



Arapahoe County, Colorado

Land Development Code Assessment/Audit

December 2015

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APPENDIX 1: CRITERIA USED IN PUD PROCESSING AND APPROVAL DETERMINATIONS..... ERROR! BOOKMARK NOT DEFINED.

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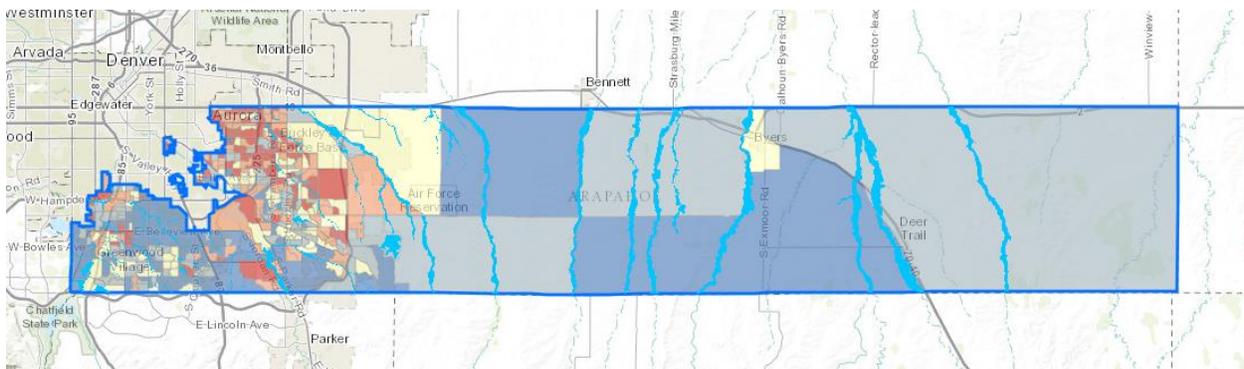
APPENDIX 2: CHECKLISTS USED IN PUD PROCESSING AND APPROVAL DETERMINATIONS..... ERROR! BOOKMARK NOT DEFINED.

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1. INTRODUCTION

1.1 Scope of the Project

Located on the southeastern flank of the Denver metro area, Arapahoe County stretches east-west across a very wide spectrum of land uses and lifestyles. While the western end of the county contains much of the Denver Technology Center (and the jobs and high end housing that go with it), the eastern two-thirds of the county contains large areas of rural, grazing, and agricultural lands. The county's population of over 600,000 is represented by a five-member Board of County Commissioners and applications for development is managed by the Planning and Land Development Division of the Public Works Department. Although the incorporation of the City of Centennial in 2001 removed much of the urban development in the western end from direct land use regulation by the county, there are still significant areas of urbanized land interspersed with the lands of both Centennial and Aurora and still subject to county land use control. As in many counties, the need to design and operate a system of land use, zoning, and subdivision regulations that works well for both urbanizing and rural areas is a challenge.



Clarion Associates has been retained by Arapahoe County to prepare an assessment of the county's current Land Development Code as a first step in possible future amendments to that Code. The project was broken down into three Tasks.

- Task 1 – Understanding and Describing the Problem
- Task 2 – Preparing and Presenting a Draft Assessment
- Task 3 – Revising, Prioritizing, and Presenting a Final Assessment

Task 1 was completed in September, 2015, and involved numerous meetings with property owners, County staff, land developers, special district/service provider staff. A web-based description of the project and on-line survey was also prepared, and the responses to that survey were compiled. Task 2 is the preparation of a Draft Assessment (this document) for review by stakeholders, county staff, and potentially also by appointed and elected officials, in November 2015. Task 3 will include revisions to the Draft Assessment and prioritizing its recommendations by the end of 2015.

1.2 Focus of the Project

In order to respond to those comments and critiques made by landowners and stakeholders, Clarion Associates' Assessment of the Arapahoe County Development Code will focus:

- Primarily on the County's system for approving and amending Planned Unit Developments (PUDs), which is the type of application most commonly used for development review in Arapahoe County; and
- Secondarily on the remaining portions of the Development Code, including zone districts, development standards, and non-PUD development review procedures, as well as enhancing the user-friendliness of the entire Development Code.

2. STAKEHOLDER INPUT RECEIVED

The recurring major issues raised by stakeholders interviewed in September 2015, and by those responding to the on-line survey, are summarized below:

2.1 Major Concerns

Concerns emphasized or raised repeatedly by stakeholders are listed and discussed in this section.

The PUD Process is Too Complicated

- The PUD process is used for almost all new development and the process of PUD approval – and then for repeated PUD amendments -- is time-consuming for both developers and staff. Results from the PUD process are inconsistent and that the outcomes sometimes lead to standard but not excellent development.
- The PUD review process should and can be speeded up. The timeframes for review are not well understood, appear to be poorly coordinated, and seem to take longer than indicated in the Code and are not well understood. In the past, the county did not clearly communicate that the 3-2-1 engineering review process (e.g., three weeks for initial review, then two weeks for review of the revised documents, and one week for review of the re-revised documents) begins after, and is in addition to, the timeframes needed for the land use approval (PDP or FDP) itself. In addition, the county may not have adequately communicated that there is a 14-day initial review for application completeness and initial review that is not spelled out in the Code. There may be some inconsistency in how the review process is managed depending on the planner managing the application.
- There need to be fewer public hearings and more administrative approvals. Under current regulations a Final Development Plan (FDP) is approved by BOCC and can be subject to a public hearing even when the approved Preliminary Development Plan (PDP) is very detailed and the FDP is consistent with that detail. A detailed PDP should allow FDPs to go through an administrative review only, similar to the process currently used in the County's Master Development Plan (MDP) PUD process. More administrative approvals would allow for lower review fees.

Too Much Detail is Required Too Early in the Process

- Too much planning and engineering detail is required too early in the process. Only conceptual levels of detail and design should be required at the Preliminary Development Plan stage – enough to know that approvable designs are possible at the Final Development Plan or Administrative Site Plan stage. Engineers prefer more detail up front, but this requires expensive engineering expenses at a time when site design details are not known and often results in high expenses for re-engineering as those details become clearer at the Final Development Plan or Administrative Site Plan stage. Another concern was the level of technical engineering detail required for Planning Commission and BOCC review when those bodies may not have the

technical capacity to review the level of detail included in those documents. At the same time, some interviewees emphasized that an overly general early submittal does not provide staff enough information/detail for a good response. This can result in poor site design decisions – particularly for trails, parks and open space – that could be avoided with more detail early in the process.

- Interestingly, while the MDP PUD process (currently used only for business and industrial parks) was sometimes mentioned as a model of a simpler PUD system, the primary user of that approval system indicated that one tradeoff is that detailed engineering drawings need to be produced at the earlier (MDP) stage in order for the applicant to know that a conforming Administrative Site Plan will, in fact, be possible.

The PUD Amendment Process Needs to be Simplified

- A major change to a Final Development Plan is treated like a new PUD application, with correspondingly high requirements for submittals. More amendments need to be treated as minor (Administrative or Technical) amendments that could be approved by staff or the Planning Commission. The trend in which some items previously categorized as Technical Amendments are now treated as Administrative Amendments requiring additional review needs to be reversed.
- For both major and minor amendments, the code should only require that those pages of submittals that have been changed need to be submitted (not the entire package – which often contains many unchanged drawings that incur significant costs).

Obsolete Districts and Standards Need to be Updated

- The standard residential zone districts are obsolete, and new residential districts are needed to better address modern forms of housing and mixed-use development. Because of this weakness, PUDs are used for many residential and mixed-use developments where a PUD should not be necessary. The minimum lot size of one acre for residential development in the conventional zone districts is an unusual barrier for newer types of housing development and results in over-use of the PUD process. The maximum height of 25 feet in the R-2 district is also a common barrier to needed residential development.
- Current standards that work for larger developments do not work well for older lots and infill development. Older commercial sites are difficult to redevelop because of the setback and buffer required from adjacent residential districts. Reinvestment in the areas of the county that developed under both conventional and PUD zoning is difficult, often require lengthy PUD amendments, and consume a lot of staff time.
- Many new land use definitions should be added to the code to accommodate new forms of development, and existing definitions need to be updated. For example, a variety of elderly care facilities are difficult to fit into the current code's land use typology and dwelling unit requirements. New commercial and industrial uses can be difficult to align with the uses allowed in older commercial and industrial PUDs.
- The requirements for Location and Extent applications for public facilities need to be more streamlined and clearer. The current system treats the application almost like a standard development review application, but the County's ability to influence the

development is more limited by law and the review should be more limited and efficient.

- The Centennial Airport Environs Planning Area Overlay District (CAEPA) is problematic because the County has maintained the stricter standards that were adopted under the original agreement with the Centennial, but Centennial is no longer enforcing the same standards in the same way. The usefulness of this overlay needs review and standards appropriate for the County should be integrated into the Land Development Code.

Development Standards Need to be Updated and Clarified

- Landscape standards for parking lots are confusing, difficult to calculate, require too much vegetation and are difficult to administer.
- Parking requirements need to be updated and aligned with current parking practices. Some parking standards are too high (e.g., restaurants) while others are inaccurate (i.e., those related to the Americans with Disabilities Act).
- Flexibility is needed at staff level to address those situations where a development standard does not make sense for a specific use and site. Standards appropriate for more urban development may not be applicable for more rural areas of the County which has more dispersed development patterns and different infrastructure (i.e. different landscaping standards where well water is used).
- Street standards need to be reviewed to address connectivity, pedestrian circulation and pedestrian-friendly commercial and mixed-use development. Planning and engineering standards regarding streets need to be better coordinated.

2.2 Minor Concerns

Concerns raised less frequently by stakeholders are listed and discussed in this section.

Management of Review and Referral Process is Unclear

- Some of the Metro districts and utility providers have their own submittal requirements, levels of detail desired for different stages of plan reviews, and timelines for review. In some cases, a faster County timeline for review or lowered level of detail for early submittals would not make a difference, because the district or utility provider will continue to impose stricter standards. Inconsistencies between comments made by different referral departments or agencies should be reconciled, so that that applicant given a consistent message about what changes need to be made.
- It is important to have a point person (case planner) empowered to make decisions shepherding an application through the referral process. This person needs to flag issues, be authorized to resolve conflicts between comments on application materials, and work with the applicant to ensure that all comments are addressed in a timely manner. Applications should not be “processed to meet deadlines” if that is achieved by just delaying resolution of conflicts to a later stage in the approval

process. In an effort to address this concern, the County has expanded its use of post-review meetings to discuss staff comments with applicants.

Plan Documentation Requirements Need to be More Uniform

- The information required on Final Development Plans is not uniform and the template for displaying information needs to be improved. Some PUDs may include language referencing a conventional zone district for development standards or uses not specified on the PUD while others are silent (which increases the need for ad hoc determinations by individual planners and the likelihood of inconsistent decisions).
- The timing for required documents should better align with the construction process. For instance, recording of a drainage easement or a water quality manual prior to start of construction is unnecessary, slows the process and could create a need for later re-recording (for example, if a recorded drainage easement needs to be adjusted during construction) and requiring on plan and profile sheets for water and sewer systems that will be reviewed by non-engineers (e.g. the Planning Commission).

Procedures and Forms Need to be Updated and Fees Lowered

- There are too many forms and checklists. Although these may be intended to help applicants know what to submit and staff to determine if an application is complete, they sometimes include separate checklists from different departments, making it difficult to determine what is needed for an application and if an application is complete. In response, staff emphasized that they are required to – and do – review County fees to ensure that they reflect actual review costs. In addition, the county reviews how its review costs compare to those in other counties, and have found that in some cases they are lower.
- Requirements to record (and sometimes re-record) PUD materials are costly and savings could be gained by requiring only sheets with changes be recorded.
- Moving to electronic application submittal system would be helpful in reducing costs, and is strongly supported by applicants interviewed. The County is currently implementing an electronic review process.

Format and Organization of the Current Code is Inconsistent

- There is not a consistent format for how information is presented in different sections of the Code. There are lengthy lists for submittal requirements for each type of application that are redundant but not ordered in the same way. Public notice requirements are found in multiple locations and could be consolidated in one place. Review criteria can be hard to find and are sometimes commingled with process, development standards and other requirements. Some Code sections are written in very technical language that is difficult for a lay person to understand (for example, the lighting regulations and portions of the landscape regulations).

Coordination With the Comprehensive Plan Needs to be Improved

- The relationship between new development applications and required amendments to the Arapahoe County Comprehensive Plan is unclear. The County is aware of this

confusion, and is currently in the process of improving coordination of rezonings and comprehensive plan amendments. An amendment process for the Plan was recently added and will be updated to better clarify concurrent processing of comprehensive plan amendments with rezonings.

