL – remove principal & change to conditional- **okay but understand there are already duplexes in R-3**
2. Multi-unit attached residential dwellings not to exceed 6 units per structure with or without zero property lines – remove principal from R3/R SL (reduce to 4 units per structure for R4/R MF) **NO- this is not workable for multi-family- let dimensional requirements dictate density- MD- what do you think about 4 units per structure? Appropriate for TOPL--**
3. Bed and breakfast establishments – remove principal and change to conditional for RA, RE/ R-LL & R-4/R MF – **looks like they made this change**
4. Recreation and entertainment, outdoor- remove principal and change to conditional for C1/BI MU – **WOW- so a golf course is a conditional use?**
5. Vehicle Wash – remove principal and change to conditional from C1 /BI MU
6. Recycling or donation drop off – this can become a junk yard so we would like to remove completely - **Junkyards are defined in the Nuisance section of most Codes- There will be site design standards so this will not be an issue. Suggest screening required, 100 ft from residential zone, and if 300 ft from a residential zone district or residential use cannot operate between 7 pm and 8 am.**
7. Storage containers or pods – would like to remove completely - **Okay**
8. Remove skeet shooting – **existing code- remove**
9. Private open spaces, parks & common areas in CC/D MU – with so few parcels available for commercial business available in downtown corridor, we did not think it would be a good use of space for private parks - remove – **Okay but public is okay and common areas should be encouraged.**
10. Remove motorbike/snowmobile from principal use in O1/REC-OS – **in existing code- agree-**
11. Solar energy systems – community scale - Barbs comment in the statutory considerations recommends allowing solar farms as accessory use. Is this a legal requirement or can we make this a conditional use?
12. Utilities, major facilities – remove – **You cannot remove this- you can control impacts – There will be screening standards as well as landscape standards in Article 3**
13. Utilities, minor facilities - Is this a legal requirement? If so, we want to make sure we address development standards related to screening, etc. **Yes, and needed to provide infrastructure!**
 - **Utility facilities. Buildings, telephone exchanges, sewage pumping stations, gas, water and electrical substations, regional storm drainage detention facilities and similar facilities located on a specific site and necessary for the operation of a utility. This definition includes major utility facilities and minor utility facilities.**
 - **Utility facilities, major. Facilities that potentially have a significant impact on adjacent properties, such as administrative offices and operation centers; electric generation facilities; oil and gas transmission facilities; overhead electrical transmission lines, sewage treatment plants; or sanitary landfills.**

- **Utility facilities, minor. Facilities that do not potentially have a significant impact on adjacent properties and are necessary to provide essential services, such as substations (transmission and distribution); pump stations; water towers and reservoirs; public wells; outfalls; catch basins, retention ponds; water treatment facilities; overhead distribution lines and poles; underground lines and pipes, including water, gas or wastewater trunk lines; transformers and regulator stations; private on-site facilities, such as OSWTS, wells and well houses, etc.**



Are there any redundancies?

1. Lodging/accommodations – can we simplify into one category? **Commercial accommodations is anything over 20 rooms/units- again these terms will be defined in Article 7**
2. Pg 22 has “Accessory structures that are customarily incidental to the permitted principal use and are subordinate in size to the principal
3. structure and are located on the same lot” and pg 23 has “Uses that are customarily incidental to any of the permitted principal uses and are located on the same lot” – we did not understand the difference in this – **We will correct this**



What terms would you like to have defined?

1. Affordable housing (related to Prop 123)
2. Commercial accommodation – is this a hotel? **Commercial accommodations. A building or group of buildings containing 20 or more guest units providing transient accommodations to the general public for compensation. Includes hotel, motel, tourist home, boarding house, lodging house, and dormitories, but not room and board as an accessory use.**
3. Wholesale operations – is this like a Costco/Sams Club? **No this is considered retail- Wholesale Operations establishment means establishments for the sale of merchandise at the wholesale level, including those that warehouse- this includes a number of existing businesses in the M-1 zone**
4. Stadium – **This term is in the existing code-- Lets change the term to Outside seating area with no more than 250 seats**

Question # 2: Please review the list of accessory uses for each zone district.



Do any accessory uses need to be added?

1. Accessory structures that are customarily incidental to the permitted principal use and are subordinate in size to the principal structure and are located
2. on the same lot – PC ok with accessory use in any zone **OKAY**
3. Private garage subordinate in size to the principal structure – add accessory in RA & RE/R-LL **-OkAy**

Do any accessory uses need to be removed?

