

TOWN OF AVON, COLORADO
AVON SPECIAL MEETING FOR TUESDAY, AUGUST 31, 2010
MEETING BEGINS AT 5 PM
AVON TOWN HALL, ONE LAKE STREET



PRESIDING OFFICIALS

MAYOR **RON WOLFE**
MAYOR PRO TEM **BRIAN SIPES**
COUNCILORS **RICHARD CARROLL, DAVE DANTAS, KRISTI FERRARO**
 AMY PHILLIPS, ALBERT "BUZ" REYNOLDS, JR.

TOWN STAFF

TOWN ATTORNEY: ERIC HEIL **TOWN MANAGER: LARRY BROOKS** **TOWN CLERK: PATTY MCKENNY**


ALL REGULAR MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS
COMMENTS FROM THE PUBLIC ARE WELCOME DURING CITIZEN AND COMMUNITY INPUT AND PUBLIC HEARINGS
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THE AVON TOWN COUNCIL MEETS ON THE SECOND AND FOURTH TUESDAYS OF EVERY MONTH

- 1. CALL TO ORDER AND ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST**
- 4. COMMUNITY & CITIZEN INPUT**
- 5. CONSENT AGENDA**
- 6. ORDINANCES**
 - a. **Public Hearing Continued From July 27, 2010, August 10, 2010, August 17, August 24** on Ordinance No. 10-14, Series of 2010, First Reading, An Ordinance Amending the Avon Municipal Code by Enacting Title 7, The Avon Development Code; Repealing Title 16: Subdivisions; Repealing Title 17: Zoning; and Repealing Portions of Title 2: Administration and Personnel (Sally Vecchio, Asst Town Manager Community Development, Eric Heil, Town Attorney) Review proposed Development Code as adopted by the Planning & Zoning Commission
 - b. Ordinance No. 10-16, Series of 2010, An Emergency Ordinance Amending the Avon Municipal Code Section 17.12.025 (Eric Heil, Town Attorney) Emergency ordinance concerning pending applications
- 7. TOWN MANAGER REPORT**
- 8. TOWN ATTORNEY REPORT**
- 9. MAYOR REPORT**
- 10. ADJOURNMENT**

FUTURE COUNCIL AGENDA DATES & PROPOSED TOPICS:

SEPT 14TH: Ordinance No. 10-14 the Avon Development Code, Bond Refinancing Ordinance, Sherman & Howard Engagement Letter for Bond Refinancing, Proposal, Recommendation & Agreement for VoIP Upgrade, Budget 2011: Review Administrative Programs, New hotel and restaurant liquor license for Gondola Pizza

Memo

To: Honorable Mayor and Town Council Initials
Thru: Larry Brooks, Town Manager 
From: Sally Vecchio
Date: August 25, 2010
Re: Council Review of the Avon Development Code

The Town Council continued its review of the proposed Avon Development Code (the "Code") at its August 24th meeting with discussions on the commercial zone districts, the development bonus option, the PUD process and a portion of the Development Standards (parking, landscaping, and connectivity and residential design standards).

The staff memo regarding *Responses to Public Comment*, dated August 5, 2010 is attached along with comments from Councilman Sipes. We will resume reviewing the Mixed-Use and Non-Residential Design Standards at the August 28th meeting.

The Council began a chapter-by-chapter review of the Code on July 13, 2010, and has completed all but the following sections:

- *Design Standards for Mixed-Use and Non-Residential Development (Sec 7.28.090 (j))*
- *Natural Resource Protection (Sec 7.28.100)*
- *Engineering Improvement Standards (Chapter 7.23)*

If the Council completes its review of these remaining sections at the August 31st meeting, staff can incorporate all of the Council revisions into a redlined draft of the Code for first reading of proposed ordinance adopting the Code on September 28, 2010. The redlined Code will be distributed to the Council and the public on September 17th, to provide have sufficient time to review the changes and provide comments for first reading.

At the direction of Council, staff has been working with the Planning and Zoning Commission (PZC) to develop criteria for subdividing duplex lots in the Wildridge Subdivision. We anticipate that PZC will provide a recommendation regarding criteria for subdividing duplex lots on September 7, 2010. The criteria will be included in the redlined draft of the Code.

Town Manager Comments:

Memo

To: Honorable Mayor and Town Council
Thru: Larry Brooks, Town Manager
From: Sally Vecchio, Asst Town Manger/ Community Development
Date: August 5, 2010
Re: Land Code Review- Response to Public Comments

Initials

SV

Summary: This memorandum responds to the written public comments received by the Town regarding the draft Avon Development Code as presented to the Town Council on July 27, 2010. The responses are intended to provide background information regarding proposed Development Code language, planning issues and rationale, and highlight relevant considerations in order to assist with Council's review of the proposed Development Code.

Previous Council Action:

The Town Council held a noticed public hearing on July 27, 2010 to take public comment on the proposed Development Code. The hearing was continued to August 10, 2010.

Background:

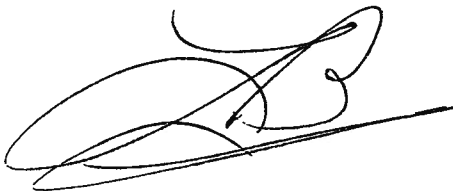
Staff and Council have received numerous public comments on the proposed Development Code since the document was presented to the Council at its last meeting. Generally, the comments focused on the new aspects of the Code, including the new Development Standards, Design Standards and engineering requirements for subdivisions and development on steep slopes. There were also a number of comments concerning the new Town Center Zone District, the new Bonus Development Requirements, and the revisions to the PUD process.

After more than four hours of public testimony and discussion on July 27th, the Council agreed to continue the hearing to August 10th and directed staff to prepare written responses to written comments received. The comments and staff responses to the Annexation regulations and the 1041 Regulations will be addressed at the Special Council meeting scheduled for August 17, 2010.

Discussion:

The public comments have been compiled and re-organized in a chapter-by-chapter format that follows the proposed Code format. Some of the public comments have been abbreviated and repetitive comments have combined. The original comments are attached as **Exhibit A**. Staff will bring to the meeting all of the data from the design tests completed in Wildridge and Town Center.

Town Manager Comments:



**AVON DEVELOPMENT CODE
RESPONSE TO PUBLIC COMMENTS**

GENERAL PROVISIONS Chapter 7.04

Non Conforming Structures

Section 7.04.128 (Page 13)

Comment: We should not be writing codes that create non conforming uses of the majority of the existing development in the residential areas. By doing this additional expenses will be created both by Town and the property owners. Town staff will have a much larger job evaluating remodels, redevelopment and new development.

STAFF RESPONSE: Most of the residential communities will not be affected by the changes proposed in the new Code. Most are governed by the PUD standards or previously approved subdivision plats. Most of the existing residential lots in the Town will not be affected by the new slope, grading and driveway standards. Staff disagrees that the new regulations will create a much larger job of reviewing applications. Development review will be easier (and more legally defensible) with specific standards and regulations by which to review projects.

Preliminary Subdivision and PUD Approvals

Section 7.04.110(d) – (Page 13)

Comment: I am concerned that this section would require an approved project to have to obtain a new approval to comply with new design standards. The Gandorf project would be an example of an affected project. This could have a significant impact on costs. I think this section needs to allow existing approvals to continue as approved with no changes.

STAFF RESPONSE:

1. The Gandorf project received final design approval under the current Code and will remain valid until the termination date of the approved plan pursuant to Sec 7.04.110 of the new Code (Transition to Avon Development Code). The owner will need to record a condo plat for the property before a final CO is issued on the homes. The requirements for preparing a condo plat have not changed with the new Code, although the approval process has been simplified by changing it from Council approval to administrative approval.

DEFINITIONS Chapter 7.08

Block Diversity Plan

Section 7.08.010 – (Page 24)

Comment: What does this definition apply to?

STAFF RESPONSE: This definition is not needed in the new Code and has been deleted.

Cash in Lieu

Section 7.08.010 – (Page 26)

Comment: The definition (in combination with its practice in the Park Land dedication standards) leaves the issue entirely up for negotiation- no certainty for investment or calculation of costs associated with development.

SEE TOWN ATTORNEY MEMO

Compatibility

Section 7.08.010 – (Page 27)

Comment: Why is this definition being inserted?

STAFF RESPONSE: Because the term is used throughout the new Code, as in the required criteria and findings for a Special Review Use (SRU) Permit: "The proposed SRU must demonstrate *compatibility* with surrounding uses.", and because the term can be interpreted in multiple ways, it was important to define the meaning of the term as it applied specifically to the Avon Development Code.

Development.

Section 7.08.010 – (Page 29/30)

Comment: Items exempted from the development definition seem to contradict those areas being defined by the proposed 1041 (AASI) regulations as development. Also, the definition seems to contradict the non-conforming uses being created.

SEE TOWN ATTORNEY MEMO

Floor Area Ratio (FAR)

Section 7.08.010 – (Page 33)

Comment: Does this include counting enclosed parking in FAR? If it does, it should not.

STAFF RESPONSE: The definition of gross floor area excludes: enclosed parking facilities, basements, open balconies and ½ of all storage and display areas for durable goods.

Grade, natural.

Section 7.08.010 – (Page 34)

Comment: Throughout the code “existing grade” is used to mean natural grade. “Existing grade” is not defined.

STAFF RESPONSE: Staff recommends the following definition: **Grade, Existing** means the existing topography of a site prior to construction and may include natural or manmade conditions. The Building Height definition has also been revised to require the measurement from nature or finished grade.

Gross square footage (GSF)

Section 7.08.010 – (Page 35)

Comment: There are multiple definitions of floor area which is confusing.

STAFF RESPONSE: Staff recommends the following definition: **Floor Area, also called Gross Floor Area**, means the total square footage of the building measured along the outside walls of the building and including each floor level, but not including open balconies, garages or other enclosed automobile parking areas and basement storage areas, and not including one-half (½) of all storage and display areas for durable goods

Natural areas

Section 7.08.010 – (Page 41)

Comment: Seems like a front -range definition.

STAFF RESPONSE: This definition is not needed in the new Code and has been deleted.

