



# Transportation Department

2525 13th Street, Suite 203 • Boulder, Colorado 80304 • Tel: 303.441.3900 • Fax: 303.441.4594  
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • [www.bouldercounty.org](http://www.bouldercounty.org)

**BOULDER COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**November 1, 2012 – 9:30 A.M.**

**Hearing Room, Third Floor  
Boulder County Courthouse**

## **PUBLIC HEARING**

STAFF PLANNER: Justin Gindlesperger, CFM

### **Docket DC-12-0005: Text Amendments to Article 4-400 and Article 18 of the Land Use Code .**

Request: Land Use Code text amendments to Article 4-400 ("Floodplain Overlay District") and Article 18 ("Definitions") of the Boulder County Land Use Code.

## **SUMMARY**

Staff has identified areas within the floodplain administration regulations of the Land Use Code that should be amended in order to make corrections, provide policy clarification and generally improve the Code. As part of docket DC-12-0005, Boulder County is proposing text amendments to Article 4-400 ("Floodplain Overlay District") and Article 18 ("Definitions") of the Boulder County Land Use Code. The proposed changes would clarify the County's regulation of the Floodplain Overlay District and would bring these regulations into consistency with regulatory agencies including the Federal Emergency Management Agency, the National Flood Insurance Program, and the Colorado Water Conservation Board.

Each of the topic areas proposed for amendment and the rationale for proposing the amendment are included below along with staff's suggested amendment language.

## Proposed Amendments

### **1. Purpose and relationship to the Floodplain Regulations – Article 4-400**

*Discussion:* The purpose of the floodplain regulations is to provide land use controls that protect human health and safety, prevent or minimize flood damages, avoid increasing or creating flood hazards, and ensure Boulder County qualifies for participation in the National Flood Insurance Program. Staff recommends adding this statement to Article 4-400:  
Purpose.

*Proposed Text:*

Article 4-400 Floodplain Overlay District

Purpose: To provide land use controls necessary to qualify unincorporated areas of Boulder County for flood insurance under requirements of the National Flood Insurance Act of 1968, as amended, to protect human life and health; to avoid increasing flood levels or flood hazards or creating new flood hazard areas; to minimize public and private losses due to flooding; to reduce the need for expenditures of public money for flood control projects; to reduce the need for rescue and relief efforts associated with flooding; and to prevent or minimize damage to public facilities and utilities; and to aid the public in determining if a property is in a potential flood area.

**2. Abrogation and Greater Restrictions – Article 4-401**

*Discussion:* The floodplain regulations are not intended to invalidate any other existing requirements. Whichever requirements impose the greatest restriction on development within the Floodplain Overlay District shall prevail. Staff recommends adding the proposed amendment to reflect this purpose.

*Proposed Text:*

Article 4-401 Application and Liability

C. The floodplain regulations of this code are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**3. Designation of Official Maps – Article 4-402**

*Discussion:* As part of the Map Modernization project, FEMA has updated the Flood Insurance Rate Map (FIRM) for Boulder County. The proposed amendment will revise the effective date of the FIRM to FEMA's final approval date, December 18, 2012.

*Proposed Text:*

Article 4-402 (B):

The maps in these reports depicting the floodplain for the base flood shall be considered the official maps for the purposes of locating the FO district and establishing those areas affected by the provisions and regulations of this Section. These maps and reports, together with all amendments, explanatory matter, technical addenda, water surface elevations, profiles, cross sections where available, and the 'Flood Insurance Study,' effective ~~October 4, 2002~~, December 18, 2012, and the Flood Insurance Rate Maps of Boulder County as prepared by the Federal Emergency Management Agency are incorporated by reference into this Code. The location and boundaries of the FO district established by this Section are also incorporated into this Code, and are depicted upon the official zoning district maps.