3. RESEARCH ON FRONT RANGE PUD SYSTEMS

Clarion Associates conducted research on how other jurisdictions in the Front Range manage their PUD process and to identify any local best-practices that could be applied in Arapahoe County. A survey of seven Front Range jurisdictions was performed in October 2015 about the land development process with particular emphasis on the PUD process in each jurisdiction. Planning Department staff were interviewed by phone and asked the same set of questions. The PUD and other relevant sections of each jurisdiction’s land development codes were reviewed and the application forms, submittal checklists and application guides were collected for each jurisdiction. The checklists are attached as Appendix 2 to this Assessment. The jurisdictions contacted, questions asked and research findings are discussed in this section. The findings identify the current practice in Arapahoe County, how the majority of the other jurisdictions operate and the practices that are exceptions to the typical majority practice.

3.1 List of Jurisdictions Reviewed

Clarion Associates examined the planned development review procedures in five Front Range counties and in two municipalities in Arapahoe County:

Counties	Municipalities
Adams County	City of Aurora
Douglas County	City of Centennial
El Paso County	
Jefferson County	
Larimer County	

Adams, Douglas, El Paso, Jefferson and Larimer counties were selected based on their similarity to Arapahoe County in terms of managing rural/urban development issues. Two of the counties, El Paso and Larimer, were included to offer a perspective from outside the metropolitan Denver area. Although counties operate under different legislative authority than municipalities, the cities of Aurora and Centennial were included to provide insight on how the process works in other jurisdictions within the county.

3.2 List of Questions Asked

The same set of questions was asked in each jurisdiction, with an emphasis on the planned development process, review criteria and authority, level of detail required and timeframes for review:

1. How does your PUD process work? Is there more than one process? (For example, different processes for simpler/more complex projects? Or different processes for residential and commercial projects?)
2. In practice, do PUD review and approval procedures follow the same steps and requirements that are written in your code? (Or have you developed unwritten rules and practices to address practical problems and unforeseen issues?)
3. What types of PUD approval decisions, if any, can be made:
 - a. Administratively by staff?
 - b. By the Planning Commission
 - c. By the BOCC? When is a public hearing required?
4. What types of PUD amendment decisions, if any, can be made:
 - a. Administratively by staff?
 - b. By the Planning Commission
 - c. By the BOCC? When is a public hearing required?
5. What criteria are used to determine which body is authorized to make a decision (i.e. what types of decisions can be made administratively), and to make the decision itself.
6. What is the timeline for processing and decision-making in each of your different PUD approval processes? Are these timeframes stated in your land development code, or are they stated in an internal administrative document or flowchart? Or are they just general practices that are not written down? Can we get a copy of any written timeframes or flowcharts?
7. Do you permit concurrent review of preliminary, final, and/or site development applications, and if so, which ones, and how has that process worked? Have there been any problems?
8. What planning and engineering documents are required at each level of approval (i.e. For preliminary plan approval? For final plan approval? For site plan approval?) What level of detail is required for each of these documents at each phase in the review process? Can we get copies of all submittal lists and/or planning engineering standards used to determine whether the county has received a “complete application” at each stage of the review process?
9. If different departments disagree as to whether a PUD application meets their requirements, how are those conflicts resolved? How much time does that time take?
10. Do you get complaints about the PUD review and approval process and if so what the most? Are you taking any steps to revise your requirements or procedures in response to those complaints?
11. Is approval of a PUD the only way to get a mixed-use development approved?

3.3 How does the PUD process work? Is there more than one process?

Arapahoe County Practice

Arapahoe County has two planned development processes. The standard PUD process requires a Preliminary Development Plan and a Final Development Plan, both of which require approval by the BOCC. The second Master Development Plan (MDP) PUD process is applied to office and light industrial park developments. This process requires approval of a Master Development Plan by BOCC and approval of an Administrative Site Plan at staff level. Both types of PUDs are considered a rezoning.

Mainstream Practice

Mainstream practice among the Front Range jurisdictions surveyed is to have a single PUD process for all sizes and types of PUD developments. All consider the PUD process a rezoning and final approval for rezoning to a PUD zone district rests with the elected governing body.

Exceptions

The exceptions to the single process approach are Jefferson and Adams counties. In Jefferson County a “Planned Development Light” process may be used for smaller, less complex projects. This process is differentiated from the standard PUD process by the type of documentation required rather by a change in the decision-making process. Development standards and allowed uses are submitted as written documents in 8-1/2 x 11 inch format as rather than drawings on standard 24 x 36 inch sheets with written standards included on the drawings. The Planning Director determines whether a proposed PUD is eligible for this process.

Adams County has an additional preliminary step for any PUD that will be phased. This three step process requires an Overall Development Plan (ODP) which sets general planning and development parameters, a Preliminary Development Plan (PDP) which includes a preliminary plat and has preliminary landscaping, circulation and building details, and a Final Development Plan (FDP) which is the site specific development plan. All three steps require approval by the BOCC. PUDs that will not be phased require only a PDP and FDP. The same process and documentation procedures are followed for both phased and standard PUDs.

While Larimer County has one PUD process, PUDs are allowed only in established Growth Management Areas adjacent to the municipalities in the county. The PUD must comply with the municipality’s comprehensive plan to be approved.

3.4 Do PUD review and approval procedures follow the steps and requirements written in your code?

Arapahoe County Practice

Based on the information gathered during the stakeholder interviews conducted for this assessment, Arapahoe County generally follows the PUD review and approval procedures that are in the Land Development Code. Section 13-104 (Submittal Process for PDP, FDP and MDP) sets forth the general

process for review and approval of a PUD. A detailed review and referral process is not included in the Code, but administrative procedures have been developed, specifying internal review steps. Stakeholders listed concerns with too many required procedures, too many forms, long timeframes for review, and the level of detail required in documents at each phase of the approval process.

Mainstream Practice

All but one of the jurisdictions surveyed indicated they follow the PUD review and approval procedures in their respective codes. The level of code detail regarding specific steps in the review and referral process varies. Douglas and Jefferson counties have explicit procedures for all phases of the review and approval process in their respective codes. In addition, these two counties have development process guides posted on their web sites explaining the review process and timeframes. In Adams County the review and approval process for each step of their PUD approval process (ODP, PDP, and FDP) is uniformly presented in the PUD section of the Code.

Exception

The exception to the mainstream practice is El Paso County. While submittal requirements and approval criteria are detailed in the Code, the procedures for review are established by the Development Services Director in an Administrative Procedures Manual outside the Code.

3.5 What types of PUD Approval Decisions can be made by staff, Planning Commission or BOCC?

Arapahoe County Preliminary Development Plan and Final Development Plan Practice

The Board of County Commissioners is the final decision-making authority for all PUD approval decisions in Arapahoe County. In the standard PUD process, Planning Commission is a recommending body for both the PDP and FDP and public hearings are conducted by the Planning Commission for both of these reviews. A public hearing is also conducted by the BOCC for the PDP but is not required for the FDP. The code allows certain qualifying FDP's to be placed on the consent agenda for the BOCC to ratify the decision of the Planning Commission. The Master Development Plan PUD also has Planning Commission as a recommending body and the BOCC as the final decision-making authority. Public hearings are required at both Planning Commission and the BOCC. Only Administrative Site Plans under the MDP process can be approved at staff level.

Mainstream Practice

All of the jurisdictions surveyed require the elected governing board to make PUD approval decisions. In all cases the Planning Commission is a recommending body and has no decision-making authority for PUD approvals. All jurisdictions require a public hearing before the Planning Commission and the BOCC or City Council for initial approval of the PUD rezoning and development plan. In several cases, staff has authority to review and approve more detailed specific development plans, and plan amendments secondary plans after the initial PUD zoning and plan (and plat, if one is needed) are approved by the governing body.

3.6 What types of PUD Amendment Decisions can be made by staff, Planning Commission or BOCC?

Arapahoe County Practice

Arapahoe County has two types of staff-level amendment processes in the Land Development Code. Administrative Amendments allow minor modifications to the dimensional, density, parking, circulation, and open space standards for PDPs, FDPs and MDPs. Specific criteria must be met to be eligible for an Administrative Amendment and the Code limits the degree of modification that can be granted. A second type of amendment -- Technical Amendments -- provides for minor technical changes that require no or minimal engineering review. If an amendment request does not meet the criteria in the Code for staff to grant an Administrative Amendment, the amendment is considered a major amendment. Major amendments must be processed in the same manner as the original approval, with review by Planning Commission and approval by the BOCC. No PUD amendment decisions are made by Planning Commission.

Mainstream Practice

All but one of the jurisdictions surveyed have minor amendment processes for PUDs that allow staff-level review and approval. The one exception to this is Larimer County, where all PUD amendments go before the BOCC for a decision.

Mainstream practice allows administrative amendments for minor changes to dimensional and other on-site development standards that do not alter the overall design and character of the PUD project. Administrative amendments generally are not allowed to alter the commitments and guarantees of subdivision improvement agreements or development agreements. The criteria to define what constitutes a minor amendment vary from strict lists in some communities delegations of broad authority to the Director in others. For instance, Douglas County strictly limits administrative authority to a defined percentage increase or decrease in the standard established in the PUD. In contrast, El Paso County gives broad authority to the Development Services Department to determine whether proposed changes in plan elements such as building location or the alignment of utilities or roadways are major or minor.

Other differences in amendment procedures include the following. El Paso County allows a PUD to establish its own criteria for what can be amended by administrative review. If not included in the PUD, amendments are processed under the provisions of the current land use code. Jefferson County permits staff to make administrative decisions for minor changes to both on and off-site improvements through a Minor Variation process while a Minor Modification process is used for minor changes to site development plans. In both cases, eligibility for the administrative process is determined by the Director of Planning. Anything that is determined not eligible for a minor amendment process is a major amendment and is processed as a rezoning.

3.7 What criteria are used to determine which body is authorized to make a decision and to make the decision itself?

Arapahoe County Practice

Arapahoe County's Land Development Code gives joint authority to the Planning Division Manager and Engineering Services Division Manager to decide both Administrative and Technical Amendments. The code also has standards to determine if an application qualifies for that amendment process and criteria to make the decision or for the amendment process.

Mainstream Practice

The mainstream practice in the jurisdictions surveyed is to state who makes a decision in the code and to include the criteria for making the decision in the code. As noted above, the level of detail for the criteria for decision-making varies among the jurisdictions. Relevant sections of each jurisdiction's code are included in Appendix 1 to this report.

Exception

Larimer County's code does not have criteria to determine which body makes a decision, since all decisions go to the BOCC.

3.8 What is the timeline for PUD approval processes?

Arapahoe County Practice

Arapahoe County combines timeframes specified in the Land Development Code with general administrative practices and a 30 day referral period for outside agency comments. The LDC requires that Administrative Site Plans prepared under a Master Development Plan have a pre-submittal meeting (unless the MDP states otherwise or the requirement is waived by the Planning Director). The code pre-submittal meeting must be held within five days after a request for a meeting is received, or the pre-submittal meeting requirement is automatically waived. Specific timeframes for other specific review steps are not indicated in the code.

The Arapahoe County Land Development Application Instructions identify the following process and timeframes for review:

- Pre-submittal Meeting: Required
- Completeness of Application: 3 working days
- Phase I: 10 working day internal referral only, intended to determine if application has necessary detail to refer to outside agencies
- Phase II: 30 calendar day referral to both internal and external agencies. This may be extended depending on the complexity of application
- Phase I and Phase II reviews can be combined as determined at the pre-submittal meeting.

In practice the total estimated timeframe for review, including public hearings, ranges from five to eight months for a Preliminary Development Plan review and three to six months for a Final Development Plan review. The total estimated timeframe ranges from eight to 14 months. If applications are submitted and reviewed concurrently the time frame may be only seven to 12 months. Review times vary based on complexity of project and the amount of time an applicant takes to respond to comments and resubmit plans for review. They also vary when referrals to outside service providers (primarily some of the smaller districts) are not returned in a timely manner.

The Engineering Division also has an administratively established timeframe for review called the “3-2-1 review”. The Division’s review can begin after the FDP or ASP approvals by the Planning Department or can sometimes be managed concurrently with Planning Department processes, depending on the case type. This review process is intended for detailed review of civil construction plans. Engineering initial review is three weeks, with a decreased review time for each subsequent review, e.g., two weeks for the second submittal and one week for the third submittal. Stakeholders commented that the relationship of this review process with the Phase I (county agencies only) and Phase II (outside agencies included) process described in the Land Development Application is not well understood.

