



## The Buena Vista Planning & Zoning Commission January 18<sup>th</sup>, 2023 at **7:00 PM**

Commission Members and Staff will meet at the Community Center.  
The public is encouraged to join the meeting virtually via Zoom.

The public can join the meeting using the Zoom information below. To participate in Public Comment and/or Public Hearings you may connect to the video conference.

Conferencing Access Information: <https://us02web.zoom.us/j/85445634738>

Listen via phone at **1-720-707-2699** Meeting ID: **854 4563 4738** Passcode: **BuenaVista**

### **AGENDA**

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#### **REGULAR MEETING OF THE PLANNING & ZONING COMMISSION**

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Agenda Adoption
- V. Approval of Minutes – December 7<sup>th</sup>, 2022
- VI. Public Comment
- VII. New Business
  1. Continued Public Hearing from December 7<sup>th</sup> - Water Allocation Policy & Dedication Ordinance
  2. 2023 UDC Code Change Proposals
- VIII. Staff/Commission Interaction
- IX. Adjournment



**Minutes of the Regular Meeting of the  
Buena Vista Planning and Zoning Commission  
December 7<sup>th</sup>, 2022**

**CALL TO ORDER**

A meeting of the Planning and Zoning Commission was called to order at 6:59 pm, on Wednesday, December 7<sup>th</sup>, 2022, at the Community Center by Chair Preston Larimer. Also present were Vice-Chair Lynn Schultz-Writsel, Commissioners Tom Brown, Blake Bennetts, Craig Brown, and Thomas Doumas.

Staff Present: Planning Technician Chase McCutcheon and Planning Director Joseph Teipel

**PLEDGE OF ALLEGIANCE**

Commissioner Larimer led in the Pledge of Allegiance at 7:00 pm

**ROLL CALL**

McCutcheon proceeded with the roll call and declared a quorum.

**AGENDA ADOPTION**

Commissioner Larimer motioned for approval of the agenda. Commissioner Tom Brown motioned to adopt the agenda as presented, **Motion #1** seconded by Commissioner Craig Brown. Motion carried.

**APPROVAL OF MINUTES**

Commissioner Craig Brown motioned to approve meeting minutes from October 19<sup>th</sup> as amended. Commissioner Bennetts seconded. **Motion #2** was unanimously approved.

**PUBLIC COMMENT**

Public comment was opened at 7:01 pm.

Amy Eckstein – 119 Meadow Lane

Deerhammer Distillery requested that the Planning and Zoning Commission to allow Deerhammer to allow seasonal housing. Their vision is to do dry camping for the summer in the HC zoning.

Public comment was closed at 7:07

**NEW BUSINESS**

Commissioner Larimer stated that the Planning and Zoning Commission opened a public hearing to consider recommending a water policy ordinance to the Board of Trustees. Teipel noted that because there is no applicant, the Town serves as the applicant in this situation. Teipel recommended a continuance of the hearing to January 18<sup>th</sup>, or sometime in the new year. Teipel then explained that there are two pieces being

considered. The first is an ordinance affecting the UDC (Unified Development Code.) All modifications to the UDC must come before the Planning and Zoning Commission. The water allocation policy is second.

The code change was developed as an opportunity to find a solution to developers paying the water dedication fee to have water reserved, and then not developing while holding onto their water allocation. UDC Section 16.5.3.6 provides the verbiage for water dedication. The Town is seeking to apply a 3-year time limit to how long a developer can hold on to water rights beginning with Final Plat approval. Then, from the time a building permit is pulled, the builder has 18 months to install a water meter. This discussion has been opened to online public comment, the economic committee, and local builders to discuss the ordinance. Town staff believes that the policy as it currently exists might not be sufficient to address the issues, and Staff would like to continue the discussion to January 18<sup>th</sup>.

Commissioner Larimer opened to public comments at 7:16 pm.

Zoom Comments:

Dan Niemela - 318 E Pine Street

Niemela presented a letter from Jed Selby regarding the proposed water policy change. Selby explained that he believes that if the policy change was implemented, that there would be a moratorium on growth. With wells #3 and #4 as well as the infiltration gallery coming on-line, the Town needs to look at the amount of water that is actually available. He believes that the Town needs to be extremely aggressive with water acquisition, and that the ordinance seems drastic.

Mark Doering - 539 Arizona Street

Asks that the Town look at sections related to infill regarding the proposed change of the water policy. It appears that there is some linework and language that misalign and made the recommendation that the maps be realigned.

