

TELLER COUNTY PLANNING COMMISSION

Regular Meeting - 7:00 p.m., Tuesday June 10, 2014

City of Woodland Park Council Chambers

220 W. South Avenue, Woodland Park, CO

Agenda Item III: Consider, and recommend to the Teller County Board of County Commissioners, an application by Stephen Storrs, Thomas Worley, Denise Worley, and Denali Davidson for an amendment to the text of the *Teller County Land Use Regulations* to remove “TOWN (Potential Development) OR RURAL RESORT (Rural Lifestyle Protection Area)” from the “Divide Region Growth and Conservation Map” and the “Divide Town Growth and Conservation Map” in *Appendix B* and to add text clarifying *Section 1.7.D. Text Versus Figure, Table, Illustration, Graphic Depiction or Caption*, which application also includes a request for a moratorium on the application and use of the term “Rural Resort (Rural Lifestyle Protection Area).”

STAFF REPORT

File No. LUR-0042(13)

APPLICANT: Stephen Storrs, Thomas and Denise Worley, Denali Davidson

REQUEST: Amend the text of the *Teller County Land Use Regulations* (LUR) to remove “TOWN (Potential Development) OR RURAL RESORT (Rural Lifestyle Protection Area)” from the “Divide Region Growth and Conservation Map” and the “Divide Town Growth and Conservation Map” in *Appendix B* and to add text clarifying *Section 1.7.D. Text Versus Figure, Table, Illustration, Graphic Depiction or Caption*, which application also includes a request for a moratorium on the application and use of the term “Rural Resort (Rural Lifestyle Protection Area).”

STAFF: Ms. Lor Pellegrino, AICP, Senior Planner

LEGAL DESCRIPTION: All land within unincorporated Teller County, more specifically the Divide Planning Region geographical area

ZONE DISTRICT: All zones within unincorporated Teller County, more specifically the Divide Planning Region geographical area

Publication Date: May 28, 2014
Staff Report Date: May 30, 2014

STAFF RECOMMENDATION: Deny

1. SUMMARY OF REQUEST

The Applicant is proposing to amend *Appendix B* of the *Teller County Land Use Regulations* to remove “TOWN (Potential Development) OR RURAL RESORT (Rural Lifestyle Protection Area)” from the “Divide Region Growth and Conservation Map” and the “Divide Town Growth and Conservation Map” and replace these removed designations with “Rural Lands” for those properties in the rural area and “Town Residential” for those properties within the town area. The Applicant further proposes to add text purporting

to clarify LUR *Section 1.7.D. Text Versus Figure, Table, Illustration, Graphic Depiction or Caption* and also requests a moratorium on the application and use of the term “Rural Resort (Rural Lifestyle Protection Area).”

On July 8, 2013, the Board of County Commissioners adopted Resolution 07-08-13(21) approving a map amendment to the LUR *Appendix B “Divide Region Growth and Conservation Map.”* Resolution 07-08-13(21) effectively changed the map designation for four properties (owned by the Colorado District Church of the Nazarene and used by the Golden Bell Camp and Conference Center for recreational purposes) from “Rural Lands” and “Rural Residential” to “Rural Resort.” This was the first and only (to date) applicant-driven map amendment involving the “Rural Resort” designation. Condition A of this Resolution requires that subsequent development applications generally comply with the areas and uses as conceptually depicted on the submitted Golden Bell site plan. Many people, including the four residents submitting this LUR application, objected to Golden Bell’s proposed Map Amendment.

Divide Regional Plan (DRP). The DRP, originally created in 1991 as the *Divide Regional Action Plan*, was first adopted by the Teller County Planning Commission on March 10, 1998, and was endorsed by the Board of County Commissioners on April 16, 1998 (Reception No. 476658) as an advisory plan. The DRP has been updated a few times with its most recent amendment adopted in 2006. It is the most current and up-to-date community plan in existence in Teller County. It is generally accepted by Staff, the Planning Commission, the Board of Adjustment and the Board of County Commissioners that the various plans, whether advisory or regulatory, should be used to support informed decisions to guide growth [LUR 1.2.B.1]. The current 2006 DRP is posted on the Planning webpage of Teller County website (www.co.teller.co.us). Please remember, the DRP has not been legislatively adopted and is not binding.

