



CITY OF BOULDER
PLANNING BOARD MEETING AGENDA
DATE: March 17, 2016
TIME: 6 p.m.
PLACE: 1777 Broadway, Council Chambers

1. CALL TO ORDER

2. APPROVAL OF MINUTES

The [February 18, 2016](#) and [March 3, 2016](#) minutes are scheduled for review.

3. PUBLIC PARTICIPATION

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/CONTINUATIONS

- A. [Call Up Item: USE REVIEW \(LUR2016-00015\): Use Review for a 2,500 square foot meeting/event space comprised of a 2,000 square foot meeting room and a 500 square foot pre-function area within a 7,000 square foot retail building currently under construction within the Gunbarrel Gateway property located at 6315 Lookout Road. The call-up period expires on March 15, 2016.](#)

5. PUBLIC HEARING ITEMS

- A. [AGENDA TITLE: Reconsideration of Initial Screening of a Map Change Request at 2801 Jay Road \(Request #29\) as part of the Boulder Valley Comprehensive Plan Major Update. *This is a continuation of the initial screening of public requests and that the public hearing was held on February 2, 2016.*](#)
- B. [AGENDA TITLE: Public hearing to consider a recommendation to City Council on an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to allow for changes to the city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations.](#)

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

- A. Form-Based Code Update
- B. Planning Board 2016 Retreat Agenda

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

CITY OF BOULDER PLANNING BOARD MEETING GUIDELINES

CALL TO ORDER

The Board must have a quorum (four members present) before the meeting can be called to order.

AGENDA

The Board may rearrange the order of the Agenda or delete items for good cause. The Board may not add items requiring public notice.

PUBLIC PARTICIPATION

The public is welcome to address the Board (3 minutes* maximum per speaker) during the Public Participation portion of the meeting regarding any item not scheduled for a public hearing. The only items scheduled for a public hearing are those listed under the category PUBLIC HEARING ITEMS on the Agenda. Any exhibits introduced into the record at this time must be provided in quantities of ten (10) to the Board Secretary for distribution to the Board and admission into the record.

DISCUSSION AND STUDY SESSION ITEMS

Discussion and study session items do not require motions of approval or recommendation.

PUBLIC HEARING ITEMS

A Public Hearing item requires a motion and a vote. The general format for hearing of an action item is as follows:

1. Presentations

- a. Staff presentation (10 minutes maximum*)
- b. Applicant presentation (10 minute maximum*). Any exhibits introduced into the record at this time must be provided in quantities of ten (10) to the Board Secretary for distribution to the Board and admission into the record.
- c. Planning Board questioning of staff or applicant for information only.

2. Public Hearing

Each speaker will be allowed an oral presentation (3 minutes maximum*). All speakers wishing to pool their time must be present, and time allotted will be determined by the Chair. No pooled time presentation will be permitted to exceed ten minutes total.

- Time remaining is presented by a Green blinking light that means one minute remains, a Yellow light means 30 seconds remain, and a Red light and beep means time has expired.
- Speakers should introduce themselves, giving name and address. If officially representing a group, homeowners' association, etc., please state that for the record as well.
- Speakers are requested not to repeat items addressed by previous speakers other than to express points of agreement or disagreement. Refrain from reading long documents, and summarize comments wherever possible. Long documents may be submitted and will become a part of the official record.
- Speakers should address the Land Use Regulation criteria and, if possible, reference the rules that the Board uses to decide a case.
- Any exhibits introduced into the record at the hearing must be provided in quantities of ten (10) to the Secretary for distribution to the Board and admission into the record.
- Citizens can send a letter to the Planning staff at 1739 Broadway, Boulder, CO 80302, two weeks before the Planning Board meeting, to be included in the Board packet. Correspondence received after this time will be distributed at the Board meeting.