Non Conforming Uses

Section 7.08.010 – (Page 41)

Comment: By way of several new development standards, virtually all properties in the Town will become nonconforming (irrespective of the degree or specific area of nonconformance); penned this broadly and in light of the sweeping changes proposed, this seems to promote dilapidation of existing structures instead of upkeep and investment. Is that truly the goal?

SEE TOWN ATTORNEY MEMO

Public Benefit

Section 7.08.010

Comment: Not defined.

STAFF REPONSE: A following definition will be added: **Public Benefit** means a benefit realized by the general public of the Avon community which meets a goal in the Avon Comprehensive Plan or is determined by the Town Council to be a public benefit and which may include improvements, services, design, or use of lands.

Site Coverage

Section 7.08.010 – (Page 47)

Comment: Site cover in the past was a measurement of essentially building footprint and is commonly used to regulate the bulk and mass of structures. The new definition includes parking lots and driveways which makes it nearly impossible to develop a building with a parking lot in the Town Core or elsewhere. For example in Neighborhood Commercial, the maximum site coverage is 60% and if that include parking areas one would be forced to build underground parking and 40% of the parcel would have to remain as softscape. It is easy to see how this does not work and the results of its implementation would have a dramatic suburbanizing affect on the town. Also confusing is the use of the term “lot coverage” which I believe is intended to be “site coverage. As drafted this affects every property in the Town include those parcels developed and owned by the Town. Does site coverage include below grade parking that is plaza or landscaped on the surface? If it does, this will discourage or even prevent underground parking.

STAFF RESPONSE: The definition was erroneously expanded to include all impervious surfaces, and has been revised back to its definition in the existing Code (structures only).

Town District Plan

Section 7.08.010 – (Page 49)

Comment: The Town Center District Plan is defined well enough, but the Town Center description in the Zoning Dimensional Standards doesn't mention the District Plans, but instead reverts to the more general Land Use Plan of the Avon Comprehensive Plan? This doesn't make sense – why aren't we referencing both the general and specific master plans?

STAFF RESPONSE: The definition of Town District Plan has been replaced with *Comprehensive Plan* which is defined to include all the current plans : "Comprehensive Plan means the 2006 Town of Avon Comprehensive Plan; The West Town Center District Investment Plan (August 2007); The East Town Center District Plan (May 2008); The Master Plan for Harry A. Nottingham Park (November 2008); The Town of Avon Recreational Trails Master Plan (February 2009); and, The Town of Avon Comprehensive Transportation Plan (July 2009)." (Chapter 7.08 Definitions).

DEVELOPMENT APPLICATION REVIEW AUTHORITY Chapter 7.12

Director

Section 7.12.050 – (Page 54/55)

Comment: This section essentially requires that there be a Director of Community Development. The Town should have the flexibility to not have this position in order to react to budgetary requirements. You might consider using a more generic term like "Administrator" that the Town Manager can designate to enforce and interpret the Code. This tends to be more common.

SEE TOWN ATTORNEY MEMO

DEVELOPMENT REVIEW PROCEDURES Chapter 7.16

Determination of Completeness

Section 7.16.020(c) - (Page 58)

Comment: A development application shall be reviewed for completeness by the Director within fifteen (15) business days after receipt. If the application is determined to not be complete then a written communication shall be promptly provided to the applicant indicating the specific deficiencies in the application. The determination that an application is complete or the failure to determine an application is incomplete within fifteen (15) days shall not preclude the Town from requiring information which is necessary and relevant to evaluate the development application for compliance with the review criteria. A determination by the Director that the application is incomplete may be appealed to the Town Council in accordance with the procedures in §7.16.160. 15 days to determine completeness seems fairly excessive. Completeness of an application should be done in no more than 5 days .

SEE TOWN ATTORNEY MEMO

Comment: With the requirement of a pre-application meeting or meetings with any development application, stretching completeness review to half a month appears excessive especially for smaller classes of development applications.

SEE TOWN ATTORNEY MEMO

Referral to Other Agencies

Section 7.16.020(c)(2) – Page 58

Comment: 30 days for a referral is excessive. Referrals should be limited to 14 days.

SEE TOWN ATTORNEY MEMO

Mailed Notice

Section 7.16.020(d)(2) - Page 59)

Comment: The Town should be responsible for mailing any notices otherwise will be issues with content and inconsistencies. The application fees should cover this. You might consider having town staff also generate the list of owners within 300' by using GIS and again eliminating potential errors. Notice and process should be the most important aspect of the Town's role and pawning this off on the applicant could create significant issues

SEE TOWN ATTORNEY MEMO

Public Hearings

Section 7.16.020(e) – Page 60

Comment: Why limit the timeframe for tabling? Why not have the maximum flexibility on behalf of the Town as possible?

SEE TOWN ATTORNEY MEMO

Changes to an approved development application, Minor Amendments

Section 7.16.020(g)(4) – (Page 62)

Comment: There is something wrong with this section. Something seems to be missing.

STAFF RESPONSE: We don't understand the comment. Subsection (4) is one of four defined categories of amendments which are defined as "minor amendments" and which may be approved administrative

Comp Plan Amendment

Section 7.16.030 – (Page 62)

Comment: There are new amendment review criteria in this section which conflict, expand or replace the existing amendment procedures outlined in Appendix E of the Comprehensive Plan itself – which is it? Why are we proposing a new criteria and where is the public notice that we now seek to scrap the amendment procedures of the existing and approved Comprehensive Plan?

SEE TOWN ATTORNEY MEMO

Review Procedures.

Section 7.16.040 – (Page 63/64)

Comment: Applications to amend the text of the Development Code shall be initiated by the Town Council and may not be initiated by another person, except for citizen's initiative submitted pursuant to Chapter 7, of the Avon Home Rule Charter. WOW! A citizen is not allowed to apply for a text amendment to the code except by an initiative? I can't believe this is even in the proposal. Today's language allows any real property owner to initiate an amendment.

STAFF RESPONSE: Amendments to the text of the Development Code are legislative. Council can designate other parties which would have the right to submit applications to amend the text of the Development Code. Staff suggests such parties should include registered voters and property owners. Upon inquiry, Staff believes that no one other than Council has initiated amendments to the text of the Town's zoning and subdivision regulations since the Town of Avon was incorporated.

Temporary Suspension of Development Approvals

Section 7.16.040(d) – (Page 64)

Comment: This is essentially a moratorium on development. The regulations should go into when they are adopted and in effect. All existing approvals should be recognized and allowed to proceed to development unless they expire.

STAFF RESPONSE: This issue was addressed at the last meeting by the passage of an emergency ordinance. Council direction should be provided to Staff regarding Section 7.16.040(d).

Planned Unit Developments (PUD)

Section 7.16.060 (Pages 65-73)

Comment: 1 How can large changes be made that have not been contemplated in the code? 2. Why any minimum project size for PUD? 3. This was not a direction given by Council.

Comment: The entire ULC approach to removing the PUD process in lieu of the Development Bonus criteria should be deleted along with the proposed FAR provisions. A more sensible approach would be to create a streamlined development review process for those areas already falling under the guidance of both East and West Town Center District Plans.

STAFF RESPONSE:

1. The existing Town Center zone district clearly does not allow the type of development contemplated in the East and West Town Center Plans. Clarion submitted a zoning diagnosis in December of 2008 which proposed to move away from the use of PUDs. This diagnosis was reviewed and approved by Council. Staff has sought to implement this direction since that time.

2. If a propose development exceeds the zoning district standards (height, FAR and residential density), and it is something the Town desires, the Council could adopt a new zone district specifically for that particular development. This is a common practice when communities have a unique or large scaled mixed-use development proposal that requires special entitlements that would only be appropriate on a specific parcel such as the Westin.
3. In April 2009, the Council provided direction to Clarion to make a series of changes to the PUD process which would reduce its use for development approvals. The recommended changes included:
 - a. Improve the regular zone districts to make by-right development projects easier to achieve,
 - b. Establish development parameters and clear public benefit requirements and
 - c. Establish a minimum project size or location for PUD applications

All three revisions have been incorporated in the new Code including the PUD eligibility requirements which establish a 10 acre minimum project size or location in the Town Core. At the July 27th meeting, Council discussed deleting the minimum project size for PUD applications so that the PUD process could remain as an available option for smaller projects as well as larger. Council agreed that the revised PUD regulations contain sufficient review criteria to ensure a more efficient review process (Sec. 7.16.060).

4. A streamlined development review process has been created (Development Review Procedures Chapter 7.16), along with improved standards for all of the zone districts (Use Regulations, Chapter 7.24), and Development Bonus Requirements (Chapter 7.20.100). Together, these new regulations create a predictable, transparent review process which ties development standards to approved policy documents (Development Standards Chapter 7.28).

Overlay District

Section 7.16.060(c)(1) – Page 67

Comment: Underlying re-zoning should be allowed to be processed concurrent with a PUD application rather than being required to be processed “prior to” PUD approval.

STAFF RESPONSE: Staff concurs. Section 7.16.060 (c)(1) Overlay District, should be revised to allow the process of a rezoning to occur prior to or concurrent with PUD approval.

Alternative Equivalent Compliance (AEC)

Section 7.16.120 – (Page 83)

Comment: Flexibility provided with this procedure is good, but the review criteria and areas of applicability are confusing. So, do you need to meet one or all criteria and why should a neighbor have standing in this matter if the only real questions are the first and last criteria? Was it clearly explained to P&Z and Council that adjacent property owners will now have standing in design review where they have not before? After much investment to prove, for instance, that an engineered retaining wall is safe and in keeping with the intent of a design standard to the Town Engineer and P&Z my approval may be revoked? This requires some clarity and explanation.

STAFF RESPONSE:

1. Alternative equivalent compliance is a new process added by Clarion to allow for creative modifications to the following development standards: Mobility/Connectivity, Landscape, Screening and Retaining Walls, Fences and the Design Standards.
2. There are 4 review criteria that the reviewing authority (PZC or TC) shall consider as the basis for a decision to either grant or deny an AEC application. Review Criteria 4 states: The proposed alternative imposes no greater impact on adjacent properties then would occur through compliance with the specific requirement of the ordinance. Staff disagrees that this criteria gives a neighbor “standing” in the matter.
3. The size and design of retaining walls is subject to approval by the PZC and compliance with the Town’s engineering standards. In order for the PZC to make an informed decision concerning the wall, the project will require preliminary grading (which will stipulate top and bottom of wall), and type of wall (e.g. boulder or MSE).

