



HOME BUILDERS
ASSOCIATION
of
METRO DENVER®

January 22, 2021

City of Commerce City
Mayor Huseman
Members of City Council
7887 East 60th Avenue
Commerce City, CO 80022

Mayor and City Council,

I am writing to submit additional formal comments on the amendments to the Municipal Code regarding oil and gas regulations.

These comments are being provided on behalf of the Home Builders Association of Metro Denver.

As the largest HBA in Colorado, Metro Denver HBA represents over 400 homebuilders, developers, remodelers, architects, mortgage lenders, title companies, subcontractors, suppliers and service providers in the eight metro-area counties we serve.

In Commerce City, HBA Metro Denver represents 8 different developers with 583 registered permits in the past 12 months.

Based on the discussion and deliberations by City Council at the July 21 and July 27, 2020 study sessions, we understand there is policy consideration for a 1,000-foot reverse setback and potential elimination of the Production Phase setback. We strongly recommend the City Council maintain the Production Phase setbacks as outlined in the most recent draft ordinance. The reduced setbacks are consistent with private agreements, recent City entitlement approvals, and commitments from the City.

The implication of increasing setbacks is not a one for one relationship with the number of homes or acres impacted. There is an exponential increase in the number of acres restricted as setbacks are increased.

In an average 3.5-acre production area:

- 250-foot buffer / restricts 17 acres
- 500-foot buffer / restricts 40 acres
- 1000-foot buffer / restricts 112 acres

With average densities of five to six homes per acre, a 1,000-foot setback would eliminate the ability to build 500-700 homes. Further, in some instances the surface owner and mineral estate owner are not the same entity. Under that scenario, the 1,000-foot restriction would permit one property right to be exercised at the expense of the other. If the oil and gas ordinance is adopted without the Production Phase setback, the feasibility of future development in Commerce City is in jeopardy.

In conclusion, we strongly encourage the City Council to consider the legal implications of this important policy matter on property rights and current private agreements. We are available for additional consultation with the City staff, as necessary.

Thank you for your time and consideration on this matter.

Sincerely,



Ted Leighty
Chief Executive Officer
Home Builders Association of Metro Denver

Cc: Roger Tinklenberg, Interim City Manager
Jason Rogers, Community Development Director
Domenic Martinelli, City Planner

January 28, 2021

Via Electronic Mail to: dgibson@c3gov.com

Honorable Mayor and Members of City Council
C/O: Dylan Gibson, City Clerk
City of Commerce City
7887 E. 60th Avenue
Commerce City, CO 80022

Re: Proposed Revisions to the Commerce City Land Development Code Pertaining to Updated Oil and Gas Regulations

Dear Honorable Mayor and Members of City Council:

I. Introduction

Foster Graham Milstein, & Calisher, LLP (“FGMC”) represents Second Creek Holdings, LLC, Cowley Management, LLC, 96 Tower Investors, LLC and Tower Road Investors, LLC (collectively “FGMC Clients”). The FGMC Clients are all long-standing property owners and developers in Commerce City, Colorado and are currently working on approvals and construction for a variety of projects, including the Second Creek Farms, Settlers Crossing, Third Creek and Swink properties.

On behalf of the FGMC Clients, FGMC submits this formal request that the City Council of Commerce City (“City Council”) take the following four actions regarding the proposed revisions to the Commerce City Land Development Code pertaining to updating its oil and gas regulations (the “Proposed Regulations”): (1) specify that only flowlines and gathering lines that have not received Form 44 approval from the Colorado Oil and Gas Conservation Commission (“COGCC”) shall be denoted on final plats; (2) remove the denotation requirement for plugged and abandoned flowlines and gathering lines and clarify that the 50’ requirement applies only to plugged and abandoned Oil and Gas Wells; (3) remove the requirement that surface use agreements must be denoted on final plats; and (4) adopt the Commerce City Planning Commission’s (“Planning Commission”) recommendation to include the production phased reverse setbacks and remove the more general 1,000’ reverse setback. A redline version of the relevant sections of the Proposed Regulations showing FGMC’s requested revisions is attached to this email as **Exhibit A**.

II. Form 44 Approvals for Flowlines and Gathering Lines

The Proposed Regulations currently provide the following plat requirements:

- (3) Plat requirements. The following information shall be denoted on all final plats:
- a. The location of any oil and gas wells, flowlines, and gathering lines, and any associated easements;
 - b. The location of all recorded surface use agreements; and
 - c. The location of any plugged and abandoned oil and gas wells, flowlines and gathering lines, including a plat designation surrounding such wells and expressly prohibiting any habitable building or structure within 50 feet.

