



Land Use

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**BOULDER COUNTY
BOARD OF COUNTY COMMISISONERS**

Tuesday February 12, 2019, at 10:00 a.m.

**Commissioners' Hearing Room, Third Floor
Boulder County Courthouse, 1325 Pearl Street, Boulder, CO**

PUBLIC HEARING

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

Staff:

Land Use Department

Christy Wiseman, Long Range Planner I

Transportation Department

Harry Katz, Floodplain Permitting Specialist

AGENDA

1. Staff presentation and Commissioner clarifying questions
2. Public Hearing
3. Commissioner deliberation and decision

INTRODUCTION

The proposed Land Use Code (“the Code”) amendments presented in Docket DC-18-0005 are intended to a) streamline existing Land Use review processes for projects requiring an Individual Floodplain Development Permit (FDP); and b) clarify existing provisions in Article 4-802.B.3, related to restoration of structures that have been damaged or destroyed by causes outside the control of the property owner or their agent.

Drafted as a collaborative effort between Land Use staff and Floodplain staff in the Transportation Department, the proposed amendments will still provide an appropriate level of review of flood risk and land use impacts for development proposals.

ACTION REQUESTED

Approve the proposed Land Use Code text amendments to Article 4-802 of the Land Use Code as presented in Attachment A of this staff report as part of Docket DC-18-0005.

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I. OBJECTIVES AND SCOPE OF LAND USE CODE UPDATE

A primary objective of this Code update is to streamline existing Land Use review processes for projects requiring an Individual FDP. This will better match projects requiring an Individual FDP with the appropriate Land Use review process, based on potential land use impacts.

The second objective is to revisit Article 4-802.B.3, an existing Site Plan Review (SPR) exemption for structures that have been damaged or destroyed by causes outside the control of the property owner or their agent.

Proposed changes:

- Provide an option to exempt a project that requires an Individual FDP from triggering SPR, so long as the Land Use Director finds that the project has no conflicts with the standards listed in Article 4-806.
- Clarify and reorganize the language in Article 4-802.B.3.

All proposed text amendments are contained within Article 4-802, Applicability and Scope of the Site Plan Review Process for Development.

Activity	Timeframe
Initial discussions with Floodplain staff	Summer 2018
BOCC authorization to proceed with Code amendment	October 4, 2018
Research and draft proposed Code changes	October – December 2018
Referral packet sent	December 21, 2018
Planning Commission hearing and decision	January 16, 2019
BOCC hearing and decision	February 12, 2019

II. BACKGROUND

On October 4, 2018, the Board of County Commissioners (BOCC) [authorized](#) Land Use staff to pursue text amendments to the [Site Plan Review \(SPR\)](#) provisions in Article 4-800 of the Boulder County Land Use Code related to [Floodplain Development Permits \(FDPs\)](#).

FDPs

The SPR process is for addressing land use, environmental, and public safety-related impacts of a project as outlined in Article 4-806, SPR Standards. SPR allows the Land Use Department to conduct a thorough analysis of land use impacts and apply mitigating conditions that must be met before building permits are issued.

The Land Use Code requires development occurring in the Floodplain Overlay (FO) District to obtain FDPs. The FO District includes both FEMA and Boulder County adopted floodplain/floodway areas. FDPs are administered by the Floodplain staff in the Transportation Department.

In 2016, Docket [DC-15-0004](#) created the possibility to have a [General FDP](#) issued at a county-wide level. Before that there were only Individual FDPs. After DC-15-0004 was approved, the Transportation Department issued GFDP 2016-01. The General FDP is for development and uses in the FO District that have been determined by the County Engineer to have minimal or no impact on flood hazards.

Examples of projects covered under the General FDP include:

- New underground utilities that do not permanently alter topography.
- New driveways, trails, sidewalks, roads, and streets constructed completing at-or-below existing grade.
- Private storm drainage infrastructure maintenance.
- New fences that comply with county fence requirements as well as maintenance and/or repair or existing legal fences. Fences that are to be oriented perpendicular to flood flows may require an Individual FDP.
- Gardening and landscaping activities.

