



*"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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The Land Use Lantern

Newsletter of the Land Use Coalition

April 2009

President's Column

Greetings LUC Members and Concerned Landowners:

Welcome to the world of Citizen Watchdogs. For some time now Boulder County has delivered a blizzard of new programs designed to push the envelope of legitimate governmental land use action. We've been monitoring the County very closely, and yet we've had a challenging time keeping up with the breakneck pace of cutting edge land use policies that Boulder County is known for adopting. Although it's exciting to have a role in shaping up-to-the-minute land use policies, it seems we have encountered skirmishes on so many fronts at the same time (ClimateSmart Loan Program, BuildSmart, the Transfer of Development Credits and house size reductions), that it's overwhelming. Now more than ever the county needs our participation as it pushes to review the entire Land Use Code, and as staff and others request reviews and amendments. This is the perfect time for The Land Use Coalition to swing into action doing what we do best: disseminating information to its members and the public, and alerting concerned land owners.

The LUC will have its hands full when the County revises the Land Use Code, and at the same time continues its oversight of new and ongoing programs. By their own admission, the Commissioners have expressed a need for continual monitoring and updating of their new land use programs. We have entered into an era of unique issues that hinge on newly defined terms, like "pasture" and "Conservation Easements." The County's continued aggressive agenda will require that affected stakeholders and interest groups be aware of what steps the County is taking to reach its goals. These steps can happen very quickly when citizens are not watching.

I'm happy to report that the County has made some effort to improve the mailing of notices to landowners, alerting them to proposed amendments in the Code. However, they still ignore specific populations who might be affected by agenda items that come up for revisions and updates by staff. The Land Use staff in some cases fails to acknowledge that certain amendments may (even inadvertently) have consequences that impact unsuspecting classes of landowners. On more than one occasion, for example, commercial and residential down zonings were averted because the Land Use Coalition was active in the E-mailing of notices and was aware of County Planning/Commissioners meeting attendance and comments. The word got out.

In our continuing efforts to help educate folks, the LUC is sponsoring a free forum on the County's BuildSmart regulations. We hope that you will be able to join us on May 7 for what is sure to be an interesting and educational event. Please help make it possible for us to continue to offer these type of programs by renewing your membership today! Don't be afraid to write a bigger check if you can, but for only \$35 annually you can become a member, receive the newsletter and help us sponsor these events. Supporting the effort at this crucial moment in time in Boulder County and in the nation's land use history will make you feel good inside! Thank you so much for your support!

Cheers,

Dirk Arnold

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

ANNOUNCEMENTS

BECOME EDUCATED ON BUILDING IN BOULDER COUNTY!

The LUC is sponsoring a BuildSmart Forum on May 7 at 6:30 PM.

The forum is designed to help property owners, architects, and builders understand Boulder County's BuildSmart Program. Our speakers all have experience with building in Boulder County and will speak to the pluses and minuses of the regulations.

Our main objective is to provide reasonable and practical recommendations for a workable BuildSmart program. The forum results will be presented to the Land Use Department and the Boulder County Commissioners at the County's BuildSmart hearing tentatively scheduled for May 19. See page 4 for more details.

ANNUAL MEMBERSHIP RENEWAL TIME

Please complete the membership renewal form included on page 3.

Eight Reasons Why Boulder County's BuildSmart Program is Not So Smart

I urge you to take a close look at the recently adopted (2008) Boulder County BuildSmart building code amendments, especially if you are thinking about building or adding onto your home. Purportedly adopted to "regulate the energy efficiency of the design and construction of residential buildings", you will be dismayed to learn that this regulation, as currently designed and enforced, does not live up to its name, and will add thousands to the cost of your potential project. The County has been seeking input for the short time the regulations have been in effect. The following article reflects the complaints that have been heard from home-owners, builders, realtors, architects and lawyers:

1. BuildSmart Requires Systems That Aren't Yet Cost Effective

Except for the few who choose to live in remote areas far from public utilities, solar heat collectors, photovoltaic arrays, and geo-thermal heating/cooling systems are not cost effective. Given their current price tags and turnover of properties, initial purchasers will rarely break-even on the expenditures involved. Yet, as many designers have discovered, BuildSmart's point system requires their inclusion in most of the County's new homes and additions. Efficiencies of all solar and geothermal systems de-grade over time and by the time break-even does occur, they may not work at all. Although rebate programs may make certain systems more affordable for their users, the loss of utility and tax revenue they create is simply passed on to all of us, thereby negating any net benefit to the community.

