



PLANNING DEPARTMENT

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STAFF REPORT

TO: Countywide Planning Commission
FROM: Alan Hanson, Senior Planner
FOR: Meeting of October 5, 2015
SUBJECT: Planning Case PLN14-058; wildfire hazard reduction/land use planning amendments to Chapters 2, 3, 8, 9 and 12 of the Summit County Land Use & Development Code.
APPLICANT: Summit County
REQUEST: Amendments to Chapters 2, 3, 8, 9, and 12 of the Summit Code to improve integration of wildfire hazard reduction planning and land use planning in the unincorporated areas of Summit County to facilitate development of a more wildfire resilient community.

PROJECT DESCRIPTION

Location: Proposed code amendments would apply to all unincorporated areas of Summit County

BACKGROUND

Virtually all of the unincorporated area of Summit County lies within the Wildland/Urban Interface also known as the WUI. Given typical wildfire behavior, development within the WUI is usually exposed to a greater wildfire threat than development outside of the WUI. For a number of years now County government, the Summit County Wildfire Council, local fire protection districts, and other governmental agencies such as the Colorado State Forest Service (CSFS) have recognized the need for improving the integration of our land use planning processes with wildfire hazard reduction planning. Previously, County Planning staff have worked with staff from the CSFS to improve such integration, primarily through various potential amendments to the County's Land Use & Development Code. This has been a continuing effort on the part of the Planning Department. Last year the County was approached by a consulting team consisting of Headwaters Economics, Wildfire Planning International, and Clarion Associates, who through the LOR Foundation offered free consulting services to the County to support these efforts. Working under the direction of a Memorandum of Understanding (MOU) between the consulting team and the County, the team prepared a comprehensive set of recommendations for various amendments and improvements to the County's Community Wildfire Protection Plan (CWPP), basin master plans, and the Land Use & Development Code (Code). These recommendations were compiled into a Final Report issued in March of this year and included 67 recommended amendments to the Code (please see Attachment A to this staff report). Upon completion of the final report, Planning staff and the County's Fire Mitigation Specialist reviewed and evaluated these recommendations for possible inclusion into a package of code amendments intended to implement improved integration between land use and wildfire hazard reduction planning. Based on this review and analysis, 21 (31%) of the consulting team's recommendations have been incorporated into the proposed

amendments package with little or no modifications. 15 (23%) of the consulting team's recommendations have been modified in a more significant manner to better reflect the specific needs of our existing regulatory processes'. 31 (46%) of the consulting team's recommendations were not supported by staff because in some instances our existing regulations were more comprehensive, some of the recommendations conflicted with other provisions of the Code, some would have involved a major restructuring of the Code as currently formatted, or some were not consistent with other important planning policies such as reducing overall density in the County.

This package of code amendments was initially presented to the BOCC during a worksession on August 4th of this year as well as having been transmitted to the Summit County Wildfire Council members for their information. To assist the Planning Commission in their consideration of this package of amendments, staff has included the actual amended language to Chapters 2, 3, 8, 9, and 12, noted in red underlines and ~~strikethroughs~~ in Attachment B to this staff report. As noted above, the Final Report from the consulting team is included as Attachment A. In addition, staff has prepared an annotated version of Table 4-2 from that report which identifies each specific recommendation regarding the Code and how/why such recommendations have either been incorporated or not into the package of proposed amendments. Specifically, underneath each recommendation is a brief description of staff's assessment of that recommendation in *red italics* and if included in the package of proposed amendments, a citation as to where the actual language can be found in the attached Code chapters (Attachment B). **If should be noted that many of the recommendations put forth by the County's consulting team focus in large part on the use of a CWPP wildfire hazard rating system to trigger the applicability of many of the recommended hazard reduction measures. However, after further discussions with Wildfire Council staff, Planning staff now question this approach for three reasons; 1) development of an accurate and comprehensive rating system, while in the works, may be several years off, 2) virtually all of the developed/developable areas of the unincorporated County are within the WUI and thereby subject to a greater wildfire risk, and 3) Planning staff now believe that it would be more appropriate to apply these proposed wildfire hazard reduction Code amendments across all of the unincorporated County without any reference to a hazard rating system.**

Table 4.2: Detailed Review of Current Summit County Plans, Policies, and Regulations

Name of Document	Comments and Suggested Revisions
LAND USE AND DEVELOPMENT CODE	
§2200; Contents of Master Plans	<ul style="list-style-type: none"> ▪ 2202.01– Include a bullet for consideration of local wildfire hazard and community risks, especially those called out in the CWPP. <i>Proposed §2201.01.H identifies wildfire, flooding, and geological hazards as required elements for consideration in all basin master plans (Ch 2, pg 7).</i>
§3200; Rezoning Policies	<ul style="list-style-type: none"> ▪ 3201.01 – Purpose and intent modified by staff through recent proposed updates. <i>Proposed language would include assessments of wildfire, geological, and flooding hazards under the County's rezoning policies (Ch 3, pg 11).</i> ▪ 3202.01 – Insert wildfire policy as one of the examples of number 5). <i>Proposed language would include wildfire hazards as a site characteristic to be evaluated with any rezoning application (Ch 3, pg 11).</i> ▪ 3202.01 – Replace the word comport. That is not commonly used in the plans or code. Consider “consistent with” or similar. <i>Done (Ch 3, pg 12).</i>