Projects permitted under the General FDP are exempt from needing SPR in Article 4-802.B.6. Currently, any development in the FO District that is not covered under the county's General FDP requires an [Individual FDP](#). This, in turn, triggers the SPR process. However, for some types of projects that require an Individual FDP¹, neither the county nor the applicant benefit from going through an SPR process as there are few land use impacts associated with the project beyond those already reviewed as part of the Individual FDP.

Examples of projects that may require an Individual FDP but that do not generally conflict with the SPR standards (listed in Article 4-806) include:

- Interior remodels.

¹ FEMA requirements often cause a development project to require an Individual FDP, due to use of specific building materials or percentage improvement of a building based on cost.

- Sump pump installation.
- New windows and door installation.
- Re-roofing.

The goals and policies of the [Boulder County Comprehensive Plan's \(BCCP\)](#) Natural Hazards Element call for the county to avoid the placement of people and structures where natural hazards and disasters are likely to occur, and to mitigate existing areas at risk in order to minimize the future loss of life, property, and resources. The proposed Code amendments align with these goals. The proposed amendments would not change the need for projects to obtain required Individual FDPs and therefore comply with any conditions or regulations required by the Transportation Department. The County Engineer has the ability to apply conditions, such as revegetation, to an Individual FDP in a similar way as how conditions are applied in the SPR process.

The proposed amendments would better tailor the level of Land Use review to the type of project in question. This will make more efficient use of both the county's and applicants' resources by avoiding SPR processing time and fees for cases that would not benefit from such a process.

Article 4-802.B.3

In 1998, Docket DC-97-10 introduced multiple SPR regulations, including Article 4-802.B.3². Article 4-802.B.3 exempts “restoration of a structure which has been damaged or destroyed by causes outside the control of the property owner or their agent” from requiring SPR. In 2016, Docket [DC-16-0005](#) extended the timeline for restoration commencement from six months to one year and removed the requirement to complete restoration work within one year.

III. SUMMARY OF PROPOSED CODE CHANGES

First, the proposed amendments provide an option to exempt a project that requires an Individual FDP from triggering SPR by adding a new provision in 4-802.B:

B. Site Plan Review shall not be required for:

...

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.

Second, the proposed amendments clarify existing provisions in Article 4-802.B.3 related to restoration of structures that have been damaged or destroyed by causes outside the control of the property owner or their agent. The existing language is somewhat confusing in that requirements related to “original location, floor area, and height” are not always applicable to hydraulic structures and accesses. It is also unclear whether certain requirements are specific to bridges and other hydraulic structures or universally applied to all structures. The proposed amendments will aid county staff and the public in interpreting the provisions in Article 4-802.B.3.

² At that time, the language regarding restoration was numbered as Article 4-802.B.4. The SPR Regulations approved as part of Docket DC-97-10 can be found in Corrected Exhibit A to Resolution 98-108.

The proposed amendments improve clarity by:

- Reorganizing the lettered sub-provisions for ease of understanding
- Clarifying siting requirements for restored structures
- Removing repetitive language
- Referencing the Boulder County Multimodal Transportation Standards

IV. SUMMARY OF REFERRAL FEEDBACK AND RESPONSES

Staff circulated a [referral packet](#) to solicit public feedback on draft Code changes on December 21, 2018. Staff received eight comments from external referral agencies, as well as comments from staff in other Boulder County departments.