2. BuildSmart Discourages Upgrading and Encourages Bad Construction

Because the demands of the current BuildSmart program add so much up-front expense, many homeowners choose not to proceed with construction projects at all. Some may build without a permit. Homes that would be, and should be, remodeled and modernized, will go unimproved and will continue to waste energy. Homeowners who choose to skirt current regulations by proceeding without permits and inspections, may ultimately endanger themselves or future occupants by not adhering to safe construction practices.

3. BuildSmart Adds Costly Complication

The International Residential Code (the IRC) was created through years of effort and collaboration among our most capable engineers, architects and builders, and was intended to unify our multiple building codes and reduce wasted time, money, and energy for everyone. BuildSmart undermines this worthy effort by adding another code and countless back-and-forth hours to the design process. Designers can't make intelligent decisions or estimate cost without input from a ResNet-approved HERS Energy Rater, and HERS Raters can't make rational suggestions without adequate designs.

4. BuildSmart is Unnecessary

The IRC already addresses issues of energy efficiency in a comparatively straightforward manner and with known cost-effective technologies. All that Boulder County need focus on, and possibly refine when reviewing plans for new homes and additions are six key elements: Insulation, Glass, Infiltration, Mechanical Equipment, Appliances, and Exterior Lighting. Those who choose to vary from these basics should be allowed to demonstrate equivalency in any manner acceptable to the Building Official.

5. BuildSmart is Unfair

BuildSmart's stated primary goal is to reduce resource consumption and pollution primarily by regulating the energy efficiency of our homes. It purports to do so by estimating energy consumption as calculated by self-employed specialists called Home Energy Rating System (HERS) raters and applying their findings to a progressively demanding scale based upon home size; the more square feet the home, the lower the rating it must achieve. Despite the fact that most families have one refrigerator, one washer, one dryer, one water heater, one furnace, etc., it assumes that large houses use proportionately more energy than smaller houses. The premise is that the bigger the house, the more energy its occupants will consume. In fact, a house per se doesn't consume energy, its occupants do, and their energy requirements are far more proportional to their family size than their home's size. BuildSmart does not address this glaring omission. Yet despite this fact, the County now requires new home builders as well as remodelers to spend often tens of thousands of additional dollars to, in theory, reduce their energy consumption and/or discard their aspirations (such as pools or outdoor kitchens) in order to comply with their arbitrary HERS rating scale. On the other hand, improving efficiency in existing homes (which are probably much less energy efficient than new ones) has been left to the discretion of their owners. No conservation demands are made of those owners who are allowed to replace worn-out furnaces, water heaters and appliances with low-efficiency models; leave their built-in gas barbecues and fire pits in place and their pools and hot tubs uncovered; continue to burn outdoor lights with incandescent bulbs; and, replace leaky exterior doors and windows with low quality substitutes. In reality, BuildSmart's escalating HERS rating system equates to a punitive tax on those who choose to spend their money building homes or additions that exceed what the County Commissioners consider "reasonable". Our officials have chosen to penalize some citizens for their assumed excessive energy consumption while forgiving others for the same offense. This behavior displays blatant prejudice, unnecessarily interferes with the peaceful enjoyment of private property, is most likely unconstitutional, and cannot be shown to be in the general public's best interests.

6. BuildSmart Promotes Ugliness

In the eyes of many, rooftop mounted solar water heaters and photovoltaic panels along with towering wind generators are just plain ugly. They are often abandoned when damaged or inoperative or become too expensive for their owners to repair or replace. Encouraging or demanding their use makes a mockery of all the years of micro-management by former Commissioners over such aesthetic issues as home size, visual mass, architectural style, neighborhood compatibility, colors, window placement, glare, and public visibility. This is not to say that rooftop and tower-mounted systems should be totally outlawed; only

that they should be incorporated with great care with regard to architectural integration and visibility and should not be made mandatory for most projects in order to obtain permit approval.