Mainstream Practice

Most of the jurisdictions surveyed establish review procedures and timeframes administratively (as opposed to stating them in their zoning and subdivision codes). El Paso County and Centennial indicated they are currently in the process of developing an Administrative Procedures Manual. Aurora’s timeframes and procedures for processing applications are included in the Aurora Development Handbook, which is available on its website.

Douglas and Jefferson counties both have explicit timeframes for each step in the review process and also identify timeframes for applicant response to referral comments. The Douglas County Code includes a section describing review timeframes in each step in the process. Jefferson County Code has a chart detailing timeframes for review.

The table below shows the timeframes for review for common steps in the review process for each of the jurisdictions surveyed. The review timeframes are stated in calendar days.

	Pre-Submittal	Completeness Review	1st Referral	2nd Referral	3rd Referral	Total Estimated Timeframe
Arapahoe	Yes	3 days	14 days	30 days	If needed	210 – 420 days
Adams	Yes	Yes	45 days	If needed	If needed	90-180 days
Douglas	7 – 10 days	15 days	21 days	If needed	If needed	230 days
El Paso	Yes	Yes	21 days	14 days	If needed	Varies
Jefferson	10 – 15 days	7 days	21 days	14 days	If needed	100 days
Larimer	Yes	Yes	21 days	21 days	If needed	1 – 1-1/2 yrs.
Aurora	Yes	Yes	15 – 20 days	15 – 20 days	15 - 20 days	87-115 days
Centennial	5 days	5 days	28 days	21 days	14 days	Varies

The timeframes in the above table are based on interviews conducted with planning staff in each jurisdiction, development guides available on Douglas, Jefferson and Larimer Counties’ and Aurora’s websites, and information contained in individual jurisdictions’ land development codes. Only the City of Aurora has a published administrative procedures guide with a chart detailing the specific timeframes

for each step of the development application review process. This guide also has charts showing the timelines for review of civil construction plans and building plans.

All the jurisdictions surveyed have a pre-submittal process, with Douglas, Jefferson and Centennial specifying timeframes for the pre-submittal process and for determinations of completeness prior to the application being accepted and referred for comment. Most of the PUD systems assume that at least two rounds of referrals may be necessary at each stage of the PUD process; a first referral, after which the applicant submits revised documents that are then referred back to the department or agency for confirmation that the required changes have been made.

The mainstream approach to the referral period is a longer referral time for the initial review and shorter timeframes for each subsequent referral. Most jurisdictions' first referral period is 21 – 28 days for internal and outside agency review of applications. Adams County staff reported that the 21 day timeframe in the code is not used; they schedule 45 days for both first and second referrals. Among most of the other jurisdictions surveyed, the second referral period is generally 14 – 21 days. Douglas County does not specify a second referral period but indicates additional referrals may be needed depending on the extent of the design changes resulting from the first referral. None of the jurisdictions except Aurora and Centennial specify timeframes for a third referral.

Aurora's administrative procedures for development review establish four different application schedules that are tied to an electronic tracking system. Development applications are assigned one of three pre-determined schedules for review based on the type of application. Less complex development applications (e.g. minor site plan amendment or sign variance) have a faster schedule than more complex and larger applications (e.g. subdivision plat or rezoning). Once accepted as complete, the application is entered into the tracking system, which automatically generates deadlines that are strictly adhered to. Staff indicated that there is little deviation from the schedule because (1) the pre-submittal process does a good job of identifying what needs to be included in each application, and (2) the City places a high priority on efficient processing of development applications.

Most of the jurisdictions estimate the total timeframe for processing a PUD application is three to eight months. These estimates do not include the public hearing process except in the case of Adams and Larimer counties. Jefferson County's estimated timeframe of 100 days includes specific timeframes for applicants' responses; if applicants do not meet their response times the process is longer. Adams County staff noted that while it is possible to get through the review and approval process in 90 days, this can only happen if there are only very minor comments during the referral period. It is more usual for a PUD rezoning application to take six months from the conceptual (pre-submittal) meeting to public hearing.

Larimer County's estimated total processing timeframe is significantly longer than the other jurisdictions surveyed. That county's 12-18 month estimate is for full entitlement through their Planned Land Division process. This process combines the PUD rezoning with the preliminary and final plat process. El Paso County noted that it develops a timeframe for review with the applicant during the pre-submittal meeting, called an "early assistance" meeting. This review schedule is developed based on the complexity, size, and location of the project and takes into account the work schedule and case load of the Development Services Department. Similar to El Paso County, Centennial bases a total estimated timeframe for review on the complexity of the project.

3.9 Do you permit concurrent review of applications and have there been problems?

Arapahoe County Practice

Arapahoe County's code specifically allows concurrent review (1) for Final Development Plans and final subdivision plats, and (2) for Administrative Site Plans and subdivision plats and building permit applications (as provided for in the approved Master Development Plan). In practice Arapahoe County sometimes also processes Preliminary and Final Development Plans concurrently.

Mainstream Practice

Mainstream practice among the survey jurisdictions is to allow some concurrent reviews, with the caveat being that such reviews are at the risk of the applicant. The stage where the concurrent review may occur varies. Douglas and Jefferson counties recommend a staggered process, e.g. submit a plat after the PUD referral process is complete or after the Planning Commission public hearing, in order to minimize risk to the applicant. Jefferson County allows site development plans and plats to be reviewed concurrently if the project is not expected to be contentious. Adams County and Centennial allow concurrent review of PUD rezoning with preliminary plat. In Centennial, a preliminary plat can be required concurrent with a site development plan to demonstrate compatibility. Concurrent reviews are allowed in El Paso County at the discretion of the Development Services Department Director.

No problems with concurrent reviews were specifically identified by the surveyed jurisdictions other than the potential risk and cost to applicants in producing more detailed plans, required for a subdivision plat or site development plan but not for the rezoning process, prior to approval of the PUD rezoning.

Exceptions

Larimer County is the exception to these approaches. As noted previously, Larimer County has a Planned Land Development process that incorporates the PUD rezoning into with the platting process. Since all PUD's in Larimer County are in growth management areas associated with municipalities, this process is used to ensure that PUDs are designed to be compatible with the development standards of the growth management area municipality.

3.10 What planning and engineering documents are required, what level of detail is required, and what constitutes a complete application?

Arapahoe County Practice

Arapahoe County has detailed checklists that are used to identify what planning and engineering documents must be submitted with the application and what may be required during the review process. Checklists are typically given to applicants through the presubmittal process. Some of the referral agencies in Arapahoe County also have checklists, and in some cases those checklists overlap

the topics covered in the county checklists. Stakeholders commented that there are frequently conflicts between the levels of detail required by the county and reviewing agencies (primarily metro districts) at different stages in the review process.

Mainstream Practice

Checklists are typical in the jurisdictions surveyed. Common practice is to identify the planning and engineering documents needed for the application during a pre-submittal meeting with the applicant. Typically a written summary of the meeting and checklists of required documents are provided to the applicant either at or within a set timeframe after the meeting. It is usual to require that applications be submitted in a timely fashion (which can sometimes be as long as a year) after the pre-submittal meeting. This reduces the risk of applications being rejected based on changes to required documentation and regulations that have occurred since the pre-submittal meeting.

All of the jurisdictions surveyed indicated that the level of detail required for planning and engineering documents is determined contextually. Variations in the documents and level of detail required occur for a variety of reasons. The size and location of the project, the land uses contemplated, the level and type of pre-existing infrastructure, site topography, and other factors are considered to determine what documents will be required. For example, more detail may be required earlier in the process for “Greenfield” development where there is little or no pre-existing infrastructure or in cases where there are existing infrastructure capacity problems. Nevertheless, it is customary to have a basic list of planning and engineering documents identified that are pertinent for all types of applications, and that list is tailored to specific application requirements at the pre-submittal stage. Submittal checklists from the jurisdictions surveyed are included in Appendix 2. Selected application forms and development guides provided by the jurisdictions surveyed have been delivered along with this Assessment.

3.11 If different departments disagree as to whether a PUD application meets their requirements, how are those conflicts resolved?

Arapahoe County Practice

In Arapahoe County a staff planner manages the planning components of the application review and a staff engineer manages the engineering review of the application. Each department meets separately to review applications internally, but the planner and engineer meet together with the applicant to review all comments. The planner works with the engineer to resolve any differences prior to the application being scheduled for public hearing.

Mainstream Practice

Mainstream practice is to assign a planner to the PUD application who acts as the overall case manager for the application. In this role the planner is responsible for collating referral comments, reviewing all referral comments with the applicant and ensuring the applicant is responding to comments. The planner/case manager follows-up with applicants and referral agencies regarding unresolved issues, seeks to resolve technical issues and facilitates meetings with all parties to resolve conflicts. The case planner/manager does not have the authority to make final decisions to resolve conflicting requirements, but is tasked with ensuring there is resolution prior to public hearing. In some cases the application will not be scheduled for public hearing until a mutually agreeable solution is found.

Exceptions

In Centennial an integrated internal review process is used to coordinate comments prior to releasing the comments to the applicant. This is a weekly technical meeting with all internal and external reviewers where the comment letter is discussed before it is finalized.

3.12 Do you get complaints about the PUD process?

Arapahoe County Practice

This Land Development Code Assessment project is the outcome of past complaints about Arapahoe County's PUD approval and PUD amendment processes. In general, the complaints focused on timeframes for review, level of detail required at each stage of the review and referral process, and thresholds for major amendments, Administrative Amendments, and Technical Amendments. Inflexibility in the process -- especially as related to proposed changes of use in an FDP -- was also a concern.

Mainstream Practice

Most of the jurisdictions surveyed indicated few complaints about their PUD processes. Both Adams and Douglas counties attribute this to having fast and straight-forward review processes and using the pre-submittal process for early identification of issues to be addressed in the application. Adams County noted that it has some issues managing the flow of comments between outside referral agencies and applicants. Centennial has no complaints regarding the review process but does get complaints regarding specific standards, particularly as applied to smaller sites, such as open space buffer requirements for small commercial sites. Larimer County processes very few PUDs.

Exceptions

The range of complaints heard in the other three surveyed jurisdictions is fairly typical and included overuse of the PUD, slowness of the process, level of detail required, and the desire for more predictability balanced with flexibility. The City of Aurora is in the process of a comprehensive update to its development regulations, with particular emphasis on updating zone districts, improving development standards and modernizing review procedures. Adams County noted that it is in the process of clarifying their review timeframes to address internal administrative concerns with the flow of comments during the referral process.

3.13 Is a PUD the only way to get a mixed-use development approved?

Arapahoe County Practice

In Arapahoe County, a PUD is the only way a mixed-use development can be approved. Arapahoe County's Land Development Code includes a Mixed-Use zone district, but use of that zone must be

approved through the PUD process. There are Mixed-Use PUD zones in the county, most commonly in newer developments such as Copperleaf and Prosper.

Mainstream Practice

The use of standard (non-PUD) mixed-use zone districts is not currently common practice among the counties surveyed; a PUD is typically used to process a mixed-use development.

Exceptions

However, the low use of mixed-use districts noted above may be changing. Jefferson County recently updated its code to include three standard mixed-use zone districts. Although intended in part to avoid the use of the PUD process, staff is unsure how often these three districts will be used when the alternative is an ability to set all development standards, including uses, through the existing PUD process. Centennial and Aurora both have standard zone districts for mixed use development. Centennial's mixed use zone districts are form-based with prescriptive street and building typologies. Centennial's code specifically includes mixed-use zones to avoid the use of PUDs to achieve desired mixed-use development. Aurora's mixed-use zone districts have been successful in reducing the use of the PUD process to accommodate mixed-use projects.

4. SUMMARY AND CONCLUSIONS FROM PUD RESEARCH

4.1 Gaps between Arapahoe County and Mainstream Practice

Timing of PUD Applications and Amendments

The timeframes for each step in the review process are not well documented in Arapahoe County. Because of the poor public documentation there is a lack of understanding in the development community about review timeframes, how the process works and when a decision will be made. Arapahoe County also uses different terminology from other jurisdictions to describe its referral process. The Phase I review is a more detailed version of what is called a completeness review in other jurisdictions. The comments received from the Arapahoe County Phase I review are only from the county. The applicant receives additional comments from outside agencies in the Phase II portion of the review. This causes confusion for the applicant and leads to the feeling that more and more information and detail is being requested of the applicant. Other surveyed jurisdictions better differentiate a completeness review from the formal submittal that is distributed for referral comment process.

