



AGENDA BRIEF

MEETING: Planning Commission - 11 May 2021
FROM: James Dickhoff, Planning Director

PROJECT: Amending the LUDC Regarding Ground Floor Uses in the ODB and ODE Overlay Districts
ACTION: Commission Recommendation

PURPOSE/BACKGROUND:

Ground Floor Uses in ODE and ODB Overlay Districts:

This agenda item is regarding the consideration of ground floor uses along the street within the Downtown Business and Lodging (ODB) and Downtown East Village (ODE) overlay districts. These overlay districts are within the Mixed-Use Town Center (MU-TC) base zoning district.

On April 27, 2021 Planning Commission directed staff to bring LUDC amendment recommendations for their consideration regarding restricting ground floor uses within the ODB and ODE overlay districts regarding prohibiting Townhouses on the ground floor level along the street. The current code prohibits multifamily (condos and apartments) and does not allow new single-family structures within the zoning district, however when reviewing code provisions, it appears that Townhouses were mistakenly omitted from the code provisions.

The LUDC does prohibit multifamily residential uses as ground floor uses in the ODE and ODB overlay districts, however, it does not prohibit Townhomes as ground floor uses. Townhomes would have the same impact as multifamily if allowed at the street level on the ground floor.

The LUDC 4.2.C.1 currently prohibits Multi-Family on the ground floor in the entire MU-TC and MU-C districts, however, the code is silent on Townhomes on the ground floor in these districts.

A restriction of townhomes at the street level ground floor would not prohibit them from being along the alley frontage. In addition, the provisions for multi-family uses maybe also be appropriate along the Alley frontage as long as street level ground floor uses are commercial activity generating uses. Though not part of this discussion, there are some Colorado towns that have further restricted real estate offices and professional services offices along their main street ground floor levels as they have determined that they are not pedestrian activity generating businesses, as a means to ensure downtown district street levels attract interest, pedestrian activity and visitation. Our LUDC 6.7.5.C.4 also "Supports Office Uses on upper floors", however, does not require such. LUDC section 6.7.5.C.4: "The incorporation of retail shops and/or restaurants is encouraged at the street level to promote a more active environment for pedestrians and to support residential and office uses located within the same building (on upper floors) or nearby."

It seems clear that the intent of ODB and ODE overlay districts is intended to maintain and improve the vibrant downtown area by ensuring an active environment at the street level and encouraging activity generating commercial uses at the ground floor level, along the street frontage and areas that abut the San Juan River.

Staff has reviewed the Comprehensive Plan and the Downtown Master Plan for any reference that we can rely on for discouraging residential uses at the ground floor level, however, there is nothing substantial enough to rely on or to provide direction to prospective developers.

Existing and Relative LUDC sections that apply to the consideration of restricting ground floor uses include the following:

3.3.4. MIXED-USE TOWN CENTER (MU-TC)

The MU-TC district is intended to promote a wide range of residential and non-residential land uses in the downtown. The district is intended to maintain and improve the vibrant downtown area as an environment that has employment and shopping opportunities, a range of housing types, and parks, lodging, open space, and civic uses. New development should occur in traditional development patterns-with narrower streets, smaller blocks, and smaller lots. The MU-TC district is intended to encourage predominantly vertical with some horizontal mixed-use in a pedestrian-friendly environment that is not dominated by one (1) land use or housing type.

3.5.2. DOWNTOWN EAST VILLAGE OVERLAY (ODE) Definition:

The ODE Overlay is established to accommodate less intense commercial uses such as small offices, restaurants, individual retail stores, galleries, and other uses of similar impact. The Town also hopes to maintain and utilize the older homes existing in the district for commercial and residential uses. New residential uses are permitted, but commercial uses are encouraged.

3.5.3. DOWNTOWN BUSINESS AND LODGING OVERLAY (ODB) Definition:

The ODB Overlay is established to protect the character and function of the downtown business and lodging areas. These areas will accommodate a variety of commercial enterprises that are appealing to pedestrian traffic and serve local residents and visitors. This overlay will likely attract office buildings, retail, dining, drinking, and lodging establishments, and leisure facilities. Many of these uses are established in older existing downtown buildings that lend to the downtown character and charm.

LUDC 4.2.1.C USE SPECIFIC STANDARDS

In the MU-C and MU-TC districts, multi-family units shall be allowed only on the second and third floors of buildings, unless such units are required to meet ADA or FHA accessibility requirements.

6.7.5. ADDITIONAL STANDARDS: MIXED-USE TOWN CENTER DISTRICT (INCLUDING ODB AND ODE OVERLAY DISTRICTS)

A. Purpose. These standards are intended to preserve and enhance the unique character and identity of downtown Pagosa Springs and ensure that future infill and redevelopment is consistent with the Town's Downtown Master Plan. A high-quality appearance will be achieved through requirements for context-sensitive site layouts, architectural detailing, façade articulation, and other features designed to provide a more distinct character and pedestrian scale. Unique characteristics and distinctions in scale and use between the ODB and ODE overlay districts will be achieved through tailored standards as necessary. The alternative equivalent compliance process in Section 6.1.2 is available to help tailor standards for specific sites as necessary.

C. 4. Ground-floor uses. The incorporation of retail shops and/or restaurants is encouraged at the street level to promote a more active environment for pedestrians and to support residential and office uses located within the same building (on upper floors) or nearby. This configuration of uses is particularly encouraged along Pagosa Street, Lewis Street, San Juan Street, Highway 160, and other downtown street frontages, as well as adjacent to major public spaces, such as along the San Juan River, where a high level of activity and visibility is desirable. If a limited portion of a structure's ground level will be devoted to retail or restaurant space, such space should be located along those façades adjacent to or most visible from primary street frontages or major pedestrian walkways.