3. Board Action

- d. Board motion. Motions may take any number of forms. With regard to a specific development proposal, the motion generally is to either approve the project (with or without conditions), to deny it, or to continue the matter to a date certain (generally in order to obtain additional information).
- e. Board discussion. This is undertaken entirely by members of the Board. The applicant, members of the public or city staff participate only if called upon by the Chair.
- f. Board action (the vote). An affirmative vote of at least four members of the Board is required to pass a motion approving any action. If the vote taken results in either a tie, a vote of three to two, or a vote of three to one in favor of approval, the applicant shall be automatically allowed a rehearing upon requesting the same in writing within seven days.

MATTERS FROM THE PLANNING BOARD, DIRECTOR, AND CITY ATTORNEY

Any Planning Board member, the Planning Director, or the City Attorney may introduce before the Board matters which are not included in the formal agenda.

ADJOURNMENT

The Board's goal is that regular meetings adjourn by 10:30 p.m. and that study sessions adjourn by 10:00 p.m. Agenda items will not be commenced after 10:00 p.m. except by majority vote of Board members present.

*The Chair may lengthen or shorten the time allotted as appropriate. If the allotted time is exceeded, the Chair may request that the speaker conclude his or her comments.

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
February 18, 2016
1777 Broadway, Council Chambers

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <https://www.bouldercolorado.gov/>

PLANNING BOARD MEMBERS PRESENT:

Bryan Bowen, Chair
John Putnam
John Gerstle
Leonard May
Liz Payton
Crystal Gray

STAFF PRESENT:

Susan Richstone, Deputy Director of Planning, Housing & Sustainability
Lesli Ellis, Comprehensive Planning Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Sloane Walbert, Planner I
Crystal Launder, Housing Planner
Jeff Yegian, Housing Division Manager

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 6:09 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **C. Gray** and seconded by **J. Putnam** the Planning Board voted 6-0 to approve the January 28, 2016 minutes as amended.

3. PUBLIC PARTICIPATION

- **Kate Remley**, as a member of the working group for the Downtown Urban Design Guidelines (DUDG) and board member of the Landmarks Board, suggested a few modifications to the vision statement of the revised DUDG. She will email the revisions to staff and the Planning Board.
- **David Biek**, in regards to item 4B (1710 and 1750 29th Street) on tonight's agenda, spoke in support of the project.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

A. AGENDA TITLE: Continuation of a Public Hearing to consider a motion to approve findings of fact and conclusions of law for the denial of the application for a Nonconforming Use Review, application no. LUR2015-00073, for the addition of two

bedrooms in the basement of an existing nonconforming duplex at 940 14th St.

Applicant: Lani King, Michael J Hirsch Companies

Owner: 20th Street Apartments 1 LLC and 20th Street Apartments 2 LLC

Motion:

On a motion by **L. Payton**, seconded by **C. Gray**, the Planning Board voted 4-2 (**B. Bowen, J. Putnam** opposed) to approve findings of fact and conclusions of law for the denial of the application for a Nonconforming Use Review, application no. LUR2015-00073, for the addition of two bedrooms and in the basement of an existing nonconforming duplex at 940 14th St.

- B. CALL UP ITEM:** Approval of a Minor Amendment to an Approved Site Plan to install two vendor kiosks and a walk-in cooler made from repurposed shipping containers in the public plaza between 1710 and 1750 29th St. within the Twenty Ninth Street shopping center. The kiosks will be for alcohol service and will include fenced areas with controlled points of entry. The project includes railings, outdoor seating, umbrellas, planters and other landscaping and furniture elements, including a public turf area adjacent to the new vendors. Approval includes an amendment to the Twenty Ninth Street Signage Program to include the central portion of the plaza in the sign program as a Type 4 Storefront type. The project site is zoned Business – Regional 1 (BR-1). Case No. LUR2015-00119.

This item was not called up.

5. DISCUSSION ITEM

- A.** Middle Income Housing Strategy – in preparation for a February 23, 2016 Council Study Session, staff requests feedback from the Planning Board on a recently completed Middle Income Housing Study and the proposed steps to create a middle income housing strategy.

