

Eagle County Board of Commissioners

Hearing Date: July 23, 2019

Project Name: Eagle County Land Use Regulation Process Improvement Amendments
File No.: LUR-009043-2019
Location: Unincorporated Eagle County
Applicant: Eagle County
Staff Planner: Kris Valdez, Senior Planner
Staff Engineer: Ben Gerdes, County Engineer

Recommendation: Recommendation of Approval

I. EXECUTIVE SUMMARY

The focus of this Eagle County Land Use Regulation (ECLUR) amendment is improving internal and external processes as well as to include certain new provisions to coincide with amendments to Colorado Revised Statutes and Federal Law. The primary goals of this amendment include:

- **Improve Transparency for Pubic Processes**
- **Clarify Expectations and Process Predictability**
- **Time Savings for Staff and Applicants**
- **Improve Project Outcomes**
- **Improve Customer Service Quality**
- **Reduce Unnecessary Burden on Applicants**

Additionally, this process improvement amendment speaks to three of Eagle County’s Strategic Plan Goals including:



EAGLE COUNTY IS A GREAT PLACE TO LIVE FOR ALL



EAGLE COUNTY PROTECTS THE NATURAL ENVIRONMENT



EAGLE COUNTY PROMOTES A DIVERSE AND RESILIENT ECONOMY

This proposed amendment includes updates to Articles 3, 4, 5, and Appendix A of the ECLUR. Section III. of this staff report outlines all proposed changes and the purpose and benefits of the proposed amendments. The initial proposed amendments were released for review on May 17, 2019, for a 30-day referral and public comment period. Additionally, staff organized and facilitated three work sessions with the Eagle County Planning Commission on May 22, 2019, Roaring Fork Valley Regional Planning Commission on May 30, 2019, and the Eagle County Board of County Commissioners on June 10, 2019. The discussion from these work sessions are presented in this staff report in Section V. Much of the work session discussions, referral and public comment feedback received was supportive of the proposed changes. In some cases, staff plans to analyze public comment during the full ECLUR rewrite, while in other cases staff has adjusted the proposed process improvement amendment language to include suggestions made by the public. The proposed amendments have been heard at a formal public hearing by both the Eagle County and Roaring Fork Valley Regional Planning Commissions on July 10 and 11, 2019, respectively, both of which recommended unanimous approval. Section VI. of this staff report summarizes the discussions and public comment received during these public hearings.

This amendment is being pursued in advance of a full ECLUR rewrite to provide immediate relief to existing and well-known process issues while staff capacity is increased and is able to fully invest the time necessary to support a thoughtful comprehensive rewrite. The Community Development Department plans on relaunching the full ECLUR rewrite soon. It is expected that the changes associated with this amendment will carry forward into the full ECLUR rewrite. However, making these initial process improvement amendment in advance of the full ECLUR rewrite also provides staff and the public time to experience these new processes and identify gaps, clarifications, or unforeseen issues arising from the amendments and adaptively manage through improved regulations in the future ECLUR rewrite.

II. BACKGROUND

Over the last many years, Eagle County has identified a variety of ECLUR amendments needed both for compliance with recent amendments to State and Federal law and to improve public notice, expectations, and processes. An October 2017 Land Use Regulation Assessment Report provided by Clarion Associates outlined a variety of suggested improvements based on best practices and feedback from the Board of County Commissioners, Planning Commissioners, County staff, and various stakeholders including developers, business owners, architects, and builders. This ECLUR process improvement amendment brings forward many of the suggested amendments provided by Clarion's assessment as well as other challenges identified internally.

III. PROPOSED AMENDMENTS

Many of Eagle County administrative timelines and processes do not clearly outline expectations for applicants, and are not right-sized for the actual time it takes to provide quality reviews, and feedback to applicants. This amendment includes clear expectations for land use file application material completeness, review timelines, the definition associated with Eagle County's sufficiency review process, and required public notice for Planning Commission hearings. Eagle County has been using a "one size fits all" approach for internal review timelines which adds an unnecessary burden on non-complex applications, which are typically sought by Eagle County residents. Finally, through these proposed amendments as well as other internal process improvements underway, Eagle County seeks to improve the transparency of the public process to benefit all Eagle County residents. On the following page, a high-level overview of the proposed amendments is provided by ECLUR article and topic.

1. ARTICLE 3: ZONE DISTRICTS

- a. Telecom Review Procedures
 - i. **Purpose:** Compliance with amendments to Federal Law
- b. Land Survey Plat Requirements
 - i. **Purpose:** Compliance with amendments to State Law
- c. Floodplain Analysis Requirements
 - i. **Purpose:** Provide relief and flexibility to applicants regarding application material submission requirements based on unique conditions present on individual parcels.

