



*"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
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The Land Use Lantern

Newsletter of the Land Use Coalition

January 2008

President's Column

Greetings LUC Members and Landowners:

Welcome to the future of Boulder County. It's looking like the County is expecting massive population increases and has taken a hard line to insure that only the rich need apply. How else can we interpret the five new programs (BuildSmart, Square Footage Restrictions, Transferred Development Credits/Units, Special Character Areas, and, Site Plan Review Neighborhood Presumptions) that are on their way to unincorporated Boulder County home and land owners? All of these land use programs have been proposed in the name of "sustainability" and "preserving the character of the neighborhood." For more details, see Dick Schillawski's roundup of the Planning Commission's recent hearings in this newsletter.

In adopting these programs, Boulder County is throwing the residents of Boulder County out like throwing the baby out with the bath water. In the County's rush to keep people out and reduce the size of buildings, they have thrown up this gauntlet that affects all social and economic levels. It puts the greatest burden on the average and small fry of us residents, disproportionately by the county's proposed ratios, presumptions, and credits.

There is still the good fight to fight. We need concerned citizens, plenty of e-mails and letters to go to the Planning Commission and County Commissioners. Two of the topics yet to be decided are: the size caps of the Square Footage Restrictions and Square Footage ratios limiting house size in site plan review. An untested and untried Transfer of Development Credits program will require a new Clearinghouse/Bank created by but separate from, Boulder County Government to keep a transparent accounting of sales and pricing in the newly created market of TDCs. Compounding the problem is the disregard for the average lot size with respect to house size. Since unincorporated Boulder County lots are typically acres in size, eventually the home will not conform to the high land values, creating marketing and lending problems.

The time to act is now. Why suffer from these County Zoning programs, which can cause such unnecessary heartache to an unknown number of residents of Boulder County? Please contact us and support us, so we can support you. Find out more at www.landusecoalition.org and send your concerns directly to the email of Michelle Krezek - mkrezek@bouldercounty.org and the County Commissioners and Planning Commissioners at commissioners@bouldercounty.org.

These new regulations affect approximately 20,000 Boulder County land and homeowners. We've been actively trying to get the word out both to our members and the public about the County's code revision process. We've recently run several newspaper ads to help educate the public and increase attendance at the County hearings. We're also looking into doing a joint mailing to all of the affected land and homeowners with other concerned organizations. These efforts require a great deal of time and money. Please help us continue our efforts by sending in your annual membership dues and a little bit extra if you can afford it. As always, your contributions of time and money are greatly appreciated and help keep us going. So, thank you!

Yours truly,

Dirk Arnold

Phone: 303.449.5000, E-mail: dirkarnold@earthlink.net

ANNOUNCEMENTS

LUC LUNCHEON ON ADVERSE POSSESSION FEB. 20 AT 11:30 AM

A recent case of adverse possession has garnered quite a bit of attention - both locally and nationally. Find out more about adverse possession in Colorado and how it relates to your property rights. See page 4 for more details.

ANNUAL MEMBERSHIP RENEWAL TIME

Please complete the membership renewal form included on page 3.

SPECIAL OFFER: Discounted membership fee for new and renewing members when you pay for your membership fee & the Feb. 20 Luncheon - see page 3 for details.

Boulder County Code Revision Update

The BuildSmart Proposal

The Boulder County Commissioners (BoCC) has voted to adopt their "Green Building" program called "BuildSmart"; Land Use Department staff will bring back final language to the BoCC for approval.

These new building regulations will affect new houses and home additions of more than 500 sq. ft., and will also require "deconstruction" if an existing house is removed. Originally modeled after the City of Boulder's "Green Points" program, it evolved from a highly impractical, solar-energy program to the current, performance-based proposal. The program will require moderate increases in building energy performance over those required by the current codes for smaller houses, gradually rising with size to requiring "net zero" energy usage for houses above about 5,000 sq. ft. There may be some changes in the final regulations to incorporate recommendations to make them more practical.