Vested Property Rights and Site Specific Development Plan

Section 7.16.140(a) – (Page 85)

Comment: When asked during your first reading about the need to approve a development agreement to receive a ‘Development Bonus’, I was informed that a development agreement is possible without a site specific development plan or need for a PUD. The code as penned contradicts this. Which is it?

SEE TOWN ATTORNEY MEMO

Floor Area Ratio (FAR)

Section 7.20 – (Page 91)

Comment: Throughout the zone districts FAR has been added as an additional control of floor area and bulk and mass. I think this provision adds unnecessary complexity to the Town Code that is not needed to achieve the goals of the Town. The Town Center should be more about attractive floor area and density and the focus should be on the building form and relationship to other buildings and the street.

SEE STAFF COMMENTS ON FAR BELOW

Appeals Process

Section 7.16.160 – (Page 91)

Comment: The other area that I would recommend looking closely at is the appeals process and the timeframe for hearing and deciding appeals. In my experience, you might get a verbal decision that you disagree with from staff, but then getting that in a “final” written form could take weeks. With that and then the process to get before the P&Z could take weeks. I would not rely on that as much of a relief value.

SEE TOWN ATTORNEY MEMO

Neighborhood Commercial (NC)

Section 7.28.080 – (Page 96/97)

Comment: This zone district has been included in the Town Center designation. Several properties zoned NC are located north of I-70 and do not exhibit all of the same characteristics of the Town Center. As drafted the “maximum” front setback is 15'. In some cases this would place a building within Nottingham Rd. Either the setbacks need to be adjusted or there needs to be some language added to allow deviations in special circumstances without the need for a variance. If this provision is adopted, numerous properties will be made nonconforming.

STAFF RESPONSE

1. At a previous work session, Council enlarged the Town Core area to include the area north of I70 at the Avon Road roundabout (due to its visibility at the roundabout), and required Council review of all development applications in the Core. **(See Town Core Map, Exhibit C).**
2. The measurement of a setback can be addressed by clarifying the definition of setback to include *“that the minimum setback shall be measured from the property line or the edge of pavement of a public roadway, whichever is more restrictive.”*

Floor Area Ratio (FAR)

Section 7.20.08(c) – (Page 98)

Comment: I am very concerned also with the FAR requirements in general but especially the minimum FAR. There are many properties that are zoned Town Center that are likely to never being economically viable at a 1.6 FAR so in the interim (next 30 years) the code is making it impossible to do anything with many properties. The unintended consequence is that you would be guaranteeing that those properties could never improve and remain as they are today. An owner would be prevented from even making small additions due to the minimum FAR. There is theory about how the Town could look in the future and then there is reality. I don't think we can ignore the economic realities in Avon. I think you need to examine each and every property subject to this provision to determine if it is a reasonable provision.

STAFF RESPONSE

1. The West Town Center Investment Plan recommends a revision to the zoning code to increase to by-right density permitted on a Town Center property, and to include an FAR measurement to better control the bulk and mass of building. The Plan also recommends a minimum 1.6 FAR in West Town Center District as a way of ensuring that the area reaches the appropriate critical mass of retail, commercial and housing, to create a viable town center districts. **Exhibit B** provides a list of the policies and recommendations from the West Town Center District Plan that were used by Clarion as a basis for the FAR requirements as well as the Design and Development Standards.
2. The minimum 1.5 FAR was added to the Town Center Zone District, as directed by Council during its April work sessions on the topic. **As indicated, this minimum FAR was based on a recommendation from the West Town Center Investment Plan. Council should discuss whether they desire the same density expectations for all property zoned Town Center, including areas outside of the West Town Center District, east of Avon Road.**

Comment: This is possibly one of the most troubling aspects of the code. Yes, as staff has noted the Comprehensive Plan called for FAR as a potential tool for shaping mass and bulk, but FAR is a poor predictor of physical form in the context employed by the ULC as proposed and in light of the specific goals and policies of the East and West Town Center District Plans. Do a word search of the East Town Center District Plan and you will find no mention of "FAR" as a tool to promote the desired redevelopment.

The minimum ratios will discourage any improvements (investments *both public and private*) in the Town Center zone district and combined with the language on non-conformities, you are possibly encouraging the continued dilapidation of existing structures. This entire approach should be removed from the proposal. For example, this excerpt of 'preferred district future land uses' is from the adopted East Town Center District Plan:

The massing and uses expressed in the East Town Center District Plan will be nowhere close to this form under the proposed FAR. Even under current acreages, for instance the Christy Sports Lot has a 40,423 square foot site that only permits 80,846 square feet at an FAR of 2:1. How will this affect something like the Westin Riverfront PUD should they seek 'replatting' and find themselves non-conforming to maximum FAR and since they have no underlying zoning? If we are seriously looking to rescind the District Plans the Town invested years of effort and public input to create, respect the public process and seek to amend those plans first before proposing a new ULC that virtually eliminates the possibility for the level of public and private investment and vitality as envisioned in this adopted policy document (the East Town Center District Plan in this case). Frankly, the redevelopment plans for the Town Core provide a level of detail that should warrant a simplification of development review processing and allow applicants a modified design review process instead of fighting for even an existing level of development rights and having to argue that their project provides public benefit. Partnership and investment in the stated goals of the Town should be ample public benefit to the future residents and guests of Avon.

STAFF RESPONSE

1. A Floor Area Ratio (FAR) measurement has been added to the Commercial Zone District standards (Chapter 7.20). One of the community goals stated in the Avon Comprehensive Plan is to "Promote a Compact Community Form" (Goal B.1). A series of nine polices were established to implement Goal B.1, including a recommendation to amend the zoning code to include an FAR measurement to help "minimize the standardization of building heights and break up building bulk."
2. After reviewing the Design Tests for Avon 21, Avon Center, Sheraton Mtn Vista, Chapel Square and The Seasons, the Council made the following observations concerning density in the Town Center Zone District:
 - a. A 2:1 FAR reflected a higher development density in Town Center that has typically been approved under the current Town Center Zone District standards (e.g, Denny's, Annex Plaza, Post Office, various bank buildings).
 - b. The PUD process was typically used in Town Center to waive parking requirements, increase dwelling units, and increase site coverage.
 - c. 2:1 FAR with a Development Bonus could increase the development density on a parcel up to 2.6:1FAR, which would accommodate the density, FAR, and building height for most of the approved PUDs in Town Center.
 - d. Avon 21 proposed a 3.6:1 FAR with a 110 ft building height and the Sheraton Mtn Vista was approved with a 2.7:1FAR. Both would have to reduce density and Avon 21 would also have to reduce building height under the new Code provisions, unless the Council approved a special zone district designation for that particular project.
3. A replat of Westin property would not be affected by the proposed FAR because the property is regulated and vested to the Westin Riverfront PUD. If the PUD vesting expired before the project was built out, the property would have to either be rezoned or the Council could grant an extension to the PUD entitlements.
4. Under the current Town Center Zone District, the Christy Sport Lot could build by-right, approximately 121,530 sf, with up to 38 dwelling units and a max building height of 80 ft. Under the new Town Center Zone with Bonus Density, the property could be approved for development up to 105,326 sf, with unlimited additional dwelling units (provided that the applicant has water and sufficient parking), with a max building height of 104 feet. Although the new process and district standards somewhat reduce the permissible density on the property, the real issue for the project will be meeting the parking requirements at that density. A 121,530 sq foot mixed use development (Chapel Square is 120,000 sf) could required 300-400 parking spaces depending on the mix of uses. Under the existing PUD process, parking was typically waived or reduced in Town Center. The new Code only allows up to a 20% parking reduction for mixed use projects.

5. The East Town Center District Plan (May 2008) does not explicitly call for a minimum FAR, and instead only includes illustrations of bulk, mass and height. The Town Center zoning district can accomplish the density and development patterns described in this Plan, but the comment is correct that minimum FAR was only called out for the West Town Center District, and therefore Council may want to limit that provision to only that district.

ZONE DISTRICTS AND OFFICIAL ZONING MAP Chapter 7.20

Development Bonus

Section 7.20.100 – (Pages 101-105)

Comment: Staff continues to point out that the PUD process has failed the Town, and they are therefore proposing to remove the PUD process by reducing its viability in lieu of a 'development bonus process' which allows an absolute maximum bonus of 35% over all underlying zone district requirements (height, density, and FAR). While this sounds great in theory, as penned and in combination with the FAR provisions this will have the consequence in many instances of nullifying the goals of both the East and West Town Center District Plans. This is a confusing and complex system that does not incentivize investment or promote "accuracy in investment expectations", takes a guidance plan (the Housing Plan) and makes it a regulatory requirement, and then discounts private investment in Town desired public improvements.

STAFF RESPONSE

1. The issues related to the current PUD process were identified by Council with Clarion Associates during the Diagnosis phases of the code re-write process.
2. The new Town Center Zone District standards along with the Bonus Density Requirements create predictable development standards that meet or exceed most of the development density in the Town Core that has been approved under the current PUD process (see **Design Tests Sheets Exhibit XXX**).
3. The Design Standards are deferential to area-specific design standards adopted by the Town Council, including the East and West Town Center Plans (Section 7.28.090(b)), and require any property located in those Districts to abide by those standards.

General Review Criteria

Sec 7.20.100(d)(1)(iii).

Comment: The first criteria last sentence is not comprehensible.

STAFF RESPONSE. Section 7.20.100(d)(1)(iii) requires public benefits to promote Town goals and policies. PZC added "projects listed in the approved CIP budget.

Comment: I really don't understand this section. It is written in a way that does not allow for creativity or the changing goals of the Town. For instance, if additional residential floor area is added, 50% has to be for deed restricted housing and an additional 25% must be occupied full-time. I think the Town really needs to understand the implications of this section. I am not sure it is really needed given the ability to apply for a PUD. You might consider deleting this section entirely.

