



*"To enhance the quality of life in Boulder County,  
and protect people's opportunity to own, use, and enjoy  
their property by promoting environmentally sound,  
fair and consistent land use decisions."  
- Land Use Coalition Mission Statement*

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P.O. BOX 20265 - Boulder, CO 80308  
303-666-7903 - [www.landusecoalition.org](http://www.landusecoalition.org)  
[contactus@landusecoalition.org](mailto:contactus@landusecoalition.org)

# The Land Use Lantern

Newsletter of the Land Use Coalition

September 2005

## President's Column

Greetings LUC Members and Landowners:

It has been a busy summer for the LUC and we have good news to report on the land use front. As many of you are aware, the LUC is heavily involved in the County's process of rewriting the Land Use Code to hopefully make it more objective, logical, and supportive of fair land use processes and practices.

The LUC has participated in all the County's hearings on the Land Use Code, including the initial hearing with the County Commissioners, two hearings with the Planning Commission, and several meetings with staff from the Land Use Department (LUD). The LUD is now regularly sending representatives to our monthly meetings and our Code Committee meetings.

All of this activity on the Land Use Code has produced positive results. Most of the issues we have raised are included in the "high priority" recommendations out of the Planning Commission for code revisions. Specifically, mergers and Site Plan Review are high priority items. We also have an active Code Committee that is now well positioned to begin drafting suggested changes to the Land Use Code. We have discussed our priorities with each Commissioner and have had generally positive responses. The new Commissioners seem truly interested in fixing the land use mistakes of the past.

Though we are making progress, we need to continue to keep the LUD and the Commissioners aware of our concerns. To that end, I STRONGLY ENCOURAGE YOU TO WRITE TO THE COMMISSIONERS AND GIVE TESTIMONY AT UPCOMING HEARINGS EXPRESSING YOUR SUPPORT FOR THE LAND USE COALITION AND OUR CODE REVISION ISSUES! You can mention specific issues that are of interest to you (see the list enclosed in this newsletter), or just encourage them to address the LUC concerns. This should be done at least a week before the October 10th hearing on the Land Use Code Revision Process. Also, please plan on attending the October 10th hearing. A good showing is always helpful!

As you might expect, the Code Revision Process is a high priority for the LUC. However, it is not our only on-going work for you. We met last week and set our agenda for 2006. Our list of tasks is challenging. We will be continuing our luncheon series on land use and property rights topics. We will also be working with other groups across Colorado to form a statewide property rights organization to deal with eminent domain and other broad issues. We will be monitoring land use issues at the State Legislature. And finally, we will be expanding our outreach activities to grow our membership and continue our fund raising activities to help support our aggressive agenda.

On that note, please consider sending a donation to the LUC. Thanks to a generous offer by one of our members, we recently had a very successful "matching funds" drive. However, we are still short of our goal of replacing our annual expenditures for 2005. So any financial assistance you can provide would be very much appreciated. You might also be interested to know that we are setting up a specific fund for paying for legal assistance in drafting Land Use Code revisions. Donations can be earmarked for this effort.

Thanks for your support of the Land Use Coalition. I encourage you to become active in our hands-on activities. They are fun and the folks are great! If you have any ideas, concerns, or issues, please do not hesitate to contact the LUC or me personally.

*Kevin Probst*

Phone: 303-258-9256, E-mail: [kprobst@mho.net](mailto:kprobst@mho.net)

## UPDATE ON COUNTY CODE REVISION PROCESS - BOCC MEETING OCT. 10

On August 17, the Boulder County Planning Commission (BCPC) held a meeting for public input on prioritizing the list of suggested land use code revisions. The LUC was allotted time at the beginning of the meeting to give a presentation. Kevin Probst, LUC President, gave the LUC presentation to a low-attendance crowd. The LUC was the only group that spoke at the meeting. Of the thirty to forty people who spoke, the majority criticized the land use code and asked the BCPC to make changes. Others were upset that there was only two weeks notice for the meeting.

Also in August, you may have received a post card mailing from the County notifying you about the land use code revision process - this comes thanks to the prompting of the LUC and the initiative taken by Michelle Krezek (the Land Use Department's Special Projects Manager overseeing the code revision process). Since Michelle has been regularly attending our monthly meetings, earlier this summer we asked her if the County could send out a notice to residents and landowners in the rural parts of the County informing them about the code revision process. Michelle took our suggestion and merely a month or so later, a post card mailing was sent to 26,000 recipients. Michelle's dedication, positive attitude, and willingness to listen to the LUC (and other groups) are encouraging.