None

Clarification: As the Code is currently drafted, you can have an attached garage as well as a detached garage or other accessory structure because the attached garage is not an accessory structure? (Bill's question)- Is this acceptable?

Yes

Note: Any structure under 200 sq. ft. does not need a building permit. However, the property owner still needs to comply with the impervious surface standard. This will be the controlling standard.

Question # 3: Please review the list of conditional (review) uses for each zone district.

Do any uses need to be added?

1. Duplexes in R3/R SL – remove principal & change to conditional -**Okay**
2. Bed and breakfast establishments – remove principal & change to conditional in RA, RE/ R-LL & R-4/R MF -**okay**
3. Daycare center, adult or child - Is this an “in-home” daycare? **No- we have changed this term to Adult Day care and senior centers and much of this is controlled by the CDPHE--If so, PC was comfortable allowing as Conditional use in any R Zones – this is regulated by State statute and they now require any childcare center with 5 or more children get a license. As noted, we recommend that anything with less than 5 children be a permitted accessory use in all zones and anything 5 or more will be a conditional use.**
4. Lodging and meeting facilities, including hotels, motels and extended stay lodging, reception and banquet halls, event and conference centers, and excluding RV parks - Add conditional use to CC/D-MU, lots of small towns have been successful with downtown lodging facilities -**Okay**
5. Recreation and entertainment, outdoor – remove principal & change to conditional -**Okay**
6. Vehicle wash – remove principal from C1/BI MU and change to conditional -**Okay**
7. Any permanent accessory structure that exceeds 720 square feet per lot – ok with conditional use in any zone (as long as it meets requirements) -**Okay**

Do any uses need to be removed?

1. Childcare facilities (this is not home care) - PC was unclear on the logic for allowing non-in-home/commercial childcare in some residential zones but not others? Our thoughts were that a commercial business that is not an in-home childcare facility would not make sense in any residential zone – *see State law Child Care Centers:*

“Childcare centers”, less than 24-hour programs of care defined at Section 26-6-102(1.5), C.R.S., include the following types of facilities:

1. *A “large child care center” provides care for sixteen (16) or more children between two and one-half (2-1/2) and sixteen (16) years of age.*
2. *A “small child care center” provides care for five (5) through fifteen (15) children between two (2) and sixteen (16) years of age.*
3. *An “infant program” provides care for children between six (6) weeks and eighteen (18) months of age.*
4. *A “toddler program” provides care for children between the ages of twelve (12) months (when walking independently) and thirty-six (36) months of age.*
5. *“Preschool” is a part-day child care program for five (5) or more children between the ages of two and one-half (2-1/2) and seven (7) years of age.*
6. *“Kindergarten” provides a program for children the year before they enter the first grade.*
7. *A “school-age child care center” means a child care center that provides care for five (5) or more children who are between five (5) and sixteen (16) years of age. The center’s purpose is to provide child care and/or an outdoor recreational experience using a natural environment. The center operates for more than one week during the year. The term includes facilities commonly known as “day camps”, “summer camps”, “summer playground programs”, “before and after school programs”, and “extended day programs.” This includes centers operated with or without compensation for such care, and with or without stated educational purposes.*
 1. *A “building-based school-age child care program” means a child care program that provides care for five (5) or more children who are between five (5) and sixteen (16) years of age. The center is located in a building that is regularly used for the care of children.*
 2. *A “mobile school-age child care program” provides care for five (5) or more children who are at least seven (7) years of age or have completed the first grade. Children move from one site to another by means of transportation provided by the governing body of the program. The program uses no permanent building on a regular basis for the care of children.*
 3. *An “outdoor-based school-age child care program” provides care for five (5) or more children who are at least seven (7) years of age or have completed the first grade. This program uses no permanent building on a regular basis for the care of children. Children are cared for in a permanent outdoor or park setting. 12 Colo. Code Regs. § 2509-8:7.701.2(C).*

Child care centers, less than 24-hour care (referred to as “centers”), provide comprehensive care for children when the parents or guardians are employed or otherwise unavailable to care for the children. Child care centers may operate twenty four (24) hours a day, but the children are cared for at the center fewer than twenty four (24) hours a day. 12 Colo. Code Regs. § 2509-8:7.702.1(A).

