

ORDINANCE NO. 904

AN ORDINANCE AMENDING CHAPTER 17 OF THE DACONO MUNICIPAL CODE REGARDING FINAL SUBDIVISION PLAT REQUIREMENTS AND REGULATIONS CONCERNING DEVELOPMENT AROUND OIL AND GAS OPERATIONS

WHEREAS, the City regulates subdivision of land and application requirements for final plats in Chapter 17 of the Dacono Municipal Code; and

WHEREAS, the City also regulates and imposes certain requirements and restrictions in Chapter 17 of the Dacono Municipal Code when development is proposed in the vicinity of existing or approved but not yet constructed oil and gas facilities; and

WHEREAS, the City Council finds it reasonable and necessary to update these requirements to facilitate orderly development within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. Section 17-52 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 17-52. Final plat.

(a) A final plat, containing the information specified in Section 17-72, shall be submitted together with a written application for approval ~~at least thirty (30) days prior to the Planning Commission meeting at which it is to be considered.~~ Said final plat shall be submitted within twelve (12) months after approval of the preliminary plat; otherwise, such preliminary plat approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.

(b) The final plat as submitted shall conform substantially with the preliminary plat as approved, and may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. In the case of partial submission, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of twelve (12) months before another phase of the plat must be submitted in final form.

(c) Following review at a public hearing, the Planning Commission shall recommend ~~act to approve or disapprove the final plat, and send its recommendations to the City Council for its approval or disapproval of~~ approve or deny the final plat application. If the request for approval of the final plat is disapproved denied, the reasons therefor shall be stated in writing and a copy furnished to the subdivider. ~~Upon approval and recording of the final plat with the~~

~~county clerk and recorder, the appropriate municipal agencies shall issue building permits for structures within the subdivision.~~

(d) Within six (6) months of the effective date of the City Council resolution approving a final plat, final plat mylars and an executed subdivision agreement must be submitted to the City for recording and the Improvement Guarantee required by Chapter 17, Article 15 of this Code must be provided to the City. If timely submission of all items is not made, a public hearing will be scheduled before the City Council, at which hearing the City Council will reconsider its approval of the final plat. Written notice of such hearing shall be provided to the applicant and published as required by the Dacono Municipal Code. No extension of the time period set forth in this subsection (d) may be granted except by resolution adopted by the City Council.

~~(d e)~~ In the event of the phased development of a subdivision, the subdivider shall identify on the final plat all improvements proposed to be constructed with each proposed phase of the subdivision. Such improvements for each phase shall provide a proportionate share of all public improvements for the subdivision and shall provide for the adequate access and service to each individual phase. The Improvement Guarantee provided pursuant to Chapter 17, Article 15 of this Code shall include all improvements for all phases of the subdivision included within the final plat.

Section 2. Section 17-72 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 17-72. Final plat and data.

The final plat and supplementary data shall contain the following information:

(1) Final plat. The final plat shall be an engineering drawing prepared to normal engineering tolerances of accuracy with calculated rather than scale dimensions. The exterior lines of the final plat shall join or close and a boundary closure report shall be provided with the final plat application. The plat shall be drawn in permanent ink on a reproducible linen or Mylar with outer dimensions of twenty-four (24) inches by thirty-six (36) inches and shall be at a scale of one (1) inch equals one hundred (100) feet. The final plat may constitute the entire approved preliminary plat or any logical portion of the approved preliminary plat proposed for immediate recording. The final plat shall conform to the approved preliminary plat, shall include all changes and additions as required by the Planning Commission, and shall show the following:

- a. Primary control points, or descriptions, and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred;
- b. Tract boundary lines, right-of-way lines of streets, easements and other right-of-way and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves. All dimensions, both linear and angular, shall be determined by an accurate control survey in the field which must balance and close within a limit of one (1) in ten thousand (10,000). No final plat showing plus or minus dimensions will be approved;
- c. Total acreage and surveyed description of the subdivision;
- d. Name and right-of-way width of each street or other right-of-way;
- e. Location, dimensions and purpose of any easements;
- f. Numbers to identify each block, lot and/or site;
- g. Purpose for which sites, other than residential lots, are dedicated or reserved;
- h. Location and description of all monuments, both found and set;
- i. Names of record owners of adjoining unplatted land;
- j. Reference to recorded subdivision plats of adjoining platted land by record name, date and number;
- k. Signature and seal of registered land surveyor certifying to the accuracy of the survey and plat, including a statement explaining how bearings, if used, were determined;
- l. Signature block for certification of approval by the Planning Commission and City Council, with signatures by the chairman of the Planning Commission and the Mayor;
- m. Certification of title showing that the applicant is the land owner;

- n. Statement by the ~~subdivider~~ land owner dedicating streets, rights-of-way, easements and public sites;
- o. ~~Chapter under which the subdivision is to be recorded, scale~~Scale, north arrow and date.;
- p. Land Use Summary Table identifying total number of lots, lot sizes, table of outlots including dimensions, total acreage, and ownership, and tracts containing oil and gas facilities, including plugged and abandoned facilities, with the facility name(s) and API number(s) as designated by the Colorado Oil and Gas Conservation Commission and such other information as the Community Development Director may require.