2. ARTICLE 4: SITE DEVELOPMENT STANDARDS

- a. Road Impact Fees
 - i. **Purpose:** Reduce the financial burden on applicants for lots 35-acres or greater to coincide with the intent/policy of other categories of exemptions in the ECLUR.

3. ARTICLE 5: ADMINISTRATION

- a. Development Review Procedures Table
 - i. **Purpose:** Brings forward all changes associated with this proposed amendment.
- b. Determination of Completeness
 - i. **Purpose:** Clarifies application submission requirements and reduces the length of time to undergo the land-use file process for applicants.
- c. Determination of Sufficiency
 - i. **Purpose:** Clarifies the process to inform applicant expectations, right-sizes sufficiency review by application type to reduce unnecessary burden on applicants, and improves the quality of review for more complex file types.
- d. Clarifying Working Day vs. Calendar days
 - i. **Purpose:** Clarifies and makes consistent how the number of days is calculated and increases timelines for review by staff, the public and appointed and elected officials.
- e. Extension of Staff Analysis Period for Final Application

- i. **Purpose:** Provides staff the necessary time needed to analyze the final application and get materials posted online and sent to elected and appointed officials in an earlier time frame, improving transparency and awareness for the public.
- f. Increase Public Notice Period for Planning Commission Meetings
 - i. **Purpose:** Improves transparency and awareness of public hearings for the planning commission and provides more time for the planning commissions and the public to review staff reports and application materials as well as increase the timeline for the generation of public comment.
- g. Applicant response to Referral Agent Concerns
 - i. **Purpose:** Ensures strong coordination between referral agents, applicant and staff and improves analysis and information provided to elected and appointed officials.
- h. Rendering Interpretations
 - i. **Purpose:** Provides flexibility to staff on the interpretation method.
- i. Requirements for Planned Unit Development Application Materials
 - i. **Purpose:** Clarifies applicant expectations and provides staff necessary information for analysis of an application.
- j. Administrative Approval of Appropriate Subdivisions Exemptions
 - i. **Purpose:** Allows for administrative approval of subdivision exemption in certain situations and improves expectations for applicants by reducing the length of time to undergo the land use file process.
- k. Administrative Approval of Appropriate Minor Subdivisions
 - i. **Purpose:** Allows for administrative approval of Minor Subdivision, thereby reducing the length of time to undergo the land use file process.

4. APPENDIX A: CERTIFICATES

- a. Surveyor Certificates
 - i. **Purpose:** Compliance with amendments to Colorado Revised Statutes.
- b. Lender Signature Blocks
 - i. **Purpose:** Clarifies land ownership of the parcel.
- c. Clarified Title Text
 - i. **Purpose:** Clarifies requirements and expectations for applicants.

IV. OVERVIEW OF STANDARDS AND FINDINGS

All amendments to the text of the Land Use Regulations or amendments to the Official Zone District Map

shall meet the standards set forth in Section 5 - 230.D. In making such a determination, the Planning Commission and the Board of County Commissioners shall consider the application submittal requirements and the following standards:

<p>STANDARD 5-230.D.1.a-c: Consistency with the Comprehensive Plan</p>	<p>Conformance</p>
<p><i>The proposed change in zoning is in substantial conformance with the purposes, intents, goals and policies of the Comprehensive Plan.</i></p> <p><u>Response:</u> This land use regulation text amendment does not change any zoning requirements or impact the ECLUR conformance with the Comprehensive Plan.</p>	<p>NOT APPLICABLE</p>

<p>STANDARD 5-230.D.2: Compatible with Surrounding Uses</p>	<p>Conformance</p>
<p><i>The proposed change in zoning is compatible with the type, intensity, character and scale of existing and permissible land uses surrounding the subject property. Dimensional limitations of the proposed zone district, when applied, should result in development that will be harmonious with the physical character of existing or permissible uses surrounding the subject property.</i></p> <p><u>Response:</u> This land use regulation text amendment does not change any zoning and thus does not impact compatibility with surrounding land uses. Proposed changes to floodplain analysis requirements and required submission materials for planned unit development applications increase staff's ability to ensure future developments are harmonious with the physical character of existing or permissible uses.</p>	<p>NOT APPLICABLE</p>