Child care centers, less than 24-hour programs of care, include the following types of facilities:

1. *A “large child care center” provides care for 16 or more children between the ages of 2 1/2 and 18 years.*
2. *A “small child care center” provides care for 5 through 15 children between the ages of 2 and 18 years.*
3. *An “infant program” provides care for children between the ages of 6 weeks and 18 months.*
4. *A “toddler program” provides care for children between the ages of 12 months (when walking independently or with a health care provider’s statement indicating developmental appropriateness of placement in a toddler program) and 36 months.*
5. *“Preschool” is a part-day child care program for 5 or more children between the ages of 2 1/2 and 7 years.*
6. *“Kindergarten” provides a program for children the year before they enter the first grade.*
7. *“Full day program” enrolls children for five (5) or more hours per day.*
8. *“Part day program” enrolls children for a maximum of up to five (5) hours per day. Individual children shall not attend more than one (1) five (5) hour session per day.*

9. A “drop-in child care center” provides occasional care for 40 or fewer children between the ages of 12 months and 13 years of age for short periods of time not to exceed six (6) hours in any 24-hour period of time or fifteen (15) hours in any seven (7) day period of time. 12 Colo. Code Regs. § 2509-8:7.702.1(B).

Family Child Care Homes

“Family Child Care Home”, defined at Section 26-6-102(4), C.R.S., means a type of family care home that provides less than 24-hour care for two (2) or more children on a regular basis in a place of residence. Children in care are from different family households and are not related to the head of household. 12 Colo. Code Regs. § 2509-8:7.701.2(A)(1).

A “Family Child Care Home” (FCCH) is a type of family care home that provides less than twentyfour (24) hour care at any time for two (2) or more children that are unrelated to each other or the provider, and are cared for in the provider’s place of residence. 12 Colo. Code Regs. § 2509-8:7.707.22(A).

In a regular (FCCH) home, care may be provided for six (6) children from birth to eighteen (18) years of age with no more than two (2) children under two (2) years of age. 12 Colo. Code Regs. § 2509-8:7.707.22(B).

A three (3) under two (2) license is a type of license that allows a provider to care for six (6) children from birth to eighteen (18) years of age with no more than three (3) children under two (2) years of age, with no more than two (2) of the three (3) children under twelve (12) months; the capacity includes the provider's own children under twelve (12) years of age. 12 Colo. Code Regs. § 2509-9:7.707.22(C).

An infant/toddler license is a type of family care home that provides less than twenty-four (24) hour care only for children who are between birth and three (3) years old. 12 Colo. Code Regs. § 2509-9:7.707.22(D).

A large child care home is a family child care home that provides care for seven (7) to twelve (12) children. 12 Colo. Code Regs. § 2509-8:7.707.22(E).

Residential Child Care Facilities

Residential Child Care Facility

1. “Residential Child Care Facility”, defined at Section 26-6-102(8), C.R.S., shall provide twenty-four (24) hour residential group care and treatment for five (5) or more children between the ages of three (3) and eighteen (18) years old and for those persons to twenty-one (21) years old who are placed by court order prior to their eighteenth birthday. A residential child care facility must offer opportunities for a variety of experiences through a group living program and specialized services that can be used selectively in accordance with an individual plan for each child. A residential child care facility includes “Shelter Care Facilities”, “Residential Child Care Facilities”, and “Psychiatric Residential Treatment Facilities”.
2. “Transition Program” may be a component of an RCCF program in which the child is residing in the RCCF part of the time and in a living situation that child is expected to move to after treatment in the RCCF is completed. The purpose of transition is to enable the child to transition to the home or a less restrictive setting in a manner that prepares the child for success in the new setting. 12 Colo. Code Regs. § 2509-8:7.701.2(G).

A “residential child care facility (RCCF)” shall provide twenty-four (24) hour residential group care and treatment for five or more children, between the ages of three (3) and sixteen (16) years old and for children from sixteen (16)-eighteen (18) years old and for those persons to twenty-one (21) years old who are placed by court order prior to their eighteenth birthday. A residential child care facility shall offer opportunities for a variety of services that can be used selectively in accordance with an individual plan for each child. A residential child care facility is operated under private, public or nonprofit sponsorship. 12 Colo. Code Regs. § 2509-8:7.705.1.