JJ Kinsfather - 905 Swift Circle

Kinsfather wants the Town to look closely at the available water rights and does not think it is an emergency. He believes that the Town should take time to give this code change full consideration and thinks that 3 years is too tight of a timeline that could lead to a chokehold in development. Kinsfather said that the Town is making great strides towards obtaining water, and that there will be a 5-to-10-year supply of water.

Brandon Sockwell - Project Manager of Homestead

Sockwell believes that the Town needs to be aggressive about water acquisition, and that an increase in water supply can solve a lot of issues. He believes that bucketing the available water and the timeline for developers to use their water rights needs to be reconsidered. He said that a bank senior vice president advised him against building where water rights may be removed, and that Sockwell is requesting an email from the Town explaining why this is.

Public comment closed at 7:33 pm, and Commissioner Larimer turned the meeting over to Teipel.

Commissioner Bennetts stated that he was against the proposal at the beginning, but now thinks it is a good idea for Town to decide who gets the water. He supports the idea of rationing out where water should go and stated that it is important to listen to the business community and their concerns, but Staff should look at addressing adjusting the time limit and supports continuing the conversation.

Commissioner Craig Brown mentioned that in California, business groups have bought water rights with no intent on building. He then asked how the buckets are to be designated. Teipel answered that buckets would be based on characteristics of the build and would be first come first serve. The timeline piece would be separate on the policy. Water would not be revoked, but the water would go back to the general bucket. If water is still available when they pull a building permit, then they can regain the water rights.

Commissioner Schultz-Writsel asked how the Town calculates an SFE. Teipel responded that a  $\frac{3}{4}$ " water meter requires 350 gallons per day during peak demand. The tight period is summertime, which limits the Town to the 2,500 SFEs that it has available. Teipel also noted that the size of a building determines how many SFEs it requires.

Commissioner Doumas was concerned about speculation and wanted to know how water rights could be sold to another person. Teipel responded that it is the Town's policy to not allow someone to obtain dedicated water without supplying a building plan or a final plat, and that water rights are non-transferrable. The water dedication follows the lot it was purchased for and is tied to the land. Commissioner Doumas said that he is concerned about the long-term real-estate investments. Someone who buys a lot planning to retire on it (after three years) with the proposed time limit in place has then wasted their investment buying a now-worthless lot. Commissioner Doumas asked if the town has looked at other mountain towns with similar situations. Commissioner Bennetts noted that continuing the conversation would give the Town more time to research this.

Commissioner Bennetts then recommended that a tiered situation might provide an alternative solution, using different rates for different times, and that businesses that have the certainty of water find that it helps with the financial situation. Teipel noted that developers have mentioned that they will pay for an extension of water rights rather than lose out on their investment. Commissioner Tom Brown asked why infill was a priority. Teipel responded that smaller infrastructure is more affordable to maintain.

Teipel explained that the difference between the amount of SFEs that are available (on a dry year) and the number of SFEs that infrastructure can provide are different. Increasing water availability (via wells, infiltration, etc.) does not increase how many SFEs our infrastructure can provide. Commissioner Bennetts suggested that if a developer needs a certain amount of SFEs, then the developer could pay to xeriscape a resident's lawn for a percentage that residents water rights. Commissioner Tom Brown stated that the Town may eventually need to implement code that limits the amount of lawn area that needs irrigation.

Commissioner Larimer asked for a motion to either continue or to table the argument. Commissioner Schultz Writsel motioned to postpone the water policy change discussion to January 18<sup>th</sup>. **Motion #3** was seconded by Craig Brown. Commissioner Larimer stated that he would like to see solutions that are based on science that we could lean on with a little more confidence.

### **STAFF / COMMISSION INTERACTION**

Commissioner Craig Brown motioned to present the 2023 schedule as amended. **Motion #4** was seconded by Commissioner Larimer. Commissioner Larimer motioned to remove second meeting in December. **Motion #5** was seconded by Commissioner Bennetts.

Teipel noted that the seasonal camping proposal didn't need a decision, but it would be desired to develop a code change with camping. It was mentioned that potential code changes would be brought up at the January 18<sup>th</sup> Planning and Zoning Commission meeting, and it would be a good opportunity for the Commission to look at how the verbiage can be amended.

