

**MINUTES OF THE SPECIAL MEETING OF THE  
ARAPAHOE COUNTY PLANNING COMMISSION  
WEDNESDAY, NOVEMBER 8, 2023**

<b>ATTENDANCE</b>	<p>A special meeting of the Arapahoe County Planning Commission (PC) was called and held in accordance with the statutes of the State of Colorado and the Arapahoe County Land Development Code.</p> <p>The following Planning Commission members were in attendance: Rodney Brockelman; Kathryn Latsis; Randall Miller, Chair; Dave Mohrhaus; Richard Sall; Lynn Sauve, Chair Pro-Tem; and Jamie Wollman.</p> <p>Also present were Robert Hill, Senior Assistant County Attorney; Jason Reynolds, Planning Division Manager; Ava Pecherzewski, Development Review Planning Manager (moderator); Molly Orkild-Larson, Principal Planner; Bryan Weimer, PWD Director; Chuck Haskins, Engineering Services Division Manager; Diane Kocis, Energy Specialist; and Kim Lynch, Planning Technician.</p>
<b>CALL TO ORDER</b>	<p>Mr. Miller called the meeting to order at 6:30 p.m.</p> <p>The meeting was held in person and through the Granicus Live Manager platform with telephone call-in for staff members and public.</p>
<b>GENERAL BUSINESS ITEMS:</b>	
<b>APPROVAL OF THE MINUTES</b>	<p><b>The motion was made by Ms. Wollman and duly seconded by Ms. Sauve to approve the minutes from the October 17, 2023, Planning Commission meeting, as submitted:</b></p> <p><b>The vote was:</b></p> <p><b>Mr. Brockelman, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Mr. Mohrhaus, Yes; Ms. Sauve, Yes; Mr. Sall, Yes; Ms. Wollman, Yes.</b></p>
<b>PUBLIC HEARING ITEMS:</b>	
<b>ITEM 1</b>	<p><b>CASE NO LDC23-004, OIL AND GAS / LAND DEVELOPMENT CODE (LDC) AMENDMENT PHASE 2a – DIANE KOCIS, ENERGY SPECIALIST – PUBLIC WORKS AND DEVELOPMENT (PWD)</b></p> <p>Mr. Miller asked the County Attorney if the PC had jurisdiction to proceed.</p> <p>Mr. Hill stated the case had been properly noticed under the Land Development Code and the PC had jurisdiction to proceed. He added that since this item would be decided at the Board of County Commissioners</p>

(BOCC) hearing on November 14, 2023, the public would be invited to make further comment at that time.

Mr. Reynolds explained this County-initiated application proposed amendments to the Oil and Gas (O&G) regulations in Section 5-3.6 of the Land Development Code (LDC). He said the PC was requested, in accordance with CRS 30-28-116, to make recommendations on the amendments as proposed for setbacks and reduction options, air and water quality regulations, Wildland Urban Interface (WUI) measures, and other related language revisions as described in this Report and the amendments. He clarified, on the proposed setback amendments, the PC was requested to provide separate recommendations on different options for setback distances as well as for the proposed options for reductions from those setbacks. He referred to Attachment 1, a matrix of the various setback and setback reduction options for reservoirs, occupied structures, platted lots, designated outside activity areas (DOAAs), other surface waters and riparian areas, and landfills. He added Attachment 2 was the proposed amendments with separate recommendation request stated and highlighted. He presented proposed amendments for which the Planning Commission was asked to make its recommendations, including each separate setback distance option and the proposed variance procedures and criteria, as set forth in Attachment 2 and as follows:

- Increase setbacks from occupied structures, platted lots, landfills, Designated Outside Activity Areas (DOAAs) and riparian areas, streams, and perennial surface waters to the distances specified in the Attachment 1, while providing the potential for setback reductions through an administrative process for most if the request meets criteria and interested parties (CPW, DOAA owner, nearby owners) have no objections.
- Increase the downgradient reservoir setback to 3,000 feet (set at 2,000 feet at the October 10, 2023, BOCC hearing) and add an ability to request a reduction in setback distances for the downgradient 3,000 feet and the ‘upgradient’ one-mile reservoir setbacks through a Use by Special Review (“USR”) process. The USR would be decided by the Board of County Commissioners after a noticed public hearing and require meeting the specified criteria for approval.
- Add language for wildfire mitigation in the Wildland Urban Interface (WUI).
- Add language for air monitoring and sampling and increased water quality monitoring, to be performed by independent third-party consultants and paid for by industry.
- Add continuous surface water monitoring for surface waters downgradient of well pads.
- Add new requirements for Spill and Release Measures and Reporting.
- Increase the radius of notifications of neighborhood meetings and application submittals to 1.5 miles; and,
- Correct some language adopted in October 2023, such as changing existing references from COGCC (Colorado Oil and Gas Conservation

Commission) to ECMC, to reflect the agency’s new name (Energy and Carbon Management Commission) and eliminate a separate requirement for a Tactical Response Plan because the TRP information is provided in the Emergency Action Plan

There was discussion about the following:

- What would be the consequence if these regulations were not approved?
- Do the State regulations allow setback reductions?
- How were recommended setbacks determined?
- Weren’t these Phase 2a regulations being rushed through without the usual amount of time spent in review by staff, industry and the public before PC recommendation was sought?

Mr. Reynolds reported the regulations would be applied as they were written and approved by the BOCC in October, if these newly proposed changes to the setbacks were not approved by the BOCC at the hearing next week. He said the state allowed a much greater range of setback reductions when the property owner agreed. He described how setbacks were extrapolated from the Holder report that used a hazard index where setbacks approaching 3000 ft approach the number 1 for health impacts. He added that anything greater than 1 indicated a risk for certain health conditions. He explained staff were applying the cautionary principle which acknowledged that as the science was not precise in this case, we may not prove causation but in that unknown caution was advised. Mr. Reynolds responded that a typical change to LDC regulations was measured in months or even seasons. He suggested this could be part of the recommendation made by the PC in this hearing.

