

TOWN OF ERIE

*645 Holbrook Street
Erie, CO 80516*



Meeting Minutes

Wednesday, November 17, 2021

6:30 PM

via Virtual Meeting

**<https://bit.ly/17Nov2021PCMtg>
Council Chambers**

Planning Commission

I. CALL TO ORDER & PLEDGE OF ALLEGIANCE TO FLAG

Chair Zuniga called the November 17, 2021 Planning Commission Meeting to order at 6:31pm.

II. ROLL CALL

Roll Call:

Commissioner Ames - present
Commissioner Hoback - present
Commissioner Luthi - present
Commissioner Witt - present
Commissioner Sawusch - present
Vice Chair Fraser - present
Chair Zuniga - present

A quorum is present for tonight's meeting.

III. APPROVAL OF THE AGENDA

Commissioner Witt moved to approve the agenda of the November 17, 2021 Planning Commission Meeting. The motion, seconded by Commissioner Hoback, carried with the following roll call vote:

Commissioner Ames - yes
Commissioner Hoback - yes
Commissioner Luthi - yes
Commissioner Witt - yes
Commissioner Sawusch - yes
Vice Chair Fraser - yes
Chair Zuniga - yes

Motion passes unanimously.

IV. APPROVAL OF MINUTES

[21-507](#)

Approval of the November 3, 2021 Planning Commission Meeting Minutes

Attachments: [November 3, 2021 Planning Commission Meeting](#)

Commissioner Luthi moved to approve the meeting minutes of the November 3, 2021 Planning Commission Meeting. The motion, seconded by Commissioner Witt, carried with the following roll call vote:

Commissioner Ames - yes
Commissioner Hoback - yes
Commissioner Luthi - yes
Commissioner Witt - yes
Commissioner Sawusch - yes
Vice Chair Fraser - yes
Chair Zuniga - yes

Motion passes unanimously.

V. PUBLIC COMMENTS

Public Comment was taken from the following:

Sandra Duggan, Colliers Hill, CO - spoke regarding oil and gas reverse setbacks and read from the petition emailed to the Planning Commission.

Kelsey Barnholdt, 480 Gold Hill Drive, Erie - spoke regarding oil and gas and read from the petition emailed to the Planning Commission.

Caitlyn Brown (no address given) - spoke regarding oil and gas and read from the petition emailed to the Planning Commission.

Liz Fisher, 635 Moffat Street, Erie, CO - Encourages the Planning Commission to endorse the proposed reverse setbacks with the recommendation of approval to the Board of Trustees. Supports even stronger setbacks. The measure is a conservative yet thoughtful step forward. Over the past 10 years, countless families have moved out of town because of impacts suffered living near oil and gas wells. Heavy industrial operations are not compatible with residential neighborhoods. Supports the town in protecting public health, safety, and welfare.

Sharon Schuessler (no address given) - spoke regarding oil and gas and read from the petition emailed to the Planning Commission.

Janice Slickman (no address given) - spoke regarding oil and gas and read from the petition emailed to the Planning Commission.

Christine Englebrecht, 2966 Hughes Drive, Erie, CO - spoke regarding oil and gas and read from the petition emailed to the Planning Commission.

VI. GENERAL BUSINESS

21-505

A Resolution of the Planning Commission of the Town of Erie Recommending that the Board of Trustees Adopt an Ordinance Repealing and Reenacting Section 10-6-14 of the Erie Municipal Code, Regarding Development and Design Standards Relating to Oil and Gas Facilities and Locations

Attachments: [Resolution P21-20](#)
[Ordinance amending Section 10-6-14 of the Unified Development Code](#)
[Redline of Changes to Ordinance amending Section 10-6-14 of the Unified Development Code](#)
[Comparison of existing UDC setback measuring criteria and proposed measuring criteria](#)
[Public Comments](#)
[Public Comments - K Barnholt](#)

Chair Zuniga announced Agenda Item 21-505/Resolution P21-20.

David Frank, Energy & Environment Program Specialist provided a presentation to the Commission regarding the agenda item.

Chair Zuniga allowed for public comment on this agenda item.
Public comment was taken from the following:

Jon Lee, Community Development Group - was the one that raised many of the comments and thanked Mr. Frank for listening and addressing them. Supports the working pad surface language rather than the location.