STAFF RESPONSE: Pursuant to the Bonus Development Requirement one of the following public benefits would be required in lieu of the additional residential density granted by Council: a) at least 50% of the bonus units deed restricted to full-time residents, OR b) 25% of the bonus units deed restricted to full-time residents and price controlled, OR c) payment-in-lieu, OR d) any combination of a, b and c.

Height Bonus

Section 7.20.100(d)(2) – (Page 104)

Comment: How does this promote investment and am I still permitted an architectural projection or will I now have to provide for public benefits above and beyond the revitalization of an aged structure, for instance, in the Town Center Districts?

STAFF RESPONSE. Architectural projections (i.e, chimney, cupola) may project beyond the plane of a required height limitation. Architectural projections do not increase FAR, Density or Building Height, and are therefore not subject to the Bonus Development Requirements. Staff recommends limiting the size of architectural projects to 15 feet above the permitted height plane, with additional height allowed with PZC approval.

Increased FAR for Public Benefits

Section 7.20.100(d)(3) – Page 104

Comment: The staff example of Chapel Square PUD under the proposed ULC permitted an additional 6 residential units, 5 of which have to be deed restricted. There is no real "bonus" in reality and certainly no incentive to build according to the District Redevelopment Plans unless staff can prove otherwise with relevant scenarios and examples that are provided to the public through this process that also temper the desired physical shape of a redeveloped Town Core against the pro-formas that went into both East and West Town Center Planning efforts. Again, *if the desire of the Town is to repeal these adopted policy plans it should do so first through a public process and before proposing a sweeping regulatory change.* As penned, this does nothing to promote a public/private partnership like the one that successfully built the Westin Riverfront project. Why is the developer cost Discounted 25% when in truth costs should be escalated for inflation in a multi-year phased project like the several envisioned in the Town District Redevelopment Plans? Again, there is no development incentive or bonus really being provided and you are reducing the value of even existing zoning rights by discouraging any investment in non-conforming structures. Certain staff criticism leveled against the Westin Riverfront PUD process among others during my tenure on the ZAC is unfounded. Many PUD projects made the best of existing vesting and an imperfect set of *design* tools, but the inference that hours were spent negotiating over things like sidewalks and landscape areas as a result of a wholly dysfunctional land use code and PUD process is absurd. Good projects come from good partnerships and clear design goals. apply for a PUD. You might consider deleting this section entirely.

STAFF RESPONSE: The Chapel Square PUD includes 69 residential units (14 additional units above the 55 by-right units attached to the property). Eight of the additional 14 units are deed-restricted units for local residents and price capped. Under the Bonus Density Requirements the 14 additional units would have required either 7 units' deed restricted for local residents, or 5 units' deed restricted for local residents and price capped.

USE REGULATIONS Chapter 7.24

NO COMMENTS

DEVELOPMENT STANDARDS Chapter 7.28

Development Standards

Section 7.28.110(b) – (Page 126)

Comment: In combination with the nonconformities definition, the applicability of new standards to all existing development language is unclear. Is it addition or removal of 50% of uses and structure? Development is poorly defined- for instance, if a façade remodel of 100% of my existing property requires that the entire development is in compliance with all the development standards, I will not remodel or invest or provide an adaptive reuse of existing buildings, especially in the Town Core. Is that the desired effect of this process?

STAFF RESPONSE. The non-conforming provisions of the existing Code have not changed with the new Code. Specifically, non conforming structures may be remodeled or even added on to provided that the remodel or addition does not add to the non-conformity. Should 50% of a non-conforming structure or 50% of the non-conforming portion of the structure be destroyed, it must be rebuilt in conformance with the Code. A façade remodel (such as The Seasons), is considered maintenance and would therefore not be affected by these provision.

Many of the existing structures in Town Core are non-conforming under the current Code because they do have sufficient onsite parking, and therefore could not be expanded. **Staff agrees however, that the development standards will create some additional non-compliance and the Council should understand the implications that may result if an existing non-conforming structure wanted to expand.**

Maximum Parking Spaces Allowed

Section 7.28.020(d) – (Page 129)

Comment: I think this section is overly restrictive especially when considering smaller projects. You should consider making this provision applicable to parking lots or uses requiring over 40 parking spaces.

STAFF RESPONSE: This section limits the amount of off-street parking spaces to not more than 125% of the minimum requirements, unless approved by the Director and mitigated through additional landscaping. The provision was added by Clarion to encourage support the recommendations of the Comp Plan and Investment Plans by encourage more density on commercial properties, reducing asphalt, and promoting a more pedestrian oriented town center. Staff does not recommend changing this provision.

Public Parking District

Section 7.28.020(i) – (Page 133/134)

Comment: A public parking district has already been established in Town Center, but may need to be reaffirmed by this provision at the same time of adoption. Also, there is no language as to the delivery of the parking by the GID or other form of district by the Town (at least some form of commitment other than receiving funds should be noted or you are shorting private and public parking for a project). This requires some attention to get right to encourage private investment in long desired central public parking structures.

STAFF RESPONSE. A parking district was approved by the Town Council for the West Town Center District in 2005 (Council Res 2005-32). Staff agrees that the Town will need to re-evaluate the district standards and requirements following the adoption of a new Code.

Access Drive requirements Applicability

Section 7.28.030(b) – (Page 139)

Comment: The provisions in this section are applicable to all developments. For Development on lots platted at the date of the adoption requirements listed in this section MAY be waived by the Director. Furthermore, additional mitigation of impacts due to development may be required by the Director. This statement aids in making the remaining steep lots possible to develop, but puts all the authority with the Director.

STAFF RESPONSE:

1. The provisions in this section are applicable to all development.
2. Staff is recommending that the Applicability Requirements be changed as shown below and to remove the ability of the Director to waive the requirements.
3. For development on lots platted prior to the date of adoption of the new Code, the requirements listed in this section may be waived by the Director. Additional mitigation of the impacts due to development may be required by the Director.

Emergency Access

Section 7.28.030(d)(1)(ii) – (Page 139)

Comment: Majority of residences do not conform, why change to 45' radius-very large?

STAFF RESPONSE: This section was prepared by Clarion and previously edited by staff. The 45' radius requirement has been removed along with some of the grade requirements.

Access Drive requirements Driveways in Mountainous Terrain

Section 7.28.030(d)(2) – (Page 140)

Comment: Driveways on lots with slopes greater than 30%. Under **NO** circumstance shall any driveway cross a slope greater than 50% The lot that I am working has about 28' of the entire street frontage at 50%. The other Street frontage is over 50%. This frontage is at the highest part of the lot and not the most practical location for a drive. I will be relying on the Director to help.

STAFF RESPONSE: Significant changes are being recommended to this section. In summary, the numerical standards have been removed and the PZC will be the reviewing body for the layout of driveways on lots over 30%.

(1) Driveways in Mountainous Terrain

(i) Applicability. All driveway access and parking lots on lots containing slopes in excess of thirty percent (30%).

(ii) Driveways on lots with slopes greater than thirty percent (30%) shall be designed to ensure safe, convenient, and adequate access to individual buildings and shall conform to the following standards:

(A) Driveways shall to the maximum extent feasible follow natural contour lines.

(B) Driveway shall minimize disturbance or the cutting of slopes. Shared driveways are encouraged when the design will minimize cut, fill and disturbance of slopes.

~~(C) Under no circumstance shall any driveway cross a slope greater than fifty percent (50%).~~

~~(D) Driveways longer than fifty (50) feet in length, as measured along the centerline, shall not cross slopes over between thirty (30) and fifty (50) percent unless specifically authorized by the Planning and Zoning Commission Town Engineer, after finding that all of the following conditions and constraints are applicable:~~

~~(1) No alternate location for access is available;~~

~~(2) No individual segment or increment of the driveway that will cross slopes between thirty percent (30%) and fifty percent (50%) shall exceed one hundred (100) feet in length;~~

~~(3) No significant adverse visual, environmental, or safety impacts will result from the driveway crossing, either as originally proposed or as a result of incorporation of remedial improvements provided by the developer to mitigate such impacts.~~

(iii) Proposed development on lots with mountainous terrain may require the preliminary layout and design of the individual driveways at the preliminary plan stage, and the precise design of the driveway at the final plan stage, to assure that access can be provided to each dwelling unit served by the driveway in compliance with the standards of this Division.

(iv) Driveways may be considered public improvements and thus collateralized, constructed, and subject to the terms and conditions of the other public improvements in the development.

Driveways Requiring Significant Cuts and/or Fills Discouraged

Section 7.28.030(d)(3) – (Page 141)

Comment: Significant cut and fill is defined by more than. Limits on change to Natural Grade. On steep lot design it is beneficial to use the home as retaining for the uphill side to create proper drainage and/or driveway grades. The drive and grade has the possibility of the Director sign-off.

STAFF RESPONSE: There is not a specific standard so no changes have been made except to remove the requirement that driveways may be considered public improvements.

Maximum Number of Entryways

Section 7.28.030(d)(6) – (Page 142)

Comment: Generally, no more than one entryway shall be allowed for any parcel of property where the frontage is less than one-hundred (100) feet. In residential areas like Wildridge, having two entryways for a duplex structure may result in a better layout and more privacy afforded to dwellings. This is especially true in the case of a corner lot. I think this provision should be changed to allow for two access points given some specific criteria or based on the judgment of the Town Engineer

STAFF RESPONSE: Second driveways are permitted with approval by the Town Engineer if lot frontage exceeds 100 ft and the lot is zoned for more than one unit. If the frontage is less than 100 ft there will not be enough separation between driveways, particularly roads with grade changes and numerous curves. Staff recommends no change.

Access Table- 20' perpendicular to Right of Way not practical.

Table 7.28-4 – (Page 143)

Comment: A large percent of existing properties will not conform. Creates unbuildable properties when combined with 6' maximum change in grade.