(2) Other documents required at the time of submission of the final plat shall be as follows:

- a. Complete engineering plans and specifications for all public facilities to be installed, including water and sewer utilities, streets and related improvements, bridges and storm drainage, shall be designed to meet the City "Standards and Specifications for the Design and Construction of Public Improvements," as may be amended from time to time;
- b. Agreements made with ditch companies when needed;
- e. ~~Clearance record showing approval by the health department and utility companies (form supplied by the City);~~
- d. ~~A consumer full disclosure statement which shall include:~~
 - 1. ~~Name and address of each person having an interest in the subdivision or development and the extent of such interest;~~
 - 2. ~~A statement of the condition of the title to the land comprising the subdivision or development, including all encumbrances and deed restrictions and covenants applicable thereto;~~

3. ~~A statement of the general terms and conditions, including the range of selling prices or rents at which it is proposed to dispose of lots, dwellings or structures;~~
4. ~~In the case of a subdivision, development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality;~~
5. ~~Copies of all forms of conveyance to be used in selling or leasing lots, dwellings or structures;~~
6. ~~Such certified and uncertified financial statements of the developer as the Planning Commission and City Council may require, and such other information, documents and certifications as the commission and City Council may require as being reasonably necessary or appropriate for the protection of consumers.~~

~~After acceptance of the final plat by the City, the subdivider shall give and explain a copy of the consumer at least forty-eight (48) hours prior to the signing of any agreement or contract concerning property in the subdivision. Failure to so use the consumer full disclosure statement shall result in revocation of final plat approval; and, additionally, such agreement or contract shall be voidable at the option of the consumer within the period allowed by the statute of limitations of the state if based on fraudulent representation, material omission, less than forty eight hour disclosure, or failure to give and explain;~~

- e. ~~A performance bond drawn and posted in favor of the City, which bond shall be of sufficient amount to assure completion of all required improvements~~An improvement guarantee meeting the requirements of Chapter 17, Article 15 of this Code;
- f. ~~Protective covenants in form for recording; and~~

- g. ~~Such other certificates, affidavits, endorsements or deductions~~ information and documents as may be required by the ~~Planning Commission or City Council in the enforcement of these regulations~~ Community Development Director.

Section 3. Section 17-95 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 17-95. Setbacks to oil and gas operations.

Each subdivision plat shall provide for the following setbacks from existing oil and gas facilities, including oil and gas facilities for which City approval has been granted pursuant to Chapter 16, Article 22 of this Code but which have not yet been constructed: For purposes of this Section, "building envelope" shall mean a defined portion of a lot within which a structure may be constructed.

(1) Lots shall not be platted within ~~one hundred fifty (150)~~ three hundred fifty (350) feet of an existing oil or gas well or its production facilities unless a building envelope meeting all setback requirements is shown on the plat, and which building envelope is more than ~~one hundred fifty (150)~~ three hundred fifty (350) feet from the well and its production facilities.

(2) Lots intended for use for a school, educational facility, hospital, playground or outdoor recreational amenity, nursing home or congregate care facility, or any assembly building (as defined in COGCC regulations) shall not be platted within three hundred fifty (350) feet of an existing oil or gas well or its production facilities unless a building envelope meeting all setback requirements is shown on the plat, and which building envelope is more than three hundred fifty (350) feet from the well and its production facilities.

(3) Streets shall not be platted within one hundred fifty (150) feet of an existing oil or gas well or its production facilities. The foregoing shall not apply to flowlines, which shall be subject to ~~Paragraph~~ subsection (4) below.

(4) Any pipelines, ~~as defined in Section 16-522 of this Code,~~ flowlines, gathering lines, and crude oil transfer lines, as those terms are defined by the Colorado Oil and Gas Conservation Commission ("COGCC"), referred to herein collectively as "pipelines," within or traversing an area proposed for platting shall be placed in the center of a separate tract meeting all of the following requirements:

- a. The tract shall be a minimum of thirty (30) feet wide. ~~And~~

- b. There shall be a minimum setback of ten (10) feet from the pipeline to the edge of the tract within which the pipeline is contained.
- c. No pipeline shall not be placed within public rights-of-way, other public lands or lots intended for residential use. Streets may cross flowlines at right angles, or substantially at right angles as determined and approved by the City Engineer. Lots shall not be platted to allow any building site envelope within ten (10) feet of a flowline pipeline.
- d. Building envelopes shall be shown on the plat for all lots adjacent to a tract containing a pipeline, limiting construction of for habitable structures shall not be platted within twenty-five (25) feet of a flowline from the edge of a tract containing a pipeline.

