

DC-14-0002: Land Use Code Text
Amendments related to the
Floodplain Regulations,
Articles 4 and 18

Planning Commission
May 21, 2014

Summary of Proposed Changes

- **NO changes to the floodplain maps are proposed at this time**
- Changes to the definition of “substantial improvement” to “re-start” the clock to track with 2013 Flood
- An amendment to the requirement for floodplain development permits
- “Clean-up” of the nonconforming use/structure provisions to track with the “SI” changes
- Companion changes to the “substantial improvement” and “market value” definitions to align with FEMA guidance and allow for use of Assessor’s value of a structure
- Technical updating-type changes

Reason for Proposed Changes to Floodplain Regulations

- Increased floodplain permitting activity after the 2013 Flood event has revealed difficulties in administering the existing floodplain regulations
- Applying the cumulative provision of the “substantial improvement” (SI) definition has been a major challenge.

Calculating Percent Improvement

- *Percent improvement* = $\frac{\text{cost of improvement}}{\text{structure value}}$

Cumulative Substantial Improvement

- **Intent** = Take a comprehensive look at the improvements that are being made to a structure over time in order to determine when flood protection (“floodproofing”) of the entire structure should be required for the safety of the owner and community
- **Implication** = If the percent improvements eventually add up to where, cumulatively, they are 50% or more of the value of the structure, then flood protection/ floodproofing of the entire structure is required – even if only a minor additional improvement is being proposed

Why Change Cumulative 'SI' ?

- Currently, Land Use Code calls for improvements to be tracked back to November 1, 1991.
- Data is spotty going back to 1991.

Proposed Changes - SI/SD (Art.18-206)

Changes to Substantial Improvement/ Substantial Damage Definition

- Will be calculated on a cumulative basis beginning with improvements begun on or after **September 11, 2013**
- Percent improvement is calculated as dollar amount of improvement divided by structure value at the time of the improvement
- To determine if the amount of work has exceeded 50%, add up all the percentage improvements

Impact on Community Rating System ('CRS')

- CRS is a voluntary program through FEMA that rewards extra flood safety creation and damage mitigation activities.
- CRS 'class' determines insurance discount for individuals in Boulder County.
- Boulder County is Class 7 with 1,767 points, receives a 15% discount.
- Class 7 ranges from 1,500 to 1,999 points.
- Resetting start date of tracking percent improvement will cost 30 points.
- Loss of 30 points is unlikely to have much impact on CRS class rating.

Proposed Changes – Exemptions from FPD (Art. 4-407)

Minor Building Permits Exempted from Floodplain Development Permit Requirements

- Repair/ replacement of furnace, water heaters, air conditioner,
- Repair of electrical,
- Door, window, roof, and siding replacement,
- Renovation or remodel projects that cost less than \$750.

Unless increasing the structure's floor area or footprint, cause a floodplain encroachment, or constitute a substantial improvement.

(Art. 4-407F)

Nonconforming provisions (Art. 4-408)

- Simplify Art. 4-408 provisions that govern nonconforming structures and uses in the floodplain
- Nonconforming structures / uses (established lawfully before adoption of Art. 4-400) may be continued as long as:
 - No expansion, improvement, repair, restoration, or replacement unless the work complies with the floodproofing provisions
 - If not SI, then only constructed or reconstructed portion needs flood protection
 - If SI, then entire structure needs flood protection
 - A change in use of a nonconforming building or structure will require protection of the entire structure, unless a waiver is granted by the County Engineer

SI & Market Value definitions (Art. 18-206A /18-178A)

- Change to “SI” definition (Art. 18-206A) to reflect how SI calculation has been done under FEMA’s guidance– which uses the ratio of **cost** (not the market value) of the proposed improvement, to the overall structure’s market value to derive SI.
 - Delete current requirement that the market value of the improvement be calculated:
 - A. *Any cumulative **combination of repairs, reconstruction, rehabilitation, expansion, or improvement of a building or other structure, the market value-cost of which equals 50% 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.***
 - Simpler b/c contractor can provide improvement costs as opposed to hiring an appraiser
- Add sentence to “Market Value” definition to make clear that Assessor’s actual value can be used in lieu of an appraisal (Art. 18-178A)