Referral Comments

- The following agencies submitted either “no comment” or “no conflict” responses:
 - City of Lafayette
 - City of Longmont
 - Goose Haven HOA
 - Greater Allenspark Alliance
 - Lazy Z HOA
 - Left Hand Water District
 - Xcel Energy
- City of Boulder Open Space and Mountain Parks (OSMP) was the only external referral agency to submit detailed comments on the draft Code language. OSMP comments are summarized here, and a copy of the agency’s complete comments is in Attachment B of this staff report.
 - a) There is an existing provision in 4-802.B.3 that requires restoration to be commenced within one year after the date on which the structure was damaged or destroyed, or a latent defect discovered. OSMP requested that exceptions be made for projects requiring federal, state, and local permits.
 - b) OSMP requested that the circumstances in which a project can go through Site Plan Review Waiver (SPRW) instead of SPR be expanded under 4-802.C.8 to accommodate organizations with “project standards and best management practices that meet or exceed Boulder County’s Land Use and/or Building regulations.”

Response to Referral Feedback

- After the referral packet was sent, staff added the word “additionally” to the proposed text in 4-802.B.3.c in response to a request from staff in the Transportation Department.
- Staff does not propose to change the draft text in response to OSMP’s comments as described here.
 - a) With regard to comment “a” above, the existing language in 4-802.B.3 gives the Land Use Director the ability to extend the one year timeframe for restoration commencement in the case of “extenuating circumstances,” such as complex projects involving multiple agencies and differing government permitting scales.
 - b) With regard to comment “b” above, the SPR and SPRW processes utilize the same set of standards (listed in Article 4-806) as criteria when analyzing development

projects. Projects are evaluated against these criteria as opposed to applicants' internal project standards. Site Plan Review Waiver may be appropriate; whether a project can be reviewed through the SPRW process depends on the specific land use impacts of the proposed project.

V. PLANNING COMMISSION DISCUSSION AND OUTCOMES

Staff presented the [proposed Code amendments](#) to Planning Commission (PC) at a public hearing on January 16, 2019. With a 6-0 vote, PC unanimously recommended that BOCC approve the proposed Code amendments

During their discussion, PC had a few clarifying questions. Their questions and staff responses are summarized below:

- What is the appeal process for the Land Use Director's determination as to whether to exempt SPR for a project requiring an Individual FDP?
 - All proposed Code amendments are contained within Article 4-802, Applicability and Scope of the Site Plan Review Process for Development. The SPR regulations have very specific call-up and appeal procedures that are outlined in Article 4-800.
- Why did staff add reference to the Multimodal Transportation Standards (MMTS) in Article 4-802.B.3?
 - The MMTS address transportation design standards and regulations beyond those in the Boulder County Storm Drainage Criteria Manual (SDCM). The proposed Code amendments give the County Engineer more flexibility in applying conditions to FDPs that relate to both the SDCM and the MMTS, even if a project does not require a Land Use review process.
- The Transportation Department is [currently updating the General FDP](#). Which types of projects may be covered under a new General FDP?
 - Some types of projects that currently require Individual FDPs may be covered by the updated General FDP, but not all. Due to FEMA's Substantial Improvement cost-tracking processes, some projects will always require an Individual FDP. Therefore, this Code update is still necessary to ensure those projects receive the appropriate level of Land Use review.
- What does the one year timeline for restoration commencement in Article 4-802.B.3 refer to?
 - It refers to the time between the date on which the structure was damaged or destroyed (or a latent defect discovered) and when applicants must get applicable permits, such as building permits. Those permits then have separate time periods in which they are valid. As mentioned previously, the Land Use Director has the ability to extend the one year timeframe for restoration commencement in the case of "extenuating circumstances."

VI. RECOMMENDATION

Amendments to the Land Use Code require approval by the Board of County Commissioners, upon recommendation of the Planning Commission. Planning Commission recommended BOCC approval of the proposed text amendments, and staff requests that BOCC approve of the proposed text amendments.

Text Amendment Criteria

Article 16-100.B contains the criteria for amending the text of the Land Use Code. Staff finds that the proposed amendments in this Docket can the following criteria:

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

Action Requested

Staff requests that the Board of County Commissioners approve the proposed Land Use Code text amendments to Article 4-802 of the Land Use Code as presented in Attachment A of this staff report as part of Docket DC-18-0005.

