

Agenda Item

Date:**To:** Douglas County Board of County Commissioners**Through:** Douglas J. DeBord, County Manager**From:** Kati Carter, AICP, Director of Community Development **CC:** Matt Jakubowski, AICP, Chief Planner
Lauren Pulver, Planning Manager
Steven E. Koster, AICP, Deputy Director of Community Development**Subject:** **Proposed Douglas County Zoning and Subdivision Resolution Amendments-
Douglas County Water Commission Review of Land Use Applications**

SUMMARY

The Department of Community Development has developed a process for soliciting comments from the Douglas County Water Commission regarding land use applications for which a determination will be made regarding the sufficiency of a water supply. The process is also applied to applications for an appeal to the water supply standards in Section 18A of the Douglas County Zoning Resolution. That process is currently stated in a departmental policy. Staff has drafted potential amendments to the Douglas County Subdivision Resolution (DCSR) and the Douglas County Zoning Resolution (DCZR) to codify that policy in the review procedures for relevant land use application types.

NEXT STEPS

Staff is prepared to discuss next steps with the Board.

ATTACHMENTS

DCSR Article 4 – Preliminary Plan redline

DCSR Article 6 – Minor Development, Single-Family Residential redline

DCSR Article 6A – Minor Development, Nonresidential & Multifamily redline

DCZR Section 18A – Water Supply Overlay District redline

DCZR Section 21 – Use by Special Review redline

DCZR Section 27 – Site Improvement Plan redline

405 Submittal Process

The preliminary plan application shall be submitted only after the presubmittal meeting has been completed. The submittal is processed as follows:

- 405.01 The applicant shall submit the required submittal information to the Planning Office. An incomplete submittal will not be processed. Staff shall review the submittal information within 15 working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review.
- 405.02 As part of its initial review, staff will identify the number of copies of the submittal information required for distribution to referral agencies and identify which referral agencies are regulatory and which are advisory. The mailing addresses of the referral agencies shall be provided to the applicant. Electronic distribution is preferred. Otherwise, referral packets shall be provided by the applicant in unsealed manila envelopes, without postage, addressed to the appropriate referral agency, with submittal information properly folded and compiled. Staff shall include a referral response sheet, with the mailed paper referral packets and distribute the electronic referral packets. For any subsequent referral reviews, the applicant shall provide revised plans and other materials for distribution to applicable referral agencies, as requested by staff.
- 405.03 Staff shall send a courtesy notice of an application in process and applicable contact information to all abutting landowners and owners of land separated by 300 feet or less from the property by a platted tract. The applicant shall reimburse the County for the cost of materials. Errors in the courtesy notice shall not negatively impact the determination of public notice compliance set forth herein. *(Amended 4/13/2021)*
- 405.04 If the referral agencies elect to comment, they shall comment within 21 calendar days the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than 30 calendar days. After the 21 calendar days, if no extension is granted, any referral agency responses received will be accepted for informational purposes only and provided to the applicant, Planning Commission, and Board.

Concurrently with the referral period, the Douglas County Water Commission shall be given the opportunity to review and comment on the application. Any comments from the Water Commission shall be provided by staff to the applicant and attached to the staff reports submitted to the Planning Commission and the Board.

All referral agency comments shall be provided by staff to the applicant upon receipt. The applicant shall address the comments of all regulatory

distributed, unless the applicant grants, in writing, an extension of no more than 30 calendar days. After the 28 calendar days, if no extension is granted, any referral agency responses received will be accepted for informational purposes only and provided to the applicant, Planning Commission, and the Board.

Concurrently with the referral period, the Douglas County Water Commission shall be given the opportunity to review and comment on the application. Any comments from the Water Commission shall be provided by staff to the applicant and attached to the staff reports submitted to the Planning Commission and the Board.

