

RESOLUTION 2019-17

A resolution approving Boulder County Land Use Docket DC-18-0005: Text Amendments to the Site Plan Review Provisions in Article 4-800 of the Boulder County Land Use Code Related to Floodplain Development Permits

Recitals

A. The Board of County Commissioners of Boulder County (the “Board”) is authorized to amend the text of the County's Zoning Regulations according to the procedures in the regulations and C.R.S. § 30-28-112, -116 and -133.

B. Under other statutory authority, the Board is empowered to adopt regulations related to the control of land use, including but not limited to Article 65.1 of Title 24 (Areas and Activities of State Interest); Articles 67 and 68 of Title 24 (Planned Unit Developments and Vested Rights); Article 20 of Title 29 (Local Land Use Enabling Act); Articles 11 and 15 of Title 30 (County Powers and Police Power); Article 1 of Title 32 (Special District Control); and Article 2 of Title 43 (County Highways), C.R.S.

C. By Resolution 94-185, adopted October 18, 1994, the Board approved a unified Boulder County Land Use Code (the “Land Use Code”), which the Board has amended on subsequent occasions.

D. In the present Docket, DC-18-0005 (the “Docket”), authorized by the Board at a public meeting on October 4, 2018, Boulder County Land Use staff proposed text amendments to the Site Plan Review provisions in Article 4-800 of the Land Use Code related to Floodplain Development Permits (the “Proposed Amendments”), as set forth in the Boulder County Land Use Department’s memorandum and recommendation dated February 12, 2019, with its attachments (the “Staff Recommendation”).

E. The Boulder County Planning Commission (the “Planning Commission”) held a duly noticed public hearing on the Proposed Amendments on January 16, 2019. The Planning Commission recommended approval of the Proposed Amendments, and certified the Docket for action to the Board.

F. On February 12, 2019, the Board held a duly noticed public hearing on the Docket and considered the Staff Recommendation, documents and testimony presented by the County Land Use Department and Transportation Department staff (the “Public Hearing”). No members of the public spoke at the Public Hearing.

G. Based on the Public Hearing, the Board finds that the Proposed Amendments included in Exhibit A meet the criteria for text amendments contained in Article 16 of the Land Use Code, in that the existing text is in need of amendment; the Proposed Amendments are not contrary to the intent and purpose of the Land Use Code; and the Proposed Amendments are in accordance with the Boulder County Comprehensive Plan.

Therefore, the Board resolves:

1. The Proposed Amendments in Exhibit A are approved for incorporation into the Land Use Code, effective March 1, 2019.
2. The Board desires to review the Proposed Amendments annually, or as otherwise determined necessary, and directs Land Use staff to report to the Board on implementation of the Proposed Amendments one year from the date of this adoption.
3. Under §30-28-125, C.R.S., the Board authorizes the Clerk to the Board to transmit this Resolution, with its Exhibit A, to the County Clerk and Recorder for filing and appropriate indexing. This transmittal should state recording Reference **No. 2735571**, the recording of the Boulder County Land Use Code on November 4, 2005, which this transmittal amends.

[Signature Page to Follow]

A motion to approve the Proposed Amendments, was made at the Public Hearing by Commissioner Deb Gardner, seconded by Commissioner Matt Jones, and passed by a 3-0 vote.


ADOPTED as a final decision of the Board on this 21st day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:**

(Excused)

Elise Jones, Chair

DocuSigned by:



6E741196D6C0495...

Deb Gardner, Vice Chair

DocuSigned by:



8D5A90696B414E2...

Matt Jones, Commissioner

ATTEST:

DocuSigned by:



A9048B42B8ED46B...

Clerk to the Board

Exhibit A

Attachment A: Proposed Text Amendments to the Land Use Code

Proposed Land Use Code Amendments

[This document only shows Land Use Code language that would undergo changes as a result of this update.]

4-802 Applicability and Scope of the Site Plan Review Process for Development

- A. Site Plan Review shall be required for (unless not required or waived pursuant to sections B and C below):
 - 8. Any development or earthwork requiring an ~~Individual Floodplain Development~~ Permit.

- B. Site Plan Review shall not be required for:
 - 3. Restoration of a structure ~~or access~~ 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. Restoration must involve the original location along the stream for stream spanning hydraulic structures, and in the case of a non-hydraulic structure, the original location, floor area, and height, if applicable. Such restoration must meet the other applicable provisions of this Code, including but not limited to the applicable zoning district setback and height requirements and the provisions of the Floodplain Overlay District (also see Nonconforming Structures & Uses, Article 4-1002(D) and 4-1003(F)).
 - ~~a. b.~~ ~~Such~~ Restoration must be commenced within one year after the date on which the structure ~~or access~~ was damaged or destroyed, or a latent defect discovered. This limitation may be extended in the case of extenuating circumstances as determined by the Director.
 - ~~b. c.~~ Restoration ~~Replacement~~ of bridges, box culverts, ~~or~~ low-water crossings, ~~or~~ other hydraulic structures, either as a temporary or permanent hydraulic structure, and accesses spanning a creek or other drainage within a mapped floodplain under Article 4-400, ~~may also be exempt from Site Plan Review under this Subsection 3.~~, are subject to ~~administrative approval~~ review by the County Engineer for compliance with the Boulder County Storm Drainage Criteria Manual and the Multimodal Transportation Standards. The County Engineer may additionally impose conditions on the construction to assure basic safety, ~~including but not limited to requiring construction of a replacement bridge or crossing that is compliant with the Land Use Code and the Storm Drainage Criteria Manual either as a temporary or Permanent replacement hydraulic structure.~~
 - ~~c. d.~~ The provisions of this Section 4-802(B)(3) shall not apply to Substantial Improvements to buildings in the Floodplain Overlay District as provided for in Section 4-400 of this Code.

- 6. Any development or earthwork ~~which the County Engineer deems~~ eligible for a General Floodplain Development Permit.

Attachment A: Proposed Text Amendments to the Land Use Code

7. Any development or earthwork requiring an Individual Floodplain Development Permit, so long as the Land Use Director finds no conflicts with the standards listed in Article 4-806 of this Code.
- C. Site Plan Review may be waived for the following circumstances if the Land Use Director determines that there is no potential for any significant conflict with the criteria listed in Article 4-806 of this Code:
 8. Any development or earthwork requiring an Individual Floodplain Development Permit for which the Director does not exempt Site Plan Review per 4-802(B)(7) above, ~~so long as the Director consults with the County Engineer before granting the waiver.~~