It's written "residential lot, a building/structure needing a CO", does that mean a residential or commercial structure? Thank you again, did a very good job, and addressed everything.

Dan Burkhardt, 11887 N 75th Street, Hygiene, CO - representing the Reider Family on NE corner of Erie. This piece of property is the one most impacted by the model. Very concerned and in opposition, but there's been inadequate notification. No one has reached out to those that are highly affected. Is feeling like its being imposed and crammed through the system. There's a lot of confusion about setback and reverse setbacks. Most people talking about "not in my back yard." People can make their own educated decisions and things shouldn't be imposed on them. Affordable housing is an issue on the entire front range. There's a need for communication that's not happening and its hugely impactful. It's more to do with the distances - how things are really perceived, politicized, and also technically safe.

Brian Dolan, 3423 Weld County Road - spoke to David Frank regarding the setbacks and report from the COGCC. He read the report and it notes the concentration of chemicals detected in the air near oil and gas operations were consistent with low health harmful risks. It also notes 27 studies of populations residing near oil and gas operations found limited, and inconsistent evidence for harmful health effects. He's been in the oil and gas industry for about 30 years, did hazardous air pollutant studies for Amoco in 1992 and has a good handle on emissions. Is up to speed on what's been done around this area with the new rules and regulations. Things have changed since that data was collected. They live right next to Occidentals oil and gas pad and has no problem with the safety down there. They just have a problem with the dust on the road. Can't find anything in the COGCC literature on salt water injection wells. Is extra health and safety conscious. Read the details in the studies. Ten new air monitors were purchased - consistent health and safety and conscious economic development considering everyone's health and safety concerns. Everyone needs to know the actual real data.

Are you considering the methane that's leaking out of the landfill and the coal mines underneath us?

Jake Reider, 3490 County Road 12 - echoes Dan Burkhardt's sentiments. Being unaware of what's going on with the property, using their property as an example, it would've been nice to have been given notice. All the wells that have been on their property for 30+ years are no longer producing. As a land owner, increasing the setbacks, decreases my property value. We need to be heard on our end as well.

Chair Zuniga brought it back to the Commission for any questions/comments.

Commissioner Witt had not further comments or questions based on David Frank's review and changes made.

Commissioner Luthi had the following questions/comments:

- How many wells are actively under production as far as drilling/fracking within

the town limits?

- Currently none that are active within a residential area?
- How many applications or wells may be actively going in a year?
- Not inclined to think that because someone had oil and gas on their property, that they need a 2,000 ft setback or 500 ft setback and that's to be determined based on what mitigation can be done
- What will we do with these setbacks when the rules are created by SB181? If their recommendations are even more or less stringent than what are providing for right now - what will we do? Will we change that documentation?
- Appreciates your (David Frank's) time on this - good job

Vice Chair Fraser had the following questions/comments:

- The UDC/Ordinance would apply to new development, is that correct?
- When the term "reverse setbacks" is heard, I think they're talking reciprocal setbacks
- It has to do with the 2,000 and 500 ft distance?
- The reciprocal piece is a developer could not develop homes within a 500 ft radius of that existing well because it's considered existing on that property prior to development?
- If an operator were to build a new well, the setback would be 2,000 ft?
- The ordinance does not apply to existing subdivisions, fully built out with existing wells on it?
- This is strictly new development and new wells?
- In terms of development procedures, a property has existing wells, sometimes a developer will work with an operator to remove those wells. Is this still an option for the town to explore prior to development, correct?
- This what led to the development/consolidation to where we have random wells and random locations; development deals were worked in conjunction with trying to centrally locate a plant
- The ordinance itself is not the only piece of this development puzzle
- If the BOT wants to change the definition and rules of annexation, they can certainly do it there
- This ordinance piece is just in conjunction with that annexation component - they work together
- Important to note that even it were changed in terms of the distance, it really only applies to new development
- Most of our current properties have been annexed; developed; platted, for the most part
- Thinks he understands the concern other than the terminology of reverse setbacks
- How does the town apply to an existing house if there's property in unincorporated Weld County? What if there's an existing well within 500 ft of that property but that well is sitting on a piece of newly annexed property? Only the annexed property is subject to these regulations?
- The components that were in the initial draft, we're just updating
- The 2000/500 distances are consistent with what other municipalities are doing
- The language we're trying to update is to be consistent and add clarity
- Are they addressing this early on in their annexations? (other jurisdictions)
- That seems to be the proper time to do it - by the time you annexed it, now you're trying to deal with the development of the property
- We've addressed some of the concerns and what we're trying to do within the town