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	<p> 3202.05, Wildfire Hazard Areas – recently modified by staff. Use the word “shall” instead of “will.” In 3202.05.A, it states that a Fuels Reduction Plan “may” be prepared....and that a Defensible Space Plan “may” be prepared... Make these a requirement by using “shall.” <i>Subsequent to this recommendation staff has re-written §3202.05. Current proposed language requires that rezonings requests must include an evaluation of the appropriateness of the proposed use(s)/density based on such factors as slope, aspect, vegetation types, access, availability of firefighting infrastructure, and other relevant factors as identified in the Summit County Community Wildfire Protection Plan (CWPP) (Ch 3, pg 13).</i></p> <ul style="list-style-type: none"> ▪ 3202.05.A – If an applicant is required to submit both a FRP (Fuels Reduction Plan) and a DSP (Defensible Space Plan), consider clarifying the language to allow for a consolidated set of information so that it is clear that the applicant will not have to submit two separate sets of the same information if the same is required for both a FRP and a DSP. <i>Staff has rewritten §3202.05.A to include; specific requirements for when a forest management plan (≥20 acres w/significant wildlife values), fuels reduction plan, or defensible space plan for properties <20 acres is required, establishment of minimum requirements for the contents of such plans, and requirements to maintain consistency with similar requirements under the County’s Subdivision Regulations where appropriate given the difference in the rezoning and subdivision processes (Ch 3, pg 13).</i> ▪ 3202.05.A.b – States “...if the inventory is deemed appropriate by the CSFS.” Clarify how the application will be reviewed by the CSFS. Consider revising the provision to allow for the Summit County Mitigation Specialist to review in addition to, or in place of, the CSFS. <i>This recommendation was based on a prior draft of Code amendments that has been replaced by proposed §3202.05.A(1-6). The currently proposed language references the County’s review and referral process (§12000.06 et seq.) and includes reference to the CSFS, USFS, and local fire protection districts as deemed appropriate. In addition, this proposed language clarifies the specific requirements of an adequate forest management, fuels reduction, or defensible space plan (Ch 3, pg 13).</i> ▪ 3202.05.A.c – Reword this sentence to “the subdivision’s connectivity to internal and external roads, and the location of subdivision-wide shaded fuel breaks or fire breaks.” <i>Staff believes that the language in proposed §3202.05.A(1-6) states in simple, clear terms, access and fuel/fire break requirements (Ch 3, pg 13).</i> ▪ 3202.05.A.d – Remove the word “the” and the plural “s” in Service(s). <i>Replaced by proposed §3202.05.A(1-6) (Ch 3, pg 13)</i> ▪ 3202.05.A.e – Include the word “and” after the semicolon. <i>See response above.</i> ▪ 3202.05.B – Use consistent terminology when referring to a zoning amendment or a rezoning. <i>For consistency staff is proposing that the term “rezoning” apply to zone changes for one or more properties, “zoning amendment” apply to changes to the Zoning Ordinance (Chapter 3, and “modifications” apply to PUD amendments only. Such changes would affect Chapter 3 (Zoning Ordinance) & Chapter 12, (Development Review Procedures). Proposed changes specific to §3202.05.B address requirements for secondary emergency vehicle access if necessary to reduce wildfire hazard associated with a proposed rezoning (Ch 3, pg 13).</i> ▪ 3202.05.D – We understand the County already requires a will-serve letter from a fire district for properties outside the three districts. Consider including a clarifying statement requiring an affirmation or will-serve letter provided by the district. <i>Proposed language would specify that a “Can and Will Serve Letter” or its equivalent from the appropriate fire protection district is a requirement for a rezoning application if the property is currently unserved Ch 3, pg 13).</i> ▪ 3202.05.F – We understand that SIAs are required under subdivision and site plan review, and

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	<p>typically includes guarantees for implementation of D-space, fuels reduction, and forest management requirements. It might also be worth stating in the rezoning provisions that financial guarantees will be required during site plan review. <i>Rezoning where there is no accompanying subdivision plat or site plan (e.g. a change in use), are not common and do not typically involve an increase in density or intensity of use. Therefore, staff believes that the current improvements guarantee process set forth under the County's Subdivision Regulations and site plan approval process are sufficient to ensure implementation of forest management/fuels reduction/defensible space at the time of rezoning approval.</i></p> <ul style="list-style-type: none"> 3202.05.A.a through f. – This list should be made consistent with proposed subdivision regulations in 8101.D. <i>See notation RE proposed §3202.05.A on Pg 1 above.</i>
<p>§3500; Basic Development Regulations and Standards</p>	<ul style="list-style-type: none"> 3504.02.A – Beginning with “It is a requirement of this code that a developer...”, start a new heading for submittal requirements. This is no longer part of the intent statement. <i>Done (Ch 3, pg 22).</i> 3504.02.B – Replace the word “indicia.” <i>Proposing “criteria” to substitute for “indica” (Ch 3, pg 22).</i> 3504.02.B – This paragraph states that “the final decision as to whether or not a proposed development project is major shall be made by the BOCC during a work session.” Clarify that only the appeal decision shall be made by the BOCC in a work session, not the Director’s determination. <i>Staff believes the current language is clear and does not warrant a change (Ch 3, pg 22).</i> 3504.02.B.2 – Provide an example of urbanizing impacts upon surrounding properties (e.g., noise, light, traffic, etc.). <i>These impacts have been identified in this section as recommended (Ch 3, pg 22).</i> 3504.02.C – Throughout the code, use consistent references to decision makers. For example, is it Planning Department, or the Director? We recommend using Director, and then in the definitions continue using “or designee.” <i>Staff has made changes referencing the Planning Director, Review Authority, BOCC, or Planning Department as staff has deemed appropriate depending on the type of application and County review process involved.</i> 3504.03.C.2 – Provision for emergency access. Following “20 or more acres in size,” insert “unless identified as a medium to extreme hazard rating in the County’s CWPP.” <i>Proposed revisions to this section of the Code would override the current exemption for 20+ acre A-1 and BC zoned properties and require emergency access if necessary to reduce the wildfire hazard due to the property’s slope, aspect, vegetation, availability of firefighting infrastructure or other relevant factors as identified in the CWPP (Ch 3, pg 26).</i> 3504.04.A.1 and 2 – Too much overlap of text in these two provisions. State it once for the preliminary review, then add only additional specifics that would apply to final review. <i>As these two code sections deal with two different processes (preliminary v final rezoning) Planning staff believe such duplication in this instance is warranted (Ch 3, pg 26-27).</i> 3504.04.B and C – Remove the word “so.” <i>Done (Ch 3, pg 27)</i>  3505.01.B – Following the sentence “It is the County’s intent in providing for PUD Zoning Districts to allow such flexibility in building and site design standards” add “where an overall benefit to the County is achieved.” PUDs should not generally be granted unless there is some benefit to the jurisdiction for doing so. <i>Planning staff fully agrees with this recommendation and have incorporated it verbatim into the proposed changes to this section of the Code (Ch 3, pg 28).</i> 3505.02, Density – Include the tables from figure 3-5 directly in this section. <i>While Planning staff agree with the concept of reducing the length of the Code and making it simpler, moving Figure 3-5 (Development Standards Matrix) to this section would not result in such simplification or document length reduction. Therefore, Planning staff are not supportive of</i>