**4. On-site Wastewater System improvement requirements within the Floodway - Article 4-403**

*Discussion:* New or replacement on-site wastewater systems are not permitted within the floodway boundaries. Staff recognizes that certain properties within Boulder County are unable to replace failing systems outside of the floodway. The proposed amendment will define the criteria for replacing a septic system within the floodway boundaries. The amendment will not alter the restriction on new, or expanded, septic systems within the floodway.

*Proposed Text:*

Art 4-403 (A) 4. solid waste disposal sites, central collection sewage treatment facilities and new or expanded individual on-site wastewater systems;

Art 4-403 (D): The provisions of this Article 4-400 may be waived for properties within a floodway that require a repair or replacement of an existing on-site wastewater system, provided the County Engineer determines that the proposed repair or replacement is consistent with Subsections 1. through 3., below.

1. The property owner has demonstrated that connection to a central sewer system is not feasible by:
  - a. Providing a letter of denial from the closest sewer provider; or
  - b. Demonstrating other reasons why connection is not feasible, such as that there is no central sewer system reasonably close to the property or building to be served, or that easement restrictions exist that effectively prohibit connection. For properties within a Community Service Area, connection will be deemed not feasible if the cost of connection exceeds 25% of the most recent assessed value of the subject property.
2. The proposed repair or replacement design must be protective of groundwater and appropriate for a floodway. In making this determination the County Engineer shall consider the following factors, among other pertinent information:
  - a. Whether it is practical to remove outbuildings or non-conforming additions to allow for increased soil availability so that the proposed repair or replacement can be located outside of the floodway;
  - b. Whether there is room for an at-grade recirculating sand filter, or similar treatment media, and the required absorption area;
  - c. What permit requirements might exist or be imposed for on-going operation and maintenance and advanced treatment; and
  - d. Whether placement in the hydraulic shadow of a legal, pre-existing structure is possible.
3. In no event shall a proposed repair or replacement increase the overall capacity of the existing on-site wastewater system. In addition, the County Engineer may

approve a raised absorption system or installation of a vault only as a last option within the floodway if this option meets the provisions of Article 4-407(B).

4. The County Engineer may impose terms and conditions on any waiver that may be granted to ensure that the proposal meets the requirements of this Article 4-403.D.

## 5. Floodproofing requirements - Article 4-405

*Discussion:* Accessory structures (non-dwelling units) are permitted to be constructed at grade and wet-floodproofed (by the use of flood vents that allow the passage of flood waters) within the floodplain boundaries. The proposed amendment will revise the text to permit the wet-floodproofing option for these structures.

For properties that are removed from the floodplain by the use of fill, the amendment will also include language to prohibit a floor elevation below the base flood elevation that existed prior to the placement of the fill material. This language is compliant with the current Colorado Water Conservation Board rules and regulations.

For purposes of formatting the Land Use Code, the provisions in paragraphs B and C. (as they currently exist) of section 4-405 are proposed to be combined under paragraph B. The existing paragraph D. will be renamed paragraph C.

*Proposed Text:*

Art 4-405 Floodproofing

A. [Not proposed for amendment]

B. All new construction and substantial improvements shall be ~~anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads~~ floodproofed as follows:

C. Floodplain elevation requirements shall be ~~floodproofed as follows:~~

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
2. All new construction and substantial improvements of any building or other structure shall have the lowest floor (including basements and porches) elevated to or above the flood protection elevation, provided that:
  - a. Fully enclosed areas below the lowest floor that are subject to flooding and used solely for parking of vehicles, building access, or storage of materials in an area other than a basement shall be designed to equalize the hydrostatic pressure flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