A more efficient and straight-forward three step review process is typically followed by most jurisdictions with a completeness review, a first referral to all reviewing agencies, and a second referral after comments are incorporated into the project documents. A third referral may be performed if needed. The completeness review is an internal review to ensure all required documents are included in the application and there are no obvious errors or omissions in the documents. Detailed comments by both internal and external agencies are made during the formal referral process, which allows for more coordination of comments and reduces the risk of duplicative or conflicting comments being forwarded to applicants.

Levels of Detail Required for PUD Applications and Amendments

In all jurisdictions, there is clear recognition that site specific conditions play a considerable role in what engineering and planning documents are needed and the level of detail needed to adequately review those documents. As Appendix 2 demonstrates, however, there is no uniformity among the surveyed jurisdictions about what specific documents are needed in response to specific site conditions, the names of those documents, or the levels of detail associated with terms like “conceptual” or “final.” Still, our review of checklist and application forms in the surveyed jurisdictions did provide some lessons for future improvements in this area.

Douglas and Jefferson Counties are noteworthy examples. In these two jurisdictions PUD zoning can occur with minimal engineering detail in the governing development plan. For example the Douglas County PUD regulations prescriptively list what information is required to be included in the development plan for the initial rezoning to PUD. Utility layout, grading, and drainage are not mandated on the development plan. Instead, documentation of the ability to supply or connect to water and sanitation facilities is to be submitted with the application. Capacity analyses for traffic, fire and schools are also required. More detailed engineering information is reviewed concurrently or after the PUD rezoning is approved through the site improvement plan process or platting process. Douglas County also does a good job of relating the level of detail expected at each step of its three-step subdivision

process, again with prescriptive requirements included in the code. The Sketch Plan is an initial review to determine feasibility of a subdivision. Preliminary technical reports are required for this level review, such as Phase I Drainage Report, preliminary geotechnical reports, and traffic studies as well as discussion of infrastructure and other services. The Sketch Plan must be reviewed and approved by the BOCC prior to preliminary plan and final plat. The preliminary plan requires a Phase II Drainage Report and evidence of adequate water supply and sanitation service. Detailed engineering and construction plans are not required until final plat when a Phase III Drainage Report, grading, plan, utility plan and construction plans for roadway, storm water, water and sanitary sewer must be submitted.

In Jefferson County a rezoning to PUD requires an Overall Development Plan, the main component of which is written restrictions detailing the uses and standards for development under the PUD. A graphic, depicting the layout of the parcel and proposed use areas and other physical features of the site, may be required as determined by the Planning Department. Similar to Douglas County, greater detail comes through the platting and site plan processes. Jefferson County's subdivision regulations identify in chart format the documents to be submitted for preliminary and final plat and for other development procedures under these regulations. Each document listed in the chart is indexed to a definitions section making it easy to interpret the chart. Uniquely, this chart also layouts (1) which documents are submitted as part of the application, (2) which are required during processing of the application/prior to hearing, and (3) which are necessary prior to recordation of the final document.

PUD Approval Process

The Arapahoe County PUD process differs from mainstream practice in two significant ways. First, the Code sets up two PUD processes, one of which is targeted to a specific type and style of development. The PDP/FDP process is a two-step process available for all types of development. In this process the FDP has the same function as an Administrative Site Plan but requires approval by the BOCC. In contrast, the MDP process is expressly aimed to encourage office and industrial park developments, with some allowance for residential and retail uses to be included in the development. Once the MDP is approved by the BOCC, future site development can be approved under the Administrative Site Plan process. The other surveyed jurisdictions use one process with same steps and series of approvals for all types of land uses.

Second, the BOCC remains the final arbiter for site specific detail in the PDP/FDP process. The norm elsewhere is to segment the PUD process so that the overall approval authority for the PUD zone designation and development standards remains with the elected governing body but detailed site development plans can be reviewed and approved administratively. This more standard approach is very similar to Arapahoe County's MDP process. In this process an overall development plan that is fairly detailed is approved by the BOCC with subsequent site specific development plans reviewed through the Administrative Site Plan process.

PUD Amendment Process

The PDP/FDP amendment process in Arapahoe County is constrained in a manner not found in other jurisdictions because the FDP functions as a site plan. Although the FDP can be eligible for the Administrative Amendment process, changes that comply with the governing PDP often require review by the Board of County Commissioners since that body made the initial approval of the FDP. This is particularly evident when a use not specified on the FDP document, but allowed by the governing PDP, is proposed. Because the new use was not approved on the original FDP the entire FDP requires an amendment that is approved by BOCC.

This results in a situation where changes to site plans that are normally reviewed administratively in other jurisdictions are subject to a public hearing process. In contrast, Arapahoe County's MDP process is more aligned with conventional PUD amendment procedures. Since sites within an MDP are developed with an Administrative Site Plan a change from one use to another use allowed in the MDP can be approved administratively.

Managing the Process

A key element of the application process learned from our research is that the planner in charge of the PUD application needs to be proactive in managing the application process. Assisting the application through the process means the planner is tracking the application, ensuring deadlines are being met and facilitating resolution of tricky issues. In Arapahoe County it is unclear who is responsible to resolve conflicting referral agency comments and how the flow of information about a project is managed. It is not clear that the planners/case managers in Arapahoe County are given the same responsibilities or duties available in some other jurisdictions to play this role effectively. Some of the tools used by other jurisdictions to assist case management include pre-submittal meetings with key referral agencies involved, electronic project tracking systems, inter-departmental design review meetings to discuss comments, and coordinated referral comments consolidated into one document for applicants. In some counties the project manager is responsible for consolidating and resolving conflicts between planning, engineering, and agency comments, but that approach is not currently followed in Arapahoe County.

4.2 Recommendations to Improve the PUD System

Clarion Associates identified eight key areas where there are opportunities to improve the Arapahoe County PUD approval and amendment systems. These improvements are focused to reduce confusion about how the system works, clarify information needed for the process, and modernize the regulations.

Consolidate and Streamline PUD Processes

The county has two different PUD processes for different types of land uses. One process with the same steps and approval authorities would be easier to administer and simpler for the development community and the public to understand. Use-specific PUD approval criteria and submittal requirements can be included in a consolidated PUD process to address use-specific issues and impacts. A single process in which staff may approve Final Development Plans that are consistent with more-detailed Preliminary Development Plans would bring the county more in line with the other surveyed jurisdictions.

One example of a more streamlined single PUD process – with flexibility to address variations in size and complexity would be to require all rezonings and PDPs are reviewed by the Planning Commission and approved by the Board of County Commissioners.

1. **Detailed Application.** If the PDP application meets stated levels of specificity regarding land uses, density and intensity of development, circulation, open space, and drainage systems, then further approvals would be administrative actions by staff pursuant to objective criteria in the LDC and the PDP.
 - a. **Small/Simple Projects.** For individual lots where a single commercial, institutional, or multifamily building will be located on a single parcel of land, no FDP would be required – staff would approve an administrative site plan based on objective LDC and PDP standards.

This is similar to the current MDP process. However, if a simple project raised significant issues that were not foreseen in the PDP approval process, staff would have the ability to “bump up” the application for a public hearing before the Planning Commission.

- b. **Larger/More Complex Projects.** For more complex developments – e.g. multiple buildings on a single lot, or developments over five acres in size, or those including circulation, drainage, or open space lands or infrastructure improvements affecting adjacent parcels – Planning Commission approval of an FDP following a public hearing would be required. However, the FDP would not be required to include engineering detail; that level of construction and engineering approval would be approved through an administrative site plan.

2. **General Application.** If the application does not meet those stated levels of specificity, then a second public hearing before the Planning Commission will be required to approve an FDP, and later approvals of site plans would be administrative staff decisions. Again, however, the FDP will not be required to include construction or engineering details.

This example approach would leave the applicant in control of whether more than one public hearing is required. Those applicants unwilling or unable to submit detailed PDPs for approval would have the option of (a) going forward with rezoning and PDP approval knowing that an additional FDP hearing before the Planning Commission is required, or (b) waiting until their project details are more certain, submitting a more detailed PDP, and avoiding additional public hearings.

In addition, the current PUD amendment system could be simplified – as it is in many communities – into a Minor/Major Amendment system. Minor amendments are those that involve details not inconsistent with a prior PDP or FDP approval, and could be approved administratively. Major amendments require a public hearing in front of whichever body granted the approval being amended (Planning Commission for FDPs, BOCC for PDPs).

Clarify Criteria for PUD Amendments

The county offers lengthy lists of criteria to determine eligibility for the amendment process and to decide whether the amendment will be recommended for approval. These criteria need to be reviewed and refined to eliminate unnecessary restrictions on amendment eligibility. Criteria that are not good indicators of whether the proposed amendment will significantly alter the character or performance of the development should be deleted or redefined.

Simplify the PUD Amendment Process

The amendment process has too many steps and too much documentation is required. This adds time and cost to the PUD amendment process for both the county and the applicant. Opportunities for improvement include:

- Consolidate and simplify the Administrative Amendment and Technical Amendment review processes.
- Incorporate the amendment eligibility determination into the standard pre-submittal process.
- Require only the PUD document sheets that have revisions be submitted with the minor or major amendment process.
- Consider permitting PUD application documents to define the limits of major and minor amendments (as in El Paso County).

Develop Graphic Guides for PUD Processes

User-friendly, highly graphic process guides for PUD approval and amendment processes should be created and posted on-line. Aurora's Development Handbook and Douglas County's guides are good models. The guides should incorporate flowcharts outlining the full process, and should indicate that review of civil engineering drawings may take an additional six weeks following approval. Information about the referral process, criteria for review and documentation required for an application should be included. The fact that unusual or complex projects may need to diverge from the standard flowchart is not a good reason to avoid depicting the standards workflow. Other communities that have graphic representations of their development review processes have disclaimers noting where there may be variations in the process due to the specifics of the proposed project.

Streamline the PUD Review Process

Providing better information to the applicant earlier in the referral process will streamline the process. A completeness review should occur very soon after submittal and should not be confused with the current Phase I review. The County's Phase I/Phase II distinction can be eliminated by combining the Phase I review/referral process with the Phase II process. Once an application is deemed to be complete it should be distributed to both internal and outside referral departments and agencies at the same time. If this change is implemented, referral comments will be better coordinated, applicants will receive more information, and applicants can submit more accurate and complete documents for second referrals to all agencies later in the process.

Establish Clear Timeframes for PUD Review

The timeframes for PUD review are neither well defined nor easy to find. Distinct timeframes specific to the PUD process should be developed, included in an Administrative Procedures Manual or on the County's web site, and should be published in the PUD process summary guides. Timeframes should indicate the applicant's responsibilities in the review process, including timely response to comments. Any overall timeframes should be extended by the number of days by which an applicant exceeds the time period established for their responses or corrected submittals to the County.

Align Required Documentation with Process

All planning and engineering checklists, both internal and external, should be reviewed to eliminate any conflicting requirements and to define the levels of detail in each type of "conceptual" or "final" calculations and drawings. Arapahoe County should also review the checklists in Appendix 2 and ensure that the County is not requiring a higher level of design or drawing detail at early phases of project review than other Front Range communities. It appears that both Douglas and Jefferson Counties accept more conceptual plans and studies for initial review of PUD applications, and if these are generally adequate for those stages of review it is not clear why higher levels of detail would be required in Arapahoe County. Delay in submitting engineering details can increase an applicant's risk, however, since proposed buildings or site features contemplated in a more conceptual plan may not be able to be engineered or engineering solutions may be different and more costly than anticipated.

To address concerns about level of detail and what documents/drawings are required at different stages in the review and approval process, the County should develop a schedule identifying the documents required prior to key decisions-points, as in Jefferson County.

Consolidate and Standardize Submittal Checklists

A consolidated checklist identifying who the referral agencies are and the information required by each agency should be developed. Relevant criteria and design standards manuals should be cross-referenced so applicants can easily reference information needed to complete the application.

Simplify Adjustments to Recorded Easements

Easements that are recorded as part of subdivision plats processed in concert with an MDP may not mesh with the site design and layout of buildings, parking and other features detailed in an Administrative Site Plan. In plans that are developed over time drainage easements across undeveloped parcels within the MDP may be required to accommodate a different drainage pattern resulting from the development of another parcel in the MDP. While it is typical to require such easements, the County should consider instituting a process that expedites adjustments to such easements within an approved MDP projects. This could be accomplished by delegation of authority to staff to accept such easement adjustments on behalf of the BOCC and a monthly report to BOCC of easement adjustments approved. In Jefferson County the approval authority for the process in which the easement is identified has the authority to accept the easement. Plats and associated easements are approved by the BOCC. Site development plans and associated easements are approved by staff. The El Paso County model could also be applied here, with language included on the approved MDP to allow for staff level approval of such modifications.