The LUC's Position: The LUC in general approves the flexibility the proposal would allow in methods of meeting the energy targets, but feels that the targets themselves - particularly for larger houses - are overly aggressive given the current state of building technology. We also note that the net effects of the program in unincorporated Boulder County will be negligible given the low rate of new housing construction. Assistance and incentives to upgrade existing housing would have much greater impact in reducing net energy usage in the rural county.

Transferable Development Rights

At its meeting on January 16, the Planning Commission (PC) suggested few changes to the new, expanded Transferable Development Rights (TDR) program, which would have major effects on those wishing to build "large" houses in the rural county. The purpose of TDR programs is to discourage development in "inappropriate" areas and provide incentives to build in less objectionable (usually more dense) areas. The current proposal would require an owner/builder to purchase development rights from another location before building or expanding houses above a certain maximum size (or "threshold"). The rights available for transfer could be the right to build on a currently vacant lot - leaving it vacant forever. Or the owner of an existing "small" house might agree to keep the house small forever in return for a lesser amount of transferable rights. The "threshold" would be larger in the plains/foothills areas than in the mountains, and the maximum building size for any lot would still be determined by the Site Plan Review (SPR) process.

Another feature of this proposal, which might end up having much greater impact, amends the SPR regulations: Houses within 150% of the median of existing houses within 1,500 feet of a lot where a new house or addition is proposed would have a "presumption" of "compatibility" with their neighborhood; those above this percentage would not. If treated as a hard limit on house sizes, this presumption would mean very few "large" houses could be built or existing houses enlarged to become "large" houses. It is not clear what the practical effect of this proposed change would be.

The Planning Commission decided to maintain the difference in size thresholds between the mountains (3,500 sq. ft.) and the plains/foothills (6,500 sq. ft.), to have these thresholds apply to ALL residential square footage (including basements, garages, storage sheds, etc.) excluding only covered porches and decks, and to eliminate the interim house-size limits proposed for Special Character Area (SCAs). SCAs would have a reduced interim trigger for the SPR process. They declined to make changes to the proposed addition to the SPR criteria and how development within existing TDR-receiving subdivisions is to be affected by these regulations.

The LUC's Position: The LUC continues to oppose these proposals as both unnecessary and undesirable given the low rate of development in the rural county and the undue burden they will place upon rural landowners. No clear link exists between any impacts of building a "large" house in one area might have and preventing development in another, so the major, additional expenditures this proposal would require is inappropriate. In addition, the draft language for the proposed change to the SPR criteria may end up limiting most new and enlarged houses throughout the rural county to sizes smaller than those of already existing houses nearby.

The Planning Commission will hold a public hearing on February 6 at 6:00 PM for public comment. The LUC strongly encourages all rural Boulder County land and home owners to attend and voice their opposition to these proposals. For more information, visit the LUC's website: www.landusecoalition.org and the County's Land Use Dept. website: <http://www.co.boulder.co.us/lu/>

By Dick Schillawski, LUC Vice President and Code Committee Chair

**SPECIAL OFFER: SAVE \$5 ON 2008 LUC MEMBERSHIP FEE
WHEN YOU PAY FOR YOUR ANNUAL MEMBERSHIP FEE
AND THE FEBRUARY 20 LUC LUNCHEON***

LUC MEMBERSHIP DUES & DONATIONS

Enclosed is \$35 for my 2008 LUC membership fee I am making an extra donation of \$ _____

Enclosed is \$50 for my 2008 LUC membership fee AND the Feb. 20, 2008 LUC Luncheon*

Please send me a free bumper sticker: Respect Prop. Rights Take Politics out of Prop. Rights

Name _____ Membership Status: Existing New

Address _____

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Many Thanks for your generous donation!

Please mail this completed form along with your check made payable to:

The Land Use Coalition - PO BOX 20265 - Boulder, CO 80308

Phone: 303-666-7903 - E-mail: contactus@landusecoalition.org - Website: www.landusecoalition.org

We do not share our donors list, mailing list or e-mail list with anyone. If you give us your e-mail address, you will receive the LUC newsletter and current action alerts and announcements online.