Commissioner Ames had the following questions/comments:

- No real red flags in the documentation
- Updates were great
- Concern stems from the engagement with land owners
- Jon Lee has been a partner in Erie for a long time and has been in tune with what's going on
- That we're working with the people that are affected
- Trustee Bell said there'd be a better engagement model with regards to this - with land owners
- Doesn't by "you had your chance" we need to be proactive
- Not just the operators, affected residents, it's also the people that own the land that use this as investments/livelihood
- This needs to happen and hopes it does

Commissioner Hoback had the following questions/comments:

- Page 3, Section B - No new residential lot/occupied structure/park, etc. - This is for reverse setbacks, we're talking about new builds? Should it say occupiable structures? There won't be any occupied structures if we're talking about new builds.
- Would recommend updating that language
- Section 2 re: flowlines, crude oil transfer lines, gathering lines - Is there something specific to natural gas lines? Do these 3 types of lines encompass currently known line types for both oil and gas?
- What's the rationale behind striking licensed professional engineer throughout?
- The measurement aspect that calls for a rectangle - how is that not a circle? Distance from the center of a rectangle depends on the site you're measuring to. What's the reason for not making the measurement a circle?
- If you require a certain number of feet, wouldn't that be a square?
- In what direction is this rectangle oriented?
- That rectangle could be within 25' of those lots if its from the short side?
- Doesn't that violate the spirit of the rest of the ordinance?
- Perhaps that should be changed too
- Appreciates you overlaying those 2 difference measurements
- They're very similar - can you envision where it is significantly different between the two?

Commissioner Sawusch had the following questions/comments:

- 10.6.14.c.1 - no new residential lot, occupied structure, parks or playground less than 500ft. Is this no new residential lot, no new occupied structure, no new park, no new sports field, or is it new residential lots, or an occupied structure, or a park, or sports field, etc?
- Hypothetically, I have fire damage - do I still retain my CO? Is it deemed a repair? Is it revoked and I have to re-create a new one after work done?
- If a developer has obtained a CO for the home, that subdivision is applying to this ordinance, and a fire burns a house down, does the CO still stand or will a new one need to be created?
- Are they still able to retain their CO?
- 10.6.14.c.3.e - we have removed the professional engineer. Who would be reviewing the reports and certifying in writing that the well has been plugged in accordance with the COGCC rule?
- Someone has to stake their reputation to the best of their knowledge that this has been taken care of
- You keep referencing pad sites for measurements in terms of distances - can you identify where it's noting to pad sites within here?
- What we're seeing is not the actual full resolution that we're recommending to

the BOT - this will have to be with a condition of this added in there? (working pad surface)

- Currently, we just have oil and gas operation; we have not defined the measurement aspect? We provide a recommendation to the BOT, and they can approve ordinance as it has come to us with measurements struck and no reference to where the actual measurement is located?
- The Planning Commission is going to recommend approval or denial of a resolution. The clean version of the resolution has all of this removed and nothing else added back in - its just removed. We now have to have it as a condition that could potentially just be ignored by the BOT because this isn't currently in the ordinance that we're looking at. Is that correct?
- Would like to vote on an item that has all this information in it and then we're done
- Disappointed that its not fully solidified
- A lot of compromise has gone into this and appreciates the work, effort, and engagement that has gone into this
- One option is to push forward the resolution that has, not a condition, but the full resolution that gets sent to the BOT is with the measurements that has been outline to us of pad sites, correct?
- Whatever the Commission approves with the options that are proposed - that is passed forward in full instead of an option

Chair Zuniga had the following questions/comments:

