

Here's the background of Planning Board and Deer Creek CARA in 2024 after the Planning Board during 2023 had two public hearings on this topic.

As you are aware, in 2024 there was significant controversy surrounding the process that produced the prior, flawed CAO. This is the sequence of events:

- **January 24, 2024** - Planning Board Letter to City Council recommending shallow UIC wells be prohibited in Qva areas of the Deer Creek CARA.
- **February 6, 2024** – City Council held an executive session.
- **February 14, 2024** – At a Planning Board meeting, Mike Clugston stated that the City Attorney had identified a possible legal issue to discuss with the Board.
- **February 28, 2024** – The Planning Board entered executive session; no Board action followed.
- **March 13, 2024** – New items appeared on the Planning Board agenda despite no action having been taken after the executive session.
- **March 14, 2024** - Planning Board Letter to City Council about changing their UIC well recommendation "in light of new information provided by staff and legal counsel from the city's attorney" at the PB's February 28, 2024 Executive Session.
- **March 19, 2024** – At a City Council meeting, the Planning Board Chair stated that the Board's recommendation had changed due to legal guidance discussed in executive session and a "risk mitigation assessment." This was a departure from the Board's original recommendation, which had been developed over nine meetings and two public hearings.

The updated CAO now includes the UIC well prohibition, correcting the earlier flaw. However, the City is now considering a building moratorium within the Deer Creek CARA. I do not understand how a moratorium addresses the issue, particularly when the critical areas code already governs development restrictions and supersedes stormwater and building codes.

It appears Mr. Taraday still believes a prohibition on UIC wells for stormwater mitigation could constitute a regulatory taking. We disagree. The prohibition exists to protect the aquifer and public health, and the Critical Areas Ordinance explicitly prevails where it imposes more protective environmental requirements (ECDC 23.10.060(A)).

The distinction between protecting public health in a critical area and managing stormwater impacts seems central here, and we are not convinced it has been adequately recognized.

Sincerely,

John Brock