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	<p><i>incorporating this recommendation into the proposed Code amendments.</i></p> <ul style="list-style-type: none"> ▪ 3505.02, Density – In the opening statement, it says that “such density limits do not set an absolute level of density that will be permitted for any particular property or development proposal.” Although the text implies that the densities are “theoretical,” it should be clarified that those maximums could not be exceeded unless there are specific provisions for bonuses. <i>Planning staff believe the Code as currently written is clear on theoretical densities and have never had a dispute arising from someone else’s interpretation of this language. Also, we do not have provisions for density bonuses in the Code (some PUDs do however) so Planning staff have not incorporated this recommendation into the proposed Code amendments (Ch 3, pg 29).</i> ▪ 3505.05.A.2 – Provide a cross-reference to the building material and color design standard that applies to sf homes (3505.05.D) to make this easier to find for the reader. <i>Planning staff inserted a reference in this section to §3505.05.D for the sake of clarity (Ch 3, pg 32).</i> ▪ 3505.13, Setbacks – These are entirely out of place here. Move them back to other dimensional standards with height and density. <i>Staff is not supportive of this recommendation for the same reasons as noted above for §3505.02 above.</i> ▪ 3505.14, Site Area – Same as above. These are out of place. <i>See discussion immediately above.</i> ▪ 3505.15, Site Coverage – Same as above. <i>Same as above.</i> ▪ 3505.17, Walls and Fences. 3505.17.C.1 – The use of natural materials should not be required when properties are included in a defensible space plan, which may prescribe more flexible alternatives. <i>Proposed language for §3505.17.C(1) provides relief from these wall/fence material standards if they conflict with an approved defensible space plan prescription. Fences constructed of flammable materials would be required to maintain a minimum non-flammable section of five (5) feet within 10-feet of any structure (Ch 3, pg 44).</i> ▪ 3506.02, TDR regulations. 3506.02A.2.a – Include an item for mitigating wildfire risk to the immediate neighborhood or community. <i>Staff agrees that removal of development potential from the backcountry reduces overall wildfire hazards in the County, wildfire hazard reduction measures affecting a specific neighborhood are typically focused on improved infrastructure such as better access, provision of a firefighting water supply, and implementation of defensible space, fuels reduction, and forest management plans. Therefore, staff has not included this recommendation in the proposed Code amendments.</i> ▪ 3506.02.A.3, Exemptions – “...are exempt from the provisions of these regulations:” Clarify that the prohibitions against changing a property’s TDR designation when rated medium to extreme should apply to all zone districts, including PUDs. It is currently difficult to discern how far down the page the exemptions apply to. Consider also adding language to the end of the sentence that says “except for areas identified as a medium to extreme hazard rating per the CWPP.” <i>Staff does not support this recommendation for the following reasons:</i> <ul style="list-style-type: none"> ✓ <i>These exemptions pertain to the provision of workforce housing or to PUD’s that have their own density bank (e.g. Copper, Keystone, Blight Placer) and are not subject to the Codes TDR requirements for rezonings or intensification of use (Ch 3, pg 49).</i> ✓ <i>These exemptions have nothing to do with the requirements for amending a property’s TDR designation (set forth under §3506.02.C) (Ch 3, pg 51).</i> ▪ 3506.02.B.5 – At the end of the neutral areas paragraph, include subdivision in the parenthetical reference. <i>Done. This clarifies that applicable requirements covering TDR Neutral designated properties applies to subdivision applications as well (Ch 3, pg 51).</i> ▪ 3506.02.C.3.b.ii.ca – Wildfire hazard potential is referred to as medium to extreme. This should be reconciled with other references to moderate to severe hazards in the proposed subdivision regulation amendments. <i>After discussions with staff from the wildfire council it</i>