Tracking Fix

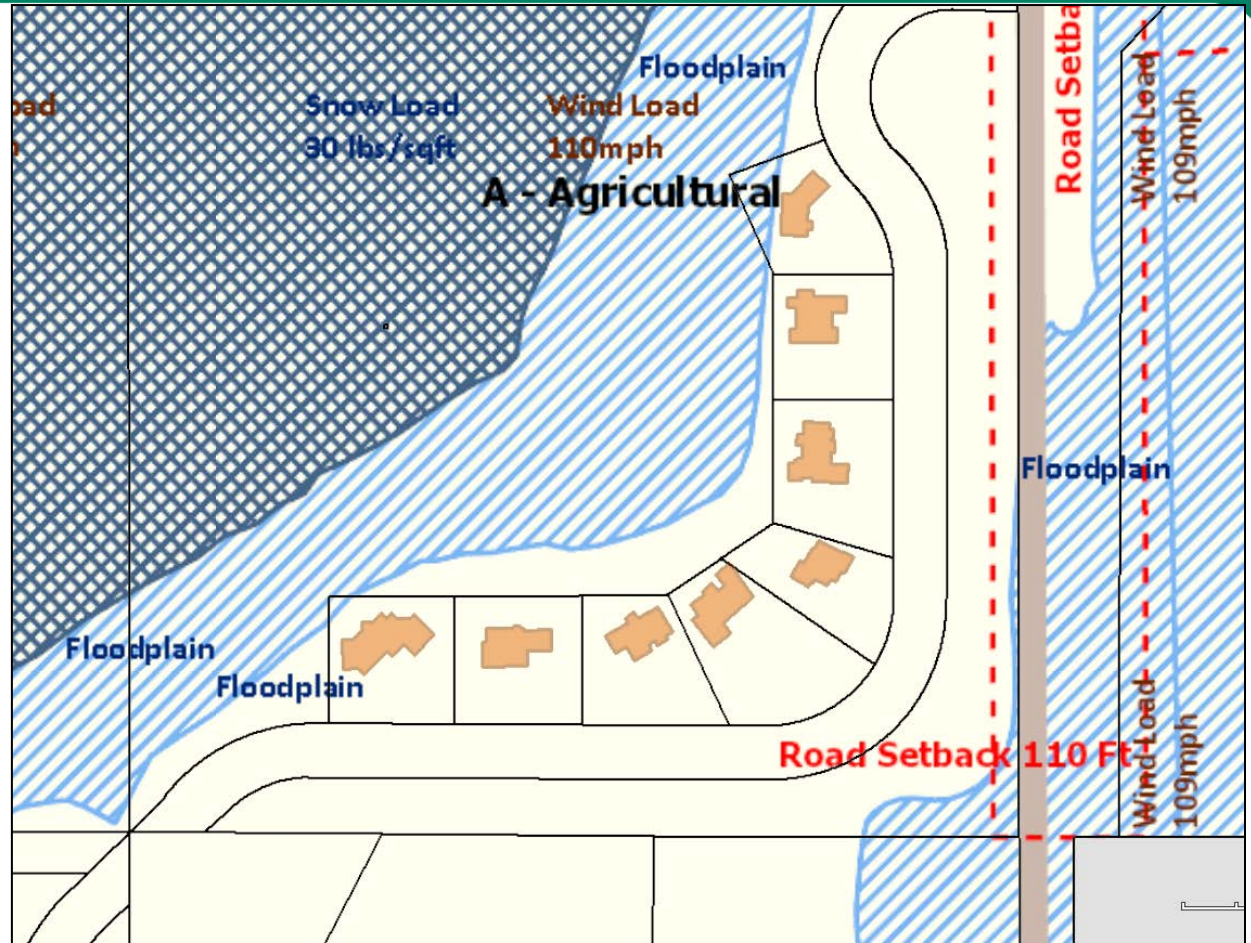
- Resetting the clock to make the provision cumulative back to the 2013 Flood event rather than November 1, 1991 will assure that accurate building permit data will be kept comprehensively and accurately from this event on.