STAFF RESPONSE: Table 7.28-4 Residential Access Standards. This section was copied from the existing design guidelines. Several changes to Table 7.28-4 recommended by Staff include:

change the point of measurement of the first 20 feet along the centerline of access drive from the edge of right-of-way to edge of asphalt or the back of curb and gutter from which access is obtained, and change the note that states access must be perpendicular through easements adjacent to right-of-way to they must intersect 90 degrees for the first 20 feet measured from the edge of asphalt from which access is obtained and the driveway must be between 45 degrees and 90 degrees through the remaining right-of-way and snow storage easement.

Table 7.28-4: Residential Access Requirements			
Standard	Single Family	Duplex	Multi-family
Driveway curb cut (drive aisle width in feet, not including radii)	Min. 10 Max. 14	Min. 10 Max. 14 [1]	Min. 20 Max. 24
Maximum number of curb cuts	1	1 [1]	1 (8 dwelling units or less) [1]
Driveway grades	4% max. for first 20 ft. adjacent and perpendicular to public ROW edge of asphalt of street obtaining access from or back of curb or adjacent to garage; 10% max.	4% max. for first 20 ft. adjacent and perpendicular to public ROW edge of asphalt of street obtaining access from or back of curb or adjacent to garage; 10% max.	4% max. for first 20 ft. adjacent and perpendicular to public ROW edge of asphalt or back of curb of street obtaining access from or adjacent to garage; 8% max.
All access must be intersect 90 degrees for the first 20 feet from the street asphalt edge and between 45 degrees and 90 degrees through the remaining right-of-way and snow storage easements perpendicular through easements adjacent to right of way			
Notes:	[1] Maximum may be increased at the discretion of the Town Engineer. [1] Maximum number of curb cuts may be increased at the discretion of the Town Engineer. (7.28.030 (d)(6)) [2] Ten foot maximum radius on access flares		

Landscape Units

Section 7.28.050(e) – (Page 152)

Comment: 1. What community uses this table 2. Does it take into account our dry climate 3. What current buildings satisfy these requirements?

STAFF RESPONSE:

- a. Clarion prepared the Table and has used it frequently with other jurisdictions that it has worked with.
- b. The plant list comes from the Design Guidelines and edited by Public Works to comply with the Town's drought-tolerate plant list. PZC replaced points for sod with xeriscape.
- c. The current Code only requires that a percentage of a lot be landscaped without specific planting requirements. The result is an ad hoc negotiation between the PZC and the applicant during the review process.
- d. The material quantities for single family development are based on a staff review of recently approved landscape plans for single-family homes.

Retaining Walls

Section 7.28.070 – (Page 162/163)

Comment: Why only two tiers?

STAFF RESPONSE: Clarion prepared this section based on the existing Design Guidelines. Staff is proposing two modifications based on the July 27, 2010 hearing. The first is removing the restriction on two tiers. The second is to allow for retaining walls with a height greater than 7 feet if approved by PZC. The previously proposed standard prohibited retaining walls greater than 7 feet in height.

Comment: Retaining walls may be utilized ONLY where finished grades cannot meet the recommended Standards do the Development Code Due to naturally occurring topo. and other site development constraints. Again I have issue with the term of only. I may be beneficial to create an architectural feature such as an on grade patio or yard area that could be accomplished by a retaining wall rather than re-grading to a 2:1 slope. The site disturbance area would be limited by the use of retaining walls.

STAFF RESPONSE: The intent on the word "only" in this standard is to limit excessive grading of lots and to ensure that the site plan follows the existing topography and does not 'fight' the topography. There is plenty of flexibility in the phrase "due to naturally occurring topography and other site development constraints" to allow for grading for patios and other auxiliary improvements. Staff does not recommend a change to this section.

Plastic, vinyl siding or cementitious board – not permitted materials

Section 7.28.090(c)(3)(iii)(e) – (Page 167)

Comment: Why can't you have cementitious board? This material is used throughout the valley and including Vail especially in areas where siding is proposed above 35'.

STAFF RESPONSE: This prohibited material was added by Clarion to promote a higher quality of building materials. Staff agrees that cementitious board does have a fire-rating that makes it a desirable building material and can be found on most commercial buildings in Avon. Staff recommends that cementitious board be permitted with the approval of the PZC along with metal siding, concrete and concrete block.

Roof Overhangs

Section 7.28.090(c)(4)(ii) – (Page 168)

Comment: on dormers to be less than 1.5' for the main roof forms.1. Smaller elements keep in proportion

STAFF RESPONSE: this is a specific standard from the Design Guidelines. Staff recommends clarifying that the requirement is for primary roofs only. In addition, this standard can be modified through the AEC process.

Building Separation

Section 7.28.090(d)(2) – (Page 168) Section 7.28.090(b) – (Page 166)

Comment: The minimum separation between residential buildings, including accessory buildings, is fifteen (15) feet. For purposes of measurement in this subsection, projections such as decks and bay windows shall not be counted. Should roof overhangs also be excluded from this measurement?

STAFF RESPONSE: Roof overhangs can be excluded from the building separation measurement. This is a design standard that can be modified by the AEC process.

Generally Applicable Residential Design Standards Roofs.

Section 7.28.090(d)(3) – (Page 168)

Comment: All residential buildings shall have pitched roof with a rise of not less than 4:12. This first sentence is not needed. The third and fourth sentence say the roof can be less than 4:12. All buildings shall incorporate roofline modulation. The max. length of ANY continuous roofline shall be 30' for residential buildings. My personal opinion is that this length should be a proportion of the building size and reviewed on each project. A building with a 25' great room and 3' overhangs on either side, would not meet this requirement. I agree with designs with interesting roof lines, especially on hillside lots where they are viewed from a distance above or below. Would adding a chimney on this length break the ridgeline?

STAFF RESPONSE: See following response.

30' Continuous Roof Line

Section 7.28.090(d)(3)(ii) – (Page 169)

Comment: Too Small Make 45'.

STAFF RESPONSE: The Design Guidelines require “no long monotonous rooflines”. The PZC asked staff to include a specific length because the guidelines do not provide sufficient guidance. Identifying a specific length (whether its 30ft or 45 ft) gives the applicant and PZC some context by which they can evaluate the AEC proposal. **Council should discuss the proposed Design Standards with the PZC and the merits (and consequences) of more specificity in the new Code.**

Wildridge Single Family and Duplex

Section 7.28.090(e) – (Page 169)

Comment: 1. Approximately 15% left to full build out 2. Why make significant changes to penalize undeveloped property owners. 3 Incentivize owners to make changes desired.

STAFF RESPONSE: Based on comments at the July 27 meeting, staff has recommended several changes to the driveway access requirements, retaining walls, and development on steep slope that address many of the concerns with building on the remaining platting lots on steep slopes.

Mixed Use Buildings in Town Center

Section 7.28.090(j)(3)(ii) – (Page 170)

Comment: This design standard seems overly restrictive and does not allow for typical ground level uses as they exist today or would with any new project that requires office, lobby or real estate windows to market and sell the product being created- like the Westin. Combined with the nonconformities section, an extensive remodel of a space in Town Center that may, for instance, serve as office or medical space may not be incentivized through this design review criteria. Is that really the desired result?

STAFF RESPONSE: The design standards were prepared by Clarion and based on the West Town Center Investment Plan and Avon Comprehensive Plan (**See Exhibit B**). Staff recommends restricting ground floor to retail and lobbies or registration offices for accommodation uses. Council did not want real estate or other offices on ground floor. Council should consider allowing other uses such as live/work, offices, residential, etc. as special review uses in Town Center so that there is some flexibility.

Building Design in Wildridge.

Section 7.28.090(e) – (Page 169-171)

Comment: It seems a little late to adopt a new building height standard on the last 10% of the remaining lots in Wildridge. The likely result of this regulation will be to make every existing home in Wildridge nonconforming. The new standards are excessive and will essentially result in the taking of some development rights on the property. I don't think these provisions were adequately studied in order to determine their impact on properties in Wildridge. Case studies should be done to show the potential impact of the regulations before they are adopted.

STAFF RESPONSE: Staff agrees that design testing provides a unique and informative understanding of the potential impacts resulting from the proposed Design Standards. Staff will come prepared to meeting with all of the design tests that we conducted in Wildridge. **Council will need to determine a) whether the tests sufficiently represent the “typical” conditions in Wildridge, b) whether the design standards provide adequate guidance for property owners and the PZC or c) whether the standards are over-reaching.**

Single-Fam and Duplex Design Standards for Wildridge Building Height

Section 7.28.090(e)(3) – (Page 171)

Comment: The max. overall height of a building's tallest elevation shall not exceed 45' measured from the lowest part of the building to the highest part. This measurement includes retaining walls that are part of the base foundation of the structure. Due to the steepness of Lot 8 Western Sage, this is proving to be a difficult and controlling factor since the garage needs to be so high to have drive access from the upper street and the home needs to be responsive to the site. The ht. of the lowest finished floor of the structure, **EXCLUDING BASEMENTS**, shall not be more than 3' above the existing finished grade to ensure that buildings follow slopes. I believe that this should read **Including** and not **excluding**. If the lowest level is classified as a walk-out Basement as defined by 2009 IRC, then the main level would be the lowest (story above grade) finished floor and be limited to within 3' of the existing grade. This does not make any sense unless you assume that the Basement would be dug out to achieve the walk-out. Again, Lot 8 Western Sage and other homes on any sloping site would have issues with this item.

STAFF RESPONSE: If the Council agrees that existing lots with slopes greater than 30% should be exempted from certain driveway, slope and grading standards, then these two Design Standards are probably not necessary, since they were intended to address development on slopes greater than 30%. Council should

discuss the purpose of these standards and whether they continue to be relevant in light of proposed changes to other sections of the Code.

The Presence of the Garage Shall be Minimized Along the Street

Section 7.28.090(e)(3)(i) – (Page 171)

Comment: Again, I think the Town Council needs to study this closely. I was unaware that garage doors were an aesthetic issue in Wildridge. This again, will make just about every home in Wildridge nonconforming. Garage doors have to setback 10' into the façade of a home? That seems very odd.

Comment: The face of the garage door shall be decorative; a flat, blank door is not permitted. What constitutes a flat blank door?