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	<p><i>was determined that; 1) all of the unincorporated County lies within the WUI and is subject to significant ember transport, 2) completion of a new CWPP wildfire hazard rating plan may still be a long time off, and 3) given these factors, Planning and Wildfire Council staff believe it is more appropriate to apply the wildfire hazard reduction measures across the board instead of based on the current rating system which is not site specific and is intended for adjustment in the future.</i></p> <p> 3506.02.D – Consider a higher value for development rights in the WUI high or extreme hazard rating areas. For example, perhaps 2.5 development rights per 20 acres. Planning staff are not supportive of this recommendation for the following reasons:</p> <ul style="list-style-type: none"> ✓ <i>Virtually all sending site are backcountry parcels located well within the WUI. Therefore, under these proposed code amendments all TDR sending sites would have their value inflated 2.5 times.</i> ✓ <i>Increasing the TDR value of a backcountry sending site 2.5 times severely undermines the ability of the current TDR to remove development potential from the backcountry or reduce overall density in the County as recommended per the Comp and basin plans (Ch 3, pg 53).</i> <ul style="list-style-type: none"> ▪ 3506.02.E.1, Additional Floor Area – The last sentence states that in no event shall additional floor area or fractions of development rights purchased allow for the actual number of dwelling units or density permitted per zoning to be exceeded. Clarify that once development rights have been transferred into a property through a rezoning, unused square footage that is not constructed may not be sold or transferred to another property, but is available on the project site for future use. <i>Planning staff believe the restrictions on the transference of unused floor area are already clear and do not warrant further revisions (CH 3, pg 54).</i>
<p>§3600; Landscaping Requirements</p>	<ul style="list-style-type: none"> ▪ Section 3602.A.4 requires compliance with mandatory landscaping design standards listed in Section 3604. Consider adding threshold requirements for existing single-family developments. For example, disturbance of more than 200 square feet requires compliance with 3604. <i>First, proposed changes to this section of the Code pertain to the implementation of defensible space requirements for all development. Secondly, Chapter 45 of the County’s building code requires implementation of defensible space requirements for any exterior change and/or addition to existing development requiring a building permit. Therefore, a threshold of 200 ft² for requiring defensible space compliance is not necessary. Finally, proposed §3602.A(5) would establish a similar requirement under the County’s landscaping regulations in Chapter 3 of the Land Use & Development Code (Ch 3, pg 88).</i> ▪ Section 3603 offers flexible landscaping design standards. Section 3603.A mentions alternative methods of compliance, where the applicant may propose an alternative design that meets or exceeds the level of design expressed in Section 3601. This procedure is not clearly defined. Consider developing a performance-based landscaping system where certain landscaping provisions must be met (such as parking islands and buffers), but that all other landscaping provisions could be met using various alternatives such as bioswales, xeriscaping, heritage or significant tree preservation, or wildfire mitigation. <i>Proposed amendments to §3603.A reinforce requirements for compliance with defensible space prescriptions for existing single family development; proposed §3603.B identifies alternative methods of meeting landscaping standards such as the use of bioswales, xeriscaping, retention of significant trees, etc. while reinforcing the requirement that all landscaping comply with defensible space requirements (Ch 3, pg 88). As such, Planning staff do not believe additional flexibility through a complex performance based set of landscaping standards would provide any greater benefit to the County’s efforts to ensure that proposed landscaping and defensible space requirements do not conflict.</i> ▪ 3603.C.5 – The proposed text states that “...fire mitigation measures are implemented on site

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	<p>in a timely manner.” This type of subjectivity can be difficult on decision makers and applicants. Clarify that fire mitigation requirements need to be implemented prior to issuance of a certificate of occupancy. <i>Proposed §3603.C(5) clarifies that implementation of forest management/fuels reduction plans may be phased but must be ensured through an Improvements Agreement and financial guarantee; §3603.C(5) also requires implementation and maintenance of defensible space prescriptions be incorporated into CC&Rs to ensure long-term compliance (Ch 3, pg 90). Compliance with defensible space requirements prior to CO is already required under the County’s building codes and enforced by the fire protection districts.</i></p> <ul style="list-style-type: none"> ▪ 3604.C, Defensible Space Requirements – Subsection 1.i should say “10 feet of the <u>habitable</u> structure.” Subsection ii. Should include the word “space” after defensible. Subsection iii should include the word “habitable” before structure. The landscape regulations pursuant to <i>§3604 have been restructured and the defensible space requirements noted in this recommendation are now in proposed §3604.P. As written, these amendments would: 1) require all landscaping to comply with defensible space requirements; 2) graphically identify the defensible space zones on the landscape plan; 3) prohibit any new trees within five (5) feet of a structure; 4) prohibit new conifers within 10 feet of any structure; 5) prohibit junipers within Zone 1 due to their highly combustible nature; and 6) establish requirements and recommendations for mulching within five (5) of any structure as well as recommendations to avoid highly combustible types of mulch anywhere within Zone 1 (Ch 3, pg 98). Staff did not limit these requirements to “habitable” structures since; 1) “habitable structure” is not defined in the Code (only “structure is so defined), and 2) staff believes that as all structures can be ignition sources (e.g. sheds where flammable liquids and fuels are stored) or subject to ignition from a wildfire.</i> <p> 3604.C – A general statement should be included that says “non-compliance will be enforced as a zoning violation.” A statement as recommended is proposed for §3609, <u>Landscape Maintenance After Completion of Construction</u> (Ch 3, pg 101)</p> <ul style="list-style-type: none"> ▪ 3604.C – Include a diagram illustrating the defensible space zones. <i>Staff has included a graphic depiction of Zones 1-3 under proposed §3604.P. However, this current graphic is not very accurate or illustrative so staff continues to work on developing an improved graphic to address this recommendation (Ch 3, pg 98).</i>
<p>§3800; Regulations and Standards for Specific Land Uses</p>	<ul style="list-style-type: none"> ▪ 3812.04 - Add a requirement for a forest management and fuel reduction plan for all proposed mining or milling operations in a medium to extreme hazard area per the CWPP. <i>Proposed amendments to §3812.04.B(2) would require preparation of a forest management/fuels reduction plan for any mining/milling permit (Ch 3, pg 146).</i> ▪ Section 3815.02 includes regulations specific to the outdoor storage of materials in residential zoning districts. One of the recent proposed changes to that section incorporates provisions for the storage of firewood. Those provisions should be further tested and the language clarified. As written, “firewood may be stored in the front yard other than in the front setback if stacked in an orderly manner.” Additional proposed language requires stored firewood to be located a minimum of 30 feet from any habitable structure unless within a fire resistant enclosure. We recommend revising “habitable structure” to say “any structure, if ignited, that will incur a financial impact (i.e., insurance), a threat to adjacent structures, or a threat to human life.” <i>Proposed revisions to §3815.02.A would prohibit firewood storage within 30-feet of any structure unless stored within a 1-hour fire resistant enclosure during the wildfire season defined as May 1st to November 1st (Ch 3, pg 151). Please note that staff did not include any separation requirements for home-heating propane tanks as they are already regulated and permitted by the fire districts under Chapter 61 of the International Fire Code.</i> ▪ Specific Use Recommendations: <i>Although not summarized in Table 4-2, the final report does</i>