IV. LIST OF HYPERLINKS

- BOCC Authorization October 4, 2018: <https://assets.bouldercounty.org/wp-content/uploads/2018/12/dc-18-0005-bocc-authorization-20181004.pdf>
- Site Plan Review: <https://www.bouldercounty.org/property-and-land/land-use/planning/review/site-plan-review-spr/>
- Floodplain Development Permits: <https://www.bouldercounty.org/transportation/permits/flood-control/>
- DC-15-0004: <https://www.bouldercounty.org/property-and-land/land-use/planning/land-use-code-update/dc-15-0004/>
- General FDP 2016-1: <https://assets.bouldercounty.org/wp-content/uploads/2017/03/general-floodplain-development-permit.pdf>
- Individual FDP: <https://www.bouldercounty.org/transportation/permits/flood-control/#individual>
- Boulder County Comprehensive Plan (BCCP): <https://www.bouldercounty.org/property-and-land/land-use/planning/boulder-county-comprehensive-plan/>
- DC-16-0005: <https://www.bouldercounty.org/property-and-land/land-use/planning/land-use-code-update/dc-16-0005/>
- Referral Packet (Sent in December): <https://assets.bouldercounty.org/wp-content/uploads/2019/01/dc-18-0005-referral-packet-20181221.pdf>
- Staff Report from January 16 Planning Commission Meeting: <https://assets.bouldercounty.org/wp-content/uploads/2019/01/dc-18-0005-staff-report-20190116.pdf>
- General FDP 2019-1: <https://assets.bouldercounty.org/wp-content/uploads/2019/01/general-floodplain-development-permit-fdp-2019-1.pdf>

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 ~~d~~Development ~~p~~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.

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.~~

Attachment B: Referral Comments



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December 21, 2018

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

Request: Review of draft text amendments to Article 4-800 of the Boulder County Land Use Code to clarify and streamline requirements for projects that require Floodplain Development Permits.

(Staff Leads: Christy Wiseman, Land Use Department; Harry Katz, Transportation Department)

Dear Stakeholder/Interested Party,

On October 4, 2018, the Board of County Commissioners (BOCC) authorized Land Use staff to pursue text amendments to the Site Plan Review (SPR) provisions in Article 4-800 of the Boulder County Land Use Code ("the Code") related to Floodplain Development Permits (FDPs). The purpose of the Code amendments is to clarify and streamline existing requirements for projects requiring an Individual FDP. The resulting Code provisions will better match projects requiring an Individual FDP with the appropriate Land Use review process. The proposed amendments were drafted in close coordination with staff from the Floodplain Team in the Transportation Department.

Summary of Proposed Changes:

- Providing an option to exempt a project that requires an Individual FDP from triggering SPR, so long as the Land Use Director finds that the project has no potential conflicts with the standards listed in Article 4-806.
- Clarifying the language related to restoration of structures that have been damaged or destroyed by causes outside the control of the property owner or their agent in Article 4-802.B.

Attachments:

Attachment	Description
A	Proposed Text Amendments to the Land Use Code (<i>excerpts of existing Code language with changes shown in redline</i>)

This draft of proposed changes to the Land Use Code is being referred to agencies and members of the public to garner feedback. Staff will make necessary changes to the draft before it is recommended for adoption through the public hearing process. The existing text and a draft of the proposed text amendments are attached to this letter for your review. You may also view the proposed draft text amendments and future revisions in our office or online at: www.bit.ly/dc-18-0005

The docket review process for the proposed amendments will include a public hearing before the Boulder County Planning Commission and the Boulder County Board of County Commissioners. Public comment will be taken at both hearings. Confirmation of hearing dates and times will be published online at the link above and in local newspapers.

The Land Use staff and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter or email with your comments. All comments will be made part of the public record. If you have any questions regarding this docket, please contact us at (303) 441-3930 or cwiseman@bouldercounty.org.

Please return responses by January 3, 2019. Late responses will be reviewed as the process permits.

- We have reviewed the proposal and have no conflicts.
 Letter is enclosed

Signed *Douglas W. Porrey* PRINTED Name DOUGLAS W. PORREY, Secy./TREAS.

