

MCGC Neighbors' Notes to Provide Context: The memorandum below was written by Planning Manager, Jim Sayre, in response to questions that have been raised about the processing of Oil and Gas Waivers in the City. We received this justification from the City via email attachment on September 4, 2014.



Planning & Development Services

MEMORANDUM

TO: Murphy Creek Residents

FROM: Jim Sayre, Planning Manager

DATE: September 2, 2014

SUBJECT: Oil and Gas

In following up on recent posting on Murphy Creek's website, it is time to more fully explain the oil and gas waivers that have been issued by the City of Aurora, and the justification for them.

Here is a response to the Murphy Creek Newsletter, and a more comprehensive explanation of the waiver requests:

Upon the advice of the City Attorney's Office, Aurora Planning staff has followed both state and the Aurora Zoning Ordinance in issuing waivers for the Conoco Phillips oil and gas wells. Specifically, staff has strictly adhered to the procedures described in City Code Section 146-204(B) for the processing of waiver requests. City Code Section 146-1207(H), which was cited in the newsletter, supplements the authority granted by Section 146-204(B). The latter section is intended to be used by an oil and gas permit applicant in the event there is a disagreement as to the existence of an operational conflict with state oil and gas regulations or the possibility a taking of private property in violation of the federal or state constitution.

Under state law, local governments may regulate the land use aspects of oil and gas development, but not the operations of oil drilling. Suffice it to say, if Planning staff did not issue one of these waivers, we would be hindering Conoco Phillips from meeting state air quality rules, thus hindering their ability to operate the wells.

The list of waivers is as follows:

1. Tank Height. Our current regulations have a 20 foot tank height limit. When we adopted these rules in 2012, this was the highest tank height being commonly used by Anadarko, who owned the mineral rights in Aurora at that time.

Federal and state air emission regulations require the control of volatile organic compounds (VOC) such as benzene, toluene, xylene, and others. Unless mitigated, these pollutants can contribute to health problems that may affect facility employees and the community. The

Colorado Department of Health and Environment approved new air regulations in February 2014 that impose restrictions to oil and gas facilities, specifically establishing controls for tanks and fugitive emissions.

Vapor Recovery Towers (VRT) are installed on Conoco Phillips facilities to meet these requirements. The VRTs separate oil from the gas and reduce emissions of VOCs into the atmosphere. The tank height promotes the gravitational separation of oil and gas. The VRT is a slender tower with a height of 31.5 feet. Our current regulations limit tank height to 20 feet, thus leading to the waiver request. An image of a vapor recovery tower is attached.

The waiver has been granted in order for Conoco to meet current state air quality standards. Since mitigating the emission of greenhouse gases is required under state and federal rules, to limit the use of vapor recovery systems may also limit the production of oil and gas, which we cannot and should not do under state law. The Colorado Department of Health and Environment has verified that to restrict the height of the VRT would pose operational issues for Conoco Phillips.

2. Access Drive Width. The City's 2012 oil and gas regulations call for a 23 foot wide access drive from streets to oil and gas production sites. The 23 foot wide access drive is our standard fire lane width, and is usually open to the public, such as through a commercial shopping center. Traffic on an oil and gas access drive is limited to traffic associated with oil and gas production, and is not open to the public. Thus the City's Life/Safety division supports a waiver for a 16 foot wide access lane capable of supporting fire apparatus, with wider pull outs along the drive. This would allow for emergency vehicles to enter the site, and any traffic along the drive would use the pullout to allow the emergency vehicle to pass. The impact of this waiver is that the total area or "footprint" of oil and gas is reduced, thus allowing the surface owner more use of their land. To date, this has allowed more land to be devoted to agricultural uses since the production sites have been in the undeveloped areas of the City.
3. Fence Type. The third waiver has to do with the type of fence allowed. Our regulations require a chain link fence with slats. To date we have allowed Conoco to use a "wildlife" fence which is meant to keep animals away from the production equipment. We find this to be appropriate for these agricultural areas. As oil and gas development comes closer to developed areas of the City, the standard chain link fence with slats will be enforced. We will require a chain link fence with slats for oil and gas applications near Murphy Creek.
4. Landscaping. The fourth waiver that has been given is in regard to landscaping. For the well sites approved so far, there has been no permanent water supply. Without a permanent water supply, landscaping, particularly trees, die. Although water is commonly on site during production and completion of a well, permanent oil wells in these agricultural areas do not have access to a permanent supply. As wells get closer to built-up areas, we will provide for landscaping, if a permanent water source can be provided.

Since these waivers have been supported for a number of well applications in the agricultural areas of the City we will need to amend our code to allow for these type of rural applications, and write “triggers” as to when to require upgraded fencing, landscaping in areas closer to the built-up areas of the city, triggers for landscaping installation as the city surrounds these oil and gas wells, and to allow for taller vapor recovery systems.