Staff Presentation:

S. Richstone introduced the discussion item regarding Middle Income Housing Strategy.

L. Ellis discussed opportunities to integrate Middle Income Housing Strategy work items into the BVCP update effort.

C. Launder presented the Middle Income Housing Study, recently completed by BBC Research and Consulting.

Board Questions:

C. Launder, S. Richstone, L. Ellis and **J. Yegian** answered questions from the board.

Board Comments:

- The board made comments regarding the areas of focus for the Middle Income Housing Strategy.

- **C. Gray** and **B. Bowen** suggested reviewing more information regarding small, detached homes, small lots and tiny home neighborhoods and the benefits surrounding affordability and future benefits.
- **C. Gray** would like to see mobile home parks and the preservation of mobile home parks added to the areas of focus. In addition, she added that partnering with neighborhoods and neighborhood plans would be necessary to obtain these solutions.
- **B. Bowen** added that looking at land use and using it as a template for development, if the land use pattern is followed explicitly, is inefficient. It is low density and resource intensive. However if community oriented spaces would be created, and let go of micro-suburban patterns of mobile home parks, then the outcome could be highly beneficial and a good solution. A new design tool would need to be created for certain areas.
- **J. Putnam** echoed the earlier board comments that the document was well done and added that it would be important to better understand the generational effects and how senior housing would fit into this strategy. He emphasized that we should make the transition for older Boulder residents easier to move from one affordable category to another for example by changing zoning codes if needed. The city needs to think about how people throughout different stages of life transition from one type of house or situation to another and be able to stay in the city.
- **L. May** added that perhaps the city could play a role in a reverse mortgage structure whereby the ownership reverts back to the city at a more reasonable cost. The tradeoff could be that a person could pull the equity from the property to cover the increased aging needs.
- **C. Gray** added that she would like to see more emphasis/focus on Accessory Dwelling Units (ADU) and Owners Accessory Units (OAU) in regards to community benefit.
- **B. Bowen** mentioned that housing for seniors in the middle could benefit from age diverse neighborhoods. He suggested by working through the site review criteria or building into the design requirements, placing in writing the design aspects or requirements that would retain families.
- **J. Gerstle** agreed with the prior board comments. He expressed that the city should not push toward the ownership of a home as the most desirable relationship with their residence.
- **L. May**, by quoting the following article ("*The Mortgage Mistake*", The New Yorker, dated January 12, 2015), agreed that there is no universal benefit of renting over ownership. The article was forwarded to the board. He stated that the presumption should not be on homeownership, but to look at the broader economic implications.
- **J. Putnam** suggested ensuring that there are both rentals and ownership opportunities for middle income households.
- **L. Payton** added that the missing middle is about homeownership and that there is not enough available within Boulder, but plenty available in surrounding areas. There are rentals available, but not homeownership opportunities. She stated that she supports the focus on homeownership. She added that Colorado University (CU) is a large entity but many of their faculty do not live in Boulder. She questioned staff regarding the housing of CU's staff. Staff informed the board that CU is concerned regarding this issue and evaluating what role they might have in providing housing for employees. If it were done, it would be more of a rental product rather than homeownership. She suggested that through annexation requests that middle income ownership housing be required. In

regards to the implementation of an anti-demolition ordinance, similar to San Francisco, she stated it would be useful in preserving existing affordable housing and should be reviewed. She suggested a survey to developers to determine how height would work with this kind of middle income housing. Finally she reminded the board that Boulder does have an example of small homes on small lots with seniors at Chautauqua.

Staff Presentation:

L. Ellis presented the Range of Potential Land Use Interventions related to the Boulder Valley Comprehensive Plan (BVCP).

Public Hearing:

1. **David Adamson** stated that often there is a concern that with density comes traffic. Middle class housing needs could be met by creating a person that is able to get around without the use of a car. He stated that within his neighborhood they are working together by doing car share, bike share and NPP around their site and think about how to add density without adding traffic.