Staff believes the following LUDC amendments will ensure the code intent of promoting a more active street level environment for pedestrians.

Existing LUDC 4.2.1.C with proposed Amendments in Bold:

4.2.1.C USE SPECIFIC STANDARDS

In the MU-C and MU-TC districts, multi-family units shall be allowed only on the second and third floors of buildings, unless such units are required to meet ADA or FHA accessibility requirements, and unless located on the ground level along an alley within the Downtown Business and Lodging Overlay District or Downtown East Village Overlay District.

Existing LUDC 4.2.1.E with proposed Amendments in Bold:

4.2.1.E Dwelling, Townhouse

Up to four (4) attached units may be allowed in the R-T district only if approved as part of a conservation development that meets the standards of Section 7.6. **Townhouses shall not be permitted on the ground floor level along the street frontage in the Downtown Business and Lodging Overlay District or Downtown East Village Overlay District.**

Existing LUDC 6.7.5.C.4 with proposed Amendments in Bold:

6.7.5.C. 4. Ground-floor uses. The incorporation of retail shops and/or restaurants is encouraged at the street level to promote a more active environment for pedestrians and to support ~~residential and~~ office uses located within the same building (on upper floors) or nearby. **Multifamily and townhome residential units shall not be permitted on the ground level along the street frontage.** This configuration of uses is particularly encouraged along Pagosa Street, Lewis Street, San Juan Street, Highway 160, and other downtown street frontages, as well as adjacent to major public spaces, such as along the San Juan River, where a high level of activity and visibility is desirable. If a limited portion of a structure's ground level will be devoted to retail or restaurant space, such space should be located along those façades adjacent to or most visible from primary street frontages or major pedestrian walkways.

ATTACHMENTS:

[Ord 950 Amending LUDC Regarding Ground Floor Uses](#)

RECOMMENDATIONS:

1. I move to Approve a recommendation for Town Council to Approve Ordinance 950, Amending Chapter 21 of the Municipal Code Regarding Ground Floor Uses in the ODE and ODB Overlay Districts.
2. I move to Approve a recommendation for Town Council to Approve Ordinance 950, Amending Chapter 21 of the Municipal Code Regarding Ground Floor Uses in the ODE and ODB Overlay Districts, with the following amendments...
3. I move to Approve a recommendation for Town Council to Deny Ordinance 950 (based on the following reasons).

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 950
(SERIES 2021)**

**AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS
AMENDING 21 OF THE PAGOSA SPRINGS MUNICIPAL CODE REGARDING
GROUND FLOOR USES IN THE ODE AND ODB OVERLAY DISTRICTS**

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended (the “Charter”); and

WHEREAS, pursuant to Section 1.4 (A) of the Charter, the Town has all power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution and Section 11.2 of the Charter the Town has the power to adopt and amend land use and development ordinances regarding matters of local concern; and

WHEREAS, the Town Council has, by Ordinance 745, adopted the Pagosa Springs Land Use and Development Code, contained under Chapter 21 of the Town’s Municipal Code; and

WHEREAS, The Planning Commission considered amendments to the Land Use Development Code (LUDC) at a public meeting conducted on May 11, 2021, regarding amendments related to ground floor uses along the street within the Downtown Business and Lodging (ODB) and Downtown East Village (ODE) overlay districts; and

WHEREAS, the Town Council hereby determines that for the protection of the health, safety and welfare of the Town, and to ensure consistency with the intent of the LUDC for development within the ODB and ODE overlay districts, it is in the best interest of the residents and visitors of the Town, to amend the Land Use Development Code regarding ground floor uses along the street within the ODB and ODE overlay districts.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

Section 1. The following sections of the Municipal Code, Chapter 21, Land Use Development Code, shall be repealed and replaced as follows:

LUDC Section 4.2.1.C Use Specific Standards:
In the MU-C and MU-TC districts, multi-family units shall be allowed only on the second and third floors of buildings, unless such units are required to meet ADA or FHA accessibility requirements, and unless located on the ground level along an alley within the Downtown Business and Lodging Overlay District or Downtown East Village Overlay District.

LUDC Section 4.2.1.E Dwelling, Townhouse:

Up to four (4) attached units may be allowed in the R-T district only if approved as part of a conservation development that meets the standards of Section 7.6. Townhouses shall not be permitted on the ground floor level along the street frontage in the Downtown Business and Lodging Overlay District or Downtown East Village Overlay District.

LUDC Section 6.7.5.C. 4. Ground-floor uses:

The incorporation of retail shops and/or restaurants is encouraged at the street level to promote a more active environment for pedestrians and to support office uses located within the same building (on upper floors) or nearby. Multifamily and townhome residential units shall not be permitted on the ground level along the street frontage. This configuration of uses is particularly encouraged along Pagosa Street, Lewis Street, San Juan Street, Highway 160, and other downtown street frontages, as well as adjacent to major public spaces, such as along the San Juan River, where a high level of activity and visibility is desirable. If a limited portion of a structure's ground level will be devoted to retail or restaurant space, such space should be located along those façades adjacent to or most visible from primary street frontages or major pedestrian walkways.

Section 2. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

Section 3. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 4. Effective date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.