



Land Use

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**BOULDER COUNTY
BOARD OF COUNTY COMMISSIONERS**

**May 21, 2013 – 11:00 AM
Hearing Room, Third Floor
Boulder County Courthouse**

Staff: Kim Sanchez, Planning Division Manager

Authorization of Land Use Code Text Amendments – Various Amendments To Address Oil and Gas Development in Boulder County

Request for (1) authorization to process text amendments to Article 12 of the Land Use Code concerning oil & gas development and (2) decision on extension of the temporary moratorium to a date after June 10, 2013.

No public testimony will be taken at this public meeting – Action requested: Decision

Summary

Following the May 16 Board of County Commissioners public hearing on transportation-related items, the Board took additional public comment regarding any issues related to oil and gas development in Boulder County. This was done in response to requests by the public to have an opportunity to address the county commissioners on other aspects of oil and gas development. The public raised a number of issues and questions for the County to consider, and the Board shared their thoughts, concerns, and ideas in response. The Board gave direction to continue the discussion on May 21 at a public meeting.

Potential Amendments

The BOCC directed staff to come back at this public meeting on May 21 with ideas on addressing the issues raised by the Commissioners.

The issues raised include:

1. **Cumulative effects of increased oil and gas development on land, surrounding land uses, water, and air** – e.g., increased noise, odor, dust, traffic, waste generation and disposal, noxious weed proliferation, erosion, and other land disturbance caused by recurring industrial activities in rural areas, as well as the potential for significant impacts on the County's air, water, soil, biological quality, geology, topography, plant ecosystems, wildlife habitat, wetlands, floodplains, and aesthetic values and community resources
2. **Cumulative effects of increased oil and gas development on public facilities and services** – e.g., county transportation infrastructure; water, stormwater, and wastewater infrastructure; drainage and erosion control; parks and open space lands; emergency response functions such as those provided by the County Sheriff, affected fire protection districts, and other first responders

3. **Unknown risks of increased oil and gas development on public health, safety, and welfare**– the need for more data on impacts of oil and gas development on Boulder County residents and areas of greater population density
4. **Inspection and enforcement program** – the need to maximize the use of limited resources available for inspections necessary to ensure compliance with the new Article 12 regulations, particularly those concerning air quality.

One of the ideas the Board of County Commissioners identified was the phasing or limiting of oil and gas wells approved in Boulder County over the near term. Several issues could be addressed by the County if it were to consider amendments that phase in or allocate permits. A phased approach to near term oil and gas development would temper the pace of new development, which would in turn allow the County and other agencies to critically monitor the initially approved wells to ensure that the County’s new land use regulations are sufficiently protective of public health.

Possible considerations (and questions to address) in a potential phasing program include:

- the appropriate number of permits per period
- the merits of a geographic approach to dispersing the impacts
- a potential increase in setbacks, in particular for Standard Development Plan Review
- increased testing and monitoring of permitted wells
- phased development of certain public services and facilities
- some combination of measures to help mitigate the immediate and cumulative impacts.

Knowing this is not a single year effort, the Board emphasized that energy must continue to be put into the County’s “multi-pronged” approach to addressing oil and gas issues including:

- Changes to state and federal legislation
- Changes to COGCC rules
- Changes to AQCC rules
- Statewide initiatives
- Gaining more authority for local governments to regulate oil and gas development.

Authorization and Timeline

Article 16 of the Land Use Code allows for amendments to the Code as follows:

16-100 Text Amendments

- A. *Text amendments may be initiated by the Planning Commission or the Board of County Commissioners through the Land Use Department. Text amendments shall be reviewed and acted upon in accordance with the procedural provisions contained in Article 3 of this Code.*
- B. *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*

Staff seeks the Board’s authorization to process text amendments to the Land Use Code, pursuant to the direction provided by the Board at the May 16, and today’s, public meetings.

Because the current moratorium on oil and gas development applications is scheduled to end on June 10, 2013, staff will move expeditiously in researching and drafting any necessary options for

code amendments. Staff intends to present proposed text amendments for review at a joint Planning Commission and County Commissioners' public hearing on June 5, 2013, with Planning Commission to deliberate and provide a recommendation to the Board that evening and the County Commissioners to take action on June 6, 2013.

Recommendation

Staff recommends the Board of County Commissioners authorize staff to process Land Use Code text amendments to Article 12 concerning oil and gas development as described in this memo. Staff anticipates these changes can be completed prior to the June 10 moratorium. Otherwise, a decision on the extension of the temporary moratorium to a date after June 10, 2013 will need to be authorized.