Board Questions:

L. Ellis, S. Richstone and **J. Yegian** answered questions from the board.

Board Comments:

- The board made comments regarding the range of potential land use interventions related to the BVCP for potential housing.
- **L. Payton** stated that the character should be refined in areas. Change or adding land use categories to facilitate the types of housing that is needed is important. The tradeoff between housing and jobs and addressing through land use changes should be considered. She stated that the goal might be to get back to a distribution of incomes that were present twenty years ago.
- **J. Gerstle** stated that recently there has been a focus on tradeoffs between jobs and housing. However there are many other factors in Boulder to consider. Streets and parking are worth discussing as is housing and should not be limited to just housing.
- **B. Bowen** clarified that figuring out what the overall goal is should be the goal and how do we create a community and Boulder that we envision. Land use code can be beneficial but some can be evasive for us to advance.
- **J. Putnam** suggested exploring community industrial as something that is still needed when looking at areas to put housing. Areas of art could be a tradeoff as well. He stated that there is currently focus on areas of potential change. To help shape discussions regarding OAU and ADUs, it would be beneficial to shape what that would mean and create scenarios to show what it would do for affordability. It would be beneficial to look at what will be affordable in Boulder in 10 yrs.
- **C. Gray** agreed with **L. Payton's** comments. If short-term rentals are incentivized, whether it is ADUs or OAUs, there should be a clause stating that short-term rentals are not allowed and a condition as part of the land use code. In terms of commercial FARs in the downtown area, she offered the idea of revisiting and analyzing this to see if a disservice had been done and possibly have more housing downtown. Finally she

suggested adding partnership with neighborhoods and subcommunity planning and outreach.

- **L. May** agreed with staff’s recommendations. He explained that we need to focus on where is the greatest good on limited resources that we have. The issue of in-commuting should not be confused with the housing issue. Medium and higher density housing should be analyzed. The focus cannot be solely on lower density. Focus on multi-family housing so there is less impact on zoning. He agreed with **J. Putnam’s** comments regarding maintaining the light industrial community.

Additional Next Steps:

- **J. Putnam** mentioned that the zoning code needs to be reviewed especially where the types of housing desired are being discouraged.
- **C. Gray** suggested the Planning Board recommend to City Council to focus on creative housing types including smaller homes for the Middle Income Housing Strategy.
- All Board members agreed.
- **C. Gray** suggested adding, under “Range of Potential Interventions”, to add the wording to partnership with neighborhoods on housing solutions as outlined in the Boulder Housing Strategy.
- **L. May**, under “Regulatory Interventions”, there is a section pertaining to middle income housing bonuses. He pointed out that as long as incentives do not guarantee to be a one-time windfall, they are critical to maintain. The “compatible development” language should be explored and better defined. Occupancy and height limits make sure not to just a bonus to the property owner. A sales tax for affordable housing would be a regressive tax and would ultimately hurt the ones that we are trying to benefit through an affordable housing program.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. BVCP Update

Staff Presentation:

L. Ellis presented the item to the board and the 3-D mapping that is currently accessed from the website.

Board Questions:

L. Ellis answered questions from the board

Board Comments:

- **J. Gerstle** agreed that the potential value of the mapping tool is very high for the BVCP. As long as people are aware of the limitations and errors that may be incorporated within, we should move ahead.
- All Board members agreed.

B. Reve Project Call Up – City Council Update

B. Bowen presented the item to the board.

Board Comments:

- No one had any comments.

C. DUDG Adoption Process – City Council Update

B. Bowen presented the item to the board.

Board Comments:

- **J. Gerstle** recommended that when the Planning Board revisits this item that there is a full agreement on the matter.
- The board proposed to have the Planning Board revisit the DUDG and add revisions at the March 3, 2016 Planning Board meeting and to begin the meeting at 5:00p.m.
- Any board members that have proposed revisions should submit them to Planning Board, Sam Assefa and Kalani Pahoia prior to the meeting.