All referral agency comments shall be provided by staff to the applicant upon receipt. The applicant shall address the comments of all regulatory referral agencies received within the 28 calendar day referral period, or as extended by the applicant, by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide staff a written response to timely comments of advisory referral agencies and those received as a result of the courtesy notice. The applicant is encouraged to meet with the referral agencies and staff to address any concerns. The applicant is required to pay those fees assessed by regulatory referral agencies.

Following receipt of the applicant's written response to comments, including the submittal of any revised exhibits and plans, the Planning and Engineering staff will provide additional comments to the applicant as necessary.

- 604.05 Staff will schedule a public hearing before the Planning Commission and notify the applicant in writing of the hearing date and time. The applicant is responsible for public notice of the hearing in accordance with Section 608 herein. Concurrent notice for the Planning Commission and Board public hearings may be provided if requested by the applicant.
- 604.06 The Planning Commission shall evaluate the minor development final plat, staff report, referral agency comments, applicant responses, and public comment and testimony, and make a recommendation to the Board to approve, approve with conditions, continue, table for further study, or deny the minor development request. The Planning Commission's decision shall be based on the evidence presented; compliance with adopted County standards, regulations, and policies; and other guidelines.
- 604.07 Following the recommendation by the Planning Commission, staff shall schedule a public hearing before the Board and notify the applicant in writing of the hearing date and time, unless previously provided with a request for concurrent hearing notice. The applicant is responsible for

applicant shall reimburse the County for the cost of materials. Errors in the courtesy notice shall not negatively impact the determination of public notice compliance set forth herein. (Amended 4/13/2021)

- 604A.04 If the referral agencies elect to comment, they shall comment within 28 calendar days of the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than 30 calendar days. After the 28 calendar days, if no extension is granted, any referral agency responses received will be accepted for informational purposes only and provided to the applicant, Planning Commission, and the Board.

Concurrently with the referral period, the Douglas County Water Commission shall be given the opportunity to review and comment on the application. Any comments from the Water Commission shall be provided by staff to the applicant and attached to the staff reports submitted to the Planning Commission and the Board.

All referral agency comments shall be provided by staff to the applicant upon receipt. The applicant shall address the comments of all regulatory referral agencies received within the 28 calendar day referral period, or as extended by the applicant, by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide staff a written response to timely comments of advisory referral agencies and any comments received as a result of the courtesy notice.

The applicant is encouraged to meet with the referral agencies and staff to address any concerns. The applicant is required to pay those fees assessed by regulatory referral agencies.

Following receipt of the applicant's written response to comments, including the submittal of any revised exhibits and plans, the Planning and Engineering staff will provide additional comments to the applicant as necessary.

- 604A.05 Staff will schedule a public hearing before the Planning Commission and notify the applicant in writing of the hearing date and time. The applicant is responsible for public notice of the hearing in accordance with Section 608A herein. Concurrent notice for the Planning Commission and Board public hearings may be provided if requested by the applicant.

- 604A.06 The Planning Commission shall evaluate the minor development final plat, staff report, referral agency comments, applicant responses, and public comment and testimony, and make a recommendation to the Board to approve, approve with conditions, continue, table for further study, or deny

1801A Intent

To ensure that development in all areas of Douglas County provides for a water supply that is sufficient in terms of quantity, quality, and dependability. [§30-28-133 (3)(d), C.R.S.]

Compliance with the following standards permits a presumption that a proposed water plan meets the standards set forth in these regulations. Any landowner may appeal these standards to the Board to prove a sufficient water supply, as set forth in Section 1808A.

1802A Applicability

The Water Supply Overlay District shall be applied as a supplemental regulation to those set forth in the underlying Zone District and to all applications submitted pursuant to the following regulations. Unless otherwise appealed as set forth in Section 1808A, the Board shall determine the adequacy of a water supply to meet the demand for a proposed development within a Preliminary Plan, Minor Development, or Use by Special Review application as applicable.