5. REVIEW OF REMAINDER OF DEVELOPMENT CODE

5.1 Structure

The most recent version of the Arapahoe County Land Development Code was adopted in 2010 and most recently revised in late 2013. It contains 19 chapters, which is significantly more than most newer development codes. The 19 chapters of the current Development Code are compared with a typical simpler code structure in the table below.

Current Development Code Chapters	Typical Newer Code Structure
1. General Provisions	1. General Provisions
2. Review and Decision-Making Bodies	2. Zoning Districts
3. Obsolete Zone Districts	<ul style="list-style-type: none"> • Agricultural and Residential • Mixed Use • Special Purpose • Overlay
4. Agricultural Zone Districts	
5. Rural Residential Zone Districts	
6. Residential Zone Districts	
7. Commercial Zone Districts	3. Permitted Uses
8. Industrial Zone Districts	<ul style="list-style-type: none"> • Permitted Use Table • Use-Specific Standards
9. Other Zone Districts	
10. Overlay Districts	4. Development and Subdivision Standards
11. Non-conformities	5. Procedures and Enforcement
12. Specific Regulations	6. Definitions
13. Zoning Procedures	
14. Subdivision Regulations	
15. Design Principles	
16. Standard Notes	
17. Notice and Notification	
18. Streetscape Guidelines	
19. Definitions	

The simpler structure in the right-hand column of the table has the advantage of grouping all information about permitted land uses (i.e. “What can I do on my land?”) in one chapter; all material about development size, layout and quality (i.e. “How do I need to lay it out and build it?”) in one chapter; and all provisions about how applications will be reviewed and approved (i.e. “How do I get to ‘yes?’”) in a third chapter. This structure provides a very robust foundation for a user-friendly code.

In addition to the large number of chapters, the current structure of the Arapahoe County Development Code has several major weaknesses.

- First, and related to our research on PUDs above, all materials related to development review and approval procedures and non-conformities are not consolidated in one area of the Code. That material is divided among Chapter 2 (Review and decision-making bodies), Chapter 11 (Non-conformities), Chapter 13 (Zoning Procedures), Chapter 14 (Subdivision Regulations), and Chapter 17 (Notice and Notification).

- Second, dividing Residential, Commercial, and Industrial zone districts into separate chapters makes it difficult for the Code to accommodate mixed-use development of the type often desired in activity centers or business parks. As a practical matter, many traditional Commercial zone districts also allow residential development, and many Industrial districts permit commercial development, but the division of the code into the three conventional zone district categories makes it more difficult for readers and investors to know that, and makes it more difficult to develop true mixed use standards. Most newer codes group most or all zone districts that allow both residential and commercial primary uses of land as Mixed Use districts. As a category of Special Purpose zoning, they also often include Business Park zones that allow a broad range of commercial, industrial, institutional, lodging, and multifamily uses.
- Third, Chapter 12 (Special Regulations) contains a wide assortment of land use, development, and health and safety regulations mixed together indiscriminately. This is common in older, poorly organized codes, and becomes the repository of all provisions that don't have another logical home. Modern codes eliminate this "bin" chapter and separate those that relate to specific uses ("Use-specific standards") from those addressing development layout and quality ("Development standards"). In spite of the wide range of topics covered in Chapter 12, some regulations that would be normally grouped with Development Standards appear in other chapters (such as the Chapter 15 Design Principles and Chapter 18 Streetscape Guidelines), which appear to be afterthoughts to the basic code structure.
- Fourth, the structure of each Zone District chapter is very outdated. Most newer codes do not include a separate list of permitted uses and dimensional standards for each district or pair of districts. Those details are consolidated into a master permitted use table like the portion of a table from another community shown below.

PERMITTED USE TABLE															
P=Permitted use C=Conditional use A=Accessory use CA=Conditional Accessory use T=Temporary use															
Zoning District	Residential				Mixed Use					Special Purpose				Use-Specific Standards, in 29-3.3	
LAND USE CATEGORY	R-1	R-2	R-MF	R-MH	M-OF	M-N	M-C	M-DT	M-BP	IG	A	O	PD		
RESIDENTIAL USES															
Household Living															
Dwelling, One-family Detached	P	P	P	P	P	P					P			Per PD Approval	29-3.3.a
Dwelling, One-family Attached		P	P		P	P									29-3.3.b
Dwelling, Two-family		P	P		P	P									
Dwelling, Co-housing Project			P		P			P							
Dwelling, Live-work			P		P	P	P	P							29-3.3.c
Dwelling, Multi-family			P		P	P	P	P							
Manufactured Home Park				P											

A comprehensive table approach makes it easier for potential investors and developers to identify where to buy land zoned for the product they want to develop. Just as importantly, it makes it easier for the county to ensure that the pattern of permitted and conditional uses maintains an internal logic. The table makes it easy to identify “gaps” where a use should probably be made available because it is permitted on other, similar districts (unless there is a good reason not to do that).

5.2 Zone Districts

Early on in our stakeholder outreach about the Arapahoe County PUD process and standards, we heard that PUDs are often used because the county’s existing “standard” zone districts are outdated and do not match modern development desires and practices. We agree that is the case.

The Code currently contains 21 base zoning districts, plus four overlay districts (plus eight “obsolete” zone districts into which the County does not intend to zone additional lands). While 21 base zoning districts is reasonable for a county the size and complexity of Arapahoe County (and in fact a few more districts may be justified to accommodate new development patterns), the large number of obsolete districts shows how that the system of base districts has become quite outdated. In fact, the B-5 district has been made obsolete and then “resurrected” as an active zone district (it appears in both lists), which is further evidence of the need to revisit these districts.

The current menu of Residential Districts appears particularly outdated. While there are five standard residential districts that have been designated “obsolete”, there are six in current use (R-A, R-E, R-1, SH, and R-M). We understand, however, that the six active residential districts are almost never used for new development – which indicates that either the dimensional, performance, and/or design standards are not well matched to current development demands and opportunities. At the same time, one planned districts (R-PD) has been retired and replaced by three planned residential districts (R-PSF, R-PM, and R-PH), which suggests the desire or need to use planned districts to achieve desired residential lot sizes, layouts, and design.

Rather than increasing reliance on planned development zones, many modern codes use standard residential zones that “build in” the flexibility to lay out development in different patterns, and with different mixes of lot sizes and open space. Since 70 percent of all development is residential (and more in rural areas) revisiting and reinventing the county’s base residential districts would go a long way to reduce reliance on PUDs to approve relatively routine residential developments. As an aside, very few new codes use a Senior Housing district; instead, the growing need for senior housing is accommodated as a permitted or special review use in other residential and non-residential zone districts.

In addition, Arapahoe County’s current Residential zone districts (both current and obsolete) do not appear to accommodate many types of residential development currently in demand or likely to be in demand in the future. The minimum lot sizes of the standard obsolete zones range from 20,000 sq. ft. to 6,000 sq. ft., and those of the current standard (non-planned) Residential districts range from 2.41 acres (R-E) to 40,000 sq. ft. (R-1). Much of the newer residential demand in both urban and rural areas is for single family residential lots much smaller than 40,000 square feet.

For example, the adjacent City of Aurora includes base residential zone districts allowing minimum lot sizes of as low as 3,700 square feet, subject to strict design and spacing requirements to protect community character. Adjacent Centennial, Colorado, allows residential lots as small as 5,000 square feet in base residential zone districts. In addition, none of the Arapahoe County base residential zones (current or obsolete) allow innovative types of housing development such cottage housing infill, co-

housing developments, live-work, auto courts, loop lanes, or other types of land efficient development that are increasingly seen in the Denver metro market.

While the current Planned Residential districts allow densities ranging from 4 dwelling units per acre in R-PSF to unlimited multifamily density (with a minimum of 11 dwelling units per acre (R-PH), projects in those districts can only be achieved through approval by the Planning Commission and the BOCC as described in the PUD analysis above. The need to obtain PUD approval for initial development, and then to process PUD amendments as market conditions change, is a serious disincentive to many types of residential development for which there is market demand.

As noted above, the division of the Zone Districts into Residential, Commercial, and Industrial categories makes it difficult to encourage mixed use development. In fact, it pushes property owners towards unnecessary PUDs to achieve this often-desired result. As an example, none of Arapahoe County's six active business and industrial uses permit attached or multifamily development. Even the relatively low-impact Live/Work use is "Reserved for future code amendment." Many newer codes allow Live/Work, attached and multifamily residential uses in almost all zone districts that allow light- or medium- intensity commercial uses. Some even allow multifamily and lodging uses in light industrial zones. In short, the grouping and description of zone districts in outdated categories illustrates an important mismatch between the current Land Development Code and types of development desired by many communities. While many combinations of uses are possible through rezoning to the Mixed Use (MU) zone district, those too require approval of a development plan as a prerequisite to mixing the uses.

The Arapahoe County Development Code also lists some zone districts to cover uses that are usually not defined as zone districts, but are instead handled as permitted or special exception uses in other zone districts. Examples include the Senior Housing (SH) district mentioned earlier and the Cultural (C) district.

In addition, many newer codes would designate the Floodplain district regulation in Section 9-400 as an overlay zoning district rather than a base district. The overlay would reflect the provisions of current Section 12-2000 (Floodplain Management and Flood Damage Prevention Regulations) and would include a link to the current FEMA flood protection map adopted by the County. As that GIS map is amended in the future, the revised boundaries would be available to LDC readers through the link. Some communities also place a reduced/simpler map of the flood plain boundaries into the LDC itself along with a caveat that the map is not official and cannot be relied on for precise boundary locations. The provisions of Section 12-2000 appear thorough and only moderately dated, but should probably be reviewed to ensure that they reflect current best practices. More specifically, the County should probably reflect any additional requirements or incentives established by the Federal Emergency Management Agency (FEMA) in light of recent flood damage along the Front Range. In addition, the provisions of FEMA's Community Rating System (CRS) program should be reviewed; in some cases, inclusion of some minor flood protection standards or programs may result in potentially significant reductions in flood risk ratings for the county.

Although cooperation in land use planning among adjoining jurisdictions is laudable, we understand that provisions of the provisions of the Centennial Airport Environs Planning Area are not being in the same way by Arapahoe County and the City of Centennial. However, some of the use-specific design standards included in this section reflect emerging best planning practices, and their application to those land uses throughout Arapahoe County should be considered. In addition, some of the overlay districts (for example, the Strasburg Business/Commercial Overlay District) use permitted use names that do not match those in the general permitted use tables, which makes consistent application and enforcement of the code difficult. The materials included in current Section 10-400 (Overlay District Voided/De-

annexed/Disconnected Land) could be included in a general text provision; few counties address the issues created by de-annexed and disconnected lands through the use of an overlay district.

Finally, many communities that have designated “obsolete” zone districts often remove those from the Development Code. They can be retained in another administrative document for reference or enforcement purposes, but do not need to take up space in the Code itself.

5.3 Permitted Uses

Although occasionally outdated, the lists of permitted uses, special exception uses, and uses by special exception in the current Arapahoe Development code appears to have been reviewed and revised in the recent past. Many of the uses often missing or poorly addressed in county development codes are addressed well in Arapahoe County, but there is room for improvement. While some of the listed uses are fairly standard for county development codes, others are overly specific or no longer match modern market needs, and still others are missing from the lists altogether. A sample of uses in each category is shown below.

Sample of Current Listed Uses in the Development Code		
Standard uses	Over-specific or Outdated Uses	Missing Uses
Home occupations	Explosion welding, cladding, or metallurgical bonding of metals	Recycling drop-off facility
Small wind energy conversion systems	Amateur motor sports facility	Cottage housing development
Group homes	Animal-assisted therapy activities	Co-housing development
Sexually-oriented businesses	Farm and gardening classes	Live-work dwelling
Bed and breakfast	Flower farms	Dispatch facility for personal/business services
Marijuana use	Hunting club	Artisan manufacturing
Oil and gas facility	Major electrical, natural gas, and petroleum-derivative facilities of a private company	
Farmer's market	Storage and sale of firewood	
Kennel or animal hospital	Telephone exchanges and similar buildings to house telephone or communications equipment	
Manufactured home	Open air assembly facility Go-kart and skateboard tracks	
Single-family dwelling unit		
Single-family attached dwelling unit		

While the list of uses available in different zone districts is not significantly out of date, the issue of the permitted scale of different uses appears to be poorly addressed. In many cases, the “fit” of a particular

use and a particular zone district depends more on the size and scale of the use than on its name. As an example, a 10,000 or 15,000 square foot hardware store would be an appropriate addition to many neighborhood and community scale mixed use districts, but a big box home building supply store would be out of scale and generate too much traffic to be a good neighbor. Many newer codes establish a maximum size for commercial and institutional uses for different mixed use zone districts, but that important aspect of use control appears to be missing from the Arapahoe County code.