The Divide Planning Committee, in their letter dated January 21, 1998 to the Planning Commission, states “This document [1998 DRP] is the result of many hours of deliberate and painstaking negotiations. We believe it is a fair and just plan that accommodates growth, directs growth, and will lead the Divide region of Teller County into the next century.” The 1998 DRP maps contained a designation for “Town Center Conditional Use Permit” with that portion of Meadow Park so depicted and “Resort Conditional Use Permit” with Trout Creek and Jellystone so depicted. Policy C5 of the 1998 DRP included a statement regarding “Rural Lands, including Resort Areas” stating that “Resorts may occur outside Town Center with an approved plan ... consistent with County Regulations. [C5-1].” The only part of the DRP that was legislatively adopted into the LUR were two maps – complete with their map designations. No other part of the DRP, definitions or otherwise, were specifically adopted into the LUR. Staff believes that “Town Center Conditional Use Permit” and “Resort Conditional Use Permit” map designations were included and considered as part of the “painstaking” process that the Divide Planning Committee underwent and that these terms and designations were very much a considered and deliberate choice that contributed to the clarity of the overall Divide vision.

While these first DRP maps formed the basis for the official LUR maps that were first incorporated as regulatory official maps into LUR *Appendix B*, even when first incorporated the LUR maps were not identical to the DRP maps. Instead, it is prudent to remember that the LUR official maps are a hybrid of the DRP and the LUR, and terms, definitions and provisions should appropriately be culled from both of these documents. It must be emphasized that the DRP has not been legislatively adopted and is not binding.

The 2006 DRP Policy C5 specifically discusses and specifies no less than six policies guiding the development of Rural Lands including recreational uses (the 1998 DRP uses the term “resort areas” where the 2006 DRP uses the term “recreational uses” – a shift in terminology which mirrored the recreational category of conditional use permits that was then utilized by the County). Recreational uses as defined in the 2006 DRP “ includes but is not limited to public and private, profit or non-profit recreational activities, recreational facilities, recreation camps, summer camps, church camps, campgrounds and resorts as these terms are commonly understood and as may be defined in Teller County Regulations” (DRP p.5). Further, 2006 DRP C5-4 is very specific in stating that “New recreational developments should be required to amend the Divide Growth and Conservation Maps using map amendment criteria attached to this Plan, as well as County Regulations” and 2006 DRP C5-5 states “...recreational uses should be analyzed and considered as outlined in the attached criteria for amending maps for recreational use and all Conditional Use Permits.”

DRP Addendum A contains two pages of criteria for amending the *Divide Town* map and DRP Addendum B is another two pages of criteria for amending the *Divide Region* map for recreation uses and all conditional use permits on rural lands. These policies and criteria are further supported in 2006 DRP Policy J1 which states “A keystone of the implementation of the Divide Regional Plan is the adoption into the Teller County Land Use Regulations of the Divide Growth and Conservation Maps as regulatory. Therefore, since any amendment to these maps may affect implementation of the Divide Regional Plan, Teller County an all concerned parties should consider [Addendum A and B] for recreational uses (resort CUP).” Based on these very clear policy statements including an implementation strategy and the development of very specific criteria, Staff believes that much great thought and consideration was given to recreational uses (which by definition includes resorts). It is apparent to staff that all of the consideration given to recreational uses constituted the greatest change between the 1998 and the 2006 DRP and may have even been the primary impetus for the 2006 DRP update. And while the Golden Bell Map Amendment application requesting the “Rural Resort” designation was the first of its kind – the same map amendment process would be consistently required in the Divide area for any new recreational use (including resorts) or any recreational use (including resorts) seeking to expand or diverge from any previously approved use permit. Golden Bell’s application was the first time the Planning Department had to address a proposal for a new or expanded recreational facility.