As shown above, Section 21-6280(3)(a) of the Proposed Regulations provides that oil and gas wells, flowlines, gathering lines and any associated easements shall be denoted on all final plats. However, the general language discussing “flowlines and gathering lines” does not adequately address the different types of flowlines and gathering lines, and the different treatment of the same under the COGCC rules and regulations. Specifically, when a flowline or gathering line is abandoned, an operator must receive an approved Form 44 by the COGCC, which is issued when the flowline or gathering line is either removed or disconnected and purged of all gases except inert gases and no longer poses a risk to the health and safety of the area or its inhabitants. Therefore, FGMC proposes the following modification to Section 21-6280(3)(a) of the Proposed Regulations (revisions shown in red):

“The location of any oil and gas wells; flowlines and gathering lines **for which a Form 44 has not been approved by the COGCC;** and any associated easements;”

As explained above FGMC’s proposed revision to Section 21-6280(3)(a) of the Proposed Regulations merely provides clarification regarding which types of flowlines and gathering lines must be denoted on final plats, and is not a substantive revision.

III. Plugged and Abandoned Oil and Gas Wells

The Proposed Regulations currently provide the following plat requirements:

- (3) Plat requirements. The following information shall be denoted on all final plats:
- a. The location of any oil and gas wells, flowlines, and gathering lines, and any associated easements;
 - b. The location of all recorded surface use agreements; and
 - c. The location of any plugged and abandoned oil and gas wells, flowlines and gathering lines, including a plat designation surrounding such wells and expressly prohibiting any habitable building or structure within 50 feet.

As shown above, Section 21-6280(3)(c) of the Proposed Regulations provides that the no habitable building or structure may be located within 50 feet of plugged and abandoned oil and gas wells. However, Section 21-6280(3)(c) of the Proposed Regulations also discusses flowlines and gathering lines in addition to oil and gas wells, which creates some ambiguity regarding the intent of the proposed 50' setback requirement. Exhibit H of the Proposed Regulations defines oil and gas well as "a hole drilled into the earth for the purpose of exploring for or extracting oil, gas, or other hydrocarbon substances" ("Oil and Gas Well").

FGMC supports a requirement that there shall be no habitable building or structure within 50 feet of a plugged and abandoned Oil and Gas Well, but requests that City Council add clarifying language to the Proposed Regulations to ensure that the 50' setback requirement applies only to plugged and abandoned Oil and Gas Wells, and not plugged and abandoned flowlines or gathering lines. Additionally, FGMC requests that plugged and abandoned flowlines and gathering lines be removed from the final plat denotation requirements. Accordingly, FGMC proposes the following modification to Section 21-6280(3)(c) of the Proposed Regulations (revisions shown in red and deletions shown in red strikethrough):

"The location of any plugged and abandoned Oil and Gas Wells, ~~flowlines and gathering lines~~, including a plat designation surrounding such Oil and Gas Wells and expressly prohibiting any habitable building or structure within 50 feet of a plugged and abandoned Oil and Gas Well."

This proposed revisions to Section 21-6280(3)(c) of the Proposed Regulations are appropriate because plugged and abandoned flowlines and gathering lines are either: (1) removed; or (2) purged, filled with inert gas, and disconnected from any wellbore. In either instance, plugged and abandoned flowlines and gathering lines do not pose a risk to the health and safety of the area or inhabitants therein and therefore, should be removed from the final plat denotation requirements. Furthermore, it appears that the original intent of Section 21-6280(3)(c) of the Proposed Regulations was to only require a 50' setback from plugged and abandoned Oil and Gas Wells, not plugged and abandoned flowlines and gathering lines and therefore, FGMC's proposed revision to Section 21-6280(3)(c) of the Proposed Regulations to specify that the 50' setback only applies to Oil and Gas Wells merely provides clarification, and is not a substantive revision.

IV. Surface Use Agreements

The Proposed Regulations currently provide the following plat requirements:

- (3) **Plat requirements. The following information shall be denoted on all final plats:**
 - a. The location of any oil and gas wells, flowlines, and gathering lines, and any associated easements;
 - b. The location of all recorded surface use agreements; and
 - c. The location of any plugged and abandoned oil and gas wells, flowlines and gathering lines, including a plat designation surrounding such wells and expressly prohibiting any habitable building or structure within 50 feet.

As shown above, Section 21-6280(3)(b) of the Proposed Regulations requires that the location of all recorded surface use agreements be denoted on all final plats. FGMC requests that City Council remove the recorded surface use agreement denotation requirement from the Proposed Regulations. This proposed removal is appropriate because surface use agreements are private agreements between two or more parties and are not applicable to governmental approvals or governmental requirements. For that reason, surface use agreements have historically not been a requirement of final plats – in fact, the current Commerce City Land Development Code does not make one single reference to surface use agreements. Furthermore, elsewhere in the Proposed Regulations confirms the principle that surface use agreements are not applicable to a governmental entities' review or approval because the section of the Proposed Regulations addressing initial assessment process and site eligibility determination (Section 21-3235(5)(b)(iii)(8)) states, “[t]he existence of a surface use agreement between any landowner and

a potential operator shall not be a factor in consideration in the city’s review of an alternative location analysis.” Thus, even the Proposed Regulations make explicit reference to the fact that surface use agreements do not impact a governmental approval.

