

A G E N D A

ASPEN PLANNING AND ZONING COMMISSION & PITKIN COUNTY PLANNING AND ZONING COMMISSION

SPECIAL MEETING

**TUESDAY, October 25, 2011
4:30 p.m. Sister Cities Meeting Room**

130 S Galena St

- I. ROLL CALL**
- II. COMMENTS**
 - A. Commissioners**
 - B. Planning Staff**
 - C. Public**
- III. MINUTES**
- IV. DECLARATION OF CONFLICT OF INTEREST**
- V. PUBLIC HEARINGS –**
 - A. Aspen Area Community Plan**
- VI. OTHER BUSINESS**
- VII. BOARD REPORTS**
- VIII. ADJOURN**

Next Resolution Number: ____

MEMORANDUM

TO: City & County Planning & Zoning Commissions

FROM: Jessica Garrow, City Long Range Planner
Ben Gagnon, City Special Projects Planner
Ellen Sassano, County Long Range Planner
Chris Bendon, City Community Development Director

DATE OF MEMO: October 20, 2011

MEETING DATE: Tuesday, October 25, 2011
4:30 – 7:30 pm, Sister Cities

RE: Joint Public Hearing on September 15, 2011 draft of AACP

BACKGROUND: The P&Zs have been meeting to finalize review of the 2011 Aspen Area Community Plan. To date, the P&Zs have made final changes to the Introduction, Aspen Idea chapter, and Managing Growth for Community and Economic Sustainability chapter. Chapters that remain include: West of Castle Creek Corridor, Transportation, Housing, Parks / Recreation / Open Space / Trails, Environmental Stewardship, Historic Preservation, and Lifelong Aspenite. A copy of the September 15th draft is available online at www.aspencommunityvision.com.

We currently have two additional meetings scheduled – October 25th and November 8th. The intent of these final meetings is for the joint P&Zs to finalize their review, and for the City P&Z make a final recommendation to Council on the 2011 AACP and for the County P&Z to adopt the 2011 AACP. Due to the regular P&Z meeting schedule from now to the end of the year, and the holiday season, there are no other available Tuesdays to meet to review the document. Given the progress P&Z made at the last meeting, staff believes you can complete your review on the 25th, and hold the final hearing (for recommendation by City P&Z and adoption by County P&Z) on November 8th. Staff is able to stay as late on October 25th as is needed for the P&Zs to complete the review. Staff anticipates stepping-up the public outreach effort to inform citizens about the November 8th adoption hearing, using newspaper ads, a letter to the editor, etc.

P&Z ADOPTION PROCESS: Staff has received a few emails related to the adoption of the AACP in the City and County. The City and County adopt plans differently – City Council adopts the plan in the City after considering a recommendation from the Planning & Zoning Commission, while the County P&Z adopts the plan in the County and the BOCC ratifies the plan.

Given the differences in adoption between the City and County, Staff proposes the following two possible processes for the P&Zs to complete their work on the 2011 AACP. Having reviewed these options previously, the County P&Z expressed interest in Option 1 because it results in completion of Planning & Zoning Commission work in 2011 and facilitates concurrent City and County P&Z recommendation and adoption of one draft Plan:

1. County P&Z adopts the joint P&Z draft Plan at the same time the City P&Z makes their recommendation to Council to adopt; and in the event that substantive changes are made to the plan to facilitate Council adoption, County P&Z can direct Staff to bring the Plan back for amendment to accommodate changes.
2. City P&Z makes their recommendation to Council; County P&Z *delays* their adoption until Council completes their and adoption; Upon Council adoption, County P&Z chooses to adopt draft adopted by Council (to avoid multiple adopted drafts;) or to adopt the draft endorsed by the City P&Z (in which case there will be two different drafts for the City and the County respectively).
3. A third option offered by a P&Z Commissioner, is for City and County P&Zs to draft one resolution to adopt the Plan as a guiding document, to be forwarded with a recommendation to City Council to adopt and to BOCC to ratify.

Staff believes that Options One and Three are the most efficient adoption processes, but all three are valid ways to proceed.