***NOTE: If you plan on attending the Feb. 20 luncheon, please bring this completed membership form and \$50 (cash or check) to the luncheon - Remember to RSVP for the luncheon by Feb. 18 to Jo Wiedemann - Phone: 303.447.2569 or e-mail: jowiedemann@comcast.net**

In order to continue receiving LUC newsletters and updates, please complete and return the membership renewal form above, along with your membership dues. We want our members to know that all of our staff is strictly volunteer with no paid positions whatsoever. Many of us work tirelessly on all issues that concern the property rights of thousands of landowners in Boulder County. Please help us continue our efforts to educate the public about land use issues that affect us all by making a contribution to the LUC. Your prompt payment of renewal fees is greatly appreciated.

LUC CALENDAR

Planning Commission Hearing -

BOCC Hearing Room - 6:00 PMFeb. 6

LUC February Meeting - 5:30 PMFeb. 13

LUC Luncheon on Adverse Possession*

Boulder Broker Inn - 11:30 AMFeb. 20

**Please RSVP for LUC Luncheon by Feb. 18*

LUC March Meeting - 5:30 PMMarch 5

LUC April Meeting - 5:30 PMApril 2

LUC monthly meetings are usually held the first Wednesday of each month at 5:30 PM at the Olive Garden, located at 2685 Pearl St. on the northwest corner of Pearl and 28th in Boulder, phone: (303)546-6506. Please check our website to confirm our next meeting date and time: www.landusecoalition.org

Please confirm all Boulder County calendar items in advance.



Do you currently receive LUC newsletters by mail? If so, you can help us save money on printing and postage and keep up-to-date on Boulder County land use events by opting to receive our newsletters by e-mail. To switch, please contact Betty Gibbs at: gbibbs@wcox.com

LAND USE COALITION OFFICERS

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COMMITTEES

Boulder County Land Use Code Revision Committee -
Dick Schillawski (303-664-0156)
Forest Land Use Committee - Bill Carpenter (303-619-2635)
Luncheon Committee - Jo Wiedemann (303-447-2569)
Newsletter Committee - Ann Mygatt (303-449-8007)



PO Box 20265
Boulder, CO 80308

OUR NEXT LUC MEETING IS
WED. FEB. 13 - 5:30 PM
OLIVE GARDEN IN BOULDER
(NW CORNER OF 28TH & PEARL)

LUC LUNCHEON - WEDNESDAY, FEBRUARY 20

Join us for a Presentation and Discussion on:

ADVERSE POSSESSION IN COLORADO

Is your Property Vulnerable to Adverse Claimants?

Find out How to Protect and Assert Your Property Rights

Featuring:

Thomas J. Finch

Attorney at Law

Tom Finch is a Boulder attorney with an extensive background in real estate law. He and John Hensley successfully litigated the current leading case in Colorado on adverse possession law, *Trask v. Nozisko*, 134 P.3d 544 (2006), a Boulder County Case involving mountain property. Topics covered include:

- What are the elements of adverse possession?
- What can you do to avoid having your property taken by adverse possession?
- Should the law be changed?
- Has there been a breakdown in the legal system?
- Everything you wanted to know about adverse possession, but don't have to be afraid to ask! Send your questions in advance to our moderator - Ann Mygatt - ABMygatt@aol.com or 303.440.8245
- State Sen. Ron Tupa has co-sponsored legislation this session to change the adverse possession law and has been invited to attend the luncheon. If he cannot attend, we will have an update on the status of the legislation.

Space is limited, Please RSVP by Feb. 18

Date: February 20, 2008

Time: Registration: 11:30 am
Lunch Buffet & Presentation:
11:45 am - 1:30 pm

Cost: \$20 includes a buffet lunch and non-alcoholic beverage - Please bring cash or a check made out to the LUC

Place: Broker Inn
555 30th St. - Boulder, CO

RSVP: By Feb. 18 to Jo Wiedemann
Phone: 303.447.2569 or e-mail:
jowiedemann@comcast.net

*Discounted 2008 LUC member fee with luncheon - see membership form on p. 3

One CLE credit applied for.