- ii. The bottom of all openings shall be no higher than one foot above grade; and
    - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - b. Accessory structures (detached garages, sheds, and barns) and agricultural structures (including grain bins, corn cribs and barns) may be constructed at grade and wet-floodproofed by meeting the provisions for fully enclosed areas subject to flooding and subject to the following conditions:
    - i. The building must be used only for the parking of vehicles or storage of tools, materials and equipment;
    - ii. Agricultural structures (including grain bins, corn cribs and barns) must be limited in use to agricultural purposes;
    - iii. The structure shall not be designed or used for human habitation;
    - iv. The accessory structure must represent a maximum investment of less than 10% of the value of the principal structure on the property, or a maximum floor area of 600 square feet;
    - v. The structure must have low flood damage potential with respect to both the structure and its contents; and
    - vi. Permanently affixed sanitary facilities and appliances (such as furnances, heaters, washers, dryers, etc.) are prohibited.
  - c. Accessory structures that do not have at least two rigid walls (including carports, gazebos, and picnic pavilions) may be constructed at grade and do not require floodproofing.
  - d. Other accessory structures that do not meet the above requirements may be constructed at-grade and will only be permitted by a variance to this section, provided that:
    - i. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; and
    - ii. Service facilities such as electrical and heating equipment shall be elevated or floodproofed.
- 3. All new construction and substantial improvements on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) shall have the lowest floor elevated to or above the flood protection elevation that existed prior to the placement of fill.
- 4. All new construction and substantial improvements of any building or other structure, within areas of shallow flooding, as specifically defined by the Federal Emergency Management Agency, shall have the lowest floor (including basements, garages, carports, and porches) elevated to or above the flood protection elevation.
  - a. For shallow flooding areas, the County Engineer may reduce the elevation requirement, upon evaluation of the floodplain on and around the proposed development.
  - b. Such a reduction shall have the lowest floor elevated to one foot above the base flood elevation, or the highest established adjacent grade plus at least one additional foot above the depth of flooding number specified in feet on the Flood Insurance Rate Maps, or at least three feet above the highest established adjacent grade if no depth number is specified.
  - c. Drainage improvements within a shallow flooding area, as specifically defined by the Federal Emergency Management Agency shall be

constructed to allow floodwaters to flow around the perimeter of the structure in a controlled manner, without adversely impacting adjacent properties.

5. [Not proposed for amendment]
6. [Not proposed for amendment]

## **6. Elevation Certificate requirements - Article 4-405**

*Discussion:* Elevation Certificates are required during times of new construction to prevent mistakes in final constructed elevations of structures. The proposed amendment will clearly define the times when elevation certificates are required and the types of construction that require an elevation certificate as part of the building permit process.

*Proposed Text:*

Art 4-405 C. B.

7. As built lowest floor elevations (in relation to mean sea level) for all new construction, substantial improvements, other improvements, or for new manufactured home stands, shall be certified by a Colorado Registered Professional Engineer or Colorado Registered Professional Land Surveyor. Elevation Certificates shall be submitted to the Building Division Inspector or County Engineer ~~at the time of rough framing~~. Failure to submit an Elevation Certificate will result in suspension of work until proper certification is provided. Completed Elevation Certificates shall be submitted at the following times:
  - a. For slab on grade foundation, a completed Elevation Certificate shall be submitted when foundation forms are completed and prior to final pour of foundation.
  - b. For buildings on elevated foundations, a completed Elevation Certificate shall be submitted when the foundation is completed and prior to rough framing.
  - c. For structures to be floodproofed, a completed Floodproofing Certificate shall be submitted when the floodproofing measure is completed.
  - d. For completed structures, a completed Elevation Certificate shall be submitted prior to the issuance of Certificate of Occupancy.
8. [Not proposed for amendment]

## **7. New Manufactured Home Park or Subdivision – Article 4-405**

*Discussion:* The proposed amendment will ensure compliance with FEMA guidance and clarify that all manufactured home parks completed after the date Boulder County began participation in the National Flood Insurance Program (NFIP) are required to comply with the floodproofing requirements of Article 4-400. NFIP participation requires compliance with FEMA regulations.

*Proposed Text:*

Art 4-405 ~~C.~~ B.