CITY COUNCIL PUBLIC PROCESS: In July the City Council requested to begin review of the draft AACP in the fall of 2011. They met at an initial work session on August 30th, and requested to meet in work sessions throughout the fall to review and suggest comments and possible changes to the document. So far, the potential changes have been minor in scope, and don't reflect substantial shifts in policy. In addition, City and County department heads and section leaders reviewed the September 15th draft and provided comments on the document. Those comments are included in City Council work session memos.

Copies of all memos are available online at: http://www.aspencommunityvision.com/page_60.

It is important to note that the P&Z process and the Council process are separate and distinct: Despite the timing overlap, the City P&Z recommends a final version and Council reviews it for possible changes and final adoption. Staff has tried to make the process as smooth as possible by asking Council to start reviewing the chapters that staff perceived as mostly finalized by the P&Z. To date, City Council has provided initial feedback on the Lifelong Aspenite, Aspen Idea, Historic Preservation, Environmental Quality, Parks/Recreation/Open Space/Trails, and Transportation chapters. Staff asked that Council hold off on chapters such as Growth/Economy, Housing and West of Castle Creek Corridor so the P&Z would have the time necessary for a final closer review.

City Council is scheduled to hold a first reading in late 2011, and public hearings in January 2012 to formally review and adopt the AACP. The document to be reviewed at that time will be the P&Z's final version, with track changes that reference comments and potential changes that Council has suggested during the fall 2011 work sessions. Staff's intent is to ensure that the P&Zs and the public can see the exact differences between what the P&Zs have proposed, and any changes that Council is considering. As staff has recommended in the past, the P&Z should focus on its recommendation and make sure that you are comfortable with it. There will be an

opportunity for the public and P&Z members to debate any potential differences in the document during the City Council's adoption hearings.

In addition, Council has provided initial direction on potential code amendments that should be adopted simultaneously, or immediately following, the adoptions of the Aspen Area Community Plan. The changes are generally in line with the staff memos and proposed changes, available online at http://www.aspencommunityvision.com/page_60. As requested by the P&Zs at the last meeting, the substance of these simultaneous code amendments will be explained in the AACP document. The City P&Z is scheduled to review and make a recommendation on code amendments at the first regular meeting in January.

Future Council work sessions are scheduled for:

- Nov 7: Review West of Castle Creek Corridor, Housing, and Managing Growth for Community & Economic Sustainability chapters.
- Nov 29: Review and Follow up on any outstanding issues on chapters reviewed to date, review Managing Growth for Community & Economic Sustainability chapter.
- Dec 5: Review Managing Growth for Community & Economic Sustainability chapter.
- Dec 6: Review Introduction, Wrap up.

MUNICIPAL REQUIREMENTS RELATED TO ADOPTION: County Planning and Zoning Commissioner Marcella Larsen requested that information items from state statute and the City Municipal Code related to the adoption of Master Plans in the City be forwarded to the P&Zs. These sections are attached as Exhibit A. In addition, staff has added two additional sections to Exhibit A that are relevant to the adoption of Master Plans in the City

ATTACHMENTS:

Exhibit A: Excerpts from City Charter, City Municipal Code, and State Statute related to adoption of Master Plans.

Exhibit A: Excerpts from City Charter, City Municipal Code, and State Statute related to adoption of Master Plans.

The following are items from state statute and the City Municipal Code related to the adoption of Master Plans in the City. County Planning and Zoning Commissioner Marcella Larsen requested the following be forwarded to the P&Zs. Staff has added two relevant sections to the items below. In addition, staff has provided a memo related to the Adoption of the Plan in the City and County.

City of Aspen Charter *(added by staff)*

Section 4.8. Action by ordinance required.

In addition to such acts of the council as are required by other provisions of this Charter to be by ordinance, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance; provided, however, that this section shall not apply to the budget adoption in Section 9.8. Ordinances making appropriations shall be confined to the subject of appropriation.