**ADJOURNMENT**

There being no further business, Commissioner Craig Brown motioned to adjourn the meeting at 8:58 p.m. Commissioner Schultz-Writsel seconded. **Motion #6** was unanimously approved.

Respectfully submitted:

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Preston Larimer, Chair

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Chase McCutcheon, Planning Technician

DRAFT



**DATE:** January 13, 2023

**TO:** Planning & Zoning Commission

**FROM:** Joseph Teipel, Planning Director

**RE:** Water allocation policy & dedication ordinance

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### **Request**

Staff requests that the Planning & Zoning Commissioners consider making a recommendation to the Board of Trustees to table consideration of the water dedication ordinance indefinitely. If the Commission would like to make further recommendations regarding the substance or formulation of the water allocation policy, it should feel free to do so.

### **Input Process**

Since the Board directed staff to publish the draft water dedication ordinance and allocation policy, there has been a lot of input and feedback received, especially from the builder/developer community, which stand to be the most affected by the proposals. To date, the following has taken place:

- 1) The draft ordinance and policy have been published to the [Water Planning project page](#) of my-BV.com along with a summary of the context for the documents. In addition, a basic survey was launched on November 23<sup>rd</sup>, 2022 and promoted in two subsequent e-newsletters. So far we have 60 responses to that survey, most of whom identify as not developers.
- 2) Staff attended a meeting of the Policy Committee of the Chaffee County Economic Development Corporation on November 29<sup>th</sup>, 2022 to discuss the documents.
- 3) Staff arranged and spread the word for a lunch meeting of builders/developers on Thursday, December 1<sup>st</sup>, 2022. While only four RSVPs were received, more than 20 individuals attended and had a robust discussion with Town staff.
- 4) The Planning & Zoning Commission held a public hearing on the topic on Wednesday, December 7<sup>th</sup>. The hearing was continued by the Commission because they felt the ordinance needed significant changes. Multiple community members attended and provided public comment.
- 5) The Board of Trustees, at their December 13<sup>th</sup> meeting, directed staff to extend the deadline for public comment to the end of January. At their January 10<sup>th</sup> meeting they also indicated direction in line with staff recommendations – to table the ordinance but pursue the allocation policy.

### **Initial Takeaways**

As could be expected, this topic has generated keen interest and strong input from a variety of stakeholders. Even while public comment is still open, there are a few key points that have emerged as common threads and underwrite staff's recommendations below.

- 1) Almost no opposition has been voiced by any engaged stakeholder on the allocation policy – especially regarding the ‘why’ behind the policy; that the Town should actively allocate SFEs to types of development it wants to see.
- 2) The overwhelming majority of discussion has focused on the draft ordinance, especially the 3-year dedication expiration timeline and the 18-month building permit dedication expiration. Both builders/developers and a few financial institutions have weighed in that the effect of this ordinance, if implemented as drafted, would shut down all development – the primary reason being that lenders would not lend money to a building or development project if having water to service that project is not guaranteed.
- 3) The second most discussed topic was acquisition of new water for Town. The level of interest from stakeholders to become more engaged and donate their time and money towards increasing the focus on this topic for the community was quite remarkable. Ideas included stakeholders contributing towards a dedicated water acquisition project fund, from which Town could engage an expert project manager to oversee all the various water acquisition activities happening right now (Dryfield, Bray-Allen, Upper Ark, St. Charles Mesa, etc).
- 4) The general public, via the online survey, expressed very mixed views on the water ordinance and policy. While the quantitative responses so far show that the lay person in town believes an expiration on water dedication is fair, the qualitative responses demonstrate a desire for deeper context, education, and understanding of the issue. This work can and should be wrapped into the Comp Plan process.

#### **Staff Recommendation**

Staff recommends that the water dedication ordinance – which would change the UDC – be tabled altogether.

The rationale for this recommendation can be summed up as follows. One of the major concepts which led to drafting a time-limit on water dedication is a fear of water being dedicated on a property which is then undeveloped. However, this scenario occurring under our current water dedication code and policies is extremely unlikely – i.e. no one can pay a fee-in-lieu for water dedication unless they are either pulling a building permit, or have already received approval of a final plat or site plan & have executed a Public Improvements Agreement (PIA - with posting a financial surety). These actions and approvals in themselves form a very strong incentive for the builder/developer to move forward with the project, barring a major economic downturn or other unforeseen circumstances. Therefore, a builder/developer simply choosing to sit on the land & water dedication for a long period of time would be extremely expensive for them. In addition, once the financial surety for the PIA has been posted, if the developer starts infrastructure development and then stops halfway through, the Town has the financial resources to finish it proactively by using the financial surety posted as a part of the PIA.