9. Concerning manufactured home parks, for new parks commenced on or after February 1, 1979; expansions to existing parks; existing parks where the value of the repair, reconstruction, or improvement of the streets, utilities, and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; an existing park on which a manufactured home has incurred substantial damage as the result of a flood; manufactured homes to be placed or substantially improved on sites in existing parks; and for manufactured homes not placed in a park:
  - a. [Not proposed for amendment]
  - b. [Not proposed for amendment]
  - c. [Not proposed for amendment]
10. [Not proposed for amendment]

**8. Other Floodproofing Requirements: Subdivisions in an A Zone – Article 4-405**

*Discussion:* Any new subdivision or proposed development that will be located within the A Zone, which is within the 100YR floodplain boundary but does not have designated flood depths or elevations, will be required to establish a base flood elevation for the area of proposed development.

For purposes of formatting the Land Use Code, paragraph D. Other Floodproofing Requirements will be renamed paragraph C. Existing requirements 1-6 are not proposed for amendment. A new requirement 7. is proposed:

*Proposed Text:*

Art 4-405(~~D~~) C.

7. For all new subdivision proposals and other developments, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is lesser, located within a designated A Zone that does not include a water surface elevation, shall include a base flood elevation as part of the proposal.

**9. Nonconforming Structures - Article 4-408**

*Discussion:* Substantial improvements and changes-in-use are required to comply with the floodproofing requirements of the Land Use Code. The proposed amendments will clearly define the floodproofing requirements between substantial improvements and non-substantial improvements to nonconforming structures. In addition, the amendment will further clarify the floodproofing requirements between changes-in-use that are considered to be less intensive than the current use and changes-in-use that are considered to be as intensive, or more intensive, than the current use. Non-substantial improvements and less intensive uses will not require compliance to the provisions of Article 4-405 for floodproofing.

*Proposed Text:*

Art 4-408 A. Existing Structures and Uses

1. The use of any structure on land within the FO district that was lawfully established before the adoption or amendment of this Section, but that does not conform to the requirements of this Section may be continued subject to the following conditions:
  - a. No such building or structure or use may be expanded or enlarged unless the expansion or enlargement itself complies with the floodproofing provisions of Paragraph 4-405 of this Section.
    - i. When a building or other structure has been damaged so that the market value of such repair or replacement does not exceed 50 percent of the market value before the damage occurred, the repair or replacement shall not be deemed a substantial improvement and only the reconstructed portion shall be constructed as required within Paragraph 4-405 of this Section.
    - ii. ~~Such reconstructed portion shall be constructed as required with Paragraph 4-405 of this Section, and shall not be deemed to be a substantial expansion or enlargement.~~
    - iii. When a building or other structure has been damaged so that the market value of such repair or replacement exceeds 50 percent of the market value before the damage occurred, the repair or replacement shall be deemed a substantial improvement and the entire structure shall be protected as required with Paragraph 4-405 of this Section.
2. A substantial improvement to any building or other structure or change in the use of a building or structure, as defined in Article 18-206, will require that the building or structure conform to the requirements of this Article 4-400.
  - a. Floodproofing requirements may be waived for a change in use if the County Engineer determines there is no potential for any significant conflict with this Article 4-400 and the following circumstances are met:
    - i. The existing structure is located outside of the floodway;
    - ii. The existing structure is determined to be structurally sound by an engineer licensed in the state of Colorado;
    - iii. The cost of compliance to this Article 4-400 is less than 50% of the current value of the structure; and
    - iv. The proposed change in use is to a use that reduces, minimizes, or otherwise creates a less intensive use or decreases human occupation.
  - b. The floodproofing requirements may not be waived for any substantial improvement that involves either:
    - i. Any structure located within the floodway; or
    - ii. Any structure that has been damaged by a flood two times in the past 10 years, where the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the structure's market value at the time of each flood.
3. No person shall store or process materials that are buoyant, flammable hazardous, toxic or explosive or that in ties of flooding could be harmful to human, animal, or plant life except at or above the flood protection elevation.

4. ~~No Person shall expand or enlarge an existing building or other structure or other use unless it conforms to the requirements of this Article.~~
- B. If a conflict arises between the requirements of this article Section and the provisions of Article 4-1000, Nonconforming Structures and Uses, the requirements of this Section shall control.