An oil and gas operator must adhere to all state and local permitting requirements, including required setbacks, regardless of the terms of a surface use agreement. Therefore, nothing is gained by adding a requirement that surface use agreements must be denoted on a final plat but rather, it risks the appearance that there is some sort of codification of a surface use agreement’s applicability to a final plat when that is not the case. Accordingly, FGMC requests that City Council remove Section 21-6280(3)(b) of the Proposed Regulations so that the Proposed Regulations do not contain a requirement that recorded surface use agreements be denoted on final plats.

V. Reverse Setbacks

Lastly, FGMC supports the Planning Commission’s recommended revision to the Proposed Regulations, which would eliminate the universal 1,000’ reverse setback from future residential homes to all permitted or operating oil and gas facilities and rather incorporate the production phased approach to reverse setbacks, which was previously included in the March 2020 draft of the Proposed Regulations.

While FGMC has not seen the actual draft of the reverse setback language proposed by the Planning Commission, the Planning Commission discussed adopting the language from the March 2020 draft of the Proposed Regulations, which was as follows:

Sec. 21-6280. Additional Subdivision Standards relating to Oil & Gas Sites

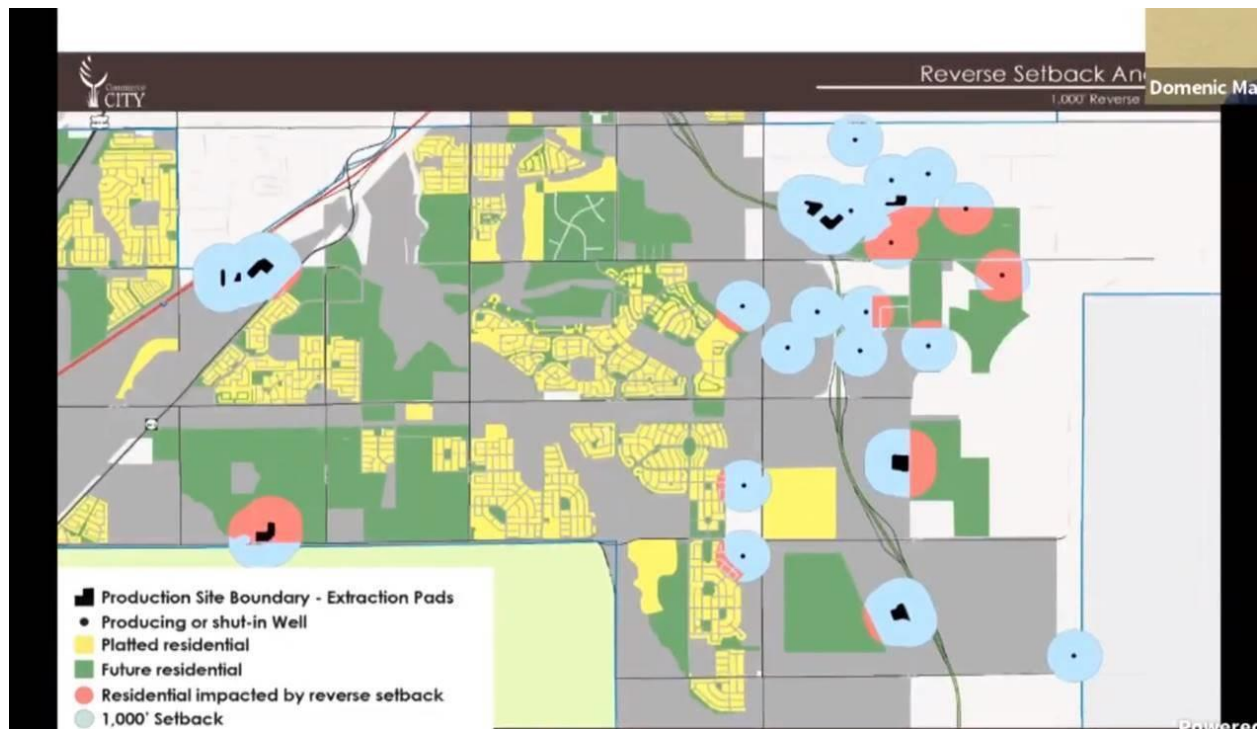
Oil & Gas Site Setbacks.