The 2006 DRP policies and criteria have been consistently considered and applied for all development applications in the Divide region. All development proposals for new or expanded recreational use are assessed against the 2006 DRP policies and if necessary, subject to application and approval of a map amendment pursuant to DRP policy. It should be noted that these recreational policies and criteria are unique to Divide, do not appear in any other regional plan, and do provide an extra layer of information and/or transparency to the residents and citizens of Teller County with respect to the location of potential growth in the rural and town areas of the Divide region and appears to have been very important to the Divide community. Also, for the third time, please remember that the DRP has not been legislatively adopted and is not binding – an applicant could choose, at their own risk, to ignore the plan in its entirety, including the criteria in the addendums. And while staff reviews the DRP provisions with all development applications, the DRP is advisory only, is not legislatively adopted, and is not what controls.

Staff does not object to changing the DRP, presumably by the Divide Planning Committee, but believes that changes, to either the text or maps, should be made with input and consensus from all local stakeholders to ensure there is consensus for the change and that it is necessary, practical and in the best interest of the region and its residents. This current LUR application stems from the opinions and interpretations of only four residents. The request does not engage all applicable stakeholders and does not appear to be a product of any collaborative effort. All referral responses from affected property owners objected to the request. Even the Divide Planning Committee (in one of their two-sided responses) objected to the request.

Finally, with the apparent care and consideration given to recreational uses in the Divide area in past and the most current iteration of the DRP, its consistent consideration and implementation by staff over the years, staff does not believe a “Town or Rural Resort” definition is necessary and supports all the hard work completed by both staff and the community in correlating DRP terms with legislatively adopted master plan terms.

LUR Appendix B: Teller County Growth and Conservation Maps. [attached as Appendix A of this Staff Report] BCC Resolution 10-22-98(89) (recorded at Reception No. 485353) amended the LUR by adding LUR Appendix MA-55 Maps – Planning Regions, Growth and Conservation Areas which appendix included the 10/5/98 *Divide Region Growth and Conservation Map* and the 10/5/98 *Divide Town Growth and Conservation Map* as official regulatory maps. The 1998 LUR *Divide Region* official map contained a designation for “Town or Rural Resort” (with Trout Creek and Jellystone so designated) and the 1998 LUR *Divide Town* official map contained a designation for “Town Resort” (with a portion of Meadow Park so designated).

All LUR Appendix B maps, including the Divide maps, are based on and reflect the regional plan from which they were derived. The “Town Center Conditional Use Permit” and “Resort Conditional Use Permit” DRP designations morphed into the “Town or Rural Resort” and “Town Resort” designations on the MA-55 maps

which were incorporated into the LUR six months after the 1998 DRP was endorsed as an advisory document by the BCC. Staff believes the “Town Center / Resort Conditional Use Permit” DRP designations evolved into the “Town or Rural Resort” designation that is depicted on the current LUR official maps and that this change from the plan to the regulations appears to be a clear and deliberate action.

In 2006, Staff in cooperation with the Divide Planning Committee, went through an LUR amendment exercise to clarify terms in the Divide official maps by adding their correlated Growth Management Plan (GMP) terms in parenthesis (BCC Resolution 09-07-06(40) recorded at 597719). During this exercise, no mention was ever made of the need to define “Town or Rural Resort” even though all terms were underwent great scrutiny, and Staff again believes its definition, then and now, to be clear and straight forward, with no further definition or change necessary.

LUR 8.3.X and LUR 8.3.Y provide specific definitions for “Recreational Facilities” and “Resort” respectively which terms and definition are appropriately applied to any portion of the LUR including the official maps. LUR 2.11 sets forth the submittal requirements, procedure and standards for official map amendments. Finally, the LUR requires that most development applications (including but not limited to special review use permit applications, final plats, and rezoning) comply with the legislatively adopted plans and/or maps. All LUR definitions and processes have been consistently applied and implemented with respect to all applicable development permit applications.