7. DEBRIEF MEETING/CALENDAR CHECK

A. Planning Board 2016 Retreat Date and Calendar Items

- Planning Board will meet on April 14, 2016 to discuss Form-Based Code at 6:00p.m. On this date, Planning Board would be asked to make a recommendation to City Council on the draft code.
- On March 17, 2016, Form-Based Code will appear under “Matters” as an update for Planning Board.
- The EAB joint meeting regarding climate commitment updates original date of April 6, 2016 is not working out. The EAB board secretary will poll the Planning Board to find an alternate date in April.
- Planning Board will meet on April 28, 2016 to discuss Hogan-Pancost at 6:00p.m. On this date, the annexation will be reviewed.
- The May 19, 2016 Planning Board meeting was canceled. All items were moved to May 26, 2016.
- The board agreed that the retreat would be held on May 6, 2016 at Wild Sage Community House, 12:00-4:00p.m.
 - Subject items will be sent to **C. Spence** to be compiled.
 - The board will discuss the agenda at the March 3, 2016 meeting.
 - Heidi Brinkman, with Brinkman Consulting, will facilitate.

8. ADJOURNMENT

The Planning Board adjourned the meeting at 9:09 p.m.

APPROVED BY

Board Chair

DATE

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
March 3, 2016
1777 Broadway, Council Chambers

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PLANNING BOARD MEMBERS PRESENT:

Bryan Bowen, Chair
John Gerstle
Leonard May
Liz Payton
Crystal Gray

PLANNING BOARD MEMBERS ABSENT:

John Putnam

STAFF PRESENT:

Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Jessica Stevens, Civil Engineer II
David Thompson, Civil Engineer II, Transportation
Kalani Paho, Urban Designer
Sam Assefa, Senior Urban Designer
Chandler Van Schaack, Planner II

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 5:03 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **J. Gerstle** and seconded by **L. Payton** the Planning Board voted 5-0 (**J. Putnam** absent) to approve the February 2 and February 4, 2016 minutes as amended,

3. PUBLIC PARTICIPATION

No one spoke.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

- A.** Call Up Item: Wetland Map Revision (LUR2016-00005). Boulder Creek Path at 30th Street. This decision may be called up before Planning Board on or before February 24, 2016.

- B.** Call Up Item: Boulder Creek Path Improvements at 30th Street Underpass, Floodplain Development Permit (LUR2015-00120), Wetland Permit (LUR2015-00116). This decision may be called up before Planning Board on or before March 11, 2016.
- C.** Call Up Item: Approval of a Use Review to establish an animal kennel (cat boarding area) within a cat only veterinary clinic at 1915 28th St. in the Business – Regional 1 (BR-1) zone district. Case No. LUR2016-00011

None of the items were called up.

5. PUBLIC HEARING ITEMS

- A.** AGENDA TITLE: Consideration of a motion to adopt the 2016 Update to the Downtown Urban Design Guidelines (Guidelines) incorporating revisions recommended by the Planning Board at its February 4, 2016 hearing. Adoption of the Guidelines will result in inclusion of the DT-4 and DT-5 downtown zone districts in the identified areas where height modifications may be considered through the city's Site Review process, per the height modifications ordinance approved by Council on March 31, 2015.

Staff Presentation:

S. Assefa introduced the item.

K. Paho presented the item to the board.

Board Questions:

K. Paho answered questions from the board.

Public Hearing:

- 1. Jamison Brown**, chair of the Design Advisory Board and member of the working group, spoke in support of adopting the DUDG as submitted and explained that there was a consensus of the final version and it was a consensus driven process. He urged the Planning Board to adopt the version of the DUDG as adopted by City Council.
- 2. Kate Remley**, chair of the Landmarks Board and member of the working group, stated that she did not feel the introductory material had been fully vetted by the working group. She asked the Planning Board to change the language in the introductory section. She stated the working group did not see the final document. She asked to restore some of the original language stating it would assist the Landmarks Board in dealing projects that they see on a regular basis.