On September 14, the BCPC held a meeting to discuss the land use code revision topics and to prioritize the revisions list. The meeting was open to the public, however public testimony was not accepted as this was given at the August 17 meeting. Working off of the list of 232 suggested land use code revisions (compiled from public input and maintained by Michelle Krezek), the BCPC decided to group many of the items for discussion, rather than approach each of the 232 individually. The top four priorities that the Commission

voted on and discussed the most were: SPR (Site Plan Review), Green Building, Agricultural Issues, and Mergers. It's encouraging that the LUC's priorities - SPR, Mergers, and Ag issues - made the top of the list.

Next stop for the code revision prioritizing process is a public meeting before the County Commissioners (BOCC) on Monday, October 10 at 6:00 PM. The LUC is planning on giving a presentation, however our list of suggestions is long and we don't have enough time to cover all of the topics on our list. **We need our members present at this meeting to help support the LUC's suggestions and to speak more in-depth about individual issues.**

Several of our officers and board members will be out of town and unable to give testimony at the hearing and **we need our member base to step up, attend and speak out at this hearing.** Not sure what to say? Simply stand up and say that you support the LUC's suggestions or pick an item from the enclosed list. If you or someone you know has gone through the SPR process, you need to speak out about the wrongs that have occurred in the past and demand that the BOCC prioritize this issue. If you are merger victim, you need to attend this meeting and speak out - at the recent land use code revision meetings only a couple merger victims attended and spoke. If you have Ag-zoned property, your input is most crucial as the County seems to be quite disconnected from your concerns. **Please mark your calendars and plan on attending the BOCC Code Revision Meeting on Monday, October 6 at 6:00 PM** in the County Commissioners hearing room, located on the 3rd floor of the Boulder County Courthouse.

Our sincerest thanks to Dick Schillawski and the code revision committee for the many hours they've dedicated to discussing and compiling the enclosed list on behalf of the LUC!

### LUC's Land Use Code Revision Topics

The LUC has been giving public testimony before the Planning Commission and BOCC for many years now and it is our hope that our consistent and active involvement in land use issues and the administration and passage of land use codes will give you cause for serious consideration of our input in this process. In prioritizing the code revision topics and drafting land use codes, we support the following guidelines:

#### **ALL Land Use Codes should be:**

- Objective vs. Subjective
- Easy to understand
- Ensure the equitable and consistent treatment of all applicants

We have spent many hours reviewing the current Land Use Code and have compiled the following list of items that need to be addressed. Our priorities can be broken up into three categories:

- **"Mergers"**
- **Site Plan Review**
- **General Revisions**

#### **"MERGERS"**

The County's actions and performance re: "mergers" have been extremely troubling and we'd like to think that the attention this unfair policy has received by the state legislature, media, and outraged citizens has played a role in the BOCC's decision to revise the Code. Prior to the passage of the 2003 state merger law, the County merged properties throughout the County without the owners' consent or knowledge. The 2004 administrative parcel division process was not a proper fix and it along with all merger policies - mountain, subdivision, and single-deed - should be rescinded. Rescinding the merger policies and correcting the effects of the past abuses by the County will probably be the most effective means of establishing that the code revision process can be taken seriously.

#### **"Mergers" Code Revisions:**

- Rescind all merger policies - mountain, subdivision, and single-deed
- After rescinding merger policies, eliminate administrative parcel division process
- Consider implementing a voluntary merger policy with incentives (like Gilpin County's policy)

## **SITE PLAN REVIEW**

Site Plan Review (SPR), about which complaints have been many, remains one of our highest priorities for review and improvement. Regarding SPR, the LUC might be comfortable with "SPR could be an appropriate use of Boulder County's authority to regulate land use provided the process is not overwhelming, overly expensive, or time-consuming, and provided the process actually is useful in achieving its stated goals." However, we maintain that SPR has sometimes been used inappropriately in the past as a growth-control tool and/or means of harassment - among other things, and that it has often yielded results which were not any more beneficial than they would have been without SPR. In some cases the results probably have been worse than they would have been without SPR. Some fundamental changes in the SPR process are needed to make it truly "appropriate". It would probably make sense to break the SPR code revision process in sections, as it is quite extensive. Again, we would like to emphasize that this list will change and evolve along with the revision process.