Finally, the naming of specific uses is inconsistent among districts. In some cases, “church” is identified as a separate use (that is usually retitled as “religious institution” in most newer codes), but in other cases it is included as an example of a “quasi-public use”.

Some of Arapahoe County’s permitted use regulations are contained in Chapter 12 (Specific Use Regulations), where they are commingled with other types of regulations. By organizing use regulations in a comprehensive Permitted Use Table (as described in the Structure discussion above), these types of standards can be brought closer to other use regulations for better reader understanding and internal consistency. Our additional comments on the use regulations included in this poorly organized chapter include the following:

- 12-400 (Home Occupation). The current regulations are very simple. While they avoid the over-regulation of home occupations often found in older development codes, some provisions may be too narrow to accommodate the range of home occupations routinely conducted in many residential neighborhoods. Many newer codes allow home occupations to include one employee from outside the household in some zone districts, limit the number of visits from delivery trucks per week (rather than prohibiting them altogether), and/or prohibit or limit some specific types of activities that have predictable neighborhood impacts (which often includes vehicle and equipment repair and retail sales activities).
- Section 12-500 (Temporary Structures) and Section 12-600 (Temporary Uses). These two sections should be integrated, because as a practical matter many of these types of uses and structures are related to each other (i.e. approval of the temporary use implies approval of the required temporary structure, and vice-versa). In addition, this section of the Code should be reviewed and probably expanded, since the list of possible temporary activities extends significantly beyond those currently listed in the Code. Procedures for obtaining a Temporary Use Permit in Sections 12-605 through 12-611 should be grouped with other procedures in the Code.
- 12-700 (Small Wind Energy Conversion Systems). These standards appear current and to allow adequate height to generate small amounts of wind energy. Procedures for obtaining approvals should be grouped with other Code procedures.
- 12-800 (Fence Regulations). These standards appear current and do not require revisions.
- 12-900 (Group Homes). These standards appear to have been reviewed recently and do not require revision. Although the 750 foot spacing requirement is authorized (but not required) by Colorado state law, the County should consider whether this type of spacing is needed for the benefit of the residents of group homes. When challenged, some courts have invalidated spacing requirements unsupported by evidence of the medical rationale behind the spacing rule.
- 12-1000 (Sexually-oriented Businesses). These standards appear current and do not require revision.

- 12-1100 (Commercial Mobile Radio Service (CMRS) Facilities). Although the general structure of this section is current and the standards are thorough, the substantive standards should be reviewed for compliance with recent rules issued by the Federal Communications Commission regarding (1) presumed “reasonable” times for review and approval of attached and freestanding facilities, and (2) the requirement that local governments approve within 60 days applications for co-locations of “eligible facilities” that do not result in “substantial change” to an existing tower or antenna structure. Procedural requirements in Section 12-1107 should be reviewed for compliance with these new federal rules, and should be consolidated with other procedures in the Development Code.
- 12-1500 (Explosion Welding, Cladding, or Metallurgical Bonding of Metals). The use to which these standards apply is defined too specifically. These standards should be reviewed to ensure that they reflect current best practices in light of current technologies used for this type of activity, and the standard made more generally applicable.
- 12-1600 (Bed and Breakfast Standards). These standards appear current and do not need to be revised.
- 12-1700 (Amateur Motorsports Facility). The use to which these standards apply is defined very specifically. If these standards are retained they should be made more generally applicable to outdoor entertainment and recreation facilities likely to draw significant crowds and automobile traffic.
- 12-1800 (Marijuana Land Uses). Because the legalization of recreational marijuana in Colorado is relatively recent, these standards adopted in November 2015 reflect general community sentiment as to how these uses should be regulated. We recommend that these standards be carried over, but that the defined terms (and all other definitions in the Code) be consolidated into a single chapter devoted to definitions.
- 12-1900 (Oil and Gas Facilities). Like the county’s regulations for marijuana, these standards appear to have been adopted relatively recently, probably in response to new technologies and public concern about hydraulic fracturing (“fracking”) operations. Because they likely reflect recent community compromises about how to regulate this activity, we recommend that these regulations also be carried over. However, as with other portions of the current code, procedures should be consolidated into a single procedures chapter, and submittal requirements and specific plan content requirements should be removed from the Code and posted on the county’s web site.
- 12-2200 (Community Gardens). These standards appear to be relatively recent, and therefore probably reflect recent community sentiment on how this use should be regulated. However, the prohibition on use of vacant residential property for these purposes is unusual, as are the limits on the amount of an individual lot that can be devoted to this use. Submittal requirements for the registration of the garden appear fairly strict for this use.
- 12-2300 (Farmers’ Markets). These minimal requirements for this use may not be necessary.

5.4 Development and Quality Standards

Our comments on this topic include regulations currently included located in the following sections of the Land Development Code.

- 12-100 (Areas and Activities of State Interest (“1041 Regulations”)). The adoption of these regulations is governed by Colorado Revised Statutes §§ 24-65.1-101 to 24-65.1-502, and we assume that the county has followed the statutory procedure for adoption of these regulations. However, once adopted, the two sets of 1041 regulations adopted by Arapahoe County (Mineral Resource Areas and Geologic Hazard Areas) operate like overlay districts, and it might be clearer to Code readers and property owners if these regulations were recast as mapped overlay districts.
- 12-200 (Grading, Erosion and Sediment Control Regulations). These regulations are primarily focused on describing a procedure for obtaining GESC permits. Technical standards to govern the approval of those permits are not contained in the Code but are cross referenced in a GESC Manual. Because they are primarily procedural, these regulations should be grouped with other procedures in the Development Code.
- 12-300 (Sign Regulations). Although perhaps adequate when they were adopted, these sign regulations need to be revisited in light of the U.S. Supreme Court’s 2015 decision in Reed v. Gilbert. That decision called into question the common practice of describing different size, height, location, and other regulations for different types of commercial and non-commercial signs, as may also require reconsideration of the common sign code distinctions between on-site and off-site signs. Since these types of distinctions are present in the current sign regulations, significant changes will likely be needed, and this will require significant time from the Arapahoe County Attorney’s office, among others. Application review and approval procedures should be grouped with other procedures in the Code.
- 12-1200 (Parking Regulations). These standards should be reviewed and possibly revised to provide additional flexibility while maintaining visual appearance of attractive parking areas. Some current provisions are unusual in newer development codes, including (but not limited to) the provision that all required parking be provided on the same parcel as the primary land use, the prohibition on counting tandem parking spaces toward require off-street parking, and the prohibition on compact car parking spaces. Inflexible parking requirements are sometimes a significant factor in pushing applicants toward the use of Planned Unit Developments, and one that can easily be avoided by more current parking rules. In addition, many newer codes group parking lot landscaping provisions with other landscaping and buffering provisions in order to avoid inconsistent requirements and to encourage more integrated and land-efficient landscaping design. Some of the current landscaping requirements appear to require inefficient land layouts that are probably not appropriate for more urbanized areas of the county and small- and medium-sized activity centers.

Some of the minimum parking requirements appear high – even for a low-density and primarily auto-oriented county – and should probably be reduced in multi-tenant activity centers and business parks. Minimum requirements for restaurant parking are the highest Clarion Associates has reviewed in some time. General retail parking standards and some assembly space standards also appear high. In addition, parking requirements based on the number of employees should generally be avoided, since employment levels often change. If those standards are retained, they should be recast as requirements based on the design capacity of the building rather than actual persons then employed, in order to simplify code administration.

Most newer codes include a table authorizing reduced parking requirements for joint use/mixed use facilities without the need for submittal and approval of a joint use parking agreement. As a practical matter, such agreements prove very hard to monitor and enforce over time.

- 12-1300 (Lighting Regulations). The provisions of this section appear both current and very thorough, and only require revision to remove overly technical terminology cited by stakeholders as a barrier to understanding these requirements. For example, the current regulations include standards based on footcandles, candelas per meter squared, nits, and lumens, as well as cross-references to IESNA standards. In addition, illustrations of the key lighting types and concepts would be helpful. In addition, this section does not include minimum energy efficiency standards for new outdoor lighting fixtures. Because outdoor lighting is a significant source of avoidable energy consumption, this additional standard is included in an increasing number of development codes.
- 12-1400 (Landscaping Regulations). The general amounts of landscaping required appear reasonable for a generally suburban context emphasizing attractive site design. However, some stakeholders mentioned that the text uses overly technical terms and would benefit from revisions to make them more understandable. In addition, some of the standards might be revised to match the more urban contexts in the western end of the county and the more rural contexts in the eastern portions of the county. This type of tailoring was completed for the lighting standards, and the landscaping regulations would benefit from a similarly thoughtful approach.

In addition, the structure of these regulations is somewhat unusual, in that the required amounts of landscaping are not divided into the usual categories of (1) street frontage landscaping, (2) parking lot landscaping, (3) property edge buffering from developments of a different scale or character, and (4) building foundation landscaping for larger facilities in more urban contexts. In some cases it is not clear whether all of the requirements are additive, or whether overlapping requirements can be reconciled by complying with the stricter of the two (which is the case in most modern codes). As with lighting regulations, illustrations of the requirements would be helpful to LDC readers. However, the fact that these regulations cover county rights-of-way, medians, major drainageways, and public and private parks is helpful and will contribute significantly to the visual appeal of the county. Enforcement provisions should be consolidated with other enforcement provisions.

- 12-2100 (Trash Containers/Dumpsters/Roll-offs). These are unusual standards to find in a county development code. If they are retained they should be grouped with other operating and maintenance standards.
- Chapter 15 (Design Principles). This detailed chapter of mandatory design standards and advisory design guidelines appears to be fairly recent and to reflect generally current practice for similar materials. Helpfully, it identifies the difference between standards and guidelines. Even more clarity would be provided if the Code indicated that a development application that meets applicable standards cannot be denied or approved with conditions (or recommended for denial or approval with conditions) because it fails to meet guidelines.
- Section 15-100 (Development Design Principles). Although the introductory paragraph on applicability is helpful, it appears to cover all possible applications except variances, amendments, and subdivisions. However, some of the design guidelines and standards would be best applied at the subdivision stage, and the county should consider adding Preliminary and Final Plats to the list of procedures where these materials should be applied. The county should also consider whether these materials should apply to Location and Extent reviews, which are intended to be more limited than standard development review procedures. In addition, there are areas of overlap between the requirements of this section and other areas of the

Development Code (such as the Landscaping regulations in Section 12-1400), and those sections should be reconciled and consolidated if possible. Finally, the structure of this section is non-intuitive, and might be easier to follow if all Residential development materials, all Mixed-use development materials, and all Non-residential development materials were grouped into three sections, and then internally organized into subsections for standards and guidelines.