#### 10. Floodway - Article 18-161

*Discussion:* The proposed amendment will identify the floodway as an area of high risk to human safety. In addition, the proposed amendment will include the new Colorado Water Conservation Board requirement that all new flood studies include a floodway with 6" of rise (as opposed to the 12" rise floodway that Boulder County currently utilizes). This amendment will not alter the current definition of the floodway and all current flood studies, including the existing floodway boundaries, will remain effective.

For purposes of formatting this definition, a new paragraph B. is proposed. The existing paragraph B. will become paragraph C. and the existing paragraph C. is proposed to become item 5.

*Proposed Text:*

Art 18-161 Floodway

A. [Not proposed for amendment]

B. The floodway is a high hazard zone within the floodplain where the combination of water depth and water velocity create unacceptably high risks to human safety.

1. The Colorado statewide standard for the designated height to be used for all newly studied reaches, on or after January 14, 2011, shall be one-half foot (six inches).

~~B. C.~~ Specifically the floodway is defined according to the following criteria:

- [Not proposed for amendment]

~~C. 5.~~ However, in no instance shall the floodway extend less than 25 feet from the banks of the river or creek, unless such bank consists of an impervious natural rock wall or cliff which is higher than the flood elevation.

#### 11. Market Value - Article 18-178A

*Discussion:* The proposed amendment will define market value, as the term is used in determining a substantial improvement to a structure.

*Proposed Text:*

18-178A Market Value

Market value is the price which a willing buyer would pay a willing seller under normal economic conditions, based on a representative body of comparable sales at or about the date for which the market value is sought to be determined, as calculated by an independent appraisal performed by a professional appraiser, or by other accepted authoritative source such as the County Assessor's Office.

18-178A B Minor Modification (definition unchanged)

18-178B C Mountainous Areas (definition unchanged)

## **12. Substantial Improvement - Article 18-206**

*Discussion:* Substantial improvements to nonconforming structures within the floodplain overlay district are required to comply with the floodproofing provisions of Article 4-405. The proposed amendment will clarify the substantial improvement definition and compliments the changes to Article 4-408 above. The proposed amendment also identifies the costs that are included in the calculation of a substantial improvement.

### *Proposed Text:*

#### Art 18-206 Substantial Improvement

- A. Any cumulative repair, reconstruction, or improvement of a building or other structure, the market value of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. Substantial improvements are calculated on a cumulative basis, beginning with improvements commenced on or after November 1, 1991.
  1. If the County Engineer determines that market value of the improvement cannot be reasonably ascertained, the County Engineer can accept a projected cost estimate of the improvement to compare it to the market value of the existing structure.
    - a. The costs of the improvement shall include, but are not necessarily limited to, all materials, labor, built-in appliances, overhead, profit, and repairs to damaged portions of the building that are done concurrent with the subject improvements.
    - b. The costs of the improvement shall not include post-storm debris removal, permit fees, survey costs, plans and specifications, or improvements outside of the structure, such as landscaping, sidewalks, fences or detached structures.
- B. The term substantial improvement does not include:
  1. Either any project for improvement of a structure to comply with existing state or local health, sanitation, safety, or building code specifications which are solely necessary to assure safe living conditions; or
  2. Any alteration of a structure listed on the National Register of Historic Places or on the Colorado State historical Society's list of historic places.

## **13. Definitions – Article 18**

*Discussion:* Through the adoption and regulation of floodplain regulations in the Land Use Code, Boulder County qualifies for participation in the National Flood Insurance Program. Participation requires review of the Land Use Code by FEMA and the Colorado Water Conservation Board. The following definitions are proposed to maintain compliance with FEMA and state requirements and ensure continued participation in the NFIP.

*Proposed Text:*

18-113A Base Flood Elevation

The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-30, AR/AH, AR/AO, V1-30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

18-158 Floodplain Development

Under floodplain regulations, any public or private construction or activity that changes the basic character or the topography of the land on which the construction or activity occurs, including but not limited to any manmade change to improved or unimproved real estate, construction or substantial improvement of buildings or other structures.

