STAFF REPORT

To: Elbert County Planning Commission
From: Kyle Fenner, CDS Director
Date: August 22, 2017
RE: Amendments to Elbert County Zoning Regulations - Part II, Sections: 17: Special Use by review, 25: Definitions and 27: Administrative Review and MOU Process for Minor Oil and Gas Operations and Related Facilities

Intent:
To present proposed amendments to the Elbert County Zoning Regulations (ECZR) to address oil and gas development in Elbert County as requested by the Board of Commissioners. These amendments are intended to simplify the oil and gas application process for Minor Oil and gas facilities, rely on Colorado State oil & gas regulations and to clarify the definitions of Minor and Major facilities.

Request:
There are three requests contained in this simplification process. Let’s address them in numerical order as they relate to the ECZR. All the amendments proposed tonight are in Part II of the ECZR.

History:
The Board of County Commissioners requested that CDS simplify the oil and gas permitting process for minor oil and gas facilities/operations. That request including moving minor facilities from the planning department to the building department. That meant that Part II, Section 27 of the ECZR was no longer necessary.

Process:
Tonight you will be asked to rescind and void that Part II, Section 27 of the ECZR. However, embodied in Part II, Section 27 are the definitions of Minor and Major Oil and/or Gas Facilities/Operations. It is vital that we retain and even improve those definitions. Therefore, they are being added now to Part II, Section 25 of the ECZR. Additional in Part II, Section 25 we will add definitions of certain oil and gas activities that will trigger the need to apply for and be granted building permits.

The last amendment that is associated with this “oil/gas permit simplification process” is a minor enhancement of Part II, Section 17: Special Use by Review, 32.
PROPOSED AMENDMENTS

AMENDMENT 1

PART II, Section 17: Special Use by Review, #32

Currently Reads:

32. Oil and gas drilling operations: Such uses comply with requirements established by the Board of County Commissioners in review of the application.

Proposed Amended Language:

32. Major Oil and gas Facilities/Operations: Such uses shall comply with Colorado State Regulations and all of the requirements of this section.

AMENDMENT 2

PART II, Section 25: Definitions

Currently Reads:

There is no definition in Section 25 for “Oil & Gas, Minor Facility” and “Oil & Gas, Major Facility nor any definition of what types of oil and gas activities require building permits.

Proposed Amended (NEW) Language:

Oil and gas, Minor facilities/operations are defined as follows:

A. An individual well pad, with one but not more than twelve (12) wells, drilled or operated to develop petroleum and/or natural gas; and/or
B. Equipment required for production, i.e., production casing, completion materials, separators, dehydrators, pumping units, tank batteries, and other equipment located within the perimeter of the well pad; and/or
C. Facilities associated with gas gathering lines and water collection lines, such as: drip stations, vent stations, pigging facilities, transfer pump stations and valve boxes; and/or
D. Wellhead compression located on well pad; and/or
E. Temporary storage yards or construction staging areas occupying one (1) acre or less, commencing no more than thirty (30) days before drilling and remaining in place no longer than sixty (60) days after completion; and/or
F. Geophysical (Seismic) and Gas Exploration Operations, including, but not limited to, seismic activities.
G. Operator disposal facility/noncommercial.
Oil and gas, Major facilities are defined as:

A. Compressor stations and associated facilities, which serve more than one well pad; and/or
B. Water disposal stations (commercial) and associated facilities used to dispose of water produced by more than one operator; and/or
C. Storage yards and construction staging yards, which occupy an area greater than one (1) acre or not defined by “minor” definition; and/or
D. Any other facility related to the production of oil and/or gas, which contains engines and/or motors that are not located on the well pad they serve; and/or
E. Gas treatment facilities, which serve multiple well pads or gathering systems; and/or
F. Chemical injection stations or treatment facilities for more than one drilling pad; and/or
G. Pipelines located outside an individual well site/pad.
H. Any other facility not defined as a “minor”.

Oil and Gas, Permit to Drill: A permit issued by Elbert County that allows an operator to drill each oil and/or gas well.

Oil and Gas, Completion Permit(s): Building permits that are required for all completion activities including but not limited to: improvements built, placed or installed on a well-site and/or pad that follow drilling activities and are associated with the completion of oil and/or gas wells. Any additional improvement at any point in time shall require a building permit.

AMENDMENT 3.

I. Part II, Section 27: Administrative Review and MOU Process for Minor Oil and Gas Operations and Related Facilities

Currently there is a section in the Elbert County Zoning Regulations that outlines the process through which an operator may apply for an administrate oil/gas drilling and operating permitt. It was adopted in 2014 and has been used 4 times by three different operators since 2014.

While the section is detailed, the only part of it that actually deviates from State regulations some of items contained in the Memorandum of Understanding (MOU); the regulation itself in no way differs from or conflicts with State regulations. An operator always had the choice between two application processes: 1) Adhering to Section 27 and accepting the terms of the MOU or 2) Simply going through the Special Use by Review process and adhering to state regulations only.

The state will not allow a local government to have regulations that conflict with
or fly in the face of state regulations. Because the county offered the above two options, the state felt that we had not created a conflict with state regulations by having “higher-than-state-standards” in the MOU. The higher than state standards however are items that the County is not equipped to monitor, inspect or enforce anyway. Therefore, having a “rule” that is impossible to enforce is of no benefit.

What is also true about the County’s current process is that the County has only been involved at the very beginning of the oil and gas exploration process. The permit that was issued was a permit to drill. There was no further permitting through the County required. The County did not capture revenues that it could have at the time for the completion part of a well.

Since the adoption of Section 27, state regulations have become more demanding on operators and more protective of the environment. The State has the expertise, manpower and resources to be the regulatory agency for oil and gas operations in Elbert County.

What is being proposed tonight is to remove and void all of Section 27 and allow all Oil and/or Gas permits for Minor Facilities (as defined above) to be processed as a “building permit” so long as the applicant has met and agrees to operate according to all of the State’s requirements. To minimally amend and update a single sentence in Part II, Section 17 of the ECZR and to add four new definitions to Part II, Section 25 of the ECZR.

**Staff Recommendation**

1. **To recommend approval of an Amendment to Part II, Section 17: Special Use by Review, 32. to read as follows:**
   
   “Major Oil and Gas Facilities/Operations: Such uses shall comply with Colorado State Regulations and all of the requirements of this section.”

2. **To recommend approval for amendments to Part II, Section 25: Definitions by addition a definition as detailed by staff in this staff report for “Oil and gas, Minor facilities” and “Oil and gas, Major facilities.”**

3. **To recommend approval for the removal and voiding of Part II, Section 27: Administrative Review and MOU Process for Minor Oil and Gas Operations and Related Facilities.**
   
   Staff will incorporate these changes into Part II of the ECZR and will re-record the all of Part II Sections 17 and 25.

Respectfully,

Kyle Fenner
Director, CDS