- Section 15-200 (Subdivision Design Principles and Standards). As noted above, the county may want to consider integrating some of these standards with those in Section 15-100, since some of those principles could be best applied when land is subdivided. In general, these design standards appear less current than the Development Design Principles in Section 15-100, and should be reviewed and possibly updated. For example, the practice of designating parking restrictions on development plans and plats in Section 15-202.02 is unusual in modern development codes, as parking restrictions can easily change over time after the plat has been recorded. Similarly, the provisions of Section 15-202.05 regarding responsibilities for abutting streets should be reviewed for compliance with recent court decisions regarding proportionate exactions. While many counties follow a longstanding practice of requiring dedication of land or improvements for “half a street” along section lines and sometimes half or quarter section lines, those exactions may not be justified if development on the property will not generate sufficient to justify the need for those streets. Under the U.S. Supreme Court’s decisions in Nollan v. California Coastal Commission and Dolan v. Tigard, any exactions of land must have a rational nexus with the development on the land and be roughly proportional to the impacts of that development. Although the title of this chapter and subchapters identify them as principles and standards, much of the material is worded as advisory guidelines using terms like “should” and “encourage” and “appropriate”, which could make predictable and consistent enforcement of the material difficult. Provisions related to lots and blocks are very general, and do not directly address required levels of connectivity, which is a common feature of newer subdivision regulations.
- Section 15.300 (Improvement Requirements). These standards appear thorough and offer subdividers significant flexibility in both the types of assurance of improvement completion provided to Arapahoe County and the timing of construction drawing approvals.
- Section 15-400 (Rural Site Development Standards and Guidelines). Because of the significantly different characters of eastern and western Arapahoe County, it is wise for the Development Code to include these alternative standards, and to provide that in case of conflict they shall prevail over the more urban standards applicable in the western parts of the county. The section also clearly distinguishes between standards and guidelines, which should simplify administration. These materials are very current and thorough, and do not need to be revisited.
- Chapter 16 (Standard Notes). This entire chapter contains material only used by applicants for specific types of development approvals, and not of interest to many citizens and potential investors reading the Development Code. These materials should be removed from the Code and maintained on the county’s web site, where they could be easily amended as laws and technology change without requiring an amendment of the Code itself.
- Chapter 18 (Arapahoe County Streetscape Guidelines). Although titled as guidelines, many of the provisions of this chapter use mandatory language and may be intended to be regulations. Many of the standards are tied to specific street cross-sections, and some of those cross-sections appear to be dated and may need to be revised. In addition, many of the graphics are unclear (and in some cases almost unreadable) and need to be updated. The content of the

Maintenance Regime in Section 18-103.10 and the Bibliography in Section 18-104 are very unusual to find in a county code and could probably be deleted or moved to the county's web site.

5.5 Non-PUD Development Review Procedures

As mentioned in the Development Code Structure discussion above, Clarion Associates recommends that all provisions related to the review and approval of all land use-related applications be grouped together –both for internal consistency and to avoid repetition. This “Procedures and Enforcement” chapter should start off with the content of Chapter 2 (Review and Decision-making Bodies), including Table 2-1 (Summary of Review and Decision-Making Authority). For reference, that table is shown below.

these technical decisions could often be resolved by a Board of Adjustment (or even the Planning Commission) in a less politicized atmosphere.

As noted in our evaluation of the county's PUD system above, it is also not clear that most or all Final Development Plans (FDPs) need to be approved by the Board of County Commissioners.

In addition, like many older development codes, the Arapahoe County rules distinguish between Special Exception uses (decided by the Board of Adjustment) and Uses by Special Review (decided by the BOCC). Many newer codes consolidate all discretionary use decisions into a single category; those with minor impacts are sometimes decided by staff based on stated criteria, those with moderate impacts by the Planning Commission, and those with major impacts or countywide significance by the Board of County Commissioners).

Clarion Associates' additional observations about the non-PUD procedures in the current Development Code include the following:

- As noted in several comments above, all procedural provisions should be consolidated into a single chapter of the Development Code. This would allow common procedural requirements to be stated one time, rather than repeated in multiple sections of the Code. Examples of common development standards include (1) requirements to file applications on county-approved forms, (2) requirements that each application be accompanied by an application fee in an amount established BOCC resolution, and (3) requirements for consistent public notification for similar types of applications.
- 13-200 (Conventional Zoning). Although only a small number of zoning applications follow this procedure, it should be the most commonly used process, with PUDs being the exception rather than the norm. As noted above, that cannot happen until the menu of available zone districts is revised to better match development and market needs in Arapahoe County. In addition, we recommend some revisions to this section. The provisions of 13-202.02 should be revised or deleted; in almost all communities an amendment to a "straight" zone district also affects existing land zoned in that districts (otherwise the regulations in these districts would have to be applied differently to different properties depending on when they were zoned). The better practice is to apply nonconformity principles to protect owners who have invest or built in reliance on an earlier version of the straight zone.
- Section 13-300 (Small Lot Standards). This section may be mis-codified, since it could be applied during the subdivision process as well as during the FDP process. Although the introductory section suggests that these standards can be applied through conventional zones, there is no conventional zone in current use that would allow lots under 6,000 square feet; it appears that all small lots now need to be approved through PUD, which should not be necessary. These standards should appear in the subdivision regulations and be usable with a straight zone allowing lots of these sizes. In order to reduce apprehension about the impact of small lot developments on surrounding residential areas, Arapahoe County may want to follow Aurora's lead in limiting the size of very small lot developments and/or requiring that they be spaced a stated distance from each other. The creation of a workable small lot zone and platting procedures would go far to reduce the over-reliance on PUDs in the county. In addition, the substantive provisions of this chapter should be revised. The current standards are worded as application requirements, which should not appear in the Code, but they actually contain some substantive standards that should appear as objective measures for acceptable small lot development.

- Section 13-400 (Administrative Site Plan). This typical section appears to require little revision, but the county may want to consider exempting duplex development from this requirement (as well as single-family detached development, which is already exempted).
- Section 13-500 (Administrative Amendment) and Section 13-600 (Technical Amendment). It is unusual to find two different versions of a minor amendment procedure. In the course of our PUD research, we found only one nearby county (Jefferson County) that uses a similarly minor distinction between types of small amendments to previous approvals. Most newer codes include only one minor amendment processes for small modifications to prior approvals, as well as one major amendment process (which essentially requires that the application proceed through the same steps and review bodies as the original project approval). These two procedures could be combined into a single minor amendment process. While the scope and detail of what can be varied through the Administrative Amendment process is currently described in great and helpful detail, we suggest that these parameters be revisited and that the scope of Administrative Amendments be expanded to include other forms of amendments that make little difference to the long-term appearance, traffic, service demands, or sustainability of the resulting development.
- Section 13-700 (Location and Extent). This section appears to treat applications for Location and Extent review similarly to other land use actions (other than a rezoning or PUD). A hearing before the Planning Commission is required, and appeals to the BOCC are permitted. During early stakeholder interviews, however, we heard that the process may be requiring too much detail and analysis in light of the fact that – in the end – the applicant whose project is the subject of the Location and Extent review may override the decision of the Planning Commission and the BOCC. To be clear, we do not recommend that the process be simplified, but that the submittal requirements and level of detail be reviewed to focus on the basic parameters of the proposed facility and its location and impacts. Following the final decision of the applicant as to whether to move forward with its project in the proposed location, standard county engineering and construction standards will apply in any event.

13-800 (Special Exception Uses) and Section 13-900 (Use by Special Review). These two special use approval processes are confusingly-similarly named, and could be replaced with names including the terms “minor” and “major” to highlight the fundamental differences between the two. Many communities use only a single version of a special use review – which is easier for the public to understand – but clarify that in some cases the decision is made by the Board of Adjustment while higher-impact and higher-visibility uses are decided by the BOCC. Consolidation of these two procedures is less important than better distinguishing the names of the two procedures.

In addition, the amendment provisions in Section 13-906 should be combined with the major/minor amendment provisions in many other zoning procedures, rather than repeated with minor variations in each individual procedural chapter. Many newer codes have a single section addressing how all minor and major amendments to prior approvals are reviewed and approved.

- Section 13-1000 (Variances and Interpretations to these Regulations). This section appears to contain a standard procedure and criteria for variances, and does not need revision. However, the Development Code does not clarify how Arapahoe County will process applications for “reasonable accommodation” under the federal Fair Housing Act Amendments of 1988. That Act requires that local governments be prepared to approve reasonable requests for variations

in rules and standards if necessary to allow a person protected by the Fair Housing Act (most often, a person with a handicap) the ability to access or use a housing unit. The procedure itself does not need to be included in the Development Code, but the county should decide in advance how such requests will be processed. We recommend that response to requests for “reasonable accommodation” be an administrative action of the Director without the need for a public hearing that might tend to draw attention or stigmatize the very populations whose rights are intended to be protected under the Fair Housing Act.

- Sections 13-1100 (Rural Cluster Option) and 14-1000 (Rural Cluster Options). It is not clear why these two sections appear in different sections of the Code. They should probably be combined and included in Chapter 14 (Subdivision) unless the regulations in Section 13-1100 are intended to apply in a non-subdivision context (e.g. a site condominium on a single parcel of land), in which case it may make sense to keep them separate. Both of these sections contain very thorough and detailed regulations that appear to have been drafted and revised recently, and to offer the very significant density bonuses required to make these types of programs effective. Most newer codes include these types of standards in the zoning controls and then include subdivision rules that require all lots to comply with applicable zoning standards (which avoids addressing the issue twice and the inconsistencies that occur when that happens). In addition, the county should consider whether the Priority Review provisions in Section 14-1002.01 have been effective; in many communities implementation of these types of priorities has been difficult an ineffective. Otherwise these two sections do not need to be revised.
- Section 14-100 (Subdivision Regulations). The purpose statement for this chapter appears dated in that it does not reflect the importance of avoiding or mitigating damage to sensitive lands, which are key feature in many newer county subdivision regulations. In addition, the chapter reads as if it was at one time a freestanding document that has since been incorporated into the Development Code. Some subsections (such as the Duty to Conform, Separability Clause, and Processing Fees and) are not necessary in an integrated Development Code because they can be stated once for the entire code. It appears that the formulas for calculation of land dedication requirements in Section 14-111 have been considered in detailed and are likely the study of thorough studies; if they are current, they do not need to be revisited. Because of the decision of the U.S. Supreme Court in St. John’s Water District v. Koontz, 133 S.Ct. 2586 (2013), it is particularly important that the county not deviate (particularly upward) from these standards unless it is confident that the alternate dedication requirement is related to and roughly proportional to the impacts of the proposed development.
- Sections 14-202 (Approval Standards for a Preliminary Plat) and 14-302 (Approval Standards for a Final Plat). These two sections currently do not mention consistency with the Arapahoe County Comprehensive Plan as a mandatory approval standard. In the case of Larimer County v. Conder, 927 P.2d 1339 (Colo. 1996), the Colorado Supreme Court held that a county can include consistency with adopted plans as a criteria for subdivision approval IF the county’s regulations include that requirement and the comprehensive plan provisions are adequately detailed to provide accurate guidance on the application. We recommend the Development Code include an explicit statement that Preliminary Plats must be consistent with the county’s comprehensive plan.
- Section 14-500 (Minor Subdivision) is straightforward, but it is not clear why these should need to be reviewed by the Planning Commission or approved by the Board of County Commission if no infrastructure or dedications are involved, or why they could not be approved on a consent agenda. The general purpose of Minor Subdivision procedures is to simplify the process and to

delegate decision-making to the lowest possible level consistent with Colorado law. Although Colorado law requires a public hearing on subdivisions, we believe that other counties also use the consent agenda approach in which concern by neighbors or others triggers a removal from the consent agenda and a public hearing. However, when a hearing is requested, we recommend that it happen at the Planning Commission rather than at the BOCC level.

- Sections 14-600 (Administrative Replat Procedures), 14-700 (Vacation of Roadways, Public Easements, and Plats), 14-800 (Plat Correction), and 14-900 (Subdivision Exemption) appear straightforward, and may not need revision. However, if the County has had problems with “paper plats” (subdivisions approved in the distant past on which improvements have not been installed or lots sold) or “obsolete subdivisions” (subdivisions that no longer meet the county’s standards for protection of health or safety), the County may want to clarify whether the County can be an applicant in a plat vacation (or partial vacation) proceeding. While inclusion of these types of provisions has not been common in the past, some counties that have been experiencing financial risk or threats to public health and safety from paper plats or obsolete subdivisions have begun to include them.
- Chapter 17 (Notice and Notification). This important section of the Code covers a topic where many newer codes are making significant changes to traditional practices. More specifically, many communities are revising their notice requirements to encourage earlier communication between applicants and surrounding neighborhoods, to rely less on newspapers (both to reduce costs, and because the number of regularly published newspapers is shrinking), and to use more extensive web-based notification systems. There is also a smaller trend away from mailed notices because of the costs involved. Arapahoe County’s posted and mailed notice provisions in Sections 17-101 and 17-102 appear adequate, but the county may want to consider clarifying that notice is not required for minor amendments to PDPs and FDPs. Many newer codes would remove the actual text of required notices and letters and would instead make them available on a government web site.
- Appeals. Throughout the Code, there are several instances where decisions of the Planning Commission can be appealed to the Board of County Commissioners for final action. With the exception of rezoning applications (including PUD rezonings), it is preferable not to allow decisions regarding the application of the Development Code to specific pieces of property to return to the elected body responsible for approval of the Development Code itself. Returning individual property decisions (short of rezoning, which is a legislative action) to the legislative body tends to politicize what should be administrative decisions, and often leads to perceptions that land use decisions are inconsistent or involve favoritism, and that applicants are not being treated equally. The county may want to consider whether some types of appeals should not go to the BOCC but should instead be considered through the courts through a Rule 105(a)(4) action.

