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October 26, 2006

Dear Boulder County Commissioners:

It has been more than a year and a half since the County's Land Use Code revision process began. We would like to take this opportunity to share with you our thoughts on the revision process, administration of the Land Use Code, and direction for the future.

We encourage you to stay with your goal of improving the Land Use Code for: *"Clarity, Fairness, Usability, Effectiveness, Ability to preserve the County's rural character, and Ability to protect our environment."* While in recent decades fairness has been a major problem (fairness toward the minority owning undeveloped rural lands has been sacrificed at the alter of preserving rural character, etc.), at present it seems as if most of your stated goals have gotten lost in the revision process. Perhaps each code revision meeting, whether public or not, should begin with the recitation of this goal. As inane as it might sound, this might help everyone stay on track and prevent losing sight of the purpose of this process. Or perhaps you have another method of restoring and maintaining the focus of your goals.

At the October 10, 2005 BOCC hearing, you prioritized a long list of suggested changes to the Land Use Code. At the top of the list are Site Plan Review, Green Building, and Mergers. To date, there have been three dockets concerning code revisions from this process: 1) Rescinding of mountain and subdivision mergers, 2) Changes to the agricultural regulations, and 3) Green Building.

We heartily thank you for addressing the merger situation first. Your majority decision to rescind the mountain and subdivision mergers is a testament to your willingness to improve the Land Use Code and fix the wrongs implemented by past Boards. Although this was a crucial step in the right direction, justice has not prevailed for all merger victims. The single deed merger issue is still a problem, and we encourage you to take another look at this unfair policy that leaves landowners paying taxes on land from which the County has stripped away the development rights without the owner's knowledge or consent. Up to this point, you have been unwilling to address or even acknowledge this situation. If fairness is part of your Land Use Code revision goals, you need to rectify this and address the single deed merger issue.

We have several members who are affected by the County's agricultural Land Use regulations and they continue to voice the opinion that the Boulder County government is out of touch with its agricultural community. Those who have provided input for the agricultural code revision are disappointed with the lack of significant improvements. We encourage you and the Land Use Department to develop further relationships with those in the agricultural community, particularly among the landowners who are most affected by your regulations. We are concerned with the lack of consideration for the necessity of profitability in agriculture, the substantial difficulties presented at urban-rural interfaces, the effects of policies of the city's and county's Open Space programs upon the remaining private-sector farmers, ranchers, and equestrians, and the lack of the flexibility which is essential for producers to adapt to the continuous, rapid changes in agriculture. Site Plan Review and the other review processes are frequently cited as problems, as are weeds, prairie dogs, and a number of other issues.

We have provided some input on green building and a few of our members have volunteered to participate on the green building study panels. We continue to recommend that any green building regulations (whether in the Land Use Code or Building Code) be implemented as suggested alternatives with incentives, rather than requirements. We are concerned about the added level of bureaucracy, additional complexity in the code, and increased costs to the applicant. Legitimate benefit to the environment based on proven scientific data, rather than a desire to limit ultimate house size, should be the driving factor in the implementation of Green Building regulations.

At the top of the code revision list from October 2005 is Site Plan Review. Ironically, it has been dropped to the bottom of the list of current code revisions. This is unacceptable. Contrary to the Land Use Department's sanguine presentation to the BOCC and the Planning Commission at the March 2006 study session, Site Plan Review is one of the driving forces behind this entire code revision process. SPR should remain at the top of the list and we encourage you to rectify this immediately. We continue to hear complaints about SPR and it should be the highest priority for review and improvement. To recap previous correspondence on this issue: the LUC maintains that SPR has sometimes been used inappropriately as a growth-control tool and/or means of harassment. In some cases, the results are arguably worse than they would have been without SPR. Some fundamental changes in the SPR process are needed to make it truly "appropriate." Please put Site Plan Review back at the top of the code revision list.

Another major area of concern that still needs to be addressed, in conjunction with the code revision process, is the much needed attitude adjustment at the Land Use Department. There has been a noticeable change in the way the new Commissioners operate, but unfortunately this seems to have had little impact at the Land Use Department. Despite claims to the contrary, things have not improved all that much. Although we have received some positive feedback, more often than not, we continue to be contacted by applicants in despair over the treatment they receive from the Land Use Department, confusion over the seemingly arbitrary and inconsistent application of the Land Use Code, and fear of speaking out as such action might jeopardize their application. This is not acceptable and should be addressed immediately by the Commissioners. In these cases, we have observed that the Land Use Department works against the applicant instead of with them. Why not adopt a solutions-oriented customer service policy? In the past and at the recent Agricultural hearing, many people supported the idea of bringing in an ombudsman to help mediate and facilitate the code revision process. We encourage you to explore this possibility as a means of improving the overall performance of the Land Use Department as well.

For the record, we would like to acknowledge that there are some great people working in the Land Use Department. However, the repeat offenders (a.k.a. bad apples) seem to operate in a "business as usual" mode that reflects poorly on the whole department. We encourage you, the Commissioners, to clean house and make the Land Use Department a positive reflection of your administration, rather than a team dedicated to carrying on the injudicious policies of past Commissioners.

We hope that you will address these items starting with your upcoming meetings on October 30. If you would like additional feedback on the items discussed in this letter, please feel free to contact Pam McElwain (LUC President) or Dick Schillawski (LUC Vice President). Thank you for your time and more importantly, thank you for this process.

Sincerely,

Members of the Land Use Coalition

cc: Boulder County Planning Commission, Graham Billingsley (LUD Director), Michelle Krezek