Day Treatment Centers

A “Day Treatment Center”, defined at Section 26-6-102(2.4), C.R.S., means a facility that provides less than twenty-four (24) hour care for groups of five (5) or more children three (3) to twenty-one years of age. Nothing

prohibits a day treatment center from allowing a person who reaches twenty-one (21) years of age after the commencement of an academic year from attending an educational program at the day treatment center through the end of the semester in which the twenty-first birthday occurs or until the person completes the educational program, whichever comes first. The center must provide a structured program of various types of psychosocial and/or behavioral treatments to prevent or reduce the need for placement of the child out of the home or community. This definition does not include special education programs operated by a public or private school system or programs that are licensed by other regulations of the Department of Human Services for less than twenty-four (24) hour care of children, such as a child care center or part-day preschool. 12 Colo. Code Regs. §§ 2509-8:7.701.2(E), 7.706.1.

2. Any establishment with a drive-thru facility – remove conditional from CC/ DMU – **this needs to remain a conditional use because of the CDOT access requirements.**
3. Wholesale operations provided that traffic impacts can be mitigated – if this is something like a Costco, we would like to remove – **NO see above**

Noted ADUS are now a conditional (review) use in all R zones per State Law. Howe

Should we change the name to **Conditional Review Uses** to help applicants understand that impacts need to be mitigated?
 Yes, makes sense

The following is found at the beginning of the Chapter (pg. 5): “Conditional uses are uses that may be allowed in the zone district subject to any applicable regulations. Conditional uses may be permitted if it can be demonstrated that the location and the site proposed for the use is appropriate, supports the purposes and intent of the zone district, and is compatible with the surrounding area. Conditions to mitigate impacts are attached to the Conditional Use Permit. Conditional uses require the issuance of a permit approved by resolution after a duly noticed public hearing by both the Planning Commission and Board of Trustees.”

Question # 8: M-1 zone district accommodates Adult oriented uses, Marijuana facilities, and healing centers. Within the M-1 district, a number of businesses including those along County Line Road are an example of a success. Should the district boundaries of the north end M-1 be modified?



Yes Clean up by removing small zoned property that is not M-1 (R-A, R-10,000 and C-1 on the other side of the tracks) Comments – This constitutes the only rezoning that will need to be done but we are not concerned because the current use is residential

SOLAR ENERGY:

Bottom line- you can control the size in residential districts, but you need to allow ‘solar farms’- in other jurisdictions we have controlled large solar facilities by land size- usually 10 acres or more.

The size of the solar energy system can be regulated by KW hours produced.

Definitions suggested (kilowatts can be adjusted-The average American household needs 15–20 solar panels to meet their energy needs. Most solar panels produce around 2 kWh of electricity per day):

Solar energy *system* means a device or facility that converts the sun's radiant energy into thermal, chemical, mechanical, or electric energy to heat and/or cool indoor space or domestic water and/or provide electric power and light.

Solar energy *system accessory* means a device or facility that converts the sun's radiant energy into thermal, chemical, mechanical, or electrical energy and has a combined name plate DC rating of less than fifteen (15) kilowatts, and includes the equivalent kilowatt measurement of energy for systems.

Solar energy *system, large* means a solar energy system requiring a minimum ten (10) acre lot with twenty-five (25) maximum height limit.

Solar energy *system, small* means a solar energy system that has a combined name plate DC rating of fifteen (15) kilowatts to five hundred (500) kilowatts and includes the equivalent kilowatt measurement of energy for systems.

24-38.5-119. Streamlined **solar** permitting and inspection grant program - creation - eligibility - fund created - gifts, grants, or donations - reporting - legislative declaration - definitions - repeal.

Colorado law (**C.R.S. 38-30-168**) prohibits HOAs from restricting solar device installation.

Colorado’s 1979 Solar/Wind Easements and Rights Law (**CRS § 38-30-168**) renders void any covenants, restrictions, or conditions that prohibit “renewable energy generation devices” or “energy efficiency measures.” Renewable energy generation devices include solar energy devices and wind-electric generators that meet the state’s interconnection standards.¹ Energy efficiency measures include awnings, attic fans, energy-efficient lighting, and clotheslines, among other technologies. Some exceptions are made for both renewable energy devices and energy efficiency measures for safety requirements and aesthetic purposes that do not significantly increase the cost of the device or decrease its performance.