



Land Use

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**BOULDER COUNTY
PLANNING COMMISSION
November 16, 2016 – 1:30 PM
Hearing Room, Third Floor
Boulder County Courthouse**

Docket DC-16-0005: Proposed Boulder County Land Use Code Text Amendments related to Article 4-802.B.3.a of the Site Plan Review regulations

Land Use Code text amendment to amend Article 4-802.B.3.a, which specifies the allowable timeline to restore a damaged or destroyed structure without Site Plan Review

STAFF: Kim Sanchez, Chief Planner – Land Use Department

Public Testimony will be taken – Action Requested

SUMMARY

This docket proposes text amendments to Article 4-802.B.3.a of the Land Use Code to extend the timeline to rebuild a damaged or destroyed structure after a natural disaster without Site Plan Review. In light of what we have learned through our experiences in the Fourmile Fire, the 2013 Flood Event, and most recently the Cold Springs Fire, extending the 6-month timeline to rebuild without Site Plan Review to one-year is a change that we believe will assist homeowners who are recovering after a natural disaster and relieve them of some of the timing pressures they face.

DISCUSSION

Currently, the Site Plan Review regulations state:

4-802.B. Site Plan Review shall not be required for:

3. Restoration of a structure that has been damaged or destroyed by causes outside the control of the property owner or their agent provided the restoration involves the original location, floor area, and height. Such restoration must comply with the current provisions of the Boulder County Land Use Code other than 4-800 (also see Nonconforming Structures & Uses, Article 4-1002(D) and 4-1003(F)).

a. Such restoration must be commenced within **six months** after the date on which the structure was damaged or destroyed, or a latent defect discovered and completed within **one year** after the date on which the restoration commenced. This limitation may be extended in the case of extenuating circumstances as determined by the Director.

The current regulations require a property owner to apply for a building permit within 6 months of the event (and rebuild in the original location, floor area, and height) in order for the rebuild to proceed without needing Site Plan Review (“SPR”). Although the Director has the ability to extend the 6-month time period in the case of extenuating circumstances, a blanket extension of this SPR-exempt time period to one-year will provide relief to homeowners who may be feeling pressured to meet this time constraint.

The County recognizes the challenges involved with recovery. A one-year vs. 6-month timeline will better reflect the time it takes to sort through the insurance and other complications in the recovery phase of a natural disaster, and will provide more leeway for a property owner to rebuild with only a building permit (and no SPR). Giving affected property owners more time will allow them to proceed with more ease and less pressure around timing.

Likewise, specifying that the restoration must be completed within one year is not necessary since a project’s construction progress will be tracked through the inspection process for an active building permit. Consequently staff would propose to remove this provision from the regulations.

Consequently, staff is proposing the following simple changes to the Site Plan Review regulations:

4-802.B. Site Plan Review shall not be required for:

3. Restoration of a structure that has been damaged or destroyed by causes outside the control of the property owner or their agent provided the restoration involves the original location, floor area, and height. Such restoration must comply with the current provisions of the Boulder County Land Use Code other than 4-800 (also see Nonconforming Structures & Uses, Article 4-1002(D) and 4-1003(F)).

a. Such restoration must be commenced within ~~six months one year~~ after the date on which the structure was damaged or destroyed, or a latent defect discovered ~~and completed within one year after the date on which the restoration commenced~~. This limitation may be extended in the case of extenuating circumstances as determined by the Director.