5.6 Other Observations

Three additional observations about the current Arapahoe County Land Development Code are listed below.

- Chapter 19 (Definitions). This section contains approximately 50 pages of definitions for terms used in the Development Code. The content appears very thorough and to include definitions

for most of the permitted uses and other key terms in the chapters that precede it. After other sections of the Code are reviewed and revised as described above, this chapter should be reviewed and revised for consistency with other materials. More specifically, the review of Chapter 19 should:

- Ensure that all of the (revised)permitted uses are defined;
- New terms such as “eligible facilities” and “substantial change” from recent Federal Communications Commission rulemaking are included;
- Ensure that terminology for group homes matches the terminology of federal and state anti-discrimination and fair housing laws, as well as state facilities licensing laws to the greatest degree possible;
- Revise sign-related definitions to align with new names and categories required following the county’s review for compliance with the Reed v. Gilbert decision;
- Ensure that definitions of terms related to the regulation of uses involving First Amendment rights (including adult uses and religious institutions) are adequate to protect those rights; and
- Delete all definitions of terms no longer used in the Development Code.

Outdated and poor quality graphics associated with various definitions should also be updated. In addition, many newer codes supplement the definitions chapter with new sections on Rules of Measurement and Rules of Interpretation in order to facilitate more consistent administration of the Code.

- Chapter 11 (Nonconformities). These provisions appear up-to-date and do not require significant revision, except that the missing provisions on Nonconforming Development Standards should be completed. In general, many communities state that nonconforming development standards do not prevent an otherwise conforming use or structure from expanding, from being restarted after a discontinuance, or from being rebuilt following an accident or natural disaster. In addition, many newer codes allow discontinuance of a nonconforming use for more than six months (one year is more typical) before the nonconforming use status is lost, and in some cases a longer time is permitted for structures designed for a particular use (e.g. churches).
- Submittal Lists and Application Requirements. Throughout the Development Code, many sections include long, detailed lists of development submittal requirements, application forms, notice texts, or standard form letters or certifications. Almost all newer development codes remove those materials from the Code and locate them in an administrative manual or (increasingly) on the local government’s web site where they can be updated simply and without need to for a formal Development Code amendment procedure. We recommend that all application material lists, submittal lists, and notice texts be removed from the Code.

5.7 User-friendliness

The current Arapahoe County Development Code is very user-unfriendly. Many citizens, as well as property owners and potential investors, would find it difficult to navigate and understand. A more

user-friendly Code begins with a simple and intuitive structure of the type discussed in the “Structure” section above. In addition, Development Code would benefit from:

- A simpler division of zone districts into the Residential, Mixed Use, and Special Purpose zone district structure described above. Agricultural districts would be classified as Special Purpose zone districts.
- The use of a master Permitted Use table allowing comparison of Permitted, Special Review, Accessory, and Temporary uses across all zone districts.
- The use of many more high quality graphics to illustrate development standards and definitions.
- The inclusion of a graphic flowchart for each development application process. For public consumption, these should be general charts showing steps in each process and identifying the decision-making body. More detailed timelines of specific procedures – and variations of procedures for special cases – with deadlines and times for processing can be made available on the county’s web site.
- As noted above, all application submittal requirements and standard notice texts should be removed from the Development Code and relocated to the county’s web site, where they can be revised as development types and development review technologies change without having to amend the Code.

6. PRIORITIZED RECOMMENDATIONS FOR DEVELOPMENT CODE IMPROVEMENTS

The primary purpose of this Development Code Assessment has been to identify reasons behind dissatisfaction with Arapahoe County’s Planned Unit Development review and amendment system. That has been the primary focus of stakeholder outreach, surveys of other Front Range communities, and the analysis in Sections 2, 3, and 4 of this document. Our secondary focus has been to identify other sections of the Development Code that may need to be revisited and updated – with particular focus on those outdated provisions that may be leading to over-use of Planned Unit Developments as the primary route to development approval in the county. We believe these should remain the county’s top areas of focus as additional changes to the Development Code are considered. Consistent with this approach, our prioritized list of needed changes to the Arapahoe County Development Code are listed below.

6.1 Top Priorities – Phase 1

(First Half of 2016)

Based on staff and stakeholder comments and our experience around the U.S., we believe that the most pressing need is for Arapahoe County to modernize its PUD procedures and to create modern base residential zone districts that would significantly reduce reliance on PUD approvals (and the time and expense of amending them and managing development within approved PUDs over time). This is not “low-hanging fruit”, but the changes that would create the most immediate improvement in stakeholder and staff satisfaction with the LDC and the efficiency of County planning and development operations.

Improve the PUD System

Implement the eight changes to improve the performance of the PUD system identified in Section 5 of this document.

Adopt Modern Base Zone Districts

Develop a set of Residential and Mixed Use zone districts more aligned with current market demands and layout/design approaches, with significant internal flexibility to mix housing types and densities as long as Development Code standards for circulation, open space, and infrastructure are met. This important step will remove substantial pressure leading to the over-use of Planned Unit Developments for relatively common styles and patterns of development, and will produce significant administrative savings through reduced PDP and FDP approvals and amendment hearings in the future. The county’s goal should be to design districts so aligned with its planning goals and market demands that more than two-thirds of all development applications can be handled administratively. The County’s obsolete zone districts -- R-2, R-3, R-3S, R-4, R-5, R-P, B-2, Senior Housing (SH), and Cultural (C) zone districts (the last two of which really describe land uses that could easily be incorporated in other zone districts) – should be repealed and removed from the LDC.

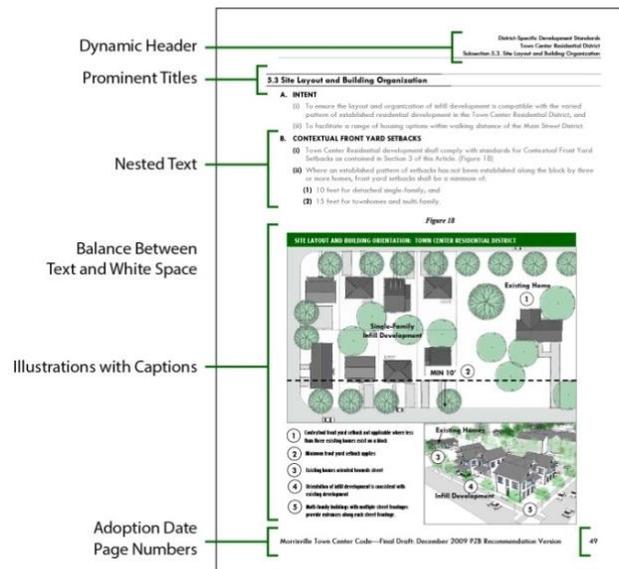
6.2 Medium Priorities – Phase 2

(2016-2017)

Once the PUD system has been revised and over-reliance on that system is addressed, the County should lay a strong foundation for a modern code structure and for updated development standards to better reflect the County’s planning goals. Making the LDC more user-friendly and linking it more closely to the quality and types of development the BOCC wants to see in the future will go far to improving public satisfaction with the system, avoid the need to re-debate quality standards with each new development, and promote consistent decision-making.

Reorganize the Development Code

Use a more intuitive five- or six- chapter structure that consolidates materials related to permitted uses and conditions, required development standards and guidelines, and different review and approval procedures in three integrated chapters. This will provide the foundation for a more user-friendly and business-friendly code where answers are easier to find, inconsistencies between related provisions are minimized, and future amendments to the Code do not have to be made through the addition of freestanding chapters (which appears to have happened in the past). While reorganization may sound like a “non-substantive” (and therefore optional) step, our experience is that a clearer, more intuitive, and more logical LDC structure will allow much greater public, stakeholder, Planning Commission, and BOCC understanding of the implications of different substantive changes and significantly improve public satisfaction with the County’s development review and approval system.



Update the Development Standards

Review landscaping, parking, and other development standards to better tailor those standards to the very different contexts in eastern and western Arapahoe County (as has been done with the lighting standards). In addition, consider whether standards related to the operation and maintenance of properties (after approval and construction) need to be strengthened. Include an “Equivalent Performance” provision allowing the Director to administratively approve deviations from technical landscaping and lighting standards when the Director determines that the alternative proposed by an applicant will result in better design and have no more adverse impacts on surrounding properties. In addition, adopt revisions to the Arapahoe County sign regulations needed to comply with the Reed v. Gilbert decision.

Include More Visual Aids and Flowcharts

Photographs, tables, flowcharts, illustrations, and other graphics are helpful in conveying information concisely. The city’s current zoning and subdivision regulations make limited use of such tools. We recommend expanding the use of visual aids to help explain how the development regulations work – for example, by clearly showing how dimensional standards are measured and how development

standards (parking, landscaping, building design, etc.) are applied. This will be particularly important if new or updated design standards are considered.

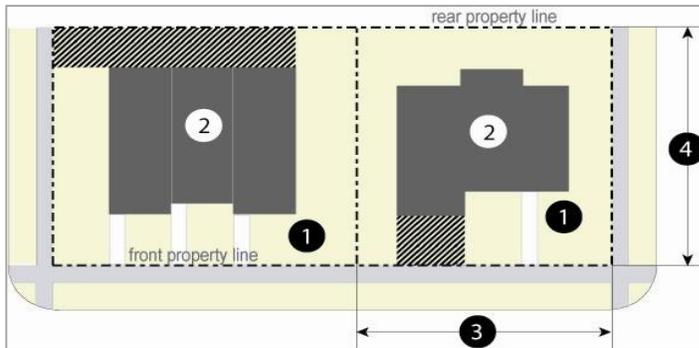
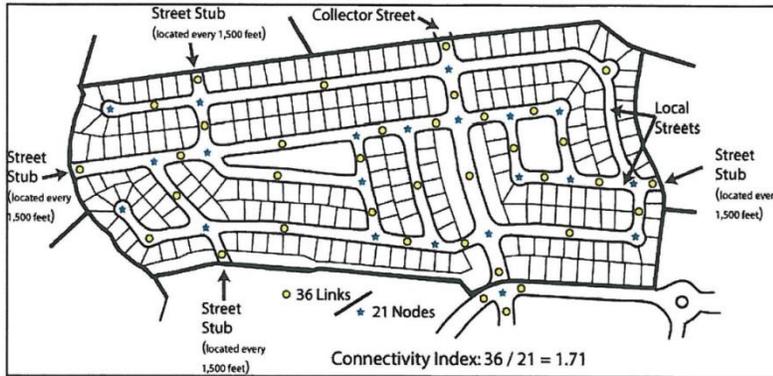
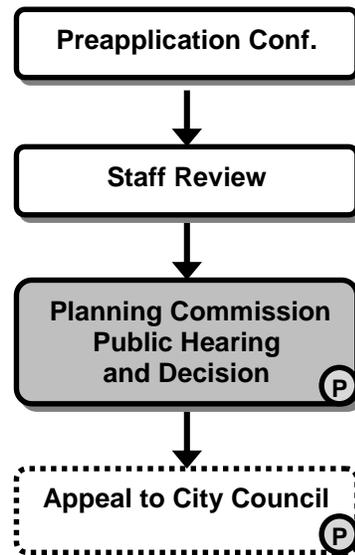


TABLE 50-14.4-1
RR-2 DISTRICT DIMENSIONAL STANDARDS²⁵

LOT STANDARDS	
Minimum lot area per family	2 acres
Minimum lot frontage	100 ft.
SETBACKS, MINIMUM	
Minimum depth front yard	35 ft.
Minimum width of side yard	10 ft.
Corner Lot: width of front side yard	25 ft.
Minimum depth of rear yard	25 ft.
BUILDING STANDARDS	
Maximum height of building	30 ft.

Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

Special Use Permit



(P) Indicates Public Hearing Required

6.3 Lower Priorities – Phase 3

(Second half of 2017)

Review and Update Use-Specific Standards

Ensure that use-specific standards reflect recent laws and rule-making by the Federal Communications Commission. During this process, adopt revisions to the CMRS standards to reflect recent federal laws and rulemaking decisions about presumably reasonable timeframes for processing applications for

telecommunications facilities and for approving requests for “eligible facilities” that do not “substantially change” an existing tower or base station facility.

Update and Streamline Non-PUD Development Procedures

In addition to the recommended improvements to the PUD approval and amendment procedures listed in Sections 3 and 4 of this document, make the additional changes to development review and approval procedures outlined in Section 5 of this document. In the process, adopt a predictable process for review of applications for “reasonable accommodation” under the federal Fair Housing Act Amendments of 1988.