- (1) For permitted Well Sites, where the maximum number of wells issued under an Oil and Gas Permit have not yet been drilled, or where all permitted wells have not entered the production phase, no new residential lots may be platted within 1,000’.
- (2) For permitted Well Sites where all permitted wells have entered the production phase or the permit has lapsed, been revoked, or forfeited, no new residential lots may be platted within the minimum setbacks set forth in Table VI-1:

Table VI-1. Setback from new residential lots to Well Sites

| Well Count | Setback |
|------------|---------|
| 1-10 | 300’ |
| 11-24 | 400’ |
| 25 or more | 500’ |

This recommended revision is appropriate because it recognizes that there are health and safety risk differences between Oil and Gas Wells that are in the process of being drilled and Oil and Gas Wells that have already entered production phase. Additionally, the production phased approach has a far lower impact on future residential construction, as compared to the previously proposed uniform 1,000' reverse setback, which, as shown on the map below, would preclude a significant number of future residential areas and homes.



VI. Conclusion

For the foregoing reasons, FGMC respectfully requests that City Council make the following four revisions to the Proposed Regulations (and as shown on **Exhibit A**): (1) specify that only flowlines and gathering lines that have not received Form 44 approval from the COGCC shall be denoted on final plats; (2) remove the denotation requirement for plugged and abandoned flowlines and gathering lines and clarify that the 50' requirement applies only to plugged and abandoned Oil and Gas Wells; (3) remove the requirement that surface use agreements must be denoted on final plats; and (4) adopt the Planning Commission's recommendation to include the production phased reverse setbacks and remove the more general 1,000' reverse setback.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have questions or would like to further discuss.

Sincerely,

FOSTER, GRAHAM, MILSTEIN & CALISHER LLP

A handwritten signature in black ink, appearing to read 'David Wm. Foster', with a stylized, cursive script.

David Wm. Foster

cc: Robert Sheesley, City Attorney: rsheesley@c3gov.com

Exhibit A

FGMC's proposed revisions to the Proposed Regulations are shown in red text and proposed deletions are shown in red strikethrough:

Sec. 21-6280. Additional Subdivision Standards relating to Oil & Gas Sites

Oil & Gas Site Setbacks.

- (1) [Revised pursuant to the recommendation of Planning Commission and similar to the following language from the March 2020 draft of the Proposed Regulations]:

Sec. 21-6280. Additional Subdivision Standards relating to Oil & Gas Sites

Oil & Gas Site Setbacks.

- (1) For permitted Well Sites, where the maximum number of wells issued under an Oil and Gas Permit have not yet been drilled, or where all permitted wells have not entered the production phase, no new residential lots may be platted within 1,000'.
- (2) For permitted Well Sites where all permitted wells have entered the production phase or the permit has lapsed, been revoked, or forfeited, no new residential lots may be platted within the minimum setbacks set forth in Table VI-1:

Table VI-1. Setback from new residential lots to Well Sites

| Well Count | Setback |
|------------|---------|
| 1-10 | 300' |
| 11-24 | 400' |
| 25 or more | 500' |

- (2) Measurements shall be taken from the edge of the production site, in the same manner as defined in 21-5266(6).
- (3) Plat requirements. The following information shall be denoted on all final plats:
 - a. The location of any oil and gas wells; flowlines and gathering lines for which a Form 44 has not been approved by the COGG; and any associated easements;
 - b. ~~The location of all recorded surface use agreements;~~ and
 - c. The location of any plugged and abandoned oil and gas wells, ~~flowlines and gathering lines~~, including a plat designation surrounding such wells and expressly prohibiting any habitable building or structure within 50 feet of a plugged and abandoned Oil and Gas Well.

January 19, 2021

City Council, City Manager, City Attorney, and City Planning Department,

Please add this letter to the official meeting records of the city council meeting scheduled for February 11, to discuss the LDC for surface drilling. If this meeting gets rescheduled or the topic moved to another meeting date, please move this letter to that meeting.

First, I would like to thank you for giving me the opportunity to share my opinion with you regarding the planning commission's recommendation to make reverse setbacks, and possibly all setbacks 300 ft. I am extremely concerned with this recommendation and I am genuinely concerned with the process used to arrive at this recommendation and would like to communicate my concerns to you.

The recommendation to reduce setbacks to 300 ft. occurred at the Planning Commission meeting on January 5, 2021. I attended that Zoom meeting and listened to the presentation about oil and gas drilling and setbacks. I was there as a concerned citizen. There were two developers who attended as well, one representing Oakwood Homes and the other representing Fulenwider, in addition to letters submitted by both parties and the Home Builders Association as part of the meeting packet.

Sometimes citizens and businesses are on the same page with regards to policies, rules, regulations, and laws. Other times they have competing interests. Regarding the distance for setbacks, clearly businesses and citizens have competing interests. As a citizen, my interest is in health and safety. As for-profit businesses who would not be personally affected by setbacks, the developers are interested in profits and money. I understand their perspective and support them making money as long as it does not negatively impact my health and safety and that of my neighbors.