TEXT AMENDMENT CRITERIA REVIEW

Pursuant to Article 16-100 of the Land Use Code, no text amendment shall be adopted by the Board of County Commissioners unless the Board has determined that:

1. the existing text is in need of the amendment;
2. the amendment is not contrary to the intent and purpose of this Code; and
3. the amendment is in accordance with the *Boulder County Comprehensive Plan*

The Planning Commission provides a recommendation to the Board of County Commissioners. Staff finds that the existing text is in need of the amendment based on the pressures that property owners who are recovering from a disaster are facing, particularly with insurance settlements which affect the money they can put into their new design and other such complications. The proposed amendment is not contrary to the intent and purpose of the Code and will still require Site Plan Review for any substantive changes that should be reevaluated by staff. The proposed amendment is in accordance with the Boulder County Comprehensive Plan; it merely changes the timing in order to help alleviate pressure from affected property owners who are recovering from a disaster. Consequently, staff finds that the criteria for text amendments in Article 16-100.B. of the Land Used Code are met.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission **APPROVE AND RECOMMEND TO THE BOARD OF COUNTY COMMISSIONERS APPROVAL** of Docket DC-16-0005: Proposed Boulder County Land Use Code Text Amendments related to Article 4-802.B.3.a of the Site Plan Review regulations and the official record of the Docket before the Commission with its staff comments, public testimony, and Commission discussion/action.

**DC-16-0005: Land Use Code Text Amendment
to amend Article 4-802.B.3.a, which specifies
the allowable timeline to restore a damaged
or destroyed structure without
Site Plan Review**

Planning Commission
November 16, 2016

Purpose

- Extend the timeline to rebuild a damaged or destroyed structure after a natural disaster without Site Plan Review

In light of what we have learned through the Fourmile Fire, the 2013 Flood Event, and most recently the Cold Springs Fire, extending the timeline to rebuild without Site Plan Review is a change that will assist homeowners who are recovering after a natural disaster and relieve them of some of the timing pressures they face.

Current SPR Regulations

4-802.B. Site Plan Review shall not be required for:

3. Restoration of a structure that has been damaged or destroyed by causes outside the control of the property owner or their agent provided the restoration involves the original location, floor area, and height. Such restoration must comply with the current provisions of the Boulder County Land Use Code other than 4-800 (also see Nonconforming Structures & Uses, Article 4-1002(D) and 4-1003(F)).

a. Such restoration must be commenced within **six months** after the date on which the structure was damaged or destroyed, or a latent defect discovered and completed within **one year** after the date on which the restoration commenced. This limitation may be extended in the case of extenuating circumstances as determined by the Director.

Challenges

- The County recognizes the challenges involved with recovery
- Director has the ability to extend the 6-month time period in the case of extenuating circumstances
- Blanket extension of this SPR-exempt time period from 6-months to one-year will provide relief to homeowners who may be feeling pressured with this time constraint
 - Allow more time to sort through the insurance and other complications in the recovery phase of a natural disaster
 - Provide more leeway for a property owner to rebuild with only a building permit
- Likewise, specifying that the restoration must be completed within one year is not necessary
 - Project's construction progress will be tracked through the inspection process for an active building permit

Proposed Changes

4-802.B. Site Plan Review shall not be required for:

3. Restoration of a structure that has been damaged or destroyed by causes outside the control of the property owner or their agent provided the restoration involves the original location, floor area, and height. Such restoration must comply with the current provisions of the Boulder County Land Use Code other than 4-800 (also see Nonconforming Structures & Uses, Article 4-1002(D) and 4-1003(F)).

a. Such restoration must be commenced within ~~six months~~ one year after the date on which the structure was damaged or destroyed, or a latent defect discovered ~~and completed within one year after the date on which the restoration commenced~~. This limitation may be extended in the case of extenuating circumstances as determined by the Director.

Criteria Review & Recommendation

Staff finds that proposed Land Use Code amendments meet the criteria in Art. 16-100 of the Land Use Code in that:

- 1. the existing text is in need of the amendment;*
- 2. the amendment is not contrary to the intent and purpose of this Code;*
- 3. the amendment is in accordance with the BCCP*

- Staff recommends that Planning Commission **approve and recommend approval of this docket to the Board of County Commissioners.**

The Board of County Commissioners is scheduled to review the draft regulations at a public hearing on **Thursday December 1, 2016 at 3:00 p.m.**