LUR Section 1.7.D. Staff does not believe the proposed language addition is necessary nor does it clarify anything. All of the maps in LUR *Appendix B* are derived from the various plans and the terms are a hybrid of terms in both the relevant plan and terms contained in the LUR. Staff does not believe it is appropriate to add additional regulatory language that would make the LUR unnecessarily lengthier and potentially more confusing.

Moratorium. The request for a moratorium is unnecessary given staff’s recommendation of denial and the Planning Commission and Board of County Commissioner’s timely consideration of this LUR application. Staff believes the LUR official maps should remain as they are and that map amendments for recreational uses continue to be implemented for applicable development applications in Divide.

BCC Philosophical Position. With any regulatory change, consideration must be given to the informal philosophical position of the Teller County Board of County Commissioners in the development of Land Use Regulations for Teller County, Colorado. This informal position, created and continually reviewed by the Board of County Commissioners, states:

By consensus, the Teller County Board of County Commissioners believes that the use and development of land within the unincorporated areas of Teller County should be orderly, appropriate and sensible. The development of land should respect personal freedom and rights, while balancing the health, safety and welfare of all citizens of Teller County. The balancing of these interests should not result in onerous regulations for the citizens of Teller County.

The development and promulgation of any and all Land Use Regulations in Teller County must be tempered and evaluated by this position.

The staff and the Teller County Planning Commission should acknowledge and consider the Board’s position on this matter. Similarly, the Board acknowledges that the development of regulations and deliberation on the subject is a delicate balance between the ability to develop and the ability to regulate. The differences will, of necessity, be measured by degrees.

Staff does not believe this LUR amendment should be granted. Staff believes that approval of this LUR amendment and the request for a moratorium are unnecessary, and should be denied.

2. SUBMITTAL REQUIREMENTS

SUBMITTAL REQUIREMENTS	STAFF COMMENT
<i>Section 3.2</i>	
Application Form	Submitted
Title Commitment, Title Guarantee, Attorney's Title Opinion or O&E	Not Applicable
Adjacent Property Owners List	Not Applicable
Mineral Interest Owners List	Not Applicable
Adjacent Property Owners Mailing Labels	Not Applicable
Written statement describing request, reasons for request, and how standards are met.	Submitted
Specific Submittal Materials	Not Applicable
Fee	Submitted
<i>Section 2.11.C.1.a - b Text Change</i>	
a. Use Change. Where the change proposed is a change in use or addition of a new use in a particular zone district, Applicant shall submit a written analysis of the considerations set forth in <i>Section 2.1.D Determination of Similar Use</i> .	Not Applicable
b. Specific Language. Where the change proposed amends the text of these Regulations, the precise wording of the proposed new text shall be provided.	Submitted

3. REVIEW AGENCY RESPONSES

REVIEW AGENCY	COMMENTS (see Appendix B for copy)
Teller County Attorney	Comments are reflected throughout this Staff Report.
Teller County Parks	Referral sent; no written response received.
Spring Meadow Ranch Partnership LLLP	Disagrees with Application. See letter
PK Enterprises Inc./TH Promotions Inc. (Trout Creek)	Disagrees with Application. See letter
Divide Planning Committee	Agrees/Disagrees with Application. See two letters.
Little Chapel of the Hills (fka Camp Ianna)	Disagrees with Application. See letter
Colorado District Church of the Nazarene (Golden Bell Camp and Conference Center)	Disagrees with Application. See letter
Robert and Diana McMillan (fka Jellystone)	Disagrees with Application. See letter
Meadow Park Land Company	Disagrees with Application. See letter
Divide MPC Metropolitan District No. 1	Disagrees with Application. See letter
Divide MPC Metropolitan District No. 2	Disagrees with Application. See letter

4. DISCUSSION OF MAJOR CONCERNS AND ISSUES

As of the writing of this staff report, no written comment has been received from the general public.

Contrary to statements made by the Applicant in the application, Staff believes that the "Town or Rural Resort" term is adequately defined with definitions, standards, criteria, uses and rules contained in both the DRP and LUR, and is not confusing. Both the DRP and LUR provide an orderly, appropriate and sensible understanding and implementation of the terms. Further, staff believes that a moratorium, new definition and

change to LUR 1.7.D are all unnecessary and, if adopted as proposed by the Applicant, potentially more confusing.