After extensive discussions (at meetings I attended) it is my understanding the council agreed to support reasonable reverse setbacks, much further than 300 feet. While I would have preferred greater distances, I thought this was a reasonable compromise. I thought that was the end of it and I did not realize the Planning Commission had a say in this as well, after the city council had discussed this. Since I am just a citizen and not a professional developer, I was not prepared for what was to happen next, although the professionals apparently were.

Both Oakwood and Fulenwider expressed their concerns with the current reasonable setbacks the City Council had agreed to by consensus and pushed for the Planning Commission to approve 300 ft setbacks, which is absolutely ridiculous. Not only is that my opinion but it is also the opinion of the Colorado Oil and Gas Conservation Commission (COGCC).

On another note, I am not understanding why the City Staff had not made the Planning Commission aware of the COGCC's opinion on this matter nor share what HB 181 states about health and safety. I was under the impression staff is there to inform commissions of what rules and regulations exist regarding decisions they are about to make.

It makes sense for developers to support small distances for setbacks because the less distance in setbacks they have, the more housing they can cram into limited space, and if you have ever seen the carriage houses in Commerce City you know cram is what they do. Adding insult to injury, the developers twisted the concept of environmental racism by saying that if the setbacks are more than

300 ft., they will have to build less homes and then charge more for their homes and this will hurt the low-income people they want to sell their homes to. Actually, while that may be true, they are also committing environmental racism by selling supposedly low-cost homes (what is the price point for their low-cost homes?) to people who can only afford homes near oil and gas extraction. This is not about doing what the market will bear, as they point out, it is taking advantage of poor people. Since the only people the planning commission heard from were developers and people with a financial interest and did not hear from people who actually live in Commerce City, the commission did not get the full picture of what residents want.

It is unfair that the Planning Commission makes their recommendation based on information provided only by developers. The Planning Commission should have tried to get input from citizens, who they represent, in addition to the professional lobbyists who knew to attend that meeting.

I urge you to either disregard the Planning Commission's recommendation that was made with limited information or to send it back to them to revisit after doing more due diligence.

Thank you,

Ronna

Ronna Sanchez
10680 Waco St.
Commerce City, CO 80022

CLAYTON PROPERTIES GROUP II, INC.
4908 Tower Road
Denver, Colorado 80249

L.C. FULENWIDER, INC.
1125 17th Street, Suite 2500
Denver, Colorado, 80202

January 22, 2021

City of Commerce City
Mayor Ben Huseman
And Members of City Council
7887 East 60th Avenue
Commerce City, CO 80022

Mayor and City Council,

Clayton Properties Group II, Inc. dba Oakwood Homes ("Oakwood") and L.C. Fulenwider, Inc. and its affiliates ("Fulenwider") appreciate this opportunity to respond to (a) the City's recent feedback on Oakwood's Village Plan – Reunion Ridge South (the "Village Plan") submittal and (b) the proposed amendments to the City Land Development Code posted on December 23, 2020 regarding oil and gas regulations. We have updated this letter based on the outcome of the Planning Commission public hearing on January 5, 2021.

In considering this letter, please keep in mind that Oakwood and Fulenwider have worked cooperatively with the City on an on-going basis to ensure the balanced planning and development of Reunion, beginning with the Buffalo Hills Ranch PUD Zone Document in 2000 and continuing with the 2001 Consolidated Development Agreement and, most recently, the Reunion PUD Zone Document, Amendment No. 5. approved by the City in 2019. We understand the importance of considering oil and gas operations in land development and would like to continue with our joint spirit of cooperation in meeting these challenges in a manner consistent with recent regulatory trends, and current best practices for the industry and the vested property rights of Oakwood and Fulenwider ("vested property rights").

We appreciate the time you and your staff have spent discussing the potential regulatory changes with us. However, we are concerned that the City's comments regarding the application of the new City regulations to our planned developments do not appropriately reflect our vested property rights. It is these vested property rights, rather than potential requirements of future City code changes, that govern the City's review of the Village Plan and other development plans arising out of our vested property rights in Reunion, including any future development plans for Reunion PUD Village 1-Reunion Center (collectively, the "Development Plans"). Further, the City's consideration of the

regulatory changes should also take into account the vested property rights of owners affected by those changes.