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	<p><i>include recommendations regarding expanded standards for various specific uses regulated under §3800 et seq. such as Special Events, fireworks stands/sales, health care facilities, lumber yards, community gardens, community centers, auto service/repair, recreation facilities, churches, schools, fire/police/EMS, and commercial firewood storage/splitting (please refer to pg’s 44-48 of the Final Report). Below is a brief discussion of staff’s response to each recommendation.</i></p> <ul style="list-style-type: none"> ▪ <i>Special Events—Fire response plan for any special event in a CWPP focus or moderate to severe wildfire hazard area: Special events located outside of PUDs require TUPs. As one of the criteria for approval of a TUP is protection of the public safety, staff believes it already has the authority to require implementation of appropriate wildfire hazard reduction measures through referral to the appropriate fire district(s) and County departments.</i> ▪ <i>Fireworks Stands/Sales—Prohibited in moderate to severe wildfire hazard areas: Per County Ordinance the use of fireworks in the unincorporated County is not allowed (Summit County Sheriff’s Office telecommunication 5/15/15). As such, staff has revised Figure 3-2 of Chapter 3 to list fireworks sales/stands as “Not Allowed” in any County zoning district.</i> ▪ <i>Health Care Facilities, Lumber Yards, Community Gardens, Community Centers, Auto Service/Repair, Rec Facilities, Churches, Schools, Fire/Police/EMS, Commercial Firewood Storage/Splitting—CUP required: Each of these type of uses has their own permitting requirements whether it be a conditional use permit (CUP) or site plan review based in part on the underlying zoning. Submittal requirements are adopted by BOCC resolution unless specified in the Code. Under the proposed amendments defensible space plans would be required as part of any landscaping plan and all new subdivision and/or rezoning applications would be required to include either a forest management, fuels reduction, or defensible space plan based on the project specifics. As the Code does not include submittal requirements for CUPs and site plan reviews, such requirements are set forth in the application submittal information sheets maintained by the Planning Department. All CUP and site plans are required to comply with §3600 (Landscaping Regulations) which under the proposed amendments would include a defensible space plan. However, for further clarity it may be appropriate to include specific requirements for preparation of defensible space plans in the information sheets. Because current submittal requirements already reference §3600, staff believes this can be accomplished through a staff initiated revision without the need for a formal BOCC resolution.</i>
<p>Figures for Development Constraints, Land Uses, and Dimensional Standards</p>	<ul style="list-style-type: none"> ▪ <i>Insert this information directly into text. Right now, it requires a lot of flipping back and forth. As noted above, staff agrees that document simplification and length reduction is a good goal but does not agree that moving these tables from the end of Chapter 3 into the chapter’s text would result in either. Therefore, as noted above staff is not supportive of this recommendation.</i>
<p>§8100; Subdivision Requirements</p>	<ul style="list-style-type: none"> ▪ <i>8101.D – Make sure this list is consistent with proposed rezoning procedure amendments. Mention CWPP hazard rating maps for consistency with TDR regulations. Proposed amendments to §8101.D list specific requirements for preparation of forest management, fuels reduction, and defensible space plans. Where consistent with the rezoning process, those standards have been carried over from the requirements for rezoning applications. Because the Wildfire Council is considering revisions to the CWPP wildfire hazard rating system, the proposed language does not mention CWPP hazard rating maps or any other wildfire hazard rating system (Ch 8, pg 7).</i> ▪ <i>8151.02 – Include high-risk wildfire areas in this paragraph. Proposed changes include a reference to wildfire hazard as an environmental hazard (Ch 8, pg 18).</i>

Table 4.2: Detailed Review of Current Summit County Plans, Policies, and Regulations

