

PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 pm by Chair Frechter.

ROLL CALL

Mike Giller -remote	Mark Leas	Allen Frechter	Susan Propper
Ethan Guerra	Steve Gerard	Elaine Gort	

APPROVAL OF MINUTES

With no changes, the August 1, 2023, Planning Commission Minutes were approved.

APPROVAL OF AGENDA

With no changes, the August 15, 2023, Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- none

WORK SESSIONS:

1. Defensible Space Update

Mr. Cross presented a work session on Policy 48A Defensible Space code amendments.

Commissioner Questions / Comments:

Mr. Giller: What does this mean for the historic cottonwood trees within the Historic District? (Mr. Cross: The historic design standards which call for those trees in certain character areas would still be implemented.) (Mr. Kulick: To add to that we understand the balance of preserving the character in the core of town and these Firewise standards are designed for primarily outside of an urban area. We recognize we don't want to compromise our design standards within the historic downtown but we also recognize that some defensible space is needed. Preserving mature trees in the town core and these character areas is still important.)

Ms. Gort: The spacing between the trees, does that concern pruning and trimming, or is it spacing when planting of the trunk? (Mr. Cross: These guidelines would guide the creation of defensible space and the plantings but the spacing also concerns trimming and maintenance.) It might be impossible to have trees in the front using these guidelines because of the narrowness and length of the lots. (Mr. Cross: Narrow long lots in the downtown area will still be reviewed on an individual basis for existing fire breaks. Existing streets, parking lots, and other open areas can act as fire breaks in the downtown core.) We should think about how this will impact lots outside the Historic District with many homes close together. (Mr. Kulick: For cluster neighborhoods, we may want to consider looking at the perimeter boundary for tree spacing instead of at the interior lot lines. We are trying to lean into Firewise but we can use some judgement when there is limited fire separation between structures.) Could we add something to the Code to consider those situations individually and not be hardlined into this framework? (Mr. Kulick: Another example are condos on Four O'Clock Road, it can be difficult to both create defensible space and have tree buffers on site because of limited setbacks. There is enough flexibility within the defensible space policies to use judgement when needed.) (Mr. Truckey: We could add in a sentence for cluster single-family that would allow for those structures to be considered as one.)

Mr. Leas: I think it would be hideous if we were to require cutting down mature trees, even when close to buildings, in areas to comply with these standards such as Four O'Clock Road. The Firewise standards may be more applicable to other more hazardous areas and we

should understand that these standards must be changed to fit the context of Breckenridge. (Mr. Kulick: This would apply to new construction and would be voluntary for existing development to opt into.) (Mr. Truckey: In 2008, the original defensible space policy applied to all properties, including existing development. However, after significant negative reaction from homeowners the policy was amended to be voluntary for existing development and only required for new development.) I think those Firewise standards would be applicable to more hazardous areas, but we should be more flexible here. (Mr. Truckey: The policy will still help Staff guide those applicants who want to create voluntary defensible space.)

Ms. Gort: I have heard that this may not be voluntary because the fire department may not save homes first that do not comply with these Firewise standards. (Mr. Truckey: I have not heard that.) Have you considered requiring siding materials that are fireproof? (Mr. Kulick: We do allow cementitious siding without the assignment of negative points now. This was a code change to Policy 5A that the Commission discussed last year.)

Mr. Guerra: This is a complex issue. I have seen the Town's evolving opinion on tree retention over the years ranging from keeping every tree to a more defensible space stance. The Town core has lots of fire breaks created by the streets themselves. I don't have any issue with this proposal.

Mr. Gerard: This is an existing non-compliant issue where this would go into effect when an applicant comes in for other permits, such as landscaping proposal as a Class D-minor? If they don't want to meet Firewise but want to complete the permit do we require compliance with Firewise? (Mr. Cross: No, we would use this a guide to where we can put new trees so they don't grow into a problem.) In some instances, a new permit would require compliance. (Mr. Kulick: A Class D-minor permit would not require conformance with other Code sections. A higher-level permit would trigger required Code compliance.) Where is the trigger for requiring compliance with Firewise? Could we add a sentence that states when compliance with this policy is required at the Class D-major permit stage? This would not be required for existing properties until application for a Class D-major or higher permit. This would clarify that we are not requiring people to cut existing trees except for in voluntary situations. (Mr. Kulick: There is a preamble to Policy 48A which we are not proposing to change. This preamble gives more context to the voluntary nature of the policy and when compliance is required.) (Mr. Cross: A current project for example, a D-major remodel, I asked them to make revisions to their landscaping to meet these Firewise standards but it was not required.) (Mr. Kulick: There is allowance for discretion concerning this policy. It is an art and science to strike a balance between site buffering and defensible space.) My critique is there should be a specific statement clarifying when this policy must be complied with. Right now, it seems subjective. My concern is the existing properties that would not comply retroactively when they should.