5. STAFF FINDINGS

The wisdom of amending the text of the Teller County Land Use Regulations is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In determining recommendations, and whether to adopt, adopt with modifications, or disapprove the proposed amendment, the Planning Commission and Board of County Commissioners shall consider the standards in LUR §2.11.E:

STANDARD	STAFF FINDING
§2.11.E.1 Text Amendment	
<p>a. <u>Consistent with Master Plan.</u> Whether the proposed amendment is consistent with the purposes, goals, objectives and policies of all applicable legislatively adopted Teller County master plan(s) or map(s).</p>	<p>This standard is not met. The proposed amendments and the request for a moratorium are not consistent with the purposes, goals, objectives and policies of the Teller County Growth Management Plan. Staff believes that the “Town or Rural Resort” designation on the LUR maps emanates from the DRP and that appropriate and sufficient clarity exists for the term with the application of both the LUR and DRP policies, terms, provisions and definitions. In that the LUR maps are the implementation of the DRP maps which in turn are the implementation of the GMP’s call for region-specific plans which depict the Divide vision, the LUR maps comply and conform to all applicable GMP goals, policies, purposes and objectives. The DRP in its current form, and in its various iterations, is the result of “painstaking” consensus involving all interested stakeholders and community interests. This LUR amendment (map and text change) and a moratorium is unnecessary, especially given the previous LUR text amendment which provided extensive review of the DRP/LUR terms and clarified each term by correlating it with the most appropriate and applicable GMP term.</p>
<p>b. <u>Changed Conditions.</u> Whether the proposed amendment is necessitated by a change in economic, population, technological or other conditions requiring amendment to these Regulations or modification of zone district standards, and whether it is in the interest of the public health, safety, and welfare to amend the Land Use Regulations and/or encourage a new use or density in the area.</p>	<p>This standard is not met. The proposed amendments are not necessitated by a change in economic, population, technological or other condition and the proposed amendment is not in the interest of the public health, safety and welfare of the residents of Teller County. Staff believes that all of the designations on the DRP and the official LUR maps were developed with much consideration and deliberate action and this LUR amendment and a moratorium are unnecessary. This LUR amendment does not appear to be an adequately balanced proposal between the personal freedom and rights of the Divide community and the health, safety and welfare of the residents, community and businesses given the objections expressed by those property owners currently designed “Rural Resort.”</p>
<p>c. <u>Effect on Natural Environment.</u> Whether the proposed amendment would result in adverse impacts to the natural environment, including water, air, noise, stormwater management, wildlife habitat, vegetation, and wetlands, that cannot be substantially</p>	<p>This standard is not met. The proposed amendments may result in adverse impacts to the natural environment by eliminating an application process that makes growth and development more transparent in the Divide region. It is very apparent in the DRP that recreational uses are very much a concern for the Divide community. A map amendment application provides an appropriate process whereby the effect</p>

STANDARD	STAFF FINDING
mitigated.	on the natural environment can be assessed and the DRP addendums can be applied.
d. Community Need. Whether the proposed amendment addresses a demonstrated community need.	This standard is not met. A community need for the proposed LUR amendments has not been demonstrated. This LUR amendment appears to be the desire of four residents and is unsupported by those property and business owners currently designated “Rural Resort.” Staff believes this LUR amendment and a moratorium are unnecessary.