(5) Capped wellheads, mine shafts, and well and production sites that have been plugged, abandoned and reclaimed in accordance with state law and COGCC regulations shall be identified and be recorded and noted on the final plat. Such platting shall occur only after the completion of the abandonment and reclamation process, may not be accomplished by a lot boundary adjustment, and shall comply with the following standards:

- a. Prior to submittal of a final plat, each plugged and abandoned well shall be located and surveyed. The plugged and abandoned well shall be permanently marked by a brass plaque set in concrete similar to a permanent bench mark to monument its existence and location. Such plaque shall contain all information required on a dry hole marker by the COGCC.
- b. As a condition of review of any final plat that contains a plugged and abandoned well, or that is within two hundred (200) feet of a plugged and abandoned well, the applicant shall submit a location diagram of such plugged and abandoned well.
- c. On every plat that contains a plugged and abandoned well, a well maintenance and workover setback shall be designated on the plat, the dimensions of which shall not be less than fifty (50) feet in width and one hundred (100) feet in length. The plat shall contain a note advising that no

structures shall be located within this setback. The plugged and abandoned well shall be located in the center of the setback. There shall be public access for ingress and egress to the setback of a width of not less than twenty (20) feet in a location to be approved by the City. For property platted adjacent to a plugged and abandoned well, the City may require a well maintenance and workover setback in such dimensions as may be determined by the City and meeting all other requirements of this Subsection.

- d. Streets may not be platted over plugged and abandoned wellheads or mine shafts.
- e. A non-residential lot may contain a plugged and abandoned wellhead.
- f. Residential lots one (1) acre or larger may contain a plugged and abandoned wellhead. Plugged and abandoned wellheads, and the well maintenance and workover setback required by Subsection b of this Section, shall not be located in single-family lots under one (1) acre in size.
- g. Plugged and abandoned wellheads, and the required setback surrounding the abandoned wellhead, shall not be located in multi-family lots.
- h. Plugged and abandoned wellheads and mine shafts shall be placed in a tract or tracts. The plugged and abandoned wellhead or mine shaft and required setback surrounding the plugged and abandoned wellhead or mine shaft may not be located in a park.
- i. The minimum setback to mine shafts shall be twenty-five (25) feet.
- j. No utility lines shall be installed within ten (10) feet of any plugged and abandoned well.
- k. Every plat that contained a plugged and abandoned well shall include the following notation: "The property owner shall disclose to prospective purchasers of lots within a radius of two hundred (200) feet of the plugged and abandoned well of (1) the location of the plugged and abandoned well, (2) the location of the maintenance and

workover setback, and (3) the purpose of the maintenance and workover setback.

1. As a condition of building permit review, no dwelling shall be constructed within fifty (50) feet of a plugged and abandoned well.

Section 4. Section 17-97 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 17-97. Accommodations for future oil and gas facilities.

(a) ~~When a subdivision applicant does not own the mineral interests for the property that is the subject of the subdivision application, the City strongly encourages the applicant to negotiate and execute an agreement with the mineral interest owner to provide for the orderly development of the surface of the property while preserving the rights of the mineral interest owner to develop its minerals.~~ Any such agreements between the surface owner and mineral interest owner relating to development or use of the property shall be submitted to the City at the time of application to subdivide the property. Oil and gas facility location, setbacks, and other provisions contained in the agreement shall be reflected on the plat; provided, however, the City's land use ordinances, regulations and requirements shall control in the event of any conflict.

(b) In a residential subdivision, future sites where oil and gas facilities and associated production facilities that have been approved pursuant to Chapter 16, Article 22 shall be placed in a tract.

(c) Subdivision design shall address the following City requirements for future access roads and pipelines to future oil and gas wells and associated production facilities:

(1) Subdivision design shall minimize the need for future access roads to connect with local street classifications. If future access roads are designed to connect to local streets, then the local streets accessed shall be designed to address the weight load requirements of the vehicles accessing the well and production facilities.

(2) An access plan for the future oil and gas facilities, associated production facilities, and pipelines shall be submitted to the City. The access plan shall identify which local streets will be impacted by oil and gas facility access needs. The streets identified shall be designed to address the weight load requirements of the vehicles accessing the well and production facilities.

(3) The plat shall also identify routing of future pipelines so that appropriate tracts are shown on the plat to accommodate the pipelines. Pipelines shall not be located in residential lots. Tracts platted for future pipelines shall ~~be minimum of thirty (30) feet wide~~ meet the requirements of Section 17-95(4) of this Code.

(4) Streets shall be platted so future pipelines will cross at a substantially right angle to the street.

Section 5. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 24th day of May, 2021.

PUBLIC HEARING AND SECOND READING WILL BE THE 14th DAY OF May, 2021, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.

READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this ____ day of _____, 2021.

CITY OF DACONO, COLORADO

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. 904, **“AN ORDINANCE AMENDING CHAPTER 16 OF THE DACONO MUNICIPAL CODE REGARDING FINAL SUBDIVISION PLAT REQUIREMENTS AND REGULATIONS CONCERNING DEVELOPMENT AROUND OIL AND GAS OPERATIONS”** Revises plat and other application requirements for final subdivision applications and revises setbacks and other requirements for development in the vicinity of oil and gas operations.