1802A.01 Douglas County Zoning Resolution:

- Planned Development
- Rezoning
- Site Improvement Plan – legal unplatted parcels
- Use By Special Review

1802A.02 Douglas County Subdivision Resolution:

- Preliminary Plan
- Final Plat
- Minor Development – Single-Family, Multifamily and Nonresidential

1802A.03 Douglas County Building Code, as described in the Pike-Rampart or Margin A Water Supply Zone Standards

1802A.04 County Review of Special District Applications

All of the restrictions and requirements set forth in other applicable regulations remain in full force and effect. In the case of overlapping or conflicting requirements, the most restrictive provision shall apply.

1803A Approval Standards

The Planning Commission and the Board of County Commissioners shall utilize these standards when evaluating ~~land use applications~~ the adequacy of a water supply to meet the demand for a proposed development. Based upon the information provided pursuant

to the Documentation Standards described in Section 1806A, ~~the Planning Commission~~
~~and~~ the Board of County Commissioners shall determine if:

- 1803A.01 The applicant has demonstrated that the water rights can be used for the proposed use(s).
- 1803A.02 The reliability of a renewable water right has been analyzed and is deemed sufficient by the County based on its priority date within the Colorado System of Water Rights Administration.
- 1803A.03 The Water Plan is deemed adequate and feasible by the County to ensure that water supply shortages will not occur due to variations in the hydrologic cycle.
- 1803A.04 The Water Plan is sufficient to meet the demand applicable to the project based on the minimum water demand standards in Section 1805A herein.

1804A Water Supply Zones, Boundaries, and Standards

The Water Supply Overlay District encompasses the entire area of Douglas County. The District is divided into zones identified as Pike-Rampart, Margin A, Margin B, and the Central Basin, as depicted on the Water Supply Overlay District Map, attached hereto and incorporated herein with this reference.

Compliance with these standards shall be demonstrated through the Documentation Standards set forth in Sections 1806A.

1804A.01 Pike-Rampart Water Supply Zone

1804A.01.1 Groundwater from Granitic Fractures

A well in the granitic metamorphic fractures may only be allowed as the source of water in the Pike-Rampart Water Supply Zone, when required for issuance of a building permit, for a principal or accessory use currently allowed by zoning on a legally created parcel as follows:

- (1) The applicant must submit evidence of a well test in one of two forms, as follows:
 - (a) A minimum 4-hour, constant-discharge test that would require the well to be pumped at a constant rate commensurate with the ability of the aquifer to yield not less than 1 gallon per minute (gpm), with water level measurements being made throughout the duration of the test. To conduct an acceptable well test, the pump shall be valved to maintain a constant rate, a calibrated flow meter used to measure flow, and a means to obtain

- 1808A.02 The applicant shall submit an explanation in narrative form explaining the appeal and attach any information including site-specific data, for the Board to consider.
- 1808A.03 The following analyses will be required for appeals to use Denver Basin water underlying land in the Margin A Water Supply Zone and for appeals to use more than 50 percent of appropriable Denver Basin water underlying land in the Margin B Water Supply Zone for the purpose of assessing the suitability of those Denver Basin aquifer supplies:
- 1808A.03.1 A static analysis to include an evaluation of the volume of the appropriable water supply for the proposed development.
- 1808A.03.2 A dynamic analysis that evaluates whether the adjudicated and appropriable water supply is sustainable for 100 years, including:
- (1) Site-specific aquifer hydraulic characteristics.
 - (2) Simulation of the current and future pumping effects from all pumping centers in the Denver Basin, using currently accepted estimates of present and future pumping volumes in the Basin.
 - (3) Simulation of pumping of the applicant's proposed wells to evaluate if, under these pumping conditions, the applicant's wells can satisfy the Minimum 100-year Useful Life.
 - (4) Simulation of the hydraulic control that is exerted by pumping of other wells in the confined portion of the aquifers. This will require simulation of the layering effects in the aquifers.
 - (5) Simulation of the elevation differences within each aquifer, e.g., the bowl-shaped nature of the Basin.
- 1808A.03.3 A well-field analysis to evaluate impacts on neighboring wells using information gained from the dynamic analysis.
- 1808A.04 Upon receipt of the narrative and attached documents, staff shall submit this information for review by the County's water consultant and any other referral agencies deemed relevant by staff. The Douglas County Water Commission shall be given the opportunity to review and comment on the application. Any comments from the Water Commission shall be provided by staff to the applicant and attached to the staff reports submitted to the Planning Commission and the Board. Staff shall schedule the appeal for public hearing before the Planning Commission and Board for public hearings and notify the applicant of the hearing dates and times.
- 1808A.05 The applicant is responsible for providing published and posted notice of the hearings in accordance with the public notice requirements set forth in Section 1810A, herein. (*Amended 12/15/22*)

