

Answers to Land Use Coalition Questions, March 31, 2004

District 1 County Commissioner Candidates

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1. What should be done re: lot mergers of '93-'03?

The lot mergers affected approximately 500 property owners in Boulder County. Of those 500, a relatively small number had a serious complaint. The status of those lots demonstrates the unintended consequences of an action that was intended to resolve a different problem. (our family home was merged with the adjacent property - a small cabin on a single lot. For us, as for many other owners, the merger was not a difficulty.) In those cases where the owner is genuinely wronged, (it's fairly obvious which ones those are) and fix that specific case.

How should Land Use Department (LUD) deal with property owners when it seeks changes that affect property values?

The obvious answer is to make everyone aware of changes that will affect their property values. During my 37 years in Boulder County I have seen the process of alerting citizens in several different contexts. If it's a wholesale change, there are notices in the newspapers, and the issues are brought to the community at neighborhood meetings. Some of these meetings are tough, the contentious, emotional - reflecting the gravity of change and the rightful concerns of each citizen. It's not a perfect process, but everyone has a chance to affect the course of the discussion. On variance applications or individual property requests, the property is posted and the neighbors receive written notice. Both of these processes work pretty well. When changes are proposed that will affect a disparate group of citizens, (such as the merge issue) individual notification is the proper course.

2. What are the advantages and disadvantages of Super IGA's?

I strongly support IGA's in concept. These agreements define areas of agreement between communities - be it the limits of their boundaries, areas of mutual concern, the specific land that will form a buffer between them, transportation corridors. These all make sense and are the basis for respectful co-existence. **Would you suggest any changes?** None in concept; many on any specific proposal.

3. What are your guidelines re: county's filing of lawsuits against citizens.

I have no guidelines -- just a general distaste. My belief is that the prime purpose of government is to serve its citizens. (That does not include serving them with lawsuits) The secondary purpose of government is to establish laws, rules, and regulations that aid citizens in the pursuit of their own welfare. A lawsuit brought by the government against an individual does not fit either of these categories, and therefore I cannot imagine condoning such an action. Comment on the amount of taxpayer money that has been used to payoff and settle lawsuits. The County carries insurance for general liability, property insurance, and worker's compensation. Each of these categories has a different retention rate (deductible). The county self-insures for a fairly high retention rate: \$100,000 for property insurance, \$250,000 for general liability, and \$350,000 for worker's compo Since the county settles approximately 10 to 15 claims a year, it may payout \$2,500,000 or so in settlements before insurance kicks in. If you add the premium that the county pays to its insurance carrier for coverage for higher amounts, the end result is significant -just as it is for an individual with a history of claims. The true cost to the county - and the taxpayer - includes the self-insurance kitty that's used for retention pay-out, the premiums for insurance coverage, the settlement pay-outs, the cost of bookkeeping and attorney

time. **Your position on non-disclosure agreements?** I favor non-disclosure. In many cases it is a requirement of the insurance carrier.

4. What is your position on businesses in the unincorporated part of the county?

I favor anything that lessens car trips and spares county residents long commutes. During my tenure on the Regular Planning Board, I championed the Home Office as a legal use and worked to establish the Use of Community Significance - which removed the "non-conforming" label from county businesses that have become closely identified with Boulder County - Flagstaff House, Red Lion Inn, etc. In the mountain areas of Boulder County I favor neighborhood convenience stores, groceries, pre-schools, group homes, video rental outlets, and small groceries - uses that serve the immediate community. The suburban neighborhoods of the plains, with shops and stores only minutes away, are generally not interested in this approach. In all cases, the local community should set the standard for what is appropriate in their neighborhood.

5. How would you address a site plan review following a catastrophe?

A natural disaster destroys more than the structures in its path. Residents suffer economic, emotional and personal losses. I believe that it is the duty of government to provide solace to these traumatized individuals. It is also a benefit to the community to have its citizens resume their place as productive contributors to our society.