In that regard, we note that the new Colorado Oil and Gas Conservation Commission (“COGCC”) rules are not applicable to our Development Plans. These rules apply to the permitting and location of oil and gas operations, not the location of home sites for development with residential structures. Therefore, the new COGCC regulations do not govern the siting of residential lots under our Development Plans. In addition, we do note that Section 21-6280 establishes reverse setbacks from well sites applicable to developers when platting lots. However, under Section 21-6280, the setback rules apply only to permitted well sites. To our knowledge, the Extraction Oil & Gas, Inc. “Extraction”) wells have yet to be permitted and, therefore, Section 21-6280 on reverse setbacks does not currently apply to the City’s review of our Development Plans. We are in any event providing the analysis below to demonstrate the adverse impacts to our development as if the Extraction wells were permitted.

With regard to the proposed City code regulations released on December 23, 2020, we believe that these may be applied to our Development Plans only to the extent they do not interfere with our vested property rights and the vested property rights of other landowners. This is, in fact, recognized by the City Code and consistent with state common law and statutory law.

The source and scope of the vested property rights applicable to our Development Plans are derived from two primary sources: (i) formal entitlement approvals granted by the City for Reunion as described below and (ii) several private agreements between the Fulenwider and Extraction, two of which have also been executed by Oakwood. The City has been a partner in the negotiations on these matters and the Reunion Ridge community has been designed around these agreements and current City and State oil and gas ordinances. Also, Oakwood and Fulenwider have made substantial investments in engineering and planning documents based on this coordination with the City. As discussed in more detail below, the City’s interpretation of the potential future requirements, as expressed in the comments, are a substantial impairment to our vested property rights. The appropriate basis for review continues to be the standards set forth in the entitlements and private agreements described below.

With regard to the entitlements, there have been several formal entitlement approvals granted by the City for Reunion, as follows:

Consolidated Development Agreement for Buffalo Hills Ranch PUD dated December 17, 2001
Reunion Overall PUD Amendment – Approved March, 2019
Reunion Metro District Service Plans/IGAs – Approved November, 2019
Reunion Natural Resources District
Reunion Ridge Metropolitan District Nos. 1-4
Reunion Ridge Filing No. 1 Final Plat– Approved March, 2020 (included herewith)
Includes Potomac Parkway alignment – access to oil and gas site
Grading, Erosion and Sediment Control Plan for Reunion Ridge Filing No. 1-Approved December 2019

It is important to note that the City-approved Reunion Ridge Filing No. 1 Final Plat actually provides rights for the location and development of the subject oil and gas site, along with an adjacent roadway for access thereto, on which we have relied. Tracts "Y" and "Z" shown on such plat are actually designated thereon for oil and gas operations use. In addition, the City has accepted the dedication on the plat of the adjacent public right of way and has issued permits for grading work in this area, which is now on-going. During the approval process for the Reunion Ridge Filing No. 1 Final Plat, the City required Oakwood to design Potomac Parkway from 104th Avenue to 96th Avenue so that the edge of the right-of-way aligned with the boundary of the oil and gas site to ensure a 400-foot setback to the nearest structure.

Further, based on the plat approval, Fulenwider has taken additional steps to plug and abandon four well sites in Reunion for the express purpose of consolidating the well field in the approved area located in the southwest corner of the community. This not only allows for superior community design, but represents substantial investment by Fulenwider in implementing the overall mineral extraction plan.

Additionally, the City's comments are inconsistent with the terms of multiple agreements between development parties and the mineral operator, which agreements were negotiated in partnership with the City. In particular, the Surface Use Agreement ("SUA") among Fulenwider, Oakwood and Extraction establishes a 1000-foot buffer zone for platting of lots during the initial four-year period, measured by the distance between the well pad and the nearest existing or planned residential unit, as opposed to the parcel boundary. The measurement for the 400-foot setback was always intended to be measured from the well pad and not the fence/property line.

Under the proposed City regulations, the phased reverse setbacks applicable to land developers under Section 21-6280 and the oil and gas facility 1000-foot setback applicable to operators under Section 21-5266(6) are both measured from the edge of the "Production Site" to the residential unit boundary. The City definition of "Production Site" includes any fenced or enclosed area. In applying these measurement standards to the Village Plan, Oakwood would not be able to plat lots according to the 400-foot buffer because that buffer would be extended outward under the proposed measurement standard. If the 400-foot buffer is pushed out to meet the proposed measurement standard, a total of 35 lots would become ineligible for platting.

In addition, if Oakwood continues to plat in a manner consistent with the terms of SUA (i.e., no residential unit closer than 1000 feet to the well pad), our development plan would no longer be feasible because the fenced area around the planned oil and gas facilities location would no longer be 1000 feet away from the closest platted parcel boundaries. As result, Extraction would not be able to construct its facilities as previously laid out, or maybe not at all given the size and location of the facilities surface area. The SUA and other agreements were made to ensure safe and coordinated land development in conjunction with oil and gas operations, even before such conditions were mandated by state or local law. These agreed terms remain protective for the development proposed by the Village Plan and should be maintained.