Aspen Municipal Code, Sec. 26.104.030. Comprehensive Community Plan and other plans, guidelines or documents. *(From Marcella)*

A. The City shall from time to time adopt and update a comprehensive community plan (known as the Aspen Area Community Plan or AACCP) which shall establish and project the City's land use and development planning philosophy, goals and policies. The comprehensive community plan shall be broad in scope and serve as a guide to all land use development and planning. The plan shall encourage and incorporate regional planning as well as land use development cooperation and coordination between the City and neighboring communities and jurisdictions.

B. From time to time the City may re-adopt, amend, extend or add to its comprehensive community plan or carry any part of its subject matter into greater detail through the development of supplemental plans, guidelines or documents. Within the text of these plans, guidelines or documents, it shall be described how the material shall be used in relation to the AACCP, land use development and planning. Specifically, there shall be a determination of whether the document will be used as a guiding or regulatory document. The document shall be adopted by resolution or ordinance, as provided in Chapter 26.200, Administration — Decision-Making Bodies.

C. Before the adoption of a plan or any such part, amendment, extension or addition by an adopting body, at least one (1) public hearing shall be conducted, notice of the time and place of which shall be given by one (1) publication in a newspaper of general circulation in the City as outlined in Subparagraph 26.304.060.E.3.a, Publication of notice. (Ord. No. 50-a, 2005, § 1)

Aspen Municipal Code, Chapter 26.208 *(added by staff)*

CITY COUNCIL

26.208.010. Powers and duties.

In addition to any authority granted by state law or this Code, the City Council shall have the following powers and duties:

A. To initiate amendments to the text of this Title, pursuant to Chapter 26.310;

B. To hear, review and adopt amendments to the text of this Title after recommendation by the Commission, pursuant to Chapter 26.310;

...

I. To adopt by resolution or ordinance any plans, guidelines or documents that will be used in a guiding or regulatory capacity by the City. How the material shall be used in relation to the AACP, land use development and planning shall be described in the content of the resolution or ordinance. Specifically, there shall be a determination of whether the document will be used as a guiding or regulatory document. When used as a guiding document of the City, it shall be adopted by resolution and, when used as a regulatory document, it shall be adopted by ordinance. Any plans, guidelines or documents that are adopted by resolution or ordinance shall not be adopted until notice is provided as outlined in Section 26.104.030 of this Title, the Comprehensive Community Plan and other plans, guidelines or documents;

...

26.208.020. Quorum and necessary vote.

In accordance with the City Charter, any action by the City Council that places any burden upon or limits the use of private property shall be by ordinance and shall require the affirmative vote of a majority of the entire City Council for final passage. Resolutions and motions shall require the affirmative vote of a majority of the members present.

A motion for the adoption of an ordinance that receives less than a majority of three (3) votes in favor shall constitute a failed motion and shall not be considered action. A tie vote on a motion shall be considered a failed motion and shall not be considered action. For applications where action is required to be taken by the City Council and the vote is tied, the application shall remain pending until action is taken.

(Ord. No. 7-2000 § 1; Ord. No. 1-2002 § 2; Ord. No. 54-2003§ 2; Ord. No. 50-A -2005 § 2; Ord. No. 12, 2007)

Aspen Municipal Code, Chapter 26.212 *(From Marcella)*

PLANNING AND ZONING COMMISSION

Editor's note—Ord. No. 41-2002 §1, 2002 repealed former Chapter 26.212, which pertained to similar provisions and enacted a new Chapter 26.212 as herein set out. Former Chapter 26.212 was derived from Ord. No. 5-1988 §2 as amended by Ord. No. 1-2002 §3, 2002.

Sec. 26.212.010.Powers and duties.

In addition to any authority granted the Planning and Zoning Commission (hereinafter "Commission") by state law or the Municipal Code of the City of Aspen, Colorado, the Commission shall have the following powers and duties:

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In addition to any authority granted the Planning and Zoning Commission (hereinafter "Commission") by state law or the Municipal Code of the City of Aspen, Colorado, the Commission shall have the following powers and duties:

A. To initiate amendments to the text of this Title, pursuant to Chapter 26.310;

...