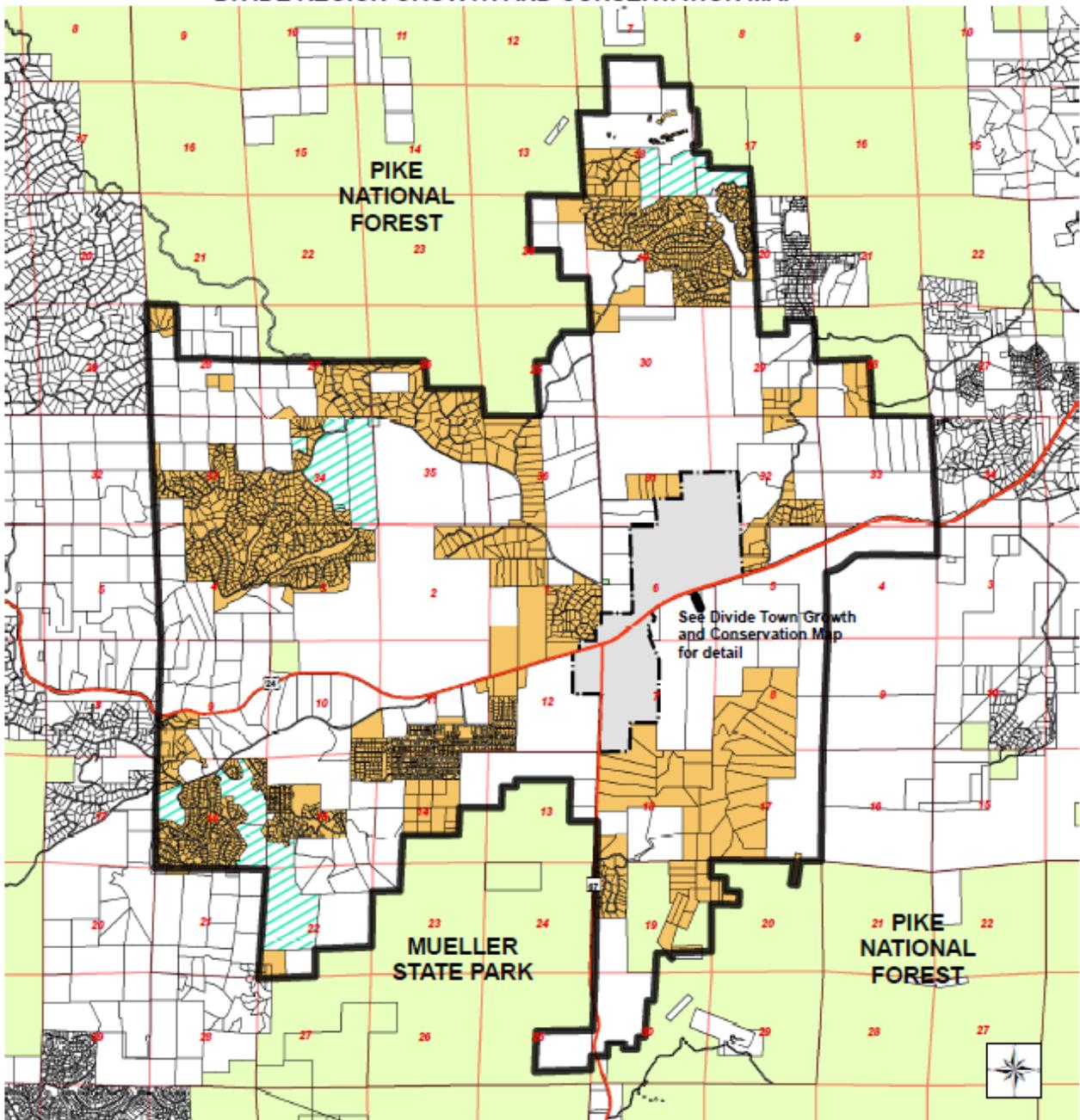
6. RECOMMENDED MOTION

I move that the Teller County Planning Commission recommend to the Board of County Commissioners that it **DENY** the request by Stephen Storrs, Thomas and Denise Worley, and Denali Davidson for an amendment to the text of the *Teller County Land Use Regulations* to (i) remove “TOWN (Potential Development) OR RURAL RESORT (Rural Lifestyle Protection Area)” from the “Divide Region Growth and Conservation Map” and the “Divide Town Growth and Conservation Map” in *Appendix B*, (ii) to add text to *Section 1.7.D. Text Versus Figure, Table, Illustration, Graphic Depiction or Caption*, and (iii) for a moratorium on the application and use of the term “Rural Resort (Rural Lifestyle Protection Area)” incorporating staff’s findings contained in the staff report dated May 30, 2014, and further finding that the request is not consistent with the purposes, goals, objectives and policies of the Teller County Growth Management Plan, and does not meet the standards and requirements for text amendments contained in *Section 2.11.E.1* of the Teller County Land Use Regulations.