Accela – Permit Tracking System

- Building Permits
 - Planning Dockets
 - Code Enforcement Cases
 - Floodplain Permits
 - Access Permits
- } Land Use
- } Transportation


Mapping

- Zoning
- Floodplain



Parcel Report

- Mapping
- Accela data
- Tax assessment data



Parcel Report

Land Use Department
 Courthouse Annex
 2045 13th St - 13th & Spruce Streets
 P.O. Box 471 Boulder Colorado 80306-0471
 www.bouldercounty.org
 Planning 303-441-3930 Building 303-441-3925

Parcel Number 131726000001	Section 26	Township 2N	Range 70
Subdivision FOOTHILLS EAST			

SITE ADDRESS (1)

R0149216 7001 NIMBUS RD NIWOT, 80503


OWNER INFORMATION (1)

Account	Name	Mailing Address
R0149216	RICHARDS FLETCHER D III & JUDITH L	7001 NIMBUS RD, LONGMONT, CO 80503

LOCATION INFORMATION

Note: The estimate acres will likely not match the recorded acreage of the property, please see the legal description, plat, or deed for the actual acreage. Because of small inconsistencies in the locations of lines in the map layers, this location information searches may show information from adjacent parcels even though no overlap is visible on the screen. View the map at an appropriate scale to resolve any uncertainty.

On or Adjacent to Parcel	
Estimated Area	478,123 (10.98a.)
Zoning	Agricultural (10.98a.)
Floodplain	AE (10.98a.)
Open Space Ownership	IMEL (0.32a.)
County Plats	No
Wind and Snow Load	121,122 mph. 30 lbs/sqft.
Fire Protection	MOUNTAIN VIEW FIRE



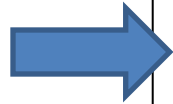
PERMIT AND DOCKET HISTORY (23)

Note: Parcel numbers and addresses may change over time. Only permits/dockets with the exact same parcel number or address at the time of application are shown.

Permit/Docket	Type	Application Name	Application Date	Application Status	Status Date	Permit Value
BP-14-0555	Air Conditioning	7001 Nimbus Rd				
131726000001	7001 NIMBUS	7001 Nimbus Rd	4/8/2014	Permit Complete	4/16/2014	\$5800.00
A/C replacement						
AP-11-0001	Appeal of Interpretation	RICHARDS Appeal				
131726000001	7001 NIMBUS	7001 Nimbus Rd	11/10/2011	Interpretation Upheld	2/2/2011	\$0.00
<small>Appeal of Director's Interpretation of Article 3-203(A)(1)(a) that a conservation easement holder must sign a Land Use application form in order for it to be considered a complete application for processing, where the development in the application conflicts with the easement.</small>						
SPR-10-0083	Site Plan Review	RICHARDS in-ground pool				
131726000001	7001 NIMBUS	7001 Nimbus Rd	12/9/2010	Withdrawn	12/28/2010	\$0.00
<small>Site Plan Review for a 25' x45' in-ground pool.</small>						
BP-10-2078	Pools and Spas	7001 Nimbus Rd				
131726000001	7001 NIMBUS	7001 Nimbus Rd	11/10/2010	Withdrawn	12/6/2011	\$100000.00
<small>Unheated Inground Swimming Pool</small>						
FDP-10-10	Floodplain Development Permit					
131726000001	7001 NIMBUS		5/24/2010	Issued	5/24/2010	\$0.00
<small>Construction of 500 sq ft (non-substantial) 1st floor addition to existing residence; lowest floor of addition shall be elevated or floodproofed to FPE; BFE = 5,080.0' NGVD; FPE = 5,100.0' NGVD; all mechanical and utility servicing equipment shall be elevated and/or floodproofed to the FPE. Appraised value of existing structure = \$539,012. Value of improvement = \$67,500. (Addition counts as 13% towards substantial improvement; new improvements in 2009/2010 total 35%). This FDP replaces FPD-09-01</small>						
Percent Improvement: 13 Cumulative Percent of All Improvements: 35						
BP-10-0612	Residential Addition	7001 Nimbus Rd				
131726000001	7001 NIMBUS	7001 Nimbus Rd	4/30/2010	Permit Closed	6/14/2012	\$950000.00
<small>Addition / Remodel to Existing Residence (re: SPR-08-094)</small>						