Agency or Address GOOSE HAVEN HOMEOWNERS' ASSN.

Cindy Domenico County Commissioner

Deb Gardner County Commissioner

Elise Jones County Commissioner

*10425 GOOSE HAVEN DR.
 LAFAYETTE, CO 80026*



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Signed Steve Buckbee PRINTED Name Steve Buckbee

Agency or Address Left Hand Water District

Cindy Domenico County Commissioner

Deb Gardner County Commissioner

Elise Jones County Commissioner



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We have reviewed the proposal and have no conflicts.
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Signed  PRINTED Name Erin Fosdick 12-31-18

Agency or Address City of Longmont

Cindy Domenico County Commissioner

Deb Gardner County Commissioner

Elise Jones County Commissioner



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We have reviewed the proposal and have no conflicts.
 Letter is enclosed.

Signed *Russell B. Mellon* PRINTED Name Russell B. Mellon
Director Land Use & UGA
Agency or Address *P.O. Box 374, Pinecliffe CO 80471*

Cindy Domenico County Commissioner

Deb Gardner County Commissioner

Elise Jones County Commissioner

Attachment B: Referral Comments

From: [Phil and/or Mary Stern](#)
To: [Wiseman, Christy](#)
Subject: RE: Referral Packet for Docket DC-18-0005: Floodplain DevelopmentPermits/Site Plan Review Article 4-800 Amendments
Date: Tuesday, December 25, 2018 2:40:31 PM

Reviewed and no conflict. Phil Stern

Sent from [Mail](#) for Windows 10

From: [Wiseman, Christy](#)
Sent: Friday, December 21, 2018 2:50 PM
Subject: Referral Packet for Docket DC-18-0005: Floodplain DevelopmentPermits/Site Plan Review Article 4-800 Amendments
Importance: High

Hello,

Please find attached the electronic Referral Packet for [Docket DC-18-0005: Floodplain Development Permits/Site Plan Review Article 4-800 Amendments](#).

Please return responses and direct any questions to Christy Wiseman by January 3, 2019.

Thank you,

Christy Wiseman | Long Range Planner I

Pronouns: she/her/hers

Boulder County Land Use Department

PO Box 471, Boulder, CO 80306

303-441-3930

cwiseman@bouldercounty.org

www.bouldercounty.org/lu

Attachment B: Referral Comments

From: [Jana Easley](#)
To: [Wiseman, Christy](#)
Subject: RE: Referral Packet for Docket DC-18-0005: Floodplain Development Permits/Site Plan Review Article 4-800 Amendments
Date: Wednesday, December 26, 2018 9:23:14 AM

Hi Christy,
Thanks for the referral. Lafayette has no comments.
Jana

Jana Easley
AICP | Planning Manager
303-661-1271 Direct
jana.easley@cityoflafayette.com



Please - Don't print this e-mail unless it's really necessary.
The Lafayette Planning & Building Dept is dedicated to conserving energy and our natural resources.

From: Wiseman, Christy <cwiseman@bouldercounty.org>
Sent: Friday, December 21, 2018 2:49 PM
Subject: Referral Packet for Docket DC-18-0005: Floodplain Development Permits/Site Plan Review Article 4-800 Amendments
Importance: High

Hello,

Please find attached the electronic Referral Packet for [Docket DC-18-0005: Floodplain Development Permits/Site Plan Review Article 4-800 Amendments](#).

Please return responses and direct any questions to Christy Wiseman by January 3, 2019.