For those who choose to re-build: I would expedite the process for any who want to basically re- do that which they've lost. The county should offer free information and analysis - knowledge that the county must compile if it is to predict and prepare its residents for future catastrophes. By mapping the path of a fire, flood, or tornado, the county can give the property owner the tools needed to make informed decisions. Instead of a site plan review, the county should educate about post-catastrophe conditions: erosion, planting, site access, and escape routes, but these decisions must be left to the property owner. Reasonable alternatives that result in a better site plan should not trigger a site review.

Significant increase in footprint, a drastic re-location, and impacts to adjacent properties may call for a site review.

**GARRY SANFAÇON, 303-382-3292, garry@garryforbouldercounty.com
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1. What do you think should be done regarding the '93-'03 lot mergers? In general, how should the LUD deal with property owners when it seeks changes which affect property values?

I will vote to repeal the lot mergers regulations. I propose that the county conduct a case by case review of lots that have been merged. This will help identify the landowners who wish to keep their lots merged as one parcel and therefore the county should support. It will also determine if there are lots that have been combined that may not meet county regulations as suitable for development (e.g., mining claims).

On a general level, I support in-depth dialogue with the community about any proposed changes in land use policy that will affect property values.

2. What are the advantages and disadvantages of Super IGAs? Would you suggest any changes?

I fully support the IGAs and the Super IGA. I believe this is an excellent tool to help manage growth and preserve our quality of life. The Super IGA puts some teeth into the comprehensive plans of the county's towns and cities. This will focus new growth in the urban centers and help retain the rural character of the unincorporated areas of the county. I do not see any disadvantages and I would not suggest any changes at this time.

3. What are your guidelines regarding the county's filing of lawsuits against citizens? Comment on the amount of taxpayer's money that has been used to payoff and settle lawsuits. How has this affected the county's liability insurance rate? What is your position with regard to requiring non-disclosure agreements on settling a lawsuit?

I would hope the county would try at all costs to avoid embarking on litigation against citizens. I would like to see the use of professional mediation as a first step to address a confrontation between the county and citizens.

I don't know how current county litigation has affected liability insurance rates. To obtain this information I will contact the current commissioners and the director of the Administrative Services Department.

I will make the work of the county as transparent as possible. I believe I can help to restore the trust of citizens via my fair and open approach to management of the county.

4. What is your position on businesses in the unincorporated part of the county? What types of businesses should be allowed and how should they be regulated?

I believe a key component to preserving our quality of life is nurturing a healthy and diverse local economy. This includes supporting the entrepreneurs who work out of their homes. I am a good example. I have operated my organization consulting business out of my home for the past 12 years.

I have not had an opportunity to review the land Use Code to better understand the regulations. However, I believe the county needs to play a more active role in supporting a healthy and diverse local economy. I will convene meetings with area business leaders, chambers and government representatives to develop ways we can all work together to help keep our economy strong. .

5. How would you address a Site Plan Review following a catastrophe such as the Overland Fire?

I would direct staff to do everything possible to be of assistance to people who have experienced the catastrophe. I would propose waiving the site plan review fees for the citizens who lost their home or experienced significant damage. I would also direct staff to consider the prior conditions of the specific parcel in its review of any new application. For instance, I do not believe it is appropriate to require the landowner to construct an entirely new access road if the old one didn't meet current standards. However, some minor modifications may be required to accommodate emergency access.

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1. What do you think should be done regarding the '93-'03 lot mergers? In general, how should the LUD deal with property owners when it seeks changes which affect property values?

While I support the goal of minimizing growth in the unincorporated areas of the county, I probably would not have supported the lot mergers as instituted in 1993. I believe that the level of public benefit from the mergers was not great enough to justify the action, especially given the level of ill will that it created. The mergers were too arbitrary - the fact that one couple with the lots in 2 names was treated differently than a couple with both lots in one name is an example of an action that many people would find unfair. I would instead have created a set of incentives for voluntary mergers. Since many people have multiple lots as a buffer against development, it is quite possible that many people would agree to voluntary mergers in return for the tax benefits and other incentives.

I favor consideration of unmerging the properties that were merged under the previous regulations, while offering incentives for voluntary mergers. There are a some complications which make a blanket unmerging difficult. For example, if a property has since been sold, unmerging the parcels would simply be giving a windfall to the new owner. There may also be issues surrounding the legitimate expectations of neighbors who have made decisions based upon the development potential under the existing regulations. And there may be some mountain

~ properties where development on merged properties would be so impactful that there truly is a strong public interest at stake.