STAFF RESPONSE:

1. This standard applies to all single family and townhomes projects not just the Wildridge subdivision.
2. The standard was written by Clarion. Stepping the garage back from the front façade minimizes its importance on the front façade of a home. This is a design standard which can be modified through the AEC process.
3. A flat, blank garage door is the opposite of a paneled door or a door with decorative relief or windows.

Comment: On the street facing facade, the width of the garages shall not occupy more than 30% of the facade. Because of the desire and effort made to make the home relate to the grade, access point, and height limitation, the garage may be more than the 30% of the facade. Does the Roof mass count as street facing facade?

STAFF RESPONSE

1. This was a design standard proposed by Clarion that affects all residential properties.
2. The façade is only the wall elevations not the roof mass.
3. This is a design standard which can be modified by the AEC process

Townhomes-Single Width Parking Configurations For 50% of Units

Section 7.28.090(g)(2) – (Page 173)

Comment: Creates less desirable properties

STAFF RESPONSE: This section was deleted during PZC review. The Code will be corrected.

Mixed-Use Buildings in Town Center Mixed

Section 7.28.090(j)(3)(ii) – (Page 179)

Comment: Requiring all first floor areas of a building to be retail or restaurant ignores the fact that not all areas on the first floor make sense as retail. Residential buildings and hotels for instance require lobby areas, offices, check-in areas, loading and delivery facilities, etc. This provision needs to include some qualifiers. What about a bank?

STAFF RESPONSE:

1. The standard was added by Clarion to implement the West Town Center Investment Plan (See Exhibit XXX)
2. Sec. 7.28.090(j)(3)(ii)(B) was added to limit that requirement to facades adjacent to or most visible from primary street frontages or major pedestrian walkways. A bank is a retail use if it provides typical retail banking services to the general public (as opposed to private offices).
3. Staff agrees that hotel lobbies should be added as permitted ground floor uses.

Mixed Use 16' Ceiling Height

Section 7.28.090(j)(3)(ii) – (Page 179)

Comment: Is this excessive?

STAFF RESPONSE

1. This design standard written by Clarion, and is consistent with the recommendations from the West Town Center Investment Plan (CITATION).
2. This is a design standard, which can be modified by the AEC process.

Common Spaces

Section 7.28.090(j)(3)(iii) – (Page 179)

Comment: Not all sites are appropriate for community spaces. How does one incorporate a community space into a 3,000 sq. ft. retail building?

STAFF RESPONSE: This design standard was written by Clarion to promote pedestrian activity and spaces. Common Space includes sidewalks and sidewalk connectors to adjacent properties which would probably very easy to accommodated on a small commercial property. There is no size or acreage requirement. The provision can be broadly interpreted and AEC is available.

Town Center Ground Level Design

Section 7.28.090 – (Page 187)

Comment: Pedestrian level 75% glass?

STAFF RESPONSE: This standard was written by Clarion pursuant to the West Town Center Investment Plan policies (Exhibit B). This is a design standard which can be modified by the AEC process.

Upper Level Commercial Windows

Section 7.28.090(j)(4)(XII)(d) – (Page 187)

Comment: 10 sq ft. maximum individual pane size and 12 x 5 window max. Seems very small.

STAFF RESPONSE: Clarion wrote this standard that supports the West Town Center Plan policies which recommends articulated building facades. This is a Design Standard which can be modified by the AEC process.

Natural Resource Protection Steep Slopes

7.28.100 – (Page 189)

Comment: For Development on lots platted at the date of the adoption requirements listed in this section may be waived by the Director. Furthermore, additional mitigation of impacts due to development may be required by the Director. Lot 8 will require a great number of these requirements to be waived.

STAFF RESPONSE: Staff is recommending several changes based on direction received at the July 27, 2010 hearing. The most substantial change is to the Applicability Section which will revised from applying to all development, to only new subdivisions, PUDs, zoning amendments, commercial and industrial development. By applying this standard only to new subdivisions, or PUD and zoning amendment projects, no new lots will be created with slopes over 30%. Consequently, there is no need to apply the standard to residential development or to create an exemption for pre-existing lots.

The goal of the standard is to addresses site design, slope stability and aesthetics and is based on the existing Design Guidelines that discourage development on slopes in excess of 30%. Clarion originally proposed no development on slopes in excess of 30% (typical along Front Range). Staff previously revised that standard to no development on slopes in excess of 40% (more common in CO resort communities). Also staff proposed verbiage that allowed the Town Engineer to waive/modify standards on pre-existing lots to make the standard more workable with the existing lots.

Applicability

The standards in this section shall apply to Subdivision, PUD, Zoning Amendment, Commercial and Industrial development applications when any portion of the development ~~lot~~ contains naturally-occurring slopes of thirty percent (30%) or greater. ~~However, if, in the opinion of the Director, the area of a lot comprised of slopes thirty percent (30%) or greater is less than two thousand and five hundred (2,500) square feet, and the Director determines that there is no meaningful benefit from the application of this subsection, then the Director may waive the applicability of this section.~~

- (a) For Development on lots platted at the date of adoption requirements listed in this section may be waived by the Director. Furthermore, additional mitigation of the impacts due to development may be required by the Director.

40% Slope

Section 7.28.100(a)(3) – (Page 189/190)

Comment: Why minimum lot size? Six foot maximum lowering or raising of grade - makes lots unbuildable.

Where is this coming from Precedent set in Wildridge that development can occur on steep slopes a. to change would be a taking.

STAFF RESPONSE: See above for grading requirements. Clarion proposed a standard limiting lot size on lots with steep slopes. The proposed standard is for new lots that contain natural slope areas greater than 30% that comprise at least 2,500 sf of the lot. Under these conditions, the lot must have a minimum lot size is 1acre (43,560sf). This standard ensures there is sufficient room to build on areas that are less than 30% slope and that lots with negligible steep slopes do not have to comply with the standard. This standard affects new lots and re-

plating lots only. New subdivisions can avoid the minimum lot size requirement by not including areas in excess of 30% on lots.

Comment: Riparian is not a defined term in the code – you should use the informed definition of the 1996 ERWP or just call it what it is – a stream setback. You could specify the use of organic or natural chemical treatments, hand or mechanical treatment only for noxious weeds in the riparian zone. Also you do not specifically permit river access by the section or provide for public seating, for instance, at Bob the bridge in the section. If the goal is to protect riparian areas, you should make this a minimum and reword so it could be increased based on site specific survey of riparian zone- which are not always attributable to the surveyed AHWL.

STAFF RESPONSE: Staff will add a definition for riparian areas and a requirement that a site specific riparian delineation study may be required for subdivision, PUD, zoning amendment, commercial and industrial development along drainages.

Slopes Over 30% Appeal To Director

Section 7.28.100(a)(2) – (Page 189)

STAFF RESPONSE: Director may waive/modify the requirements.

Scenic Views

Section 7.28.100(f) – (Page 218)

Comment: There is only one platted view corridor from a public right of way and it is in the Westin PUD to Beaver Creek. Please explain the intent of this reserved section. If new view corridors are proposed, either public or private, they should be done through amendment of the existing suite of Comprehensive Plans first before regulating them here.

STAFF RESPONSE: This section has been reserved since the original draft of the code by Clarion. Some members of the ZAC committee felt it was necessary to address views with the Development Code due to the fact that some of the Town's planning documents identify view corridors that should be preserved. , For example, the East Town Center District Plan includes six (6) view sheds: Wildridge, Daybreak Ridge, Gypsum Bluff, Whiskey Creek, South Game Creek Bowl, and Swift Gulch. (Pages 48-50) The Comprehensive Plan specifies up to six (6) "important view corridors" on the Community Framework Plan (Page 35). **Although no further direction was provided by the Council to preserve these view corridors, ZAC wanted the new Code to at least acknowledge that such corridors could be created at some future point, and therefore requested the section be reserved.**

Alternative Energy Standards

Section 7.28.100(g) – (Page 218)

Comment: No definition provided for Ground Mounted Solar Collection Systems. Does not differentiate between passive or active solar. You could promote both and not require use of roof space first and potentially create a NIMBY issue.

STAFF RESPONSE: A definition for both Ground Mounted Solar Collection System and Roof-mounted Solar Collection system will be added to the Code. PZC recommended only permitting ground mounted collection systems when a roof mounted system has already been maximized on a property's primary structure. See Section 7.28.100(g)(2)(i)(c) (Page 219).

Ground Mounted Solar Collection System. A freestanding, ground-mounted solar collection system, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.

Roof Mounted Solar Collection System. A roof mounted solar collection system, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.

ENGINEERING AND IMPROVEMENT STANDARDS Chapter 7.32

Comment: A number of design standards that create nonconformities of many residential lots based on a simple amended plat or technical correction plat, for instance dividing a platted lot as a minor subdivision in Wildridge or

creating an additional egress requirement through a simple remodel in Eaglebend that requires a replat of a party wall subdivision. Is this the desired outcome?

STAFF RESPONSE: The intent of the building envelope requirements and lot size requirements is not to apply to duplex subdivisions and condominium subdivisions of existing lots. Language will be proposed that will clarify that building envelope and minimum lot sections of the code do not apply to the subdivision of existing buildings

Building Envelopes

7.32.020(e)(7) – (Page 227)

Comment: 80' x 80' minimum building envelope? 1. Hurd Lane Lot sizes? Some are narrower than this. 2. Discourages patio home/cluster, high density development. P&Z actions do not promote this change. Response: Comment: How about an area instead of a square, which doesn't fit every residential lot condition, especially in Wildridge or Eaglebend.

Comment: This requirement is redundant and in conflict with the entire access design standard section of the Code. If it is a unified code, why have a separate Engineering standard to accomplish the same as the Design Standards?

STAFF RESPONSE: Staff is proposing that the standard be modified to a building envelope not less than 5,000 square feet and with a minimum width of 25 feet. This modification should meet the minimum requirements for a buildable site.

Stormwater Drainage

7.32.050 – (Page 234)

Comment: Does not address pre and post development hydrology and flow regime of river, or distributed stormwater management (green infrastructure strategies) but only pollutant treatment. The maintenance provision is weak and should be tied to a CO or other enforceable mechanism for annual review on larger projects. Stormwater or non-point source runoff is one of the biggest threats to our water resources. This section could be enhanced considerably.