We are also aware of certain pending applications for oil and gas development on property adjacent to Reunion, including, without limitation, one for Extraction's "Owl Site" to be located northeast of 112th Avenue and Tower Road near E-470. We are concerned that our future Development Plans for Reunion Center Property-Village 1 and other projects may be impaired by application of the reverse setback rules specified in Section 21-6280 if an oil and gas facility, like the Owl Site, is located on adjacent property within 1000 feet of any subsequently proposed residential lot boundary otherwise allowable under our vested property rights.


The Planning Commission considered all of this information as part of their deliberations and recommended eliminating the 1,000-foot reverse setback from Section 21-6280 from the draft ordinance. Specifically, the Planning Commission recommended an amendment to the ordinance to include the Production Phase setback table, outlining setbacks of 300, 400, or 500 feet depending upon the number of wells at each location. This table was provided in the March 10, 2020 draft of the ordinance. We concur and support the Planning Commission recommendation to the City Council and strongly encourage the City Council to consider the effect of these important policy matters on our vested property rights. As an alternative remedy, we request that City recognize that our Development Plans will be exempted from the new City regulations (however they may be ultimately adopted) to extent they impair and infringe upon our vested property rights.

Oakwood and Fulenwider value our long history of working with the City, including proactive planning to ensure development is safely coordinated with mineral rights. We look forward to working with you to resolve any questions as we work towards the continued development of Reunion Ridge.

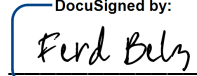
Thank you for your time and consideration on this matter.

Sincerely,

Clayton Properties Group II, Inc.

By: 
Name: Bruce Rau
Title: Secretary

L.C. Fulenwider, Inc.

By: 
Name: Ferd Belz
Title: President

Attachments:

- Oil and Gas Offsets
- Reunion Ridge Oil and Gas Detail
- Reunion Ridge Filing No. 1 Final Plat (on file with City)

Cc: Commerce City Planning Commission
Roger Tinklenberg, Interim City Manager
Robert Sheesley, City Attorney
Jason Rogers, Community Development Director
Domenic Martinelli, City Planner
Bruce Rau, Oakwood Land Company President
Kelly Leid, Executive Vice President, Oakwood Land Company
Ted Leighty, Metro Denver HBA
Blake Fulenwider, L.C. Fulenwider, Inc.

From: Erik Gudmundson <erikph2@aol.com>

Sent: Monday, February 8, 2021 5:51:12 PM

To: Huseman, Benjamin - CC <bhuseman@c3gov.com>; Noble, Susan - CC <snoble@c3gov.com>; Frank, Nicole - CC <nfrank@c3gov.com>; omdrea@c3gov.com <omdrea@c3gov.com>; Allen-Thomas, Jennifer - CC <jallen-thomas@c3gov.com>; Hurst, Craig - CC <churst@c3gov.com>; Grimes, Meghan - CC <mgrimes@c3gov.com>; Smith, Robyn - CC <rlsmith@c3gov.com>; Tinklenberg, Roger - CM <rtinklenberg@c3gov.com>; jbanks@c3gov.co <jbanks@c3gov.co>; Rogers, Jason - CD <jrogers@c3gov.com>; Guardiola, Jose - CC <jguardiola@c3gov.com>

Subject: Oil and Gas meeting 2/11/21

All,

Please add this letter to the official meeting records and the City Council packet of the City Council meeting scheduled for 2/11/2021. I am writing regarding the current situation with oil and gas in our area.

I am writing to the Council regarding the new oil and gas regulations. I am requesting that you stop moving forward with the regulations until the COGCC is done with updating their regulations. It is a waste of money to continue down the path that we are following. We need to quit going back and forth, pause, and at the end of the COGCC process adapt our regulations to mirror theirs. The COGCC is trying to ensure that our health and safety are number one, we need to follow their lead, and allow the process to work. We need to stop bowing down to the industry, the developers and the landowners. These three entities are only seeing dollar signs and could care less about the health and safety of the residents of this city.

We are currently experiencing a drought. The drought is not looking good since we have such a low snowpack and we are not seeing our "normal" amount of snow that will replenish our dams and water sources. We all know how much water these industries use, and it is irresponsible to allow them to waste one valuable resource to drill for a finite resource that is not dependable. The amount of water that these industries use is unconscionable. Last time I looked the residents of this city cannot drink oil.

I would also like to point out that the landowners in this area SOLD their land to developers for a profit. Now they want to allow oil and gas to drill near the land they sold for development and those two industries should not be anywhere near each other. We need to follow the setbacks that the COGCC set in place so we can prevent any industrial catastrophes from happening. I would hate to live in a city that sets their residents up for failure like Firestone or Fort Lupton.