**The motion was made by Mr. Miller and duly seconded by Ms. Wollman, in the case of LDC23-004, Oil and Gas Regulations / Land Development Code Amendment to shorten testimony period from three to two minutes.**

**The vote was:**

**Mr. Brockelman, Yes; Ms. Latsis, No; Mr. Miller, Yes; Mr. Mohrhaus, No; Mr. Sall, No; Ms. Sauve, Yes; Ms. Wollman, Yes.**

Mr. Miller opened the hearing for public comment. There were 38 speakers from both industry and the public present who spoke and there were five callers on the telephone who spoke. All were in opposition to the proposed changes to the Oil and Gas regulations for a variety of reasons, which concerns are summarized here:

- Regulations were too stringent and ignored scientific evidence that O&G operations at lesser setback distances were protective and did not result in risk to health and safety.
- Regulations were not strict enough to protect human health and safety based on the science presented to the PC and BOCC.

- A moratorium on future O&G applications in the county should be considered.
- Property and mineral rights owners would be denied opportunities currently allowed.
- Impacts of limiting resource development could have harmful and lasting economic impacts to the county.
- Changing the regulations from those the state mandated would be detrimental, confusing, unnecessary, and unreasonable.
- Due process was being ignored with the rushed time frame for adequate response to risks to human health and safety from potential air emissions, water pollution and seismicity.
- Due process was being ignored as conflicting science regarding the risk to human health and safety had been ignored today and in the previous hearings on Phase 1 Regulations.
- Due process was compromised as expert scientific evidence of technological improvements in operations regarding the health, safety and the mitigation of practices causing seismicity had been ignored today and in the previous hearings.

The public hearing was closed.

Mr. Reynolds remarked that seismicity had been addressed in the public comments made by a geologist. He explained that when any O&G application was received by the county, many other agencies were asked to review during the referral process. He added those sites near the Lowry Landfill, the dam or the Aurora Reservoir would be thoroughly reviewed for issues of potential seismic and other hazards by agencies such as Aurora Water (who managed the dam and the Aurora Reservoir), Colorado Geologic Survey (for potential fracking impacts), Environmental Protection Agency (pollutants, wildlife, human health and safety), the Colorado Department of Health and Environment, ECMC, as well as the Arapahoe County Health Department.

Ms. Kocis, Energy Specialist and Geologist, explained that seismicity experienced in Colorado in the past had been scientifically linked to injection wells and successful measures had been implemented by the industry to prevent any further seismic activity. She added there were no commercial injection wells currently proposed due to the county restrictions on operating hours from 7a-7p which was not commercially viable. She concluded that hydraulic fracturing (fracking) did not result in seismic activity or other surface impacts because the fracturing process took place 7500 feet below the surface of the wells.

There was further discussion about the following:

- Explanation of the attached map of exclusion area
- Does the directional boring allowed under SB19-181 provide any relief to operators and what was the resulting cost to those providers?

Mr. Reynolds described the map as showing the impact of increased setbacks of up to 3000 feet upon the available area in the county for O&G development. He stated the county had 148 square miles (sq mi) of available land for development and under current 2000' setback rule there were 90 sq mi of that land available for these operations to occur. He said under the proposed 2500' setback rule there would be 79 sq mi available (12% reduction from baseline). He reported there would remain 69 sq mi that would still be available under the 3000' setback rule (resulting in a 23 % reduction of operational area to the industry providers). He affirmed the State was under no obligation to consider economic impacts on the oil and gas industry as a part of SB19-181, so cost to the providers was not a part of the calculus.

Mr. Miller invited the PC to comment.

Ms. Sauve stated she had deep concern with the rush of this proposal, and citizens had a right to due process. She added it was unfortunate that the PC had not been afforded a study session in advance of this hearing.

Mr. Miller and Mr. Sall stated they were also in agreement.

Ms. Latsis stated it was very important that the county regulations were clear and consistent. She recommended a refinement of the regulations to include an agreed upon body of scientific data that could be used to make new regulations going forward.

Mr. Mohrhaus reminded all that the process could be done fast or done correctly and was not in favor of these rushed proceedings.

**The motion was made by Ms. Latsis and duly seconded by Mr. Brockelman, in the case of LDC23-004, Oil and Gas Regulations, Land Development Code Amendment, I have reviewed the staff report, including all exhibits and attachments, and have listened to the presentation and any public comment as presented at the hearing and hereby move to recommend denial of the proposed amendment to the Land Development Code, for the following reasons and recommendations:**

- 1. The setbacks from occupied structures, as approved 10-10-2023 by the BOCC, stay in place based on the insufficient amount of time allotted by the BOCC for review by staff, the PC and the public.**
- 2. That any scientific study cited for any setback be identified.**
- 3. That all the standard offramp procedures across all setbacks be standardized and published.**

**The vote was:**



	<p><b>Mr. Brockelman, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Mr. Mohrhaus, Yes; Ms. Sauve, Yes; Mr. Sall, Yes; Ms. Wollman, Yes.</b></p> <p><b>The recommendation to deny the proposed amendments passed unanimously.</b></p>
<b>ADJOURNMENT</b>	<p>Mr. Reynolds said there would be one item on the agenda for the PC Study Session on the Water Study next week 11-14-2023 and the location of the meeting would be the Lima Arapahoe Room at 6954 S. Lima St. in Centennial.</p>
<b>ADJOURNMENT</b>	<p>There being no further business to come before the Planning Commission, the meeting was adjourned.</p>