negatively impact the determination of public notice compliance set forth herein. *(Amended 4/13/2021)*

- 2109.04 If the referral agencies elect to comment, they shall comment within 21 calendar days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than 30 calendar days. After the 21 calendar days, if no extension is granted, any referral agency responses received will be accepted for informational purposes only and provided to the applicant, Planning Commission, and the Board. For projects that are critical to public safety, referral agencies shall comment within 10 days of receiving a referral packet.

Concurrently with the referral period, the Douglas County Water Commission shall be given the opportunity to review and comment on the application. Any comments from the Water Commission shall be provided by staff to the applicant and attached to the staff reports submitted to the Planning Commission and the Board.

All referral agency comments shall be provided by staff to the applicant upon receipt. The applicant shall be given an opportunity to address the comments of all regulatory referral agencies received within the 21 calendar day referral period, or as extended by the applicant, by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide staff a written response to timely comments of all advisory referral agencies and any comments received as a result of the courtesy notice.

The applicant is encouraged to meet with the referral agencies and staff to address any concerns. The applicant is required to pay those fees assessed by regulatory referral agencies.

- 2109.05 Staff will review the referral agency comments, discuss the concerns with the applicant, schedule a public hearing before the Planning Commission, notify the applicant in writing of the hearing date and time, and prepare a staff report for the Planning Commission. The applicant is responsible for public notice of the hearing in accordance with Section 2118 herein.
- 2109.06 The Planning Commission shall evaluate the use by special review request, staff report, referral agency comments, applicant responses, and public comment and testimony, and make a recommendation to the Board to approve, approve with conditions, continue, table for further study, or deny the use by special review request. The Planning Commission's decision shall be based on the evidence presented, compliance with the adopted County standards, regulations, policies, and other guidelines.

2704.03 Once the submittal is determined complete, staff shall notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies. Staff shall identify in the written notice which referral agencies are regulatory agencies and which referral agencies are advisory agencies. Referrals shall be sent to all County recognized HOAs within one (1) mile of the SIP site, unless the project is in the Nonurban Area, per the Comprehensive Master Plan, where referrals shall be sent to all recognized HOAs within a two (2) mile radius. The mailing addresses of the referral agencies shall be provided to the applicant. Electronic distribution of referral packets is preferred. Otherwise, referral packets shall be provided to the staff planner by the applicant in unsealed manila envelopes, without postage and a return address, addressed to the appropriate referral agency, with submittal information properly folded and compiled. Staff shall include a referral response sheet and distribute the referral packets to the referral agencies. The following shall be included in the packets:

- Copy of the completed land use application form
- Project narrative (*Section 2705.08*)
- Site plan (*Section 2707*)
- Landscape plan (*Section 2708*)
- Grading and drainage plan (*Section 2709*)
- Building elevations (*Section 2710*)
- Lighting plan (*Section 2711*)
- Other reports, studies, and fees as required (*Amended 4/13/2021*)

