



COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT

CASE NO.: PLN2017-00036

CASE NAME: OIL AND GAS TEXT AMENDMENTS TO CHAPTER 4

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**COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT
STAFF REPORT**

Planning Commission

May 24, 2018

CASE No.: PLN2017-00036 CASE NAME: Oil and Gas Text Amendments to Chapter 4	
Applicant's Name:	Adams County Community & Economic Development Department
Applicant's Address:	4430 S. Adams County Parkway, Brighton, CO 80601
Location of Request:	Unincorporated Adams County
Nature of Request:	Text amendments to Chapter 4 of the Adams County Development Standards and Regulations with respect to: plugged and abandoned wells, expiration and renewal of Administrative Use by Special Review Permits, text to incorporate the assessment of oil and gas road impact fees, and other miscellaneous changes.
Hearing Date(s):	PC: May 24, 2018 / 6:00 p.m.
	BoCC: June 19, 2018 / 9:30 a.m.
Report Date:	May 14, 2018
Case Manager:	Jennifer Rutter
Staff Recommendation:	APPROVAL with 3 Findings-of-Fact

SUMMARY OF APPLICATION

Background:

On March 22, 2016, Adams County adopted regulation amendments to establish a site-specific permitting process for oil and gas facilities within the unincorporated areas of the County. Those amendments aimed to address effective regulation of the intense oil and gas development that has been increasingly encroaching on urban areas.

Since 2016, several deficiencies of the existing regulations have been identified, including a lack of standards addressing plugged and abandoned oil and gas wells, no expiration of the site-specific Use by Special Review Permit for oil and gas facilities, and no road maintenance and impact fee for oil and gas development. These proposed regulation amendments aim to address these issues.

Development Standards and Regulations:

Section 2-02-13 of the Adams County Development Standards and Regulations details the procedures for amendments to the text of the standards and regulations. Only the Board of County Commissioners may, after a recommendation from the Planning Commission, adopt a resolution amending the text of the standards and regulations.

Section 2-02-13-06-01 of the Development Standards and Regulations lists three criteria for reviewing text amendments. The first two criteria require consistency with the Comprehensive Plan and the purpose of the Development Standards. The third criterion requires the text amendment to not be detrimental to the majority of persons or property in the surrounding areas nor to the community in general. The changes proposed in the subject text amendment are consistent with the County's Comprehensive Plan, the purpose of the Development Standards and Regulations, and will not be detrimental to the residents of Adams County. The changes will enhance the County's requirements and performance standards for plugged and abandoned oil and gas wells, the permitting of new oil and gas facilities, and allow for the collection of oil and gas road impact fees.

The Denver Regional Council of Governments (DRCOG) projects Adams County to be the fastest growing county in Colorado over the next twenty years in both population and employment. This forecast necessitates additional regulations to ensure that both future residential development and the increasing development of oil and gas resources remain harmonious and compatible with overall development of the County. The three sets of proposed regulation amendments aim to address identified deficiencies in our current regulations, which include development in proximity to plugged and abandoned wells, expiration and renewal process for our Use by Special Review permit for oil and gas facilities, and language to incorporate a road impact fee for oil and gas development.

A summary of each chapter and proposed changes, including the purpose for the text amendments, is outlined below:

Plugged and Abandoned Wells, and Former Oil and Gas Production Sites (Section 4-10-02-03-05)

Oil and gas development has been occurring in Adams County since the mid-1900's, with over 2,100 wells having been drilled. Many of these wells have since been plugged and abandoned and can interfere with new surface development if not properly identified, marked, and protected.

These proposed amendments aim to protect and promote the health, safety, and welfare of the present and future residents of the County by establishing standards for developing in proximity to plugged and abandoned wells. These amendments include requirements for new subdivision plats to: identify and mark plugged and abandoned wells; submit a location diagram for a plugged and abandoned well; establish a workover setback of fifty by one hundred feet for plugged and abandoned wells; notification of prospective property buyers near the location of the plugged and abandoned well; and test for expansive soils in the location of former pits. See Exhibit 2.1 for the proposed text.

Expiration of Approval; Permit Revision Process (Section 4-10-02-04-07)

The 2016 regulation amendments established a standard and predictable permitting process for oil and gas development in unincorporated Adams County called the Administrative Use by Special Review (AUSR) permit. There is no expiration of the AUSR permit, as the regulations are currently written, so long as the operator begins construction of the well pad within five years of the issuance of the permit.

Many oil and gas operators choose to obtain a permit for many wells on a single pad and then phase the development of those wells over many years. For example, an operator may obtain a permit for 30 wells and then drill three wells each year over ten years. This phasing of development of a large industrial facility does not take into account compatibility with future growth.

With the expansion of development in our growing County, it is important that oil and gas facilities that elect to phase their projects over many years be reevaluated periodically. This will allow for a reassessment of the compatibility of the facility with the residential and commercial growth that may occur in the surrounding area. In addition, new best management practices for operations may be identified by the operator and incorporated into the permit renewal. See Exhibit 2.1 for the proposed text.