Additionally, the water allocation policy seems better poised to align remaining SFEs with our community goals by creating buckets from which developments must pull their water. It may be the case that once a policy like this is implemented, that the goals of guiding growth toward what we need vs only a first-come-first-serve model could be achieved. Critical to the successful implementation of any allocation policy will be proactive and detailed tracking, reporting, and evaluation coupled with honest and transparent updates or changes as circumstances change.

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DATE: 1/13/2023  
TO: Planning & Zoning Commission  
FROM: Doug Tart, Planner II  
Joseph Teipel, Planning Director  
RE: Proposed UDC Code Changes for 2023

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Now that we are a few months removed from the Housing Affordability Code Audit, Staff is currently considering a handful of updates to the UDC and would like to bring them in front of the Commission to gauge the Commission's feelings on the proposed changes as we move into 2023. Some of the changes are a direct result of the affordability audit, while others are considerations to aide in providing more opportunities for diverse housing throughout Town, as well as to minimize log jams in the development review queue.

It is no secret that the Town has experienced unprecedented growth since the adoption of the current UDC in 2018, and we are extremely fortunate to have had it as a guiding document over the past few years. By utilizing the UDC as a tool to appropriately and efficiently guide development, we can achieve desired outcomes through the careful and calculated use of our land use code. However, along with growth comes new sets of challenges that need to be addressed accordingly, and therefore, it is important to remember the UDC is a relatively fluid document that requires constant oversight and revision to appropriately accommodate change.

The proposed changes and updates that Staff is bringing before the Commission tonight reflect this need to allow the code to continually evolve, but we want to be careful in how these changes are implemented. With that in mind, Staff feels that it is important to begin these discussions early in an effort to ensure that resources are used efficiently to draft changes that will hopefully address the concerns and problems that Town is currently facing.

Attached are the summaries of several proposed changes that staff would like to bring forward in 2023. Within each summary are reasons for the proposed change, potential impacts, and key questions that should be asked when considering the change.

It should be noted that there **will not be** any voting or Board recommendations tonight. This is solely for discussion, and staff will use this discussion to guide these proposals as we move forward throughout the year.



## Proposed Code Changes for 2023

### **Allowing two-family dwellings (duplexes) as a se-by-right in all residential districts:**

**Summary:** Currently, a Special Use Permit is required in the R-1 and R-1 OT zone districts. This would eliminate the Special Use Permit requirement. While this proposal may make the most sense for the R-1 OT zone district – the intent of the Old Town Overlay Districts is to “create a compact, walkable, and mixed-use downtown core area” – it could potentially work in the R-1 zone district with proper drafting of use-specific standards for the R-1 zone district.

**Some questions to ask:** What are the density impacts to R-1? How would this impact the proposal for 2 ADU’s? Are parking standards affected?

### **Allow Single-Family Attached as a use-by-right in R-1 OT:**

**Summary:** The R-1 OT zone district does not allow for single-family attached. As proposed, single-family attached dwellings would be permitted as a use-by-right. Dimensional standards in this zone district are very similar to the rest of the old town lots throughout Town that allow for SFA. Use-specific standards would need to be updated to allow for SFA in R-1 OT only, not in the R-1 zone district. Two-family dwellings and small multifamily dwellings are currently allowed through a Special Use Permit.

**Some questions to ask:** Is this a change that would actually be utilized? Do we need to consider structure size standards?

### **Allow 2 ADU’s on residential properties:**

**Summary:** This was one of the more unique components of the housing affordability code audit findings. As proposed, this would allow for 2 ADU’s to be permitted per property, with one unit being required to be utilized as a long-term rental. This would go into effect for **all** residential and mixed-use zone districts. There could be notable impacts on density, particularly in the R-1 zone district. Water use should be considered, as this would potentially lead to an increase in 1” meters and increased water use per property. The incentive would be increasing the stock of long-term housing in the community.

**Some questions to ask:** What use-specific standards should be created to avoid negative impacts? How does this affect water allocation for future development? What are the parking and density impacts?