STAFF RESPONSE: Staff does not agree with this statement. Section 7.32.050 (b)(3)(ii) specifically addresses peak flow reduction. Maintenance of drainage infrastructure is addressed in 7.32.050 (b)(6). Failure to maintain drainage infrastructure is a code violation and the town reserves the right to maintain private drainage infrastructure, particularly when there is the potential for off-site property damage from the lack of maintenance.

Park Land Dedication

Section 7.32.090 – (Pages 243-247)

Comment: The term 'residents' is not defined. There is no sliding scale based on density and use (no acres per household scale - which is commonplace for these types of dedications).

There is no flexibility afforded from district redevelopment plans if park space is not contemplated on properties? No cash in lieu formula is specified- again, entirely negotiable and with no predictability.

SEE TOWN ATTORNEY MEMO

Avon Development Code Update

Comments, Thoughts and Suggestions – Brian Sipes

I. Town Core Map:

- a. General Town form as depicted in the ComPlan does not support the use of TC zoning north of BC Blvd on the west side of town. There is no urgent need for the post office, Denny's and in some respects First Bank to redevelop into denser, street oriented properties. In 20 or 30 years, fine, but our efforts should be directed toward focusing dense development around Main Street. Same could be said for the Christy Lodge.
 - i. I would draw the "Town Core" line differently and include only the portion along Main Street.
 - ii. Since these lots are already TC zoning, reduce the minimum FAR requirement (more on that later) and allow them to redevelop without pushing up to TC standards if they so choose. Require a low density redevelopment of First Bank or the Post Office to "build to" the BC Blvd Setback. A redevelopment of Denny's should build to the Southeast corner, but set back enough to preserve most of the significant trees at that corner. This would be an ideal location for a tourism visitor center.
 - iii. Ask yourself if we are really well served with 80' tall (TC zoning) buildings on the Denny's site or at the Post Office? Or even at the Christy Lodge? What is the gateway experience that provides coming into town?
- b. The lots north of I-70 should not be identified as "Town Core". This causes confusion semantically with "Town Center". Create a new designation on the map – "Town Gateway" and include all 4 corners of the interchange.
- c. The commercial lot with Burger King and Starbucks has always struck me as odd and in an ideal world would redevelop into residential medium density. This would be more compatible and reduce the awful traffic. Ideally the successful businesses like the bakery would relocate to East Town Center.
 - i. This lot should also be excluded from the "town core".
- d. We should include some of the Village in the "town core" after all it will be critical to defining the town as a distinct form.
- e. What we should be after is overall town form. The zoning of individual lots is a pretty lousy way to get to this goal given the irregular and very large lots that make up much of the core area. I think we should draw the line in plan to reinforce the diagrams we have in the comp plan that show the building heights rising toward the center of town and falling to the perimeter.
 - i. I will pass around a redlined version of the map as I think it should be. The line I propose would pass through some lots identifying areas that are important to the core and areas that should be subordinate. There is precedent for this. The Sheraton stepped their development (at the affordable housing) to transition to the residential neighborhood (albeit it

is a big step!). The Riverfront Property also steps as one moves west. These were achieved by PUD, but we shouldn't lose this opportunity by moving to zone districts.

- ii. The zone districts set the maximums and other criteria indicate the form the town wants.

II. **General Philosophical Statements and some specific comments:**

a. **PUD Relevance:**

- i. Leave the PUD in place, but make the review process based on or reflective of the underlying zoning as noted in 7.16.060.c.1. All deviations from that zoning should be identified specifically and enumerated and explained in context. Chapter says this somewhat, but would like to see it fleshed out specifically in the application procedures.
- ii. The new zone district definitions are fine, but given that an applicant must also conform to the east and west tc plans where we have "told them what we want" I don't see them being used much except as the base map for the PUD overlay. Nor do I think that is a bad thing. I believe strongly that our overall form statements and other goals like reinforcing streets are more important specific to the conditions on the ground for each specific lot than a generic zone district can describe.
- iii. However, PUD's that result in multiple buildings should attempt to subdivide the various pieces and describe them in terms of existing zone districts as an end result. This should be encouraged especially for large parcels since an overlot application of the maximum criteria for a dense zone district on a large lot is not what I think we are striving for. In fact, I think we should require large lots to subdivide into smaller parcels and describe a project form. Since no one in their right mind would do this without some assurance of general project approval, I think the only way this would happen is with a PUD.
- iv. A PUD that does not request to increase above any underlying zoning standard should not have to show a public benefit other than achieving ComPlan goals and policies. Public benefit should be reserved for Bonus Density and PUD's aimed at achieving bonus density. Moving around parts of what you already have the right to do in order to achieve a better plan should be encouraged not exacted. Of course, the town is the ultimate judge if the proposed moving of the parts results in a better plan and that will require smart people and good judgment, not just checking the boxes. Raise the floor, but eliminate the ceiling....
- v. We started this process saying we wanted to phase out the PUD. I now believe that our goal should be better underlying zoning and clearer processes, but also more description of the form and uses we want in town.

b. **Parking:**

- i. Most successful urban areas have systematically reduced their parking requirements and look at parking regionally not on a lot specific basis.

We need to be careful with some of the proposed changes requiring additional parking so that we don't become a town of parking lots. Within the town core, I think we should park 100% of the residential use, 30-50% of the office use and no more than 10% of the retail use and that should all be the on-street parking. No project should be allowed to put its retail parking in a parking garage unless it is for employees. Most people would say we don't have a parking problem now in the commercial district and trying to solve a future ski area parking problem by loading up individual projects with more parking will not solve the problem. Centralized parking is what both skiers and shoppers want. More on-street parking would allow the quick trip to the cleaners or coffee shop. Think Cherry Creek North.

- ii. The on-street parking should be reserved for the retail/commercial uses. Since we are restricting the ground floor to retail type uses and excluding office space on primary streets, this should be calculated in the aggregate and allow the on-street spaces adjacent to the project to count for up to 10% of the demand. The rest should go into a central parking district structure or lot. For instance: if a project has 20,000 of ground level retail (a category I think we should define) that would require 80 parking spaces. 8 spaces of on-street parking would be counted toward the requirement (if they are available) with the remaining 72 spaces paid into a central parking structure no more than ¼ mile away.
- iii. The parking numbers shown on the test study slides for existing TC projects are still not that accurate. There is no correlation between parking and FAR without first knowing the use. A large residential project with larger units can actually have a relatively low parking requirement.
- iv. I think parking by building area for K-12 schools is the wrong approach. The school district should probably tell us what they need, but kids that age don't drive so this would result in a much bigger lot than is needed. One per staff member plus some number for guest and drop off is probably better. Same goes for day care, but these uses typically require a lot of drop off short term parking so this may be fine.
- v. Bicycle parking: There are a lot of new innovative rack systems that take less space than 4'x6'. I suggest that is too much space per bike and is suburban in nature. Require the spaces and make the applicant prove that bikes can be parked in the space required or no TCO.
- vi. It would be nice for projects requiring large amounts of bike parking provide covered parking. Also, why cap the requirement at 20 bikes? LEED standards are a good guide here.

c. Development Bonus:

- i. Eligible zone districts should not include neighborhood commercial (NC), but should include residential high density (RH).
- ii. Submittal requirements (models, drawings, etc.) must all depict the use by right zoning and clearly identify the incremental additional requested

and the net additional impacts. For instance, a building section (should be a required drawing through the project and adjacent properties) should show the building height allowed and proposed with the bonus area shaded or otherwise identified. Sun angles for both the underlying zoning and proposed new height should both be shown with the delta increase in shading identified. The drawings should show forms and massing that meets other sections of the code (can't show an underlying zoning condition that doesn't meet the code to try to make the net change in impact less).

- iii. The way I read this section (I and ii), bonus' will always be granted up to the maximum. I don't think this is our intent.

d. Increased FAR/Increased Density.

- i. Not sure the economics would work to have anyone ever do this. Also, since by definition this would only apply to the highest density zone districts, I don't believe for sale deed restricted units should be our only goal. Affordable rentals may be more attractive in town adjacent to transit. It is not likely that families with small children would find these homes attractive.
- ii. The market targets are probably still fine, but just allow rentals. Home ownership is being redefined in this country and many people will choose to rent for years to come. Move up for sale housing in the form of townhomes, etc. should be our goal for the next tier and those units will likely be around the core, but not in it.

- e. **Accessory Dwelling:** Definition allows 850 sf, but 7.24.070.e.iii only allows 600 sf. 850 is better. Neither makes it clear that the dwelling cannot be subdivided and sold separately from the primary dwelling. I still think we should be encouraging these "lock-off" rental apartments and a way to diversify and decentralize affordable housing within town as long as they are legal and safe. There really is no more impact to the neighborhood than someone renting a bedroom, which happens a lot, but a complete unit is more attractive.

f. Mixed use and non-residential design standards:

- i. *In General I think the design standards are weak and we would be better served re-writing this or just continuing with our current standards. At a minimum we need lots more diagrams to make this user friendly. But here are some specific comments:*
- ii. **Section 7.28.090(j)3. ii** – The intent here is good, but will result in unintended consequences as written. Paragraph A should be deleted. Paragraph B should be focused more on the actual streets or type of street we want to reinforce with retail. After all this only applies to buildings in Town Center (Town Core?) so we should be able to list them or otherwise identify them. We should concentrate our efforts on Main Street (lettuce shed lane, etc.) and allow the side streets to follow it's success. Treating everything as equal has a potential to dilute the core not strengthen it. Paragraph C is also well intentioned, but applying

something from west town center throughout the town lacks the kind of focus we applied in WTC. Paragraphs A and B deal with use, but C deals with design that is not related to use. I think it should be separated and then delved into in much more detail and then based on proportion and not absolute numbers. If this must remain I suggest it not stand alone. We must discuss the vertical massing of buildings under true design standards. A better item C to deal with maximizing the attractiveness of the retail space would be: The ground floor pedestrian accessed commercial level of the building shall have a floor to floor height 2' greater than the typical floors above except however that no ground floor shall be less than 11' floor to floor nor greater than 15' floor to floor.