R. To adopt by resolution any plans, guidelines or documents that will be used in a guiding capacity by the Commission or, if to be used in a regulatory capacity, to recommend via resolution adoption of any plans, guidelines or documents by the City Council. How the material shall be used in relation to the AACP, land use development and planning shall be described in the content of the resolution. Specifically, there shall be a determination of whether the document will be used as a guiding or regulatory document. When a plan, guideline or document is to serve as a regulatory document as determined by the Commission, the resolution shall include a recommendation to the City Council for adoption of the document by ordinance. Any plans, guidelines or documents that are adopted by resolution shall not be adopted until notice is provided as outlined in Section 26.104.030, Comprehensive Community Plan and other plans, guidelines or documents. (Ord. No. 41-2002, §1; Ord. No. 50a-2005, §3; Ord. No. 12, 2007, §6)

Colorado Revised Statutes, Article 23, Planning & Zoning *(From Marcella)*

[31-23-206. Master plan.](#)

(1) It is the duty of the commission to make and adopt a master plan for the physical development of the municipality, including any areas outside its boundaries, subject to the approval of the governmental body having jurisdiction thereof, which in the commission's judgment bear relation to the planning of such municipality. The master plan of a municipality shall be an advisory document to guide land development decisions; however, the plan or any part thereof may be made binding by inclusion in the municipality's adopted subdivision, zoning, platting, planned unit development, or other similar land development regulations after satisfying notice, due process, and hearing requirements for legislative or quasi-judicial processes as appropriate. When a commission decides to adopt a master plan, the commission shall conduct public hearings, after notice of such public hearings has been published in a newspaper of general circulation in the municipality in a manner sufficient to notify the public of the time, place, and nature of the public hearing, prior to final adoption of a master plan in order to encourage public participation in and awareness of the development of such plan and shall accept and consider oral and written public comments throughout the process of developing the plan. Such plan, with the accompanying maps, plats, charts, and descriptive matter, shall, after consideration of each of the following, where applicable or appropriate, show the commission's recommendations for the development of said municipality and outlying areas, including, but not limited to:

(a) The general location, character, and extent of existing, proposed, or projected streets, roads, rights-of-way, bridges, waterways, waterfronts, parkways, highways, mass transit routes and corridors, and any transportation plan prepared by any metropolitan planning organization that covers all or a portion of the municipality and that the municipality has received notification of

or, if the municipality is not located in an area covered by a metropolitan planning organization, any transportation plan prepared by the department of transportation that the municipality has received notification of and that covers all or a portion of the municipality;

(b) The general location of public places or facilities, including public schools, culturally, historically, or archaeologically significant buildings, sites, and objects, playgrounds, squares, parks, airports, aviation fields, military installations, and other public ways, grounds, open spaces, trails, and designated federal, state, and local wildlife areas. For purposes of this section, "military installation" shall have the same meaning as specified in section [29-20-105.6](#) (2) (b), C.R.S.

(c) The general location and extent of public utilities terminals, capital facilities, and transfer facilities, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes, and any proposed or projected needs for capital facilities and utilities, including the priorities, anticipated costs, and funding proposals for such facilities and utilities;

(d) The general location and extent of an adequate and suitable supply of water. If the master plan includes a water supply element, the planning commission shall consult with the entities that supply water for use within the municipality to ensure coordination on water supply and facility planning, and the water supply element shall identify water supplies and facilities sufficient to meet the needs of the public and private infrastructure reasonably anticipated or identified in the planning process. Nothing in this paragraph (d) shall be construed to supersede, abrogate, or otherwise impair the allocation of water pursuant to the state constitution or laws, the right to beneficially use water pursuant to decrees, contracts, or other water use agreements, or the operation, maintenance, repair, replacement, or use of any water facility.

(e) The acceptance, removal, relocation, widening, narrowing, vacating, abandonment, modification, change of use, or extension of any of the public ways, rights-of-way, including the coordination of such rights-of-way with the rights-of-way of other municipalities, counties, or regions, grounds, open spaces, buildings, property, utility, or terminals, referred to in paragraphs (a) to (d) of this subsection (1);

(f) A zoning plan for the control of the height, area, bulk, location, and use of buildings and premises. Such a zoning plan may protect and assure access to appropriate conditions for solar, wind, or other alternative energy sources; however, regulations and restrictions of the height, number of stories, size of buildings and other structures, and the height and location of trees and other vegetation shall not apply to existing buildings, structures, trees, or vegetation except for new growth on such vegetation.