Name of Document	Comments and Suggested Revisions
	<ul style="list-style-type: none"> <li data-bbox="383 325 1437 640"> <p>▪ 8154.A.4 –Summit County will require showing building envelopes on plats. That information should be included here to make the procedures more predictable for applicants. <i>§8154.A establishes lot and block design standards. To address the frequent problem of trying to accommodate even Zone 1 defensible space (not to mention Zone 2) within parcel boundaries, staff has proposed language that requires such accommodation for lots in excess of 1 acre to the maximum extent feasible. For lots less than 1 acre, these new subdivision standards would require that Zones 1 and 2 be accommodated within the confines of the parent parcel to the maximum extent feasible, or in the case of Zone 2, that adequate provision for such accommodation on neighboring properties be made as part of the subdivision design (Ch 8, pg 19).</i></p> <li data-bbox="383 646 1437 835"> <p>▪ 8154.E.1.a – Insert “or wildfire” in between “geotechnical” and “hazards.” <i>This section of Code identifies environmentally sensitive areas and natural hazards such as steep or unstable slopes to be avoided by the use of restrictive disturbance envelopes. As wildfire hazards are addressed through implementation of fuels reduction, defensible space, and/or installation of firefighting infrastructure (e.g. cisterns, emergency vehicle access, etc) staff does not believe that this recommendation furthers wildfire hazard reduction efforts.</i></p> <li data-bbox="383 842 1437 930"> <p>▪ 8154.E.1.b – What is an OWTS? Spell out Onsite Wastewater Treatment Systems unless the acronym is defined nearby (within a couple pages). <i>OWTS is currently defined in the table of contents of Chapter 8 as well as §8159 (Water, Wastewater, & Utilities Design Criteria).</i></p> <li data-bbox="383 936 1437 1220"> <p>▪ 8154.E.1.c – Amend the last sentence to say “The review authority may <u>adjust the separation requirement</u> require additional separation between the disturbance envelope and building envelope...” This offers greater flexibility in both directions. <i>This section of the Code already gives the Review Authority the ability to adjust the separation requirements between the building and disturbance envelopes upward for cause. Planning and Engineering staff have found that 10-feet between any building and disturbance envelope is the <u>minimum</u> necessary to allow for any grading or earth disturbing activities associated with structural construction subject to the restrictions of a defined building envelope(Ch 8, pg 20). Therefore, staff does not see the need for further revisions to this section.</i></p> <li data-bbox="383 1226 1437 1766"> <p>▪ 8154.E.1.h – Consider amending the paragraph as follows: The Review Authority shall require that all proposed lots shall be large enough to accommodate the fire mitigation prescriptions for Zone One as set forth in the Building Code entirely within each lot. In no case shall proposed lots be approved that would require Zone One defensible space prescriptions be implemented on any adjacent lot. To the maximum extent feasible, the Review Authority shall require that all proposed lots shall be large enough to accommodate the fire mitigation prescriptions for Zone Two as set forth in the Building Code on each lot. If it is not feasible to design a proposed lot capable of accommodating all Zone Two fire mitigation prescriptions within its boundaries, then the Review Authority shall require easements shall be required on adjacent proposed lots to ensure the ability to accommodate all Zone Two defensible space prescriptions. Under no circumstances shall a proposed subdivision require encroachment of Zone Two defensible space prescriptions on any property adjacent to the parent property being subdivided. <i>Proposed amendments to address the concerns noted by the consulting team have been incorporated into proposed §8154.A(4) (Lot & Block Design Criteria) (Ch 8, pg 19). Staff believes that this is the appropriate section of Code to include requirements for accommodation of Zones 1 & 2 defensible space within new subdivisions.</i></p> <li data-bbox="383 1772 1437 1892"> <p>▪ 8155, Establishment of Design Criteria – The opening sentence refers to single-family and duplex residential zoning districts. Clarify in the text that this would apply to all zoning districts where single-family or duplexes are permitted. <i>Amendments to this section of Code as recommended have been incorporated in §8155 (Ch 8, pg 21).</i></p>

§8400; Subdivision Exemptions	<ul style="list-style-type: none"> ▪ 8420, Rural Land Use Subdivisions – Mention wildfire hazards in the purpose and intent statement and in the list of land use goals (currently A through I). <i>Proposed §8421.J includes language adding wildfire hazard reduction to the purpose and intent of rural land use subdivisions (Ch 8, pg 34).</i> ▪ 8428.05 – The site visit requires “...a quorum of members of the Planning Commission.” Reminder that these site visits are quasi-judicial by nature, and would likely require public notice when a quorum (or 3 members) is present according to Colorado Open Meetings law. <i>The consultant’s recommendation is duly noted but the Code currently addresses this issue under §16010 et seq. of the Code.</i>
§8700; Plat Standards	<ul style="list-style-type: none"> ▪ 8701.Y – Remove “whichever is less” from the end of the sentence. That is not a factor for whether or not the BFE is required. <i>Staff believes that this section already is clear and does not need revision.</i>
§9000; Sign Regulations	<ul style="list-style-type: none"> ▪ Add a requirement for addressing/residential identification signage to be maintained at all times, in clear view from the ROW, and constructed with non-flammable materials. <i>Staff has prepared amendments to Figure 9-1 (Specific Sign Regulations) requiring all residential identification signs to be visible from the adjoining road.</i>
§12400; Temporary Use Permits	<ul style="list-style-type: none"> ▪ 12401 – Add a “G” to this list to include “Temporary Use Permits are not permitted in areas rated as high or extreme wildfire hazard unless appropriate mitigation measures are taken as approved by the Director.” <i>As noted above staff believes that the current review and referral process and criteria for approval for all TUPs is sufficient to ensure that needed wildfire hazard reduction measures are incorporated into any approved TUP.</i>
§12600; Site Plan Review	<ul style="list-style-type: none"> ▪  12602.01.A – Add provision for any development or modification in an area of high wildfire hazard, regardless of whether a building permit is required. <i>Site plan review is currently required for any Class 1, 2 or 4 development application which includes all structures in excess of 200 ft² or 12-feet in height, essentially anything exterior requiring a building permit. As defensible space requirements currently apply to all three review classes, staff does not believe that the recommended amendments are warranted in this instance.</i>

CRITERIA FOR DECISION

Pursuant to §1454 of the Code, required findings for approval of amendments to the Code include the following:

- A. The proposed revision meets the purpose and intent of this Code.
- B. The proposed revision gives consideration to the goals and policies in the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plan.
- C. The proposed revision is consistent with any applicable State Statutes.

DISCUSSION / ISSUES

Purpose & Intent of the Code

§1100 of the Summit County Land Use & Development Code (Purpose & Intent) states the following:

The purpose of this Code is to protect, promote and enhance the public health and safety; to provide for planned and orderly development in Summit County in a manner consistent with constitutional rights of property owners; and to balance the needs of a changing population with legitimate environmental concerns. It is the intent of this Code to establish a balance between the legitimate rights of property owners and the achievement of community goals important to the protection of public welfare.