Thank you,

Christy Wiseman | Long Range Planner I
Pronouns: she/her/hers
Boulder County Land Use Department
PO Box 471, Boulder, CO 80306
303-441-3930
cwiseman@bouldercounty.org
www.bouldercounty.org/lu



Right of Way & Permits
1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: **303.571.3306**
Facsimile: 303. 571.3284
donna.l.george@xcelenergy.com

February 4, 2019

Boulder County Land Use
PO Box 471
Boulder, CO 80306

Attn: Christy Wiseman

**Re: Floodplain Development Permits/Site Plan Review Article 4-800 Land
Use Code Amendment, Case # DC-18-0005**

Public Service Company of Colorado's Right of Way & Permits Referral Desk has reviewed the documentation for the above captioned project and has **no apparent conflict**, contingent upon Public Service Company of Colorado's ability to maintain all existing rights and this amendment should not hinder our ability for future expansion, including all present and any future accommodations for natural gas transmission and electric transmission related facilities.

Please contact me at donna.l.george@xcelenergy.com or 303-571-3306 if there are any questions about this referral response.

Donna George
Right of Way and Permits
Public Service Company of Colorado

Land Use

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
 Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

December 21, 2018

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

Request: Review of draft text amendments to Article 4-800 of the Boulder County Land Use Code to clarify and streamline requirements for projects that require Floodplain Development Permits.

(Staff Leads: Christy Wiseman, Land Use Department; Harry Katz, Transportation Department)

Dear Stakeholder/Interested Party,

On October 4, 2018, the Board of County Commissioners (BOCC) authorized Land Use staff to pursue text amendments to the Site Plan Review (SPR) provisions in Article 4-800 of the Boulder County Land Use Code (“the Code”) related to Floodplain Development Permits (FDPs). The purpose of the Code amendments is to clarify and streamline existing requirements for projects requiring an Individual FDP. The resulting Code provisions will better match projects requiring an Individual FDP with the appropriate Land Use review process. The proposed amendments were drafted in close coordination with staff from the Floodplain Team in the Transportation Department.

Summary of Proposed Changes:

- Providing an option to exempt a project that requires an Individual FDP from triggering SPR, so long as the Land Use Director finds that the project has no potential conflicts with the standards listed in Article 4-806.
- Clarifying the language related to restoration of structures that have been damaged or destroyed by causes outside the control of the property owner or their agent in Article 4-802.B.

Attachments:

Attachment	Description
A	Proposed Text Amendments to the Land Use Code <i>(excerpts of existing Code language with changes shown in redline)</i>

This draft of proposed changes to the Land Use Code is being referred to agencies and members of the public to garner feedback. Staff will make necessary changes to the draft before it is recommended for adoption through the public hearing process. The existing text and a draft of the proposed text amendments are attached to this letter for your review. You may also view the proposed draft text amendments and future revisions in our office or online at: www.bit.ly/dc-18-0005

The docket review process for the proposed amendments will include a public hearing before the Boulder County Planning Commission and the Boulder County Board of County Commissioners. Public comment will be taken at both hearings. Confirmation of hearing dates and times will be published online at the link above and in local newspapers.

The Land Use staff and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter or email with your comments. All comments will be made part of the public record. If you have any questions regarding this docket, please contact us at (303) 441-3930 or cwiseman@bouldercounty.org.

Please return responses by January 3, 2019. Late responses will be reviewed as the process permits.

We have reviewed the proposal and have no conflicts.

Letter is enclosed.

Signed Matt Ashley PRINTED Name Matt Ashley, Associate Property Agent

Agency or Address City of Boulder Open Space and Mountain Parks

Cindy Domenico County Commissioner

Deb Gardner County Commissioner

Elise Jones County Commissioner

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. EXCEPTIONS NEED TO BE MADE FOR PROJECTS REQUIRING MULTIPLE

~~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 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.

FEDERAL, STATE, LOCAL PERMITS AS IT IS UNLIKELY RESTORATION COULD BEGIN W/IN 1 YEAR ON THOSE PROJECTS.

~~e. 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.~~

* OR ANY PROJECT PERFORMED BY AN ENTITY, ORGANIZATION, OR MUNICIPALITY WITH PROJECT STANDARDS AND BEST MANAGEMENT PRACTICES THAT MEET OR EXCEED BOULDER COUNTY'S LAND USE AND/OR BUILDING REGULATIONS.