The City Council members are a part of this community. Some have children that could be exposed to the adverse effects of the decisions that their parents make. The City Council members stand to lose as much as other residents if something goes wrong by allowing this industry to drill near homes, schools and businesses and by allowing developers to build homes near already drilled wells. Have we not learned what happens if things go wrong when an industry is imbedded into an already established and proposed building area?

Let's not forget that we have enough toxic materials in our air and water due to two other superfund sites-SUNCOR and the Arsenal. These two sites have already contaminated, and continue to, contaminate our air and water. You, the City Council, live in this area. Why would you want to expose your own families to any further contamination risks? Why would you want to put the citizens and your families in danger, it is your responsibility to make sure that you choose healthy and safety for your citizens, why would you risk that by allowing the oil and gas industry to encroach on our neighborhoods?

I implore you to take a pause, take a step back, let the COGCC finish their process. Don't go forward one piece at a time, do all the regulations at the same time. Put a pause on development near already drilled wells and pause drilling in our area. Tell the landowners that they can't have both industry and development together. The City needs to do what is right for the stakeholders that decided to invest in this city for a long time by buying homes, opening businesses and choosing this area over a more prestigious area.

I would also request that anyone who has the potential to have a direct benefit from the oil and gas industry or the developers to recuse themselves from any voting that will benefit them. This would be unethical and could be investigated if pursued.

Thank you for your time.

Erik Gudmu

One of the issues with fracking is it results in air pollution. There is no safe level of air pollution. Short term exposure will have cumulative effects. One of the air pollutants most concerning is called particulate matter (PM). Particulate matter of 10 micrometers in diameter is visible such as dust. Particulate matter of 2.5 micrometers or smaller is called fine particulate matter. There are studies being done on ultrafine PM, smaller than 0.1 microns and the results are quite alarming.

Gasoline additives make PM smaller in size so the vehicle can pass emissions tests. This will result in worse health outcomes as smaller particles increase the surface area.

Ultrafine particulate matter can be inhaled deep into the lungs where it is picked up by the blood circulating and is then carried off to the organs in the body where it can become embedded in your heart, brain, kidneys, liver, blood vessels and other organs. Like I said it can have cumulative impacts such as forming plaques in blood vessels or your heart. It can also result in kidney failure or liver failure. Autopsies done on very young infants and toddlers show particulate matter accumulating in most of their organs.

The use of liquid natural gas to fuel our vehicles, cook our food or run our appliances is represented as being a clean source of energy. It is NOT! Liquid natural gas is mostly Methane which is 84 times more potent as a greenhouse gas than carbon dioxide. Methane emissions are measured 15% higher than stated by oil & gas. Fracked gas is a bridge to climate catastrophe!

Volatile organic compounds (VOCs) are a byproduct of fracking. VOCs are known to cause cancer and are neurotoxins. Fracking is linked to preterm birth, birth defects, asthma, cancer and heart disease. The oil & gas industries are contributing to the formation of ozone air pollution, as are all forms of transportation that use fossil fuels. Ozone contributes to all diseases that result in death.

Air pollution is also a precursor to being infected with SARS-Cov-2 (coronavirus) and can contribute to the serious impact of the disease.

Thank you for the opportunity to give a public comment to this committee!

Janice Brown
Retired Critical Care RN
Englewood, CO

Nic Berry

Location:

Submitted At: 10:59am 02-11-21

Should council vote in favor of greater restrictions on Oil and Gas. How does the city plan on recovering money lost from drilling lease contracts? In order to maintain current budget. Or if there is no plan what programs and service can we expect to suffer as a result of a lower budget?

Ronald Bruce

Location:

Submitted At: 9:27am 02-11-21

A stated priority of Commerce City council has been to minimize the impacts of oil & gas drilling on the citizens of Commerce City. Over the last 2 years "best management policies", enhanced safety measures and increased disaster protocols have been presented to alleviate the very real fears and trepidations of citizens. Instead of alleviating those fears, these best management policies only serve to underscore the minefield of potential dangers that can range from the mundane of road damage, to increased air pollution, to adverse health effects and to even a catastrophic explosion.

AND FOR WHAT?

Two years ago Ms. Grimes made a proclamation before city council that 30 million dollars would be added to the coffers of Commerce City through oil & gas drilling.

I challenge Ms. Grimes to come up with those same figures now considering that the new president has made the climate crisis one of his top priorities with an eye towards the adverse effects of the oil & gas industry which means the EPA will no longer be serving as a patsy like it was in the previous administration. In addition, the old Reagan cost-benefit analysis governing regulations is being changed so that dangerous industries such as oil & gas will no longer be unduly favored at the expense of citizens. President Biden understands the bottom line truth:

YOU CAN'T PUT A PRICE ON THE HEALTH, SAFETY AND WELFARE OF ANY CITIZEN !

Ron Bruce