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- STAFF REPORT
 - PUBLIC COMMENT
 - PLANNING COMMISSION DELIBERATION
 - PLANNING COMMISSION MOTION

APPENDIX A: EXISTING DIVIDE LUR MAPS

**APPENDIX B:
DIVIDE REGION GROWTH AND CONSERVATION MAP**



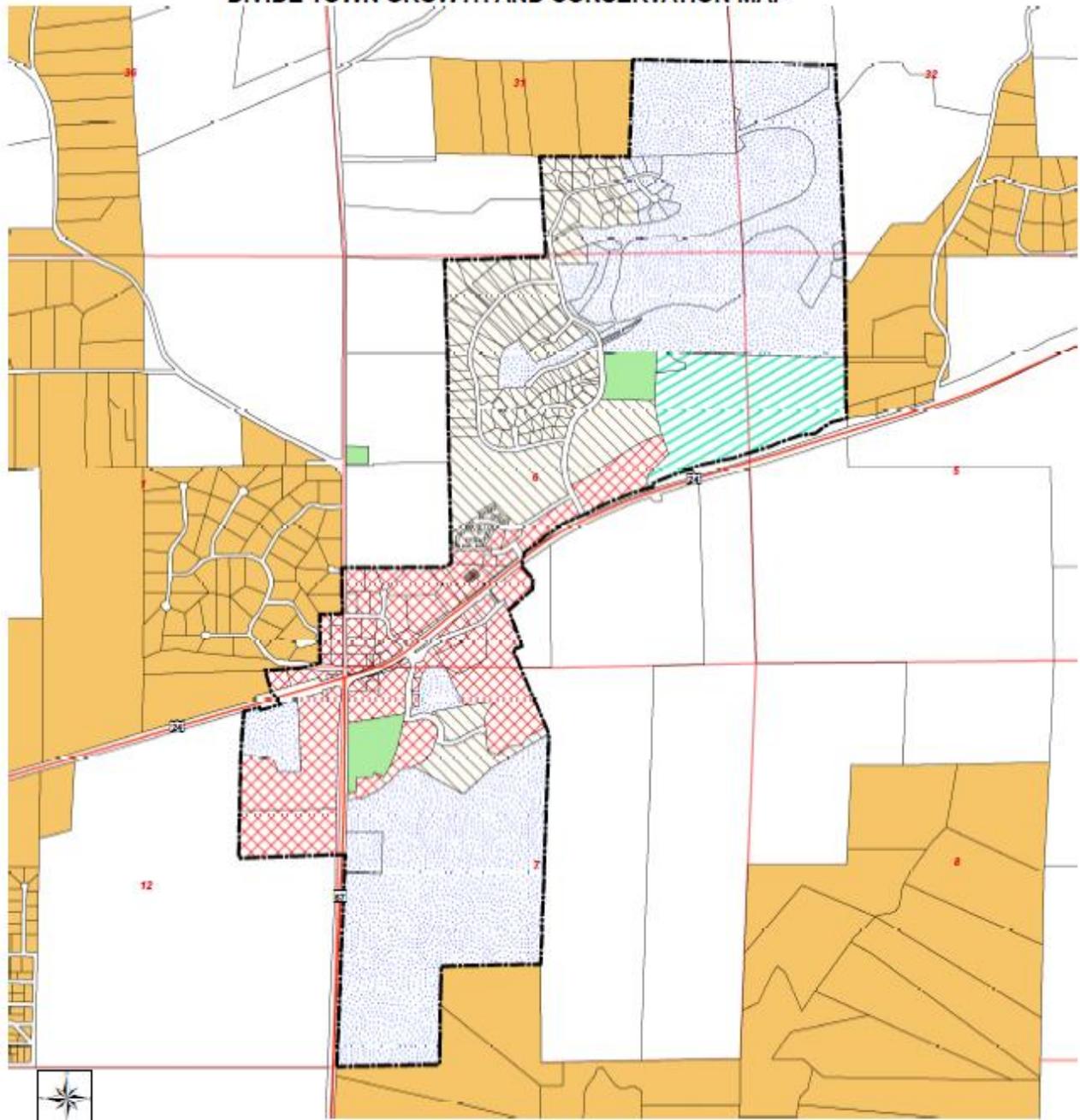
OFFICIAL MAP - TELLER COUNTY PLANNING DEPARTMENT