2704.04 Staff shall send a courtesy notice of an application in process and applicable contact information to all abutting landowners and owners of land separated by 300 feet or less from the property by a platted tract. In Nonurban Areas, staff shall send a courtesy notice of an application in process to the entity or entities responsible for ownership and maintenance of a shared private access. The applicant shall reimburse the County for the cost of materials. Errors in the courtesy notice shall not negatively impact the determination of public notice compliance set forth herein. (*Amended 4/13/2021*)

2704.05 If the referral agencies elect to comment, they shall comment within 21 calendar days of the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than 30 calendar days. After the 21 calendar days, if no extension is granted, any referral agency comments received will be accepted for informational purposes only and provided to the applicant. (*Amended 11/12/13*)

Concurrently with the referral period, the Douglas County Water Commission shall be given the opportunity to review and comment on an

application when a SIP is proposed for an unplatted parcel of land determined to be legal by Douglas County. Any comments from the Water Commission shall be provided by staff to the applicant.

- 2704.05.1 The staff planner may reduce the referral period upon concurrence by Engineering Services. In the event the referral period is reduced, it is the applicant's responsibility to obtain comments from the agencies within the reduced time frame.
- 2704.05.2 Additional referral periods may be required based upon the extent of design changes initiated through the initial referral period. The length of each additional referral period shall be determined by the staff planner.
- 2704.05.3 All referral agency comments shall be provided by staff to the applicant upon receipt. The applicant shall address the comments of all regulatory agencies received within the 21 calendar day referral period, or as extended by the applicant, by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide a written response to timely comments of any and all advisory agencies.
(Amended 11/12/13)
- 2704.06 Subsequent to the referral period(s), the applicant shall submit the revised SIP to satisfactorily address the issues raised during the referral period(s). The resubmittal shall include:
- Revised plan set
 - A written response to County and agency referral comments
 - Updated reports and studies, as necessary
 - Draft SIPIA and related exhibits, as required (*template available from Engineering Services*)
- 2704.06.1 Within ten (10) calendar days of receipt by staff of the revised SIP plan set and the applicant's written response to the referral comments, the staff planner shall contact the applicant, in writing, as to the status of its resubmittal.
- If the resubmittal meets approval standards, the SIP shall be considered for approval or approval with conditions, and the staff planner shall request a final plan set.
- If the resubmittal does not meet approval standards, staff shall provide written comments, detailing the deficiencies. External agencies may be contacted for additional comment, and its concerns

Approval of a revision to an approved SIP shall be in accordance with Section 2703 and applicable provisions contained herein.

2713.03 Process

A revision shall follow the full SIP process as described within Section 2704 herein, however, the referral period for a revision shall be twenty-one (21) calendar days.

2713.04 Submittal Requirements

The applicant shall be required to submit the following information to Planning Services. Incomplete applications shall not be accepted for processing.

- Completed land use application and fee
- New plan sets, as necessary, to depict the proposed revision
- Development reports in accordance with Section 2705.10
- Detailed technical studies in accordance with Section 2705.12, if applicable
- Current title commitment or insurance policy (*Section 2705.03*)
- Notarized letter of authorization from the property owner, if applicable (*Section 2705.04*)
- A written narrative explanation of the revision (*Section 2705.08*)
- Letter from HOA and architectural control committee, if applicable

2713.05 The legal description for a revision to the SIP shall be consistent with the originally approved SIP, except as otherwise provided for below. (*Amended 4/28/15*)

For Revisions:

SPRUCE SUMMIT, Filing No. 3, Lot 14 – **1st Revision**
NW¼ Section 11, Township 8 South, Range 67 West
5 acres
SP2010-002 (**Revision to SP2003-049**)

For Revision on Lot with Amended Legal Description:

SPRUCE SUMMIT, Filing No. 3, **1st Amendment**, Lot 14-A – **1st Revision**
NW¼ Section 11, Township 8 South, Range 67 West
5 acres
SP2010-002 (**Revision to SP2003-049**)