- Thought we had the same issue in a previous meeting - where the resolution before the Commission was not requiring the condition
- Are we able to do that with this so that we have the right language?
- Change to working pad surface as defined by the COGCC
- Asked about oil and gas reciprocal setbacks that are in effect in the surrounding towns - Have you looked at Frederick, Firestone, and Dacono?
- Concern is that Erie is in the middle of everything, everyone wants to be here, its mineral rich, a great view of the mountains, we have access to Boulder, its a great place to live, everyone wants it
- If we set up regulations so strict, and people are looking at annexation options; and they look at Frederick, and ours are more restrictive, as a developer, I would choose Frederick
- It's easier and as a landowner, would choose Frederick.
- Just because they are in our growth boundary, doesn't mean that we have the final say on what happens on that land
- People are concerned about their welfare
- Wants to make an educated decision when raising a family, wants the disclosures to decide what the acceptable risk is
- We have to think about this strategically
- We're banking on this land by I-25 that the town purchased as a source of revenue and we have this agreement with Dacono that expires in 2 years - if we set strict regulations, and the land owner fights it in the courts and then we lose our commercial development
- This has been weighing on me
- We don't want to lose our one big commercial development
- Wants it on the record - Erie is Ukraine. We want to hold it. We do good things in Erie.
- Glad people are concerned enough with the important issues and don't let it go to sleep - it's important that we think about it
- Need to think about in context with a lot of other things
- We need to look at it as a whole so things don't sneak up on us

Commissioner Sawusch noted that this whole topic isn't going away. It's to the point that if we do nothing, it's still going to get railroaded through. There's been a lot of compromise that has gone into this - it's seen in the document. If Mr. Lee says he can work with it, and he has a lot of land in town, we should be able to.

Commissioner Hoback moved to approve Agenda Item 21-505 with the direction for staff to modify the attached ordinance to reference the pad site. The motion, seconded by Commissioner Witt as amended, carried with the following 5 to 2 roll call vote:

Commissioner Ames - yes
Commissioner Hoback - yes
Commissioner Luthi - no
Commissioner Witt - yes
Commissioner Sawusch - yes
Vice Chair Fraser - yes
Chair Zuniga - no

Motion passes 5 in favor with 2 against.

[21-504](#)

STUDY SESSION: Comprehensive Plan Update - Public Engagement

Chair Zuniga introduced Agenda Item 21-504.

Deborah Bachelder, Planning Manager/Deputy Director of Planning & Development opened the Study Session with an update on the status of hiring a consultant for the Comprehensive Plan Update. Staff placed on the agenda the Planning Commission's resolution recommending to hire Logan Simpson as the town's consulting firm to lead us through the Comprehensive Plan Amendment process. The Board of Trustees removed the resolution from the agenda and asked that it not be brought back for consideration until after the April 2022 Municipal Election. The current Board would like the new Board of Trustees to consider how to proceed with hiring a consultant for the Comprehensive Plan. Ms. Bachelder just wanted the Commission to be fully informed as they move into this evening's study session.

Gabi Rae, noted that the Planning Commission had wanted to discuss the Community Survey and some options that might be available for engagement with the community regarding the Comprehensive Plan and moving forward. Ms. Rae shared with the Commission how they can review the results of the survey (as well as past surveys) on the Town's website. The dashboard was provided to the Town by Polco. There were various charts and information on how the surveying is conducted. This is a great place to start. The Board of Trustees will also go through that dashboard in January. Ms. Rae also added the various ways on how the Communications and Community Engagement Team can help the Commission through the process.

Chair Zuniga noted the following:

- That the big question about the survey regarding the Comp Plan Update is the vision that was established back when the population was lower.
- What are we hoping to achieve?
- There is so much information that can be used already. But it's important to try

to get input from the residents on how they envision the town.

- That part isn't as well established through these surveys.
- We have been sitting on our hands for over 6 months because of a delay and not having anyone help us move forward.
- It's not a requirement, we don't have to have this in place in order to start thinking about the Comp Plan Updates. That's why it's being brought up.
- Would like to have a communication process and what would we want the process to look like? We can think about what we want and outline it.
- Look at the community survey and formulate what we think the vision would be.
- Want to have buy in from the community.
- Never walk them into a blank slate. Always start out with something and ideas to guide the discussion and get feedback.
- We could focus it on a variety of interpretations of the survey.
- First outline what we imagine/vision in terms of a public outreach campaigning and our goals.
- Second, what content could we take into the beginning of that.
- What will Erie look like and will it afford us?
- If we do this, we jump in with a campaign that's engaging from the start. An actual campaign.
- We've had some updates and significant updates within the past 5 years but as far as outreach to community, that was far enough back and we're talking a huge difference
- But what do we imagine the build out being, where do we see this headed, what would we like to see?
- What do you recommend as far as the Commission reaching out to other boards?
- Regarding the hired consultant:
- Clarification on what Commissioner Ames said regarding Informing vs. Replacing - they would come in and work with us on what we were doing
- Doesn't want a consultant to start from scratch and Planning Commission's work was for nothing
- What's the timeline for long range planning?
- Doesn't think the Board of Trustees was trying to push the Comp Plan back