7. BuildSmart Hurts Our Local Economy

One of the most reliable sources of local jobs is the residential construction industry. According to Moody's Economy.com, between 1996 and 2000 a staggering 40% of all new American jobs were created by housing. A substantial number of our friends, neighbors and relatives rely on and prosper from it. In fact, locally built and remodeled homes are among the few things we can purchase anymore that are actually "made in America". At a time of widespread economic suffering and turmoil, government should be encouraging rather than impeding residential construction. Those who can afford it already pay a premium to build larger homes in the form of higher design and permit fees, TDR purchases, higher construction costs, and higher property taxes. In the process, they help recycle their earnings, spread their wealth, and help all of us support our families. The County's on-going effort to dictate home size under the guise of energy efficiency is dishonest, stifles residential construction, reduces our inventory of affordable housing by driving costs higher and ultimately hurts all of us.

8. BuildSmart is Ill-timed and Counter-productive

Our new leaders in Washington are doing everything they can to revive the housing industry to re-start our stagnant economy. When we make the cost and complexity of constructing and renovating our homes more expensive, we not only undermine their efforts, but diminish sales tax revenue, elevate property appraisals, increase property taxes and impact affordability. Worst of all, the increase in up-front costs and higher mortgage payments that BuildSmart necessitates, have to be earned with countless years of additional work, commuting, resource consumption and pollution.

By Richard Lefcourt, Architect and LUC Member (303-440-4037) - Richard will be speaking at the LUC BuildSmart Forum on May 7

LUC MEMBERSHIP DUES & DONATIONS

Enclosed is \$35 for my 2009 LUC membership fee I am making an extra donation of \$ _____

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

Name _____ Membership Status: Existing New

Address _____

City/State/Zip _____

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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.

LUC CALENDAR

LUC May Meeting - 5:30 PM May 6

LUC BuildSmart Forum

Nomad Theater - 6:30 PM May 7

County BuildSmart Hearing* -

BOCC Hearing Room - 6:00 PM May 19

LUC June Meeting - 5:30 PM June 3

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: bgibbs@wcox.com

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PO Box 20265
Boulder, CO 80308

OUR NEXT LUC MEETING IS
WED. MAY 6 - 5:30 PM
OLIVE GARDEN IN BOULDER
(NW CORNER OF 28TH & PEARL)

LUC BUILDSMART FORUM - MAY 7 AT 6:30 PM

LUC BuildSmart Forum Agenda (subject to change)

Dick Schillawski, Forum Moderator & LUC V.P.

Introduction, Forum Ground Rules, and Objectives

Speakers:

Scott Rodwin, Architect/Designer/Builder

What it takes for a home to comply with BuildSmart
Designing or Renovating a home for Net-Zero energy usage

Richard Quigley, Homeowner

Difficulties encountered in his BuildSmart "experience"

Richard Lefcourt, Architect

Economics of photovoltaic and wind electrical generation
Net costs of existing BuildSmart regulations

Gary Wood, Builder

Difficulties encountered in his BuildSmart "experience"
Special problems inherent in existing subdivisions

Adam Stenftenagel, Green Building Consultant & HERS Rater

Usefulness of HERS ratings
Difficulties applying HERS ratings to Remodels & Renovations
Suggested changes to role(s) of HERS rating system in improved
BuildSmart regulations

Date: Thursday, May 7, 2009

Time: Please arrive at 6:30 PM for drinks and refreshments
Forum will begin at 7:00 PM

Place: Nomad Theater - Boulder, CO
1410 Quince (off N. Broadway)

RSVP: Jo Wiedemann - Phone:
303.447.2569 or E-mail:
jowiedemann@comcast.net

This is a free event sponsored by the Land Use Coalition. Please invite your friends, neighbors, associates, or anyone who is interested in Boulder County's BuildSmart program.

The forum will consist of individual presentations, followed by group discussions, and then a summary of topics to be presented at the Boulder County BuildSmart hearing that is tentatively scheduled for May 19.