### **Allowing small multifamily as a use-by-right in the MU-1 zone district:**

**Summary:** Small multifamily dwellings currently require a Special Use Permit in the MU-1 zone district. The intent of the MU-1 zone district is to support low to medium density residential uses with an active street presence. If a PIA is required due to a lack of adequate infrastructure, a site plan would be required. Also, if there were to be a commercial component, a site plan would be required. Large multifamily would still require a Special Use Permit. By removing the Special Use Permit component, staff could still review small multifamily dwellings under current use-specific standards and building design standards without adding potentially unnecessary review time.

**Some questions to ask:** Are there any potential impacts to adjacent low-density residential zone districts and how could these be mitigated?

### **Seasonal workforce camping in the H-C zone district:**

**Summary:** Currently, seasonal workforce camping is allowed via a seasonal permit in the I-1 zone district and primarily benefits rafting companies. This change would allow for seasonal camping in the H-C zone district under specific circumstances that would be developed to minimize impacts to the Highway 24 corridor and adjacent zone districts. This is being proposed as a potential opportunity to help businesses house staff during the busy summer season, but unless rolled out properly, could have adverse impacts in an important part of Town.

**Some questions to ask:** How is this best achieved – Special Use Permit, use-specific standards, or through using the existing Temporary Camping Permit with additional standards specific to the H-C zone district?

**Changes to the Administrative Site Plan requirement:**

**Summary:** The Administrative Site Plan review process is currently triggered for **any** commercial development that results in the expansion of the existing footprint or a change of use that requires landscaping or parking. The current requirements are intensive – they require architectural drawings, a month long referral process, and considerable staff resources. This proposal would add an exemption to the Site Plan Review applicability to allow for minimal expansion to be reviewed through the traditional building permit process.

**Some questions to ask:** How do we ensure important requirements aren't being overlooked? What is the allowable expansion that would fall within this threshold?

**Minor amendment to the Live-Work use-specific standards:**

**Summary:** The current use -specific standards for live-work require the non-residential use to be owned by a resident of the live-work dwelling unit. This change would allow for non-owner employees to live in these units. This would allow for increased flexibility in the use of these dwelling units to allow for more opportunities to provide staff housing. Under this amendment, STRs would be prohibited, as would Condominiumization. The live-work structure would still be required to be on the same parcel as the primary commercial building and follow all other existing standards for live-work.

**Some questions to ask:** Relatively straight-forward. Are there any other adverse impacts to consider?

**Adjusting current off-street parking requirements:**

**Summary:** Off-street parking has been a somewhat recurring topic with increased development. Some in the community feel that parking is a problem in Town, while it could be argued that there is sufficient off street parking already. Can the current requirements be adjusted for multifamily dwellings to be aligned with unit types (# bedrooms) as opposed to a rigid 1.5 spaces per unit? Is it feasible in to allow on-street parking to count towards parking requirements in certain circumstances or in specific parts of Town?

**Some questions to ask:** Adjusting parking standards can have significant impacts on street congestion and adversely impact adjacent property owners – what are some of the positive and negative effects of adjusting parking requirements? Is it worth digging into how other small, rural municipalities handle parking?

**AHZI Eligibility Criteria:** See attached audit report.

<b>Code Changes 2023</b>		
<b>Code Change Summary</b>	<b>Code Section</b>	<b>Change Detail</b>
Duplex as U-B-R in all residential	<b>16.3.1.4; 16.02; 16.03.2</b>	No SUP needed
SFA allowed as UBR in R-1OT	<b>16.3.1.4</b> - Table of Allowed Uses	Change table; update use specific standards to only allow SFA in R-1OT
Changes to trigger for site plan requirement?	<b>16.6.5.1.B.2</b> - Thresholds for Site Plan Review	Look at adjusting 16.6.5.1.B.b; potentially combining a & b?
2 ADU's allowed everywhere except for R1	<b>16.3.3.4.A</b> - Standards for Specific Accessory Uses and Structures - Accessory Dwelling Unit	Remove max. of 1 ADU to allow for 2 - one must be rented long-term.
Seasonal workforce camping in H-C	<b>16.3.4.2.C</b>	Currently only allowed in I-1; allow in H-C in specific circumstances
AHZI elibility criteria	<b>New 16.4.10 section</b>	see audit report
Live-work tweak	<b>16.3.2.1.E.3</b>	Allow for non-owner employees to live in these units
Small MF as a UBR in MU-1	<b>16.3.1</b> - Table of Allowed Uses	Allow density in line with zone district purpose.
Parking	<b>16.4.3</b> - Off-Street Parking	Amend current off-street parking requirements