- **Make the Site Plan Review process one that builds harmony in neighborhoods** - As opposed to the current process that encourages conflicts and pits neighbors against neighbors, thus destroying neighborhood harmony
- **Eliminate "obsession" with house size** - As expressed in square feet; change the practice to just confirming conformance with the zoning district's setbacks and height limit; in the absence of a coherent and defensible reason for regulating house size, current practices based upon poorly defined "neighborhoods" look like spot zoning
- **Eliminate Criterion 14 (scrape-offs)** - SPR criteria should be the same regardless of whether or not there is an existing house or other development on the property
- **Require staff to identify Criterion 15 (Comp. Plan & IGA issues) at the pre-application conference** and not to drag them in as afterthought(s) later, applicants are not, and should not be expected to be experts on these documents, that's the Department's function
- **Eliminate "long driveways" from language** - Rely on other SPR criteria to mitigate any negative aspects, in many/most cases getting the new development away from road(s) is the most beneficial possible outcome of SPR
- **Eliminate "legal access" from SPR application requirements** - It isn't among the SPR criteria and is thus inappropriate to require it for application
- **Improve revegetation provisions** to better accommodate time delays for regrowth and do-it-yourself efforts, and facilitate use of letters of credit
- **Ensure lighting constraints aren't exceeding what's necessary for safety** - The Land Use Dept. is currently exceeding the down-lighting requirement and the Director's authority
- **Eliminate the "double-count" policy for grading calculations** - Use "excess" grading as a trigger for an SPR hearing before the BOCC, not to trigger limited impact special review
- **Minimize "circular-process" concerns** (landowner is supposed to prepare an application addressing concerns not raised until review of the application) - make it a more "sequential" process
- **Limit "visual impact" issues to objective criteria** - e.g. establish objective criteria for "ridge-line" construction limitations, have a pre-approved color palette, specifications on acceptable window reflectivity and/or shading techniques, etc. In general, establish objective criteria and eliminate subjective elements of SPR

## **GENERAL REVISIONS**

In a second tier of priorities, the LUC would include Agricultural Issues, Historic Preservation, Fire Districts, Use Issues, Zoning Districts, and other categories. The reasons the LUC would assign a lower priority to these items vary; in some cases the number of landowners affected is not as large as those affected by other areas of the Code and in others, the issues involved will require that the county do some research, negotiation, or some probably time-consuming analysis of just what the objectives should be and how they might best be achieved. The LUC does not intend to imply that these items are necessarily of lesser importance by assigning them lower priority – each should be addressed during this code revision process.

### **General Code Revisions:**

- **Agricultural Regulations** - Weigh input from farmers and ranchers foremost; Less restrictions
- **"Affordable housing" vs. "housing that's affordable"**
- **Historic Preservation** – Historic Pres. Board should include members with expertise; Focus on incentives vs. restrictions
- **Boundary line adjustment process**
- **Non-conforming uses (and "grandfathering")**
- **Neighborhood Conservation Overlay Districts (NCODs)** - Should be eliminated; HOA's serve purpose
- **Land Use Dept. fee structure** - Expensive staff fees should be eliminated; Applications should be flat fee
- **Flood Plain regulations** - Bring County flood plain maps & regs in compliance with FEMA
- **Proof of legal access** - Unnecessary requirement for applications
- **Fire regulations** - Uniform fire regs and implementation across County & various fire districts
- **Special Use Review regulations**
- **IGA's & BCCP** - Better communication to applicants about these
- **Neighbor notification criteria for applications** - Reduce or eliminate adjacent property owner notification & their opinions
- **Accessory dwellings** - Current regs too restrictive to be useful



PO Box 20265  
Boulder, CO 80308

## VOLUNTEERS NEEDED

### We need volunteers for:

- Letter writing campaigns
- Posting LUC info in your community
- Attending and reporting on county hearings and meetings
- Hosting grass roots neighborhood meetings/parties
- Fundraising and events

Many of these volunteer tasks don't require a large time commitment and help spread the workload out amongst our 100% volunteer organization. Do you have other skills that we could use? Please contact our volunteer coordinator, Barbara Taylor at boulderheights@comcast.net or 303-444-9508. Thanks for contributing to our team effort!

*If you can't donate your time, please help LUC efforts by making a donation. Please send your check or money order to:  
The Land Use Coalition  
PO Box 20265  
Boulder, CO 80308*

**LUC CALENDAR**

**LUC October Meeting . . . . .Oct. 5**  
**Commissioners Code Hearing . . . . .Oct. 10**  
**LUC November Meeting . . . . .Nov. 2**  
**LUC December Meeting . . . . .Dec. 7**

Monthly meetings are held the first Wednesday of each month at 5:30 at the Boulder Beer brewpub (formerly Rockies) at 2880 Wilderness Place in Boulder (west of Foothills Hwy & Valmont)

**LAND USE COALITION OFFICERS**

President:	Kevin Probst
Vice President:	Pam McElwain
Secretary:	Betty Gibbs
Treasurer:	Jeanne White

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**COMMITTEES**

Boulder County Land Use Code Revision Committee - Dick Schillawski (303-664-0156)  
 Legislative Committee - Kevin Probst (303-258-9256)  
 Luncheon Committee - Jo Wiedemann (303-447-2569)  
 Merger Committee - Pam McElwain (970-278-0214)  
 Newsletter Committee - Ann Mygatt (303-449-8007)  
 RS2477 Roads Committee - AJ Chamberlin (303-441-5682)