On the second question, it depends on the details. While every owner of a legally buildable lot has the right to some level of use of that lot, there is a legitimate public interest in protecting natural habitat, preventing erosion, preserving vistas, and minimizing development in areas of high wildfire risk. It is completely legitimate for the county to impose regulations that protect the public interest; regulations do not need to maximize development potential or property value for individual landowners. It is a matter of striking a balance, and assuring that there truly are significant public values at stake when imposing regulations. I also support the use of incentives where possible.

I also believe government actions should occur in the full light of public disclosure. It is for this reason that I have always advocated for a high degree of public notification concerning proposed regulatory measures during my time on the Boulder City Council. Such notice standards are critical to the consideration of all ramifications of public policy measures and to making appropriate decisions. I would apply this same philosophy to the consideration of proposed land use regulations. Of course, the level of public outreach and the manner depends on the particulars of the regulation under consideration. Individualized notice is clearly appropriate when the regulations under consideration have a narrow application to specific individuals, as in the property merger situation

2. What are the advantages and disadvantages of Super IGAs? Would you suggest any changes?

I think that the IGAs that have been negotiated, both the individual IGAs between single municipalities and the county, and the multi party IGA's like the super-IGA, provide great benefits. First, they establish a joint vision for land use, ensuring that the county and the municipalities agree to the same framework. The IGAs make clear what areas are rural in nature, and can be expected to remain primarily rural or agricultural uses for the long term, and what areas can be expected to be annexed and developed at urban levels. This is good for the public as a whole, by giving certainty that rural areas will remain rural, and is good for landowners, who then have more certainty about the future. These IGAs also will prevent future annexation wars as communities fight for sales tax revenues. I am proud of the county and the individual cities for their willingness to cooperate on land use issues, and to work together to preserve the open areas of our county. This has also been noticed regionally - the super IGA is taking top honors this year in the regional planning awards from the Denver Regional Council of Governments.

3. What are your guidelines regarding the county's filing of lawsuits against citizens? Comment on the amount of taxpayer's money that has been used to payoff and settle lawsuits. How has this affected the county's liability insurance rate? What is your position with regard to requiring non-disclosure agreements on settling a lawsuit?

It really depends on the details of each individual case. I do believe that litigation should be a last resort, used only in egregious cases where a landowner has clearly willfully violated zoning regulations, and been unwilling to come into compliance. I also believe that there should be a compelling public interest at stake

I don't know enough of the inside details to really be able to comment on whether the county has gone too far with lawsuits. It is likely that cases only get media coverage when the county loses. I would need to know what percentage of cases the county has actually won (I think it is a very high percentage) and how both the

number of cases and the percentage won compares to other counties of similar size. The percentage of cases won is an important measure, since winning implies that the county was correct in its assessment that a legal violation was occurring.

I know that the Times-Call has reported that the county's liability insurance rates have increased due to lawsuits, but the county disputes this.

Finally, I would be sparing in the use of non disclosure agreements, although there are sometimes valid legal and policy reasons for using them, whether it is in the interest of the government body or the opposite party.

4. What is your position on businesses in the unincorporated part of the county? What types of businesses should be allowed and how should they be regulated?

In general, businesses should be compatible with surrounding rural and agricultural uses. I would not support the proliferation of commercial uses in the unincorporated county, especially if these commercial uses will merely serve to undermine the viability of commercial zones in incorporated cities of the county.

5. How would you address a Site Plan Review following a catastrophe such as the Overland Fire?

I would work with landowners to make their recovery from the fire as painless as possible, by expediting the process, assuming that the landowner wished to rebuild a structure which is similar in scale and character to the one destroyed in the fire. I would however pay special attention to assuring that redevelopment of the site respects the natural hazards of the site, and to minimizing future wildfire risks. If the landowner decides to build a structure substantially larger than the structures that burned, a larger review might be necessary. And, of course, only structures that had been legally built could be replaced under the expedited process.