Mr. Guerra: New landscape plantings should follow these guidelines? It is not stating that existing landscaping would need to be removed. (Mr. Cross: Yes, that is how I approach applications using this framework to guide landscape changes.) To clarify, if I want to add landscaping that does not meet these standards, I can? (Mr. Truckey: The requirements for new landscaping, (including defensible space) are under Policy 22. Voluntary defensible space is Policy 48A.)

Mr. Gerard: I think there is too much ambiguity that needs clarification for when this is required. (Mr. Kulick: [Quotes Code from Policy 48A] This language shows how much discretion there is to make decisions on tree removal for defensible space at the site level. We should have included all the language from the policy to show how the policy is administered.)

Mr. Guerra: As I heard it if I want to plant an excessive amount of trees I could do so and not meet this policy because it is voluntary until the Class D-major level? (Mr. Kulick: No, we would still review a landscaping proposal under Policy 22. If you are completing a Class

D-minor that is directly related to a policy then compliance with that policy must be met.) (Mr. Cross: We usually deal with landscape design professionals and arborists for these applications, so they are informed applications.) (Mr. Kulick: More often than people wanting to plant excessive trees, we have applicants that want to remove trees for views which does not meet the intent of this policy.)

Mr. Leas: I agree there is some ambiguity here and would like to see more clarity, other than that I have no additional comments.

Ms. Propper: I think the suggestion of cross-referencing Policy 22 and Policy 48A is good. I would like to see the entirety of Policy 48A or language that was not amended to be indicated in the memo if the intention is to retain those sections.

Ms. Puester: Good points brought up here. I think what we will do is regroup on our end and come back with both policies in their entirety showing the strike through and suggested code changes and address your concerns.

Mr. Frechter: I agree that we should clarify this.

2. Hot Tubs in Front and Side Yards in the Conservation District

Mr. Truckey presented a work session on code amendments regarding the placement of hot tubs within the historic district.

Commissioner Questions / Comments:

Ms. Propper: I welcomed bringing this issue back for consideration. I am concerned about hot tubs close to the street in the Historic District. I am concerned that there is not required buffering. I think it should be required.

Mr. Leas: We need to be careful what we ask for. I was surprised to see a hot tub located in the side yard in the proposal for Ploss Residence last week but was happy there was proposed screening through landscaping. If we do not allow hot tubs in the side yard they will be elevated onto decks. This can exacerbate noise.

Ms. Gort: Is there a decibel meter that could be installed to go off and alert in instances where hot tub users are being too loud? Is this something we could require? (Ms. Crump: Yes, such devices do exist but are imperfect because a small spike in volume registers the same as continuous loud noise.)

Mr. Giller: I would like to see an adjustment to the code that prohibits hot tubs in the side yard.

Mr. Gerard: I would agree with no hot tubs in the side yard in the historic district. No hot tub use after a certain time at night could also be implemented.

Mr. Frechter: I would be in favor of enforcing a "least impact" policy. Placing the hot tub in the least impactful area could be an answer. (Mr. Kulick: I would recommend a more definite policy which leaves room for discretion, and it is easy to move to the last, least desirable, placement option on the list if necessary. I am fearful that otherwise every hot tub application could result in a lengthy call-up.)

OTHER MATTERS:

1. Exterior Lighting Conformance Website Update. The website concerns education on the July 1, 2025 lighting conformance date required by current code adopted 15 years ago. www.breckdarksky.com
2. Town Council Summary

ADJOURNMENT:

The meeting was adjourned at 6:57 pm.

Allen Frechter, Chair