- iii. **Section 7.28.090(j)4 – Building Design:** We need a clear statement of purpose here at the beginning of this section. Something like “Mixed use and Non-Residential buildings within the town of Avon shall be designed with varied massing, form and materials both vertically and horizontally to create a visual hierarchy and proportion in three dimensions.” **Also, all of these design standards should include diagrams!**
1. **Section (i).A:** Change to: “All sides of a building shall receive equal attention with respect to massing, form, materials and detailing.” Designing all four sides of a building does not mean all four sides should be “equal”. Proportion and hierarchy sometimes dictate a “quieter” part of a facade in order to create emphasis on a building element.
 2. **Section (ii).** Delete this section. This achieves no purpose as written. In fact I think it would be preferable for a very large project to create unique character for each portion of the development. We only have so much town land to work with. If the last phase of the Sheraton (the hotel) or the little building on Main Street looked like a different project would that really be a bad thing?
 - a. **That said, we should encourage contextual development,** but this is most important at the street level or the ground and 2nd floors. Since this is what creates the continuity in a shopping district, lets focus our efforts on these elements.
 3. **Section (iii) – should read:** “Buildings greater than two stories or taller than 30 feet shall be designed to reduce the apparent mass and visually anchor the building to the site by including a clearly identifiable base, body and top. The base and top shall be proportional to the body of the building and further articulation consisting of smaller and less tall additive forms shall be used to break up this simple vertical articulation.” This should then lead to section (v).

4. **Section (iv)** is pretty good, but could use a diagram and a clearer statement of purpose. Also, the reason we have this standard is to break up the ground level primarily and divide retail into smaller “blocks” so this makes section (ii) even more contrary to what we want to achieve.
5. **Section (v)** Add a fifth reason “(5). Provide for solar access to the street level.”
6. **Section (vi)** This is a good section.
7. **Section (vii)** Principal building entries shall orient to and front upon the primary pedestrian focused street, plaza or way. In the event a building requires an automobile focused entry that is not adjacent to a pedestrian area (such as for a hotel check in area) than the building shall have two principal building entries connected on the interior by a lobby. Each entry shall be treated as an architectural element of focus. None of the sub paragraphs are needed beyond this statement because each have problems.
8. **Section (viii) – Delete paragraph E.** Glass needs to be proportional. Fact is that solid to void ratio on a base element of a building can be tricky and glass isn’t always the best treatment. The market will dictate glass if that is what the focus is, but glass is also not very energy efficient so we should leave it to the designers.
9. **Section (ix) –** This whole section should be re-written because it contains a number of contradictions (no siding, but requiring heavy timber) and too much specificity on some elements (size of siding, requiring stone bases) while others are very general or nonexistent (no mention of harmony between materials or total number of different materials in any one façade – editing is good).
Simple statements that provide flexibility, but with clear and reviewable goals are better:
 - a. Materials and colors used on a building shall be appropriate to Avon’s western Rock Mountain environment and heritage. Materials more typically seen in coastal or warm environments are discouraged. Color pallets shall be derived from the surrounding environment.
 - b. At levels of pedestrian access and generally at the first two floors above grade only natural materials or materials that are true to their appearance shall be allowed. Artificial or manufactured stone is an example of a material that attempts to appear as something (stone), which it is not (concrete).
 - c. Glass is encouraged to provide natural light and views. Glazed openings in the building shall be located and divided proportional to the overall façade.

- d. The use of covered porticos and other projecting, sheltering elements is encouraged along pedestrian street frontages to protect the public from the elements. This is especially true on the north side of buildings. If an existing adjacent building has a portico element extending to the shared property line setback, the proposed building shall continue the portico although the design style and scale of the element may change in proportion to the new building.
10. **Section (x)** Remove the sentence that appears to allow snow fences to be acceptable. Primary entries, garage entries and store entries shall have roof forms that direct the snow away without the use of fences (or the annoying drips from melting snow). Note: Flat roofs, planters or wells that hold the snow above and create a vertical building step can also be quite effective on pedestrian street frontages where the roof could get too busy with lots of dormers
11. **Section (xi)**. Good concept. Suggest changing interval to 32' (two rods) and add a statement "no one shop shall occupy more than 2 store entrances.
12. **Section (xii). A.** This section needs a little clean up. Secondary roofs are mentioned in paragraph 4, but nothing about primary roofs nor what is the difference in this context. Also, the secondary shed roof pitch is the same as the minimum roof pitch so this is confusing. For me lower slopes on secondary elements are fine if in proportion to the whole building. Paragraph 3 should prohibit flat roofs as primary roofs period. Green roofs on secondary flat roofs should be encouraged.
13. **Section (xii). B.** Standing seam is an application not a material like the other materials listed so it stands out as being different. Concrete typically comes in tiles, but that isn't mentioned. Other materials that are missing are zinc, cor-ten, aluminum. Shakes should be prohibited period as a fire hazard. Materials that naturally patina should be encouraged. Painted metal roofing shall have a minimum 20 finish warranty.
14. **Section (xii). C.** Overhangs should be proportional to the overall building form and designed to shelter the building wall plane from the elements. Buildings 1-2 stories shall have overhangs of 18" minimum. Buildings 3-4 stories shall have overhangs of 24" minimum. Buildings 5 stories or more shall have a minimum roof overhang of 36". Deeper overhangs shall be allowed and encouraged to add emphasis, proportion, detail and shadow to building facades where appropriate. The rake overhang of shed dormers can be 12" where reviewed by the PZC.

15. **Section (xii). D.** Replace this entire section with a value statement about proportions of glass to wall (solid to void), variety, etc. See 9c above.
16. **Section (xii). E.** Add “and provide visual interest” to item 1. Item 3 is problematic. If flat roofs and other protecting elements are used the walkway can be anywhere. More important to refer here to the snow shedding section I think. And also to refer to the building massing requirement to step the building to provide solar access.

MEMORANDUM

TO: Honorable Mayor Wolfe and Town Council members
CC: Larry Brooks, Town Manager
FROM: Eric Heil, Town Attorney
DATE: August 25, 2010
SUBJECT: Emergency Ordinance Concerning Pending Applications

Summary: On July 27, 2010, the Town Council approved an emergency ordinance which allowed development applications submitted prior to September 30, 2010, to be reviewed under the existing zoning regulations. The attached Emergency Ordinance amends Section 17.12.025 of the Avon Municipal Code to state that development applications submitted prior to Council approving the second and final reading of an ordinance adopting the new Development Code shall be reviewed under the existing zoning regulations. Section 6.6(a) of the Avon Home Rule charter requires the "unanimous minus one vote of the Council Members present." to adopt an emergency ordinance.

Thanks, Eric

**TOWN OF AVON, COLORADO
ORDINANCE NO. 10-16
SERIES OF 2010**

**AN EMERGENCY ORDINANCE AMENDING THE
AVON MUNICIPAL CODE SECTION 17.12.025**

WHEREAS, the authority for the Town of Avon (“Town”) to adopt regulations concerning the use, subdivision and development of real property is provided by Article XX of the Colorado Constitution and the Town of Avon home rule charter; Article 20 Local Government Regulation of Land Use of Title 29, Colorado Revised Statutes; and Article 15 Exercise of Municipal Powers, Article 16 Ordinances – Penalties, and Article 23 Planning and Zoning of Title 31, Colorado Revised Statutes; and other applicable state and federal laws and regulation; and

WHEREAS, in accordance with the requirements of Title 17: Zoning of the Avon Municipal Code and after providing proper notice, the Avon Planning and Zoning Commission held public hearings on June 1, 2010; June 15, 2010; and July 6, 2010 and after considering all public comments received and testimony and materials provided by Town Staff provided a recommendation to the Town Council on July 6, 2010 to adopt the Avon Development Code and provided a supplemental recommendation on July 20, 2010 to repeal Sections 17.12.040(b) and 17.28.090 of the Avon Municipal Code and adopt provisions which validates all existing approved development and building permits and which permits all applications to be reviewed according to the ordinance and regulations existing at the time such applications are submitted; and

WHEREAS, in accordance with the requirements of Title 17: Zoning of the Avon Municipal Code, the Avon Town Council held a public hearing on July 27, 2010 and considered all public comments received and all testimony and materials provided by Town Staff prior to making a decision; and

WHEREAS, the Town Council finds that due to the severe slowdown in national, regional and local economic conditions the validation of existing development and building permits and ability of pending development applications to proceed efficiently and without delay is essential to avoiding the exacerbation of adverse economic conditions or delay in improvement of economic conditions, and therefore finds that the adoption of this Ordinance as an emergency ordinance is immediately necessary for the preservation of the public peace, health, safety and welfare of the Avon community; and

WHEREAS, this Emergency Ordinance is adopted by the unanimous vote of the Councilmembers present minus one in accordance with Section 6.6(a) of the Avon Home Rule Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Amended. **Section 17.12.025 Applications** is hereby repealed and re-enacted to read as follows:

“17.12.025 Applications.

Any complete application that has been submitted for approval prior to the date which Town Council approves the second and final reading of an Ordinance adopting this Development Code shall be reviewed in accordance with the ordinance in effect on the date the application was deemed complete.”

Section 3. Codification Amendments. The codifier of the Town’s Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Effective Date. This Ordinance shall take effect eight days after passage in accordance with Section 6.6 of the Avon Home Rule Charter.

Section 6. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 8. Publication by Posting. The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the Town and posting at the office of the Town Clerk, which notice shall contain a statement that a copy of the ordinance in full and a statement that a complete copies of the International Building Codes adopted by reference are available for inspection for public inspection in the office of the Town Clerk during normal business hours and which notice shall contain .

INTRODUCED, APPROVED, AND ADOPTED ON FIRST AND FINAL READING AS AN EMERGENCY ORDINANCE on August 31, 2010.

Ronald C. Wolfe, Mayor

ATTEST:

APPROVED AS TO FORM:

Patty McKenny, Town Clerk

Eric Heil, Town Attorney