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HOME BUILDERS
ASSOCIATION
of
METRO DENVER®

January 22, 2021

City of Commerce City
Mayor Huseman
Members of City Council
7887 East 60th Avenue
Commerce City, CO 80022

Mayor and City Council,

I am writing to submit additional formal comments on the amendments to the Municipal Code regarding oil and gas regulations.

These comments are being provided on behalf of the Home Builders Association of Metro Denver.

As the largest HBA in Colorado, Metro Denver HBA represents over 400 homebuilders, developers, remodelers, architects, mortgage lenders, title companies, subcontractors, suppliers and service providers in the eight metro-area counties we serve.

In Commerce City, HBA Metro Denver represents 8 different developers with 583 registered permits in the past 12 months.

Based on the discussion and deliberations by City Council at the July 21 and July 27, 2020 study sessions, we understand there is policy consideration for a 1,000-foot reverse setback and potential elimination of the Production Phase setback. We strongly recommend the City Council maintain the Production Phase setbacks as outlined in the most recent draft ordinance. The reduced setbacks are consistent with private agreements, recent City entitlement approvals, and commitments from the City.

The implication of increasing setbacks is not a one for one relationship with the number of homes or acres impacted. There is an exponential increase in the number of acres restricted as setbacks are increased.

In an average 3.5-acre production area:

- 250-foot buffer / restricts 17 acres
- 500-foot buffer / restricts 40 acres
- 1000-foot buffer / restricts 112 acres

With average densities of five to six homes per acre, a 1,000-foot setback would eliminate the ability to build 500-700 homes. Further, in some instances the surface owner and mineral estate owner are not the same entity. Under that scenario, the 1,000-foot restriction would permit one property right to be exercised at the expense of the other. If the oil and gas ordinance is adopted without the Production Phase setback, the feasibility of future development in Commerce City is in jeopardy.

In conclusion, we strongly encourage the City Council to consider the legal implications of this important policy matter on property rights and current private agreements. We are available for additional consultation with the City staff, as necessary.

Thank you for your time and consideration on this matter.

Sincerely,



Ted Leighty
Chief Executive Officer
Home Builders Association of Metro Denver

Cc: Roger Tinklenberg, Interim City Manager
Jason Rogers, Community Development Director
Domenic Martinelli, City Planner