<p>STANDARD 5-230.D.3: Public Benefit</p>	<p>Conformance</p>
<p><i>The proposed change in zoning addresses a demonstrated community need or otherwise result in one or more particular public benefits that offset the impacts of the proposed uses requested, including but not limited to: affordable local resident housing; childcare facilities; transportation efficiencies, public recreational opportunities; infrastructure improvements; preservation of lands of high conservation value, senior housing, or medical facilities.</i></p> <p><u>Response:</u> The proposed land use text amendments do not impact zoning for unincorporated Eagle County. The proposed changes do provide public benefit through reducing financial burden and length of time to undergo the land use file process for simple files typically sought by Eagle County residents. Additionally, the amendments provide public benefit through</p>	<p>YES</p>

increased public notice timelines and through requiring applicants to address germane referral comments and supply staff with complete applications.	
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STANDARD 5-230.D.4: Change of Circumstances	Conformance
<p><i>The proposed change in zoning addresses or responds to a beneficial material change that has occurred to the immediate neighborhood or to the greater Eagle County community.</i></p> <p><u>Response:</u> This standard does not apply. No changes to zoning are part of this land use text amendment.</p>	NOT APPLICABLE

STANDARD 5-230.D.5: Adequate Infrastructure	Conformance
<p><i>The property subject to the proposed change in zoning is, or may be served by adequate roads, water, sewer and other public use facilities.</i></p> <p><u>Response:</u> This standard does not apply. No changes to zoning are part of this land use text amendment.</p>	NOT APPLICABLE

V. WORK SESSION COMMENTS

Eagle County Planning Commission: May 22, 2019

The commission was supportive of many of the amendments especially those that clarified expectations and reduced the burden on residents of Eagle County who are applying for simple land use approvals for their properties. Commissioners noted that page numbers were missing from Article 3, which staff has rectified. The Commissioners also asked for a definition of “tolling” as it relates to telecom modifications, which staff has added. There was a concern that amending text that relates to calendar days versus working days may create an undue impact on applicants. Staff responded indicating that in most cases, this change instead improves public process transparency and awareness of project applications and increases timelines for applicant response and re-submission of materials. An analysis was conducted to illustrate the impact of this change. Please see Attachment 7 for this analysis. Finally, the commissioners requested we further analyze and breakdown sufficiency review timelines for planned unit developments. This change has been made in the updated proposed amendments to include minor planned unit development applications as part of the 10 working day sufficiency review period rather than the 20 working day sufficiency review period.

Roaring Fork Valley Regional Planning Commission: May 30, 2019

The commission was supportive of many of the proposed amendments especially those that clarified expectations and reduced the burden on residents of Eagle County who are applying for simple land use approvals for their properties. They indicated an appreciation for the new sufficiency custom time frames rather than the existing one size fits all approach and supported proposed changes for administrative review to keep land use files that are simple, simple. The commissioners requested that Eagle County staff

improve internal and referral agent coordination to increase referral response, consistency, and resolution. As part of the Community Development Department's internal process improvements, these elements are being addressed. The commission asked if the County was able to require a referral agent response, which the County is unable to do.

Eagle County Board of County Commissioners: June 10, 2019

The Board was supportive of the changes and embarked on a discussion regarding how to make Eagle County's process equitable between developers and the public and commented that many of the proposed amendments are moving in that direction, while encouraging increased transparency and public engagement policies as we look forward to the full ECLUR rewrite. The Board was also glad to see that Eagle County had received public comment illustrating the community is being represented in the process and encouraged staff to better highlight the benefits to the public that these proposed changes represent. The Board acknowledged that not all Eagle County residents and developers believe the existing process is good the way it is and they are glad to see these improvements. Finally, the Board asked how staff plans to measure the impacts of these changes so we are able to benchmark progress and understand if the changes need to be improved as part of the full ECLUR rewrite. Staff plans on conducting an analysis of the existing length of time it takes for a variety of land use files to undergo the entire land-use file process and staff will continue to track how this changes once the new regulations take effect.

VI. PUBLIC HEARING COMMENTS

Eagle County Planning Commission: July 10, 2019

The Eagle County Planning Commission continued to be supportive of numerous elements of the ECLUR Amendment. The Commissioners asked for the heading of "Referral Mailing" be changed to "Referral Distribution" in Section 5-210.D.3.d. to reflect the change in the section which no longer requires the County to mail referral copies to agencies. The County Attorney pointed out the word "complete" needed to be changed to "sufficient" in Section 5-210.D.7.