Oil and Gas Road Impact Fees

One aspect of oil and gas development that was not addressed in the 2016 regulation amendments was how it impacts local road systems, as well as other public infrastructure and services. The County assesses road impact fees for all new development in unincorporated areas, except oil and gas development and activities. In 2017, Adams County commissioned a study to identify the potential impacts of oil and gas development and production on the County's road system and design a roadway impact and maintenance fee to offset increased transportation maintenance, rehabilitation, and safety costs associated with heavy truck traffic and road damage from oil and gas activity. After several months of public meetings, data collection, modeling to extrapolate the cost of impacts, and deliberations, staff and a hired consultant arrived at a proposed fee to defray the cost of impact of oil and gas activities on the County's road network. Staff presented the initial findings to the Board of County Commissioners (BoCC) on November 14, 2017 and with direction from the BoCC posted the study to solicit public feedback for a sixty day period. Based on feedback from the public, staff and the consultant revised the initial proposed fees to address comments from the public feedback. On April 17, 2018, staff presented the revised proposed fees to the BoCC and obtained directions to proceed to schedule the fees for review and adoption. The purpose of this regulation amendment is to include a text in the County's Development Standards and Regulations to require payment for oil and gas road impact and maintenance fees for oil and gas drilling activities. Currently, there are no such requirements in the Development Standards. The associated fee schedule will be directly reviewed and approved by the Board of County Commissioners. See Exhibit 2.1 for the proposed text.

Analysis:

Compatibility with the Adams County Comprehensive Plan

Imagine Adams County, the County's Comprehensive Plan, recently updated in December 2012, recognizes that extraction of sand, gravel, coal, oil, and gas resources contributes to the local economy, providing employment to County citizens and tax income to the County. However, the Comprehensive Plan also notes that sensitive extraction and reclamation practices are essential in order to prevent potential negative impacts to the community. Policy 7.5 of the Comprehensive Plan reads as follows:

Provide for the extraction of subsurface resources in accordance with State law, but require mitigation of undesirable impacts to the natural environment and community as well as plans for viable potential reuse of the land.

In addition, the Comprehensive Plan contains extensive analysis of the County's natural and man-made hazards through the Hazard Identification and Risk Assessment (HIRA) outlined in the Appendix C of the plan and discussed in Policy 12.1, Reduce Risk and Effects of Natural and Industrial Hazards. In this section, the plan notes the importance of reducing risk and minimizing loss of life and property from natural and industrial hazard events and protecting public health and safety. The enhanced regulatory structure within this proposed regulation amendment provides for additional site-specific review of any new oil and gas facility in order to address issues such as public health and safety, as well as community risk and emergency response and preparedness.

Finally, there are many sections within the Comprehensive Plan that provide policy direction to balance the need for new development with the burdens associated with that development. The plan directs the County's decision makers to "evaluate and quantify potential impacts associated with high-impact, region-serving uses that may create burdens on the County (e.g. landfills, parole facilities, telecommunication towers, etc.) to ensure impacts are substantially mitigated. (*Imagine Adams County*, p. 38). The proposed regulation amendments also support this notion of balancing the economic considerations of resource development, while mitigating and addressing the impacts to existing communities and the natural environment.

Compatibility with Stakeholder Input

Staff and the County's outside legal counsel held meetings with a number of stakeholders, including residents, neighborhood groups, the oil and gas industry, local school and fire districts, proximate local governments, land developers, and the Homebuilders Association, with respect to the proposed amendments that address plugged and abandoned wells and the renewal process for AUSR permits.

Community & Economic Development Department Staff and hired consultants held several meetings with oil and gas industry operators and stakeholder groups and representatives to discuss the methods and assumptions of the road impact and maintenance fee determination. Staff also posted the initial proposed for a sixty day public review. The main concerns expressed from the proposed fees included ensuring proportional share of the cost associated with oil and gas activities, providing detail information and data used for the study, and using similar policy requirements for road improvements for general developments such as the trigger for road pavements, etc. These concerns were all addressed and resulted in reduction and adjustment to part of the initial proposed fees.

The proposed regulation amendments address the majority of the concerns and requests put forth by the stakeholders. Additional regulation amendments are forthcoming to address the remaining concerns after further public outreach.

Regulatory Recommendations:

Staff believes the proposed changes within this chapter of the regulations are needed. After extensive input from residents groups, the oil and gas industry, local school and fire districts,

land developers, and the Homebuilders Association, Staff believes that all major concerns were addressed. The new regulations will provide better protections for the health, safety, and welfare of the citizens of Adams County, while continuing to allow responsible development of surface and mineral rights.

Staff Recommendation:

Staff believes the proposal is necessary in order to respond to the current challenges for regulating oil and gas development in Adams County. Therefore, staff is recommending approval based 3 Findings of Fact.

RECOMMENDED FINDINGS OF FACT:

1. The text amendment is consistent with the Adams County Comprehensive Plan.
2. The text amendment is consistent with the purposes of these standards and regulations.
3. The text amendment will not be detrimental to the majority of persons or property in the surrounding areas nor to the community in general.