<p>DIVIDE PLANNING REGION BOUNDARY</p> <p>TOWN (Frontier Development) OR RURAL RESORT (Rural Lifestyle Protection Area)</p> <p>PARK, SCHOOL, OR CEMETERY</p> <p>PUBLIC LANDS</p> <p>LIMITED GROWTH AREAS</p> <p>RURAL LANDS (Fringe Protection Area/Resource & Environmentally Sensitive Area)</p> <p>RURAL RESIDENTIAL (Rural Lifestyle Protection Area)</p>	<p>GROWTH AREAS</p> <p>DIVIDE TOWN CENTER (Urban Service Area) BOUNDARY</p> <p>NOTE: Terms in parentheses refer to the Functional Planning Areas defined in the Teller County Growth Management Plan.</p>
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<p>Original date of map: 10/05/98 Incorporation into TCLUR: 10/22/98 Amended by Res. 9-9-99 (57) Amended by Res. 6-12-03 (23) Amended by Res. 6-23-03 (31) Amended by Res. 9-25-03 (41) Amended by Res. 9-7-05 (40) Amended by Res. 3-21-07 (17) Amended by Res. 3-15-10 (13) Amended by Res. 7-5-13 (21)</p>	<p>Table of Map Amendments</p>
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This map provides general information concerning land use. For information regarding a specific property or properties, refer to the Teller County Planning Department. This map does NOT meet National Mapping Accuracy Standards.

APPENDIX B: DIVIDE TOWN GROWTH AND CONSERVATION MAP



OFFICIAL MAP - TELLER COUNTY PLANNING DEPARTMENT

<p>LIMITED GROWTH AREAS</p> <ul style="list-style-type: none"> RURAL LANDS (Fringe Protection Area/Resource & Environmentally Sensitive Areas) RURAL RESIDENTIAL (Rural Lifestyle Protection Area) 	<p>GROWTH AREAS</p> <ul style="list-style-type: none"> DIVIDE TOWN CENTER (Urban Service Area) BOUNDARY TOWN CENTER COMMERCIAL (Community Center) TOWN RESIDENTIAL - EXISTING (Older Neighborhoods, etc.) TOWN RESIDENTIAL - NEW (Potential Development) <p><small>NOTE: Terms in parentheses refer to the Functional Planning Areas defined in the Teller County Growth Management Plan.</small></p>	<p>LIMITED GROWTH AREAS</p> <ul style="list-style-type: none"> TOWN (Potential Development) OR RURAL/RESORT (Rural Lifestyle Protection Area) PARK, SCHOOL, OR CEMETARY
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<p style="text-align: right; margin: 0;">Table of Map Amendments</p> <p style="font-size: small; margin: 0;">Original date of map: 10/25/08 Incorporation into TCLR: 10/22/08</p> <p style="font-size: x-small; margin: 0;">Amended by Res. 9-8-09 (57) Amended by Res. 6-12-03 (23) Amended by Res. 6-23-03 (31) Amended by Res. 9-25-03 (41) Amended by Res. 9-7-06 (46) Amended by Res. 3-21-07 (17) Amended by Res. 3-16-10 (13)</p>	
<p style="font-size: x-small; margin: 0;">This map provides general information concerning land use. For information regarding a specific property or properties, refer to the Teller County Planning Department. This map does NOT meet National Mapping Accuracy Standards.</p>	

APPENDIX B: REFERRAL RESPONSES