Commissioner Luthi made the following comments:

- Thinks the surveys are great. Where can they be accessed again?
- Wanted clarification on what Chair Zuniga is suggesting?
- Is disappointed that we're put to the back burner again and how we have to wait until April.
- Is open to what you're thinking we ought to do.

Commissioner Hoback made the following comments:

- Agrees with Commissioner Luthi. It was disappointing to have it put on hold
- It does present us with an opportunity to have a draft ready on where our focus will be with regards to the process
- We can follow what the survey tells us
- It's a great start and the consultant doesn't have to start from the ground up

Commissioner Sawusch made the following comments:

- Asked about the statistics and engagement surveys - is this all responses or just mailed surveys?
- Is the raw data available?
- Going through the steering committee - looked into finding out how we

communicate with community

- Do we know how individuals are engaging with the town, providing comments, etc?
- If we as a Commission say that we want to move forward on phase 1 with what all the 3 consultants have done/provided, the engagement portion, get at the heart of various topics, we can say we did a lot of the front end work for the consultant - is that something that you (Gabi) and Amber would be able to assist with in doing so?
- If we moved forward, would the Communications Department have the tools to assist?
- Are you excited in the possibilities of so many ways to engage in these projects?
- When was the approval letter provided from DOLA with regards to the grants? It's good for a year?
- Did a current plan assessment, an engagement side, an assessment of the current plan and tried to provide baselines - they had something to work off of - essentially prepping for it - a 4 month process
- Could we do an RFP for an assessment? Nothing as involved?
- It would be in the budget of the Comp Plan - a portion of that could be used for an assessment
- That's a slap in the face to the Planning Commission and the residents for the BOT to hold off on the comp plan
- We can use the assessment as a baseline
- Does our staff have the time available to do this?
- Hears Vice Chair Fraser - the whole workshop is a great idea
- We could take the RFP Deb put together and workshop each piece and run an assessment of each section

Paul Glasgow, Interim Director of Planning & Development noted that the Town has really capable staff in Planning and Communications. We can analyze what in the current Comp Plan was done well and what can we improve on. Establish a vision. What is still prevalent today - where we've come since then and what's irrelevant? What has changed; what wasn't accomplished and how can we prepare to move forward in the interim as we wait for a consultant. We can start with analyzing it all, incorporate the survey, and we can help create some tools moving forward. We can give study guides of the plan and start working on that; and bring it to the Commission over the next few months. It's an excellent idea to reach out to other boards/commissions. We (staff) can bring back a plan to you with an assessment of how to move forward and of staff availability. We would need feedback from the Town Administrator. Staff could come back with a plan for you on how to move forward.

Commissioner Witt had the following comments:

- Recommend that maybe you talk with fellow volunteer chairs on other boards/commissions and see what they have done and see what the tempo of the plan was
- In 2016, the Board set up 2 Ad Hoc Committees - 1 was on Sustainability - Tom Doyle is still the chair - with support and approval of the Trustees, they did do a survey - the result was they got a standing board with appointed terms by the BOT and it came about because of the voice of the town
- Trustees took an interest in it and supported it
- They've done a lot of legwork and can assist with

Commissioner Ames had the following comments:

- Unhappy and relieved with the boards decision
- It's time to look at this as a process that was broken from the beginning and find an opportunity to make it better
- Its given this body an opportunity to do what we're doing right now
- Loves the ideas that are floated
- Any kind of outreach or research should connect with the actions that are required under the contract of the consultant
- Inform that process more so than replace it
- Take direction from Deb and Paul
- Loves the dashboard and survey information available to the Commission to review
- Connect to what we think the process is going to be for the contractor, not replace it and use what we have
- Keep an eye on that process and informing it not replacing it
- Planning Commission work should inform the consultant of what we did
- Our process should inform that process not replace what they're doing and not duplicating processes
- We use our time wisely

Chair Zuniga did a straw poll of the Commission and all were in agreement to follow Mr. Glasgow's recommendations.