The County's forests have evolved over the millennia to use wildfire as both a mechanism to ensure forest health/regeneration, as well as promote adaptability to environmental change. As such, wildfires are of critical importance to the sustainability of our forests. However, as wildfire plays a critical role in forest health maintenance, such fires also pose serious threats to the human-built environment, especially in a place like Summit County where virtually all human development lies within the WUI. Therefore, as a naturally occurring ecological process, we humans cannot eliminate the ever-present potential for wildfire; nor should we from the perspective of the health and adaptability of our natural environment. Rather, to protect the human-built environment, especially within the WUI as is the case in Summit County, we should focus our efforts on ensuring that the human-built environment is as resilient as possible to the threat of wildfire. In other words, it is not a matter of if, only a matter of when our communities will be threatened by future wildfires; it is our ability to do the upfront planning work necessary to create more wildfire resilient communities that will in large part contribute to the successful continuance of our presence within the natural environment.

Given the inevitability of wildfires occurring in the future in Summit County, the proposed amendments to the Code are intended to establish an improved framework to integrate our efforts at wildfire hazard reduction with land use planning. As such, staff believes that the proposed Code amendments are fully consistent with the criteria established under §1454.A noted above. Specifically, staff offers the following comments on each category of proposed Code amendments as identified in greater detail in Table 4-2 above:

Basin Master Plan Content (§2202):

To strengthen the link between wildfire preparedness planning done through the CWPP and the County's basin master planning process, the proposed addition of §2202.01.H would require that all basin master plans consider "environmental risks and hazards including but not limited to wildfire, flooding, and geologic conditions in the basin." Per §2700 basin master plans should be updated every five (5) years. The most recent plan adoption dates on which that five year timeline is based are noted as follows:¹

Upper Blue Master Plan—2/25/2010
Joint Upper Blue Master Plan—6/30/2011
Ten Mile Master Plan—1/14/2010
Snake River Master Plan—1/21/2010
Lower Blue Master Plan—3/4/2010

Rezoning Policies (§3200):

Proposed changes to the County's rezoning policies emphasize the following:

- ✓ Rezonings must take into account the property's inherent wildfire hazard based on slope, aspect, vegetation, and accessibility (§3201.02);
- ✓ Availability of firefighting infrastructure including firefighting water supply;
- ✓ Requirements for preparation of either a forest management, fuels reduction, or defensible space plan to be implemented to reduce the property's wildfire hazard to the maximum extent feasible (§3202.05); and,
- ✓ Integration of relevant factors in the CWPP (e.g. wildfire hazard mitigation prescriptions for the various focus areas in the County as discussed in Appendix C to the Plan) into the rezoning review process.

¹ The consulting team's recommended amendments to Chapter 2 did not address the Countywide Comp Plan, primarily because they saw natural hazards more as a basin specific issue which the Code recommends be addressed within the applicable basin plans to avoid duplication of effort.

Basic Development Regulations & Standards (§3500):

Proposed amendments to this section of the County's Zoning Ordinance (Chapter 3) would involve the following:

- Expanded requirements for emergency vehicle access on A-1 and BC zoned property of 20 acres or more when deemed necessary to reduce wildfire hazards due to the property's slope, aspect, vegetation, location, etc (§3504.03.C);
- Revise wall and fence design standards to ensure that fences and walls do not conflict with defensible space requirements and if constructed of flammable materials, maintain a minimum five (5) foot separation from structures (§3505.17);² and,
- Requirements for amending the official TDR maps from Sending or Neutral changed to Receiving have been revised to include evaluation of a property's wildfire hazard exposure and heightened standards for wildfire hazard reduction incorporated into the design of any development proposal necessitating such a TDR map amendment (§3506.02.C).

Landscaping Regulations (§3600):

Proposed amendments to the County's Landscaping Regulations focus on integrating landscaping requirements with defensible space requirements. Specific examples include:

- Requiring landscaping plans to be consistent with defensible space requirements and prescriptions (§3601);
- Requiring implementation of defensible space prior to either CO or CC on any property where a building permit for exterior improvements is required (§3602);
- Adjusting the minimum planting requirements to prohibit highly flammable planting materials such as junipers within Zone 1 (30-feet from structures), allow landscaping alternatives such as bioswales, xeriscaping, and preservation of existing significant trees onsite to improve landscaping/defensible space consistency (§3603.B);
- Allow for the removal of dead or diseased trees (e.g. trees infected by Mountain Pine Beetle) without County approval (§3603.C);
- Tying implementation of forest management, fuels reduction, or defensible space plans to landscaping and removal of dead or diseased trees;
- Identify specific defensible space landscaping requirements (e.g. no new trees within 5-feet of structures, no new conifers within 10-feet of structures, no new junipers within Zone 1, establish mulching requirements for mulch within 5-feet of structures, update Table 3-2 to better identify Firewise landscaping materials, adding a graphic showing defensible space zones 1, 2, & 3, and encouraging non-flammable landscaping materials such as gravel, pavers, etc within 5-feet of structures (§3604);
- Graphically identify defensible space zones as a required element of all landscaping plans (§3605); and,
- Requiring property owner maintenance of defensible space subsequent to CO or CC issuance and noting that landscape additions in conflict with defensible space requirements subsequent to CO/CC constitute a zoning violation enforceable via Code Enforcement.

Regulations & Standards for Specific Land Uses (§3800):

Proposed amendments to regulations and standards for specific uses include:

- Given the potential intensity of use deep within the WUI, applications for mining/milling permits would be required to prepare a forest management/fuels reduction plan to mitigate potential wildfire hazards posed by such operations (§3812.04);

² Current research by fire risk professionals indicates that wooden fencing is a significant source of structure ignition.

- Stored firewood would need to maintain a minimum 30-foot separation from any structure or be stored within a one-hour fire resistant enclosure during the wildfire season (May 1st to November 1st) (§3815.02).³
- Figure 3-2 of Chapter 3 (Land Use Matrix) would note that fireworks sales within the unincorporated County are not allowed in any zone district, both as a wildfire hazard reduction measure as well as in recognition of current County ordinance that the use of fireworks within the unincorporated area is illegal.