Parcel Report

- **Floodplain**
- Floodplain Development Permits
- Substantial Improvement
- Substantial Damage



Note: The estimate acres will likely not match because of small inconsistencies in the locations of lines in the map

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Parcel Report

- Floodplain
- **Floodplain Development Permits**

Unexcavated Inground Swimming Pool				\$100000.00
FDP-10-10	Floodplain Development Permit			
131726000001	7001 NIMBUS	5/24/2010	Issued	5/24/2010
Construction of 500 sq ft (non-substantial) 1st floor addition to existing residence; lowest floor of addition shall be elevated or floodproofed to FPE; BFE = 5,080.0' NGVD; FPE = 5,100.0' NGVD; all mechanical and utility servicing equipment shall be elevated and/or floodproofed to the FPE. Appraised value of existing structure = \$539,012. Value of improvement = \$67,500. (Addition counts as 13% towards substantial improvement; new improvements in 2009/2010 total 35%). This FDP replaces FPD-09-01				\$0.00
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Parcel Report

- Floodplain
- Floodplain Development Permits
- **Substantial Improvement**
- Substantial Damage

SUBSTANTIAL IMPROVEMENTS						
<small>Note: Improvements are shown only for the exact same parcel number. Properties with the same address, but different parcel number</small>						
Reason	Permit	Status	Date	Construction Value	Value of All Structures	Percent Improvement
FDP-86-21	BP-86-0989	Permit Closed	8/29/1986	\$155,715		
Flood 2013	BP-13-2104	Permit Complete	12/6/2013	\$15,250	\$299,700	5.09%

Parcel Report

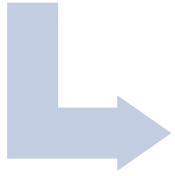
- Floodplain
- Floodplain
Development Permits
- Substantial
Improvement
- **Substantial Damage**

<i>SUBSTANTIAL DAMAGE</i>	
Number are NOT shown.	
Reason	Percent Damage
FLD-13-0423	99.8

Building
Permit
Application

- Permit value is entered
- Assessed improvement value is entered
- Checks if property in Floodplain – if so it is flagged. The customer is then handed information about obtaining a Floodplain Development Permit.
- The percent improvement for previous building permits is calculated. If the sum is over 30% the permit is automatically flagged for further review.

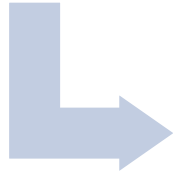
Building
Permit
Application



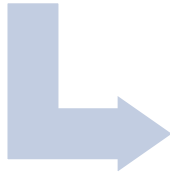
Initial
Zoning
Review

- If in floodplain, routes permit to Transportation for Floodplain Review

Building
Permit
Application



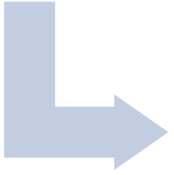
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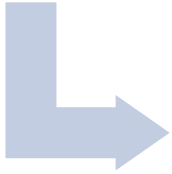
Floodplain
Review

- Final determination if in Floodplain
- Determines whether Floodplain Development Permit is required – adds condition to permit
- Calculates and enters Substantial Improvement percentage for this permit
- Enters total Substantial Improvement percentage for currently on property.
- Determines if floodproofing required – adds condition to permit

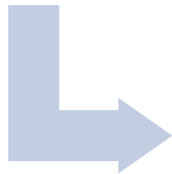
Building
Permit
Application



Initial
Zoning
Review



Floodplain
Review



Building
Permit
Issuance

- Permit not issued until conditions are met – Floodplain Development Permit

Criteria Review & Recommendation

- Staff met with FEMA and CWCB to discuss the proposed changes on 3/24.
- Proposed changes were emailed to the LU Code and flood listservs.

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.**

BOCC Public Hearing

The Board of County Commissioners is scheduled to review the draft regulations at a public hearing on **Thursday May 29, 2014 at 9:00a.m.**