(g) The general character, location, and extent of community centers, housing developments, whether public or private, the existing, proposed, or projected location of residential neighborhoods and sufficient land for future housing development for the existing and projected economic and other needs of all current and anticipated residents of the municipality, and redevelopment areas. If a municipality has entered into a regional planning agreement, such agreement may be incorporated by reference into the master plan.

(h) A master plan for the extraction of commercial mineral deposits pursuant to section [34-1-304](#), C.R.S.;

- (i) A plan for the location and placement of public utilities that facilitates the provision of such utilities to all existing, proposed, or projected developments in the municipality;
- (j) Projections of population growth and housing needs to accommodate the projected population for specified increments of time. The municipality may base these projections upon data from the department of local affairs and upon the municipality's local objectives.
- (k) The areas containing steep slopes, geological hazards, endangered or threatened species, wetlands, floodplains, floodways, and flood risk zones, highly erodible land or unstable soils, and wildfire hazards. For purposes of determining the location of such areas, the planning commission should consider the following sources for guidance:
 - (I) The Colorado geological survey for defining and mapping geological hazards;
 - (II) The United States fish and wildlife service of the United States department of the interior and the Colorado wildlife commission for locating areas inhabited by endangered or threatened species;
 - (III) The United States Army corps of engineers and the United States fish and wildlife service national wetlands inventory for defining and mapping wetlands;
 - (IV) The federal emergency management agency for defining and mapping floodplains, floodways, and flood risk zones;
 - (V) The natural resources conservation service of the United States department of agriculture for defining and mapping unstable soils and highly erodible land; and
 - (VI) The Colorado state forest service for locating wildfire hazard areas.
- (2) As the work of making the whole master plan progresses, the commission may from time to time adopt and publish a part thereof. Any such part shall cover one or more major sections or divisions of the municipality or one or more of the foregoing or other functional matters to be included in the plan. The commission may amend, extend, or add to the plan from time to time.
- (3) (Deleted by amendment, L. 2007, p. 613, § 2, effective August 3, 2007.)
- (4) (a) Each municipality that has a population of two thousand persons or more and that is wholly or partially located in a county that is subject to the requirements of section [30-28-106](#) (4), C.R.S., shall adopt a master plan within two years after January 8, 2002.
 - (b) The department of local affairs shall annually determine, based on the population statistics maintained by said department, whether a municipality is subject to the requirements of this subsection (4), and shall notify any municipality that is newly identified as being subject to said requirements. Any such municipality shall have two years following receipt of notification from the department to adopt a master plan.
 - (c) Once a municipality is identified as being subject to the requirements of this subsection (4), the municipality shall at all times thereafter remain subject to the requirements of this subsection (4), regardless of whether it continues to meet the criteria specified in paragraph (a) of this subsection (4).

(5) A master plan adopted in accordance with the requirements of subsection (4) of this section shall contain a recreational and tourism uses element pursuant to which the municipality shall indicate how it intends to provide for the recreational and tourism needs of residents of the municipality and visitors to the municipality through delineated areas dedicated to, without limitation, hiking, mountain biking, rock climbing, skiing, cross country skiing, rafting, fishing, boating, hunting, and shooting, or any other form of sports or other recreational activity, as applicable, and commercial facilities supporting such uses.

(6) The master plan of any municipality adopted or amended in accordance with the requirements of this section on and after August 8, 2005, shall satisfy the requirements of section [29-20-105.6](#), C.R.S., as applicable.

(7) Notwithstanding any other provision of this section, no master plan originally adopted or amended in accordance with the requirements of this section shall conflict with a master plan for the extraction of commercial mineral deposits adopted by the municipality pursuant to section [34-1-304](#), C.R.S.