Subdivision Regulations:

Proposed amendments to the County’s subdivision regulations include the following:

- ✦ §8101.D would be expanded to include specific requirements for forest management, fuels reduction, or defensible space plans with the type of plan being required based on the physical attributes of the property being subdivided;
- ✦ §8101.E would require all road name signs to meet MUTCD standards and be constructed of non-flammable materials;
- ✦ §8154 would expand lot and block design standards to require to the maximum extent feasible that all proposed lots within subdivisions where the lots are \geq 1-acre must be designed to accommodate Zones 1 & 2 within the lot boundaries—For subdivisions where the proposed lots are $<$ 1-acre the subdivision must be designed to the maximum extent feasible so that Zones 1& 2 can be accommodated within the confines of the parent parcel—This would probably reduce achievable density within all subdivisions beyond what could be achieved without such standards but could significantly improve structural defensibility/survivability; and,
- ✦ §8421 (Rural Land Use Subdivisions) is proposed to include language acknowledging that reduction of wildfire hazards through clustering and rural land use subdivision design standards is within the purpose and intent of such subdivisions.

Sign Code (Chapter 9):

Proposed amendments to Figure 9-1 of the County’s Sign Regulations (Chapter 9 of the Code) would require that all residential identification signage would have to be visible from the adjoining road to assist firefighter efforts to defend homes and residential neighborhoods from wildfire hazards.

Development Review Procedures (Chapter 12):

Although not specifically related to wildfire hazard reduction, the consulting team noted that the Code varies the use of the terms “zoning amendments,” “rezonings,” and “zoning” modifications throughout the document. Per the consulting team’s recommendations staff has proposed various amendments to the Code that would standardize the use of such terms as follows:

- ❖ Changes to one or more property’s zoning would be considered a “rezoning;”
- ❖ Changes to the text of the Zoning Ordinance (Chapter 3) of the Code would be considered a zoning amendment; and,
- ❖ Zoning modifications would only apply to modifications or changes to a PUD.

Consideration of Comp & Basin Master Plan Goals/Policies/Actions

Although different in their scope, both the Countywide Comprehensive and basin master plans promote resilient, sustainable communities and avoidance or mitigation of natural hazards such

³ April 1st to November 1st is the definition of “wildfire season” used by the Lake Dillon Fire Protection District. As April is typically one of our “snowiest” months, staff believes a later start date of May 1st or June 1st might be appropriate here.

as wildfires. This package of proposed Code amendments is intended to improve the “upfront” integration of wildfire hazard reduction and land use planning in the unincorporated portion of Summit County to ensure that our community is as resilient and defensible as possible to the threat of future wildfires that are an inevitable element of our forest ecology. To that end, staff believes that such amendments are consistent with the goals, policies, and actions established in the Countywide Comprehensive Plan, Upper Blue Master Plan, Snake River Master Plan, Ten Mile Master Plan, Lower Blue Master Plan, and their respective subbasin plans.

Consistency w/Applicable State Statutes

Pursuant to Title 30, Article 28 of the Colorado Revised Statutes (C.R.S.), the Board of County Commissioners has the authority to adopt and enforce reasonable and necessary land use regulations. In addition, under C.R.S. §29-20-102, the Colorado General Assembly provides the Board with broad authority and discretion to plan for and regulate the use of land within its jurisdiction. As the proposed package of Code amendments is intended to improve integration of wildfire hazard reduction and land use planning to ensure that our communities are as resilient and defensible against future wildfires as possible, such amendments are fully consistent with these provisions of State law. In addition, C.R.S. §30-28-116 allows the Board to amend the Summit County Land Use & Development Code from time to time. As such, this Code amendment process is fully consistent with this section of State law as well.

STAFF RECOMMENDATION

Staff recommends that the Countywide Planning Commission recommend to the BOCC that they adopt the attached amendments to Chapters 2, 3, 8, 9, and 12 of the Summit County Land Use & Development Code with the following findings:

Findings:

1. Given the inevitability of wildfires occurring in the future in Summit County, the proposed amendments to the Code are intended to establish an improved framework to integrate our efforts at wildfire hazard reduction with land use planning. Such efforts will significantly contribute to the protection, promotion and enhancement of the public health and safety in balance with legitimate environmental concerns.
2. Although different in their scope, both the Countywide Comprehensive and basin master plans promote resilient, sustainable communities and avoidance or mitigation of natural hazards such as wildfires. The package of proposed Code amendments is intended to improve the “upfront” integration of wildfire hazard reduction and land use planning in the unincorporated portion of Summit County to ensure that our communities are as resilient and defensible as possible to the threat of future wildfires that are an inevitable element of our forest ecology.
3. Title 30, Article 28 of the Colorado Revised Statutes (C.R.S.) grants the Board of County Commissioners the authority to adopt and enforce reasonable and necessary land use regulations. In addition, under C.R.S. §29-20-102, the Colorado General Assembly provides the Board with broad authority and discretion to plan for and regulate the use of land within its jurisdiction. As the proposed package of Code amendments is intended to improve integration of wildfire hazard reduction and land use planning to ensure that our communities are as resilient and defensible against future wildfires as possible, such amendments are fully consistent with these provisions of State law.

ATTACHMENTS

- A. Summit County Colorado; Recommendations for Policies and Regulations Related to Reducing Community Wildfire Risk, March 2015 prepared by Headwaters Economics, Wildfire Planning International, and Clarion Associates
- B. Draft amended Chapters 2, 3, 8, 9, and 12 of the Summit County Land Use & Development Code

cc: File PLN14-058