All the Commissioners agreed that Section 5-210.D.4.g needed to be put back in the ECLUR to prevent projects from being roadblocked in the process, but should be changed to reflect the intent of the proposed process improvement amendment changes. The intent is to remove the possibility of incomplete files going to hearing without adequately addressing referral comments which are germane to the project and the standards of approval. The planning process can be onerous to the applicant according the Commissioners. There needs to be flexibility in what is required for submittal and in terms of response to referral comments, however, this should not impact the quality of the submission and staff should require necessary information and detail to be able to analyze a project proposal appropriately.

Public Comment: The public raised concerns as to why the amendment was happening rather than the full rewrite taking place now. They also had concerns in regards to the elimination of Section 5-210.D.4.g. They believed that the elimination of this section of the ECLUR's would create obstacles for a file being brought to hearing. There was also discussion of increasing the timeline for a response to sufficiency from an applicant from 60 calendar days to 180 calendar days.

The file was given a unanimous recommendation of Approval to the Board of County Commissioners with the stipulation that Section 5-210.D.4.g be put back in the ECLUR, amended to allow applicants to move forward to public hearing as long as all materials submission requirements have been met.

Staff Response: Staff has provided an option for the Board of County Commissioners to consider as revised language for Section 5-210.D.4.g. If the Board of County Commissioners decides to move forward with Section 5-210.D.4.g as proposed by staff or further amended by the Board of County Commissioners, Attachment A to the Resolution of Approval will be amended to reflect the change prior to recording the documents. The proposed language is included as Attachment 5: Section 5-210.D.4.g in Article 5 Proposed Language.

Roaring Fork Valley Regional Planning Commission: July 11, 2019

The Roaring Fork Valley Regional Planning Commission continued to be supportive of the majority of the elements proposed in the ECLUR Amendment. The Commissioners were concerned about adjacent property owner notification in regards to the distance from a project. They did not think using a 300 foot radius from the property for which there is a proposed land use file is far enough to touch all potentially affected property owners. The Commissioners also suggested having adjacent property owners notified earlier in the process, such as during referral so they have ample time to be made aware and review the project. The Commissioners also encouraged neighborhoods to form official groups so they could become referral agents.

In regards to Section 5-210.D.4.g, the Commissioners wanted it called out in the staff report where a project did not meet the referral comments and why the comments were not being addressed if the comments were relevant to the standards of approval. The Commissioners also suggested planning staff attend other board and homeowners association meetings and well as meet with other County departments encouraging them to be part of the planning process.

Public Comment: The public raised concerns regarding community involvement earlier in the process. It is difficult for an average person to understand a land use file in the 14 days provided by a public notice. It is also not clear what documents are important to review for someone who is not part of the planning process as a professional. The public stated it was valuable to eliminate the option for developers to move to hearing without addressing referral comments and supported the elimination of Section 5-210.D.4.g from the ECLUR.

The file was given a unanimous recommendation of Approval to the Board of County Commissioners.

VII. REFERRAL RESPONSES

A 30 day referral period for this text amendment to the ECLUR was sent on May 17, 2019, to 283 agencies, including County departments and public service and resource management public agencies. The following agencies provided referral comments. Full referral comments and Eagle County responses are included in the staff report as Attachment 3.

1. Town of Basalt:

- a. Referral Timeline and Request for Accommodating Extensions if needed by Town.
- b. Updating the 2008 Intergovernmental Agreement.

VIII. PUBLIC COMMENT

Eagle County received seven public comments as of the publishing of this staff report, on July 18, 2019, from Eagle County residents and land use consultants who routinely work within Eagle County. The

following outlines the basic themes from public comment. Full public comment and Eagle County response are included in the staff report as Attachment 4.

- Expand Adjacent Property Owner Notification Radius
- Increase Planning Commission Public Notice
- Require Site Visits
- Increase Referral Agent Notification
- Involve Concerned Citizens Prior to Pre-Application Meetings
- Update Public Hearing Format
- Clear Articulation of Conformance with Master Planning Documents
- Improve Communication and Education for Eagle County Residents Regarding Public Process
- Land Survey Plat Requirements
- Sufficiency Timelines
- Referral Response Requirements
- Digital Application Submission
- Flexibility for Required Submission Materials
- Completeness Check Text Clarification
- Interpretation Timelines

IX. SUGGESTED MOTION

I move to **approve** File No. LUR-009043-2019 because the proposed process improvement amendment meets the standards for approval of an Amendment of the text of the ECLUR.

X. ATTACHMENTS

1. Final Proposed ECLUR Amendment redlines
2. Clean Copy of Final Proposed ECLUR Amendment
3. Referral Comments and Eagle County Response
4. Public Comments and Eagle County Response
5. Section 5-210.D.4.g in Article 5 Proposed Language
6. Resolution of Approval
7. Working Day Analysis