Development includes mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials; and all dams, reservoirs, walls, embankments, berms, levees, dikes, piles, abutments, projections, channel rectification, roads, bridges, culverts, excavations, and fills.

18-159A Floodplain Violation

The failure of a structure or other development to be fully compliant with Boulder County floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required in C.F.R. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

18-175B Lowest Floor

For purposes of construction in the Floodplain Overlay District, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Code.

18-175B C Luminaire (definition unchanged)

18-179B New Floodplain Construction

Structures for which the start of construction commenced on or after February 1, 1979 and includes any subsequent improvements to such structures.

18-200A Special Flood Hazard Area

An area having special flood, mudslide (i.e. mudflow), or flood-related erosion hazards, and as shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

18-205A Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred.

### **TEXT AMENDMENT CRITERIA ANALYSIS**

Article 16-100.B. contains the criteria for amending the text of the Land Use Code. Staff finds that these criteria are met in the context of this Docket, as follows:

#### *The existing text is in need of amendment:*

Staff has identified the reasons why each of the eight topics areas is in need of amendment. In some cases, policy clarifications are needed. All of these amendments will improve the content and clarity of the Land Use Code. These text amendments will also bring our regulations into consistency with other regulatory agencies and programs, which will benefit the residents and property owners of Boulder County.

#### *The amendment is not contrary to the intent and purpose of this Code:*

None of the proposed amendments are contrary to the intents and purposes of the Code.

#### *The amendment is in accordance with the Boulder County Comprehensive Plan:*

Policy 4.01 in the Natural Hazards element states, "The county should strongly discourage and strictly control land use development from locating in designated floodplains, as identified in the Boulder County Zoning Maps." The proposed amendments clarify portions of the code to help staff properly regulate development activities that are located within the floodplain overlay district.

Policy 4.06 in the Natural Hazards element states, "The county will continue to participate and implement the Community Rating System program as part of the National Flood Insurance Program (NFIP)." The proposed amendments were referred to the Colorado Water Conservation Board and the Federal Emergency Management Agency Region VIII to ensure compliance with the NFIP and Colorado Rules and Regulations for Regulatory Floodplains. Neither agency found conflict with the amendments.

### **REFERRALS AND PUBLIC INVOLVEMENT**

These proposed changes were referred to the following Boulder County departments: Parks and Open Space, Public Health, Land Use Planning Division, Land Use Building Division, and the County Attorneys. While no formal referral responses have been submitted by these departments, Transportation staff worked closely with the Land Use Department, Open Space Department, County Attorneys, and Public Health and these partners support the changes proposed.

The staff report was referred to the Colorado Water Conservation Board and FEMA Region VIII, which encompasses Boulder County. These agencies were in support of the changes and had no conflicts with the proposed amendments.

In addition, the staff report was emailed to the Land Use Code listserv on August 29, 2012 (prior to the Planning Commission public hearing) and again on October 18, 2012 (following the Planning Commission's action).

### **PLANNING COMMISSION ACTION**

Staff presented the application to the Planning Commission on September 19, 2012. No members of the public spoke during the public hearing. During the Planning Commission discussion on the docket, Commissioner Blaugrund, Commissioner Holwick and Commissioner Young asked staff questions on the punctuation and structure of language in some of the proposed text, specifically Article 4-403 and Article 4-405.

Following discussion, Commissioner Holwick made a motion was to approve the proposed amendments with the changes discussed during the public hearing, including Planning Commissioner notes, and to clarify any other ambiguities within the proposed text. The Planning Commission recommended approval and certified for action to the Board of County Commissioners this motion unanimously with a vote of 5-0.

**STAFF RECOMMENDATION**

**STAFF RECOMMENDS THAT THE BOARD OF COUNTY COMMISSIONERS APPROVE DOCKET DC-12-0005, TEXT AMENDMENTS TO ARTICLE 4-400 and ARTICLE 18 OF THE LAND USE CODE.**