Ms. Bachelder also noted that all of the boards/commission have staff liasion's. If you're interested, please reach out to her to coordinate an invitation with those boards/commissions.

Vice Chair Fraser had the following comments:

- Has a couple of concerns
- To illustrate Chair Zuniga's example, a public hearing where we "want a park" and "we all want a pool" and we all have these grandiose ideas and to your point, sometimes this Commission needs direction, need expertise, and need leadership
- Purpose of the consultant is to provide the guidance leadership and expertise
- Doesn't feel it should be his position to dictate to them what we want but would rather rely on their expertise
- They present a plan to the Commission and the Commission will provide that feedback
- We've spent time with staff to understand the map and the surveys that have been done
- Half of us have never read any of this and ignoring the history and resources that are here
- We get a little ahead of ourselves without consulting anyone internally
- Not trying to damper any enthusiasm
- A greater concern is that he doesn't want to be in an adversarial relationship with the BOT - they purposely tabled this and no one here is recognizing that fact and thinking it was a slap in the face and he doesn't believe that
- We as a Commission put them in an uncomfortable position and they are responding accordingly
- We tried to force their hand in to making a decision into something they didn't want to do
- Doesn't think that what they did is inappropriate
- There's no urgency to push this forward
- The companies that will be hired and the process that we're going to go

through is really establishing what's has already been in place

- We're refining and tuning it
- We're not going to take the Comprehensive Map and wipe it clean and remap everything or take the 13 chapters in our plan and rewrite it
- We need to have a clear and distinct plan going forward because I don't have the time to go take on the resources and doesn't think it's entirely appropriate to put our town's resources in on this task
- Doesn't think the staff has the time to either
- There's a lot to do in advance of it and the first step is understanding what we have
- Taking the time to read surveys
- If we're going to move forward on a plan, we want to make sure we're on same page, and we're all engaged in the knowledge
- Doesn't want to waste anyone's time and is not for that
- Has never seen anything like this to where we're battling the Board of Trustees and actively ignoring the reason why they put pause on this
- We should recognize that fact
- What was their concern in doing this? Is it appropriate to wait?
- If it relies on any kind of cost, we've got to get that approved
- We need to work together with the BOT
- Has been silent for a reason until this point but all of those things, its incumbent upon us to go do them
- We have a lot of work to do internally before we start down this road
- Can't do it independently, it's a lot of work
- Applaud's everyone tonight and appreciate's town staff and their patience
- We as a Commission don't recognize the professional life that they live on our behalf
- Staff is not just our resources to bend at will and sometimes we lose sight of that
- Efforts have not been unrecognized or unappreciated
- Thank you staff for all your hard work
- We need to define a plan

Chair Zuniga noted that what it comes down to is that Deb would look at what we can reasonably be doing. Not trying to battle the Board of Trustees but that there is an opportunity for us to do some of the things that Paul recommended to help evaluate where we're at and acknowledging that we aren't hiring a consultant until April and the next Board of Trustees comes into play.

VII. STAFF REPORTS

Deborah Bachelder introduced Interim Planning & Development Director Paul Glasgow. Ms. Bachelder is extremely happy to have him on board.

Mr. Glasgow expressed his gratitude in becoming a part of the community. It's a great opportunity to working with such a professional staff and administration. He is looking foward to learning what he can do for the town and what he can do for the position. There is a process going on outside of this as he is Interim Director. Looking forward to helping in any way he can.

Ms. Bachelder noted that there are lots of projects going on and Inclusionary Housing coming up.

Ms. Bachelder also went over the schedule of meetings coming up.

VIII. COMMISSIONER REPORTS AND DISCUSSION ITEMS

Commissioner Luthi asked clarification on the criteria to meet in person at town hall.

Ms. Bachelder reiterated those rules and requirements to the Commission.

IX. ADJOURNMENT

Chair Zuniga adjourned the November 17, 2021 Planning Commission Meeting at 9:21pm.