Board Comments:

- **L. May**, in regards to the staff time involved to make the proposed edits, stated that he appreciates the burden it may impose upon them, but it is the board's job to vet these items and he felt that had not been done properly.
- **C. Gray** stated that that she did not feel pressure from the staff to push the document through. She stated that the committee should take some of the responsibility if discussions did not cover all areas or a final wrap up.
- **B. Bowen** agreed with **C. Gray**.

- **L. Payton** stated that significant language had been removed and the motions to be offered will restore that missing language and that was in the original set of DUDG.
- **J. Gerstle** agreed and added that it is more than wordsmithing that is being proposed.

Motion:

On a motion by **B. Bowen** that the Planning Board adopt the updated Downtown Urban Design Guidelines dated February 16, 2016, as attached to the staff memo dated March 3, 2016. Motion failed. No second.

On a motion by **L. May**, seconded by **L. Payton**, the Planning Board voted 5-0 (**J. Putnam** absent) to make the following modifications to the Downtown Vision Section, Section 2 – The Non-Historic and Interface Areas and Section 3 – Public Realm:

- *ADD 2.1.B (inserted before the currently proposed 2.1.B) “Views: Downtown Boulder is blessed with exceptional mountain views and projects should be designed to preserve access to this extraordinary asset from the surrounding area. The south and west edges of downtown offer the most spectacular views.”*
- *ADD 2.1.C (inserted before the currently proposed 2.1.B) “Sun and Shade: In Boulder’s climate, sun and shade are important design considerations for providing natural light in buildings, and creating appealing pedestrian areas that are ice free and sunny in the winter and shady in the summer.”*

Renumber clauses following these insertions

- *DELETE 2.2.B.3*
- *ADD 3.2.B (inserted before the currently proposed 3.2.B) “Views: Downtown Boulder is blessed with exceptional mountain views and projects should be designed to preserve access to this extraordinary asset from the public realm and surrounding area. The south and west edges of downtown offer the most spectacular views.”*
- *ADD 3.2.C (inserted before the currently proposed 3.2.B) “Sun and Shade: In Boulder’s climate, sun and shade are important design considerations for creating appealing public realm areas that are ice free and sunny in the winter and shady in the summer.”*

Renumber clauses following these insertions

- *CHANGE Downtown Vision (gray bar on the left) bullet point 3 to “Human scale buildings and spaces;”*
- *ADD Downtown Vision (gray bar on the left) bullet point 4 “The preservation and celebration of Boulder’s mountain views from the public realm and surrounding area.”*

- *CHANGE 3.2.C.1, third bullet point **Railings**: “Railing designs should reflect an open, transparent feeling. Visually closed-in railings that “box-in” the extension area are not appropriate. No signage, advertising, goods or merchandise may be placed on railings. Railing design in the Historic District shall be simple.”*
- *ADD "2.1.H **Rhythm**: “Maintain the rhythm established by the repetition of the traditional approximately 25’ facade widths for projects that extend over several lots by changing the materials, patterns, reveals, or building setbacks in uniform intervals or by using design elements such as columns or pilasters.”*
- *ADD 2.1.I **Floor Height**: “Distinguish ground floor height from upper floor heights. Ground level floor to floor height is encouraged to be taller than upper stories.”*
- *ADD 2.1.J **Shade**: “Shade storefront glass by appropriate means such as awnings or recesses.”*
- *ADD to 2.1.E.2 **Parking Lots**: “Surface parking is discouraged.”*
- *MOVE 2.1. (H, I and J) to the 2.2 section that is “Commercial Buildings in the Non-Historic.”*

Board Comments to the Motion:

- **B. Bowen** stated for the record this action damages the integrity of the work process. Specifically some of the points being added were discussed as a group and now are going to be undone as a result of this motion. This is unfortunate and this process should be discussed in the future. He stated that there is a difference of opinion that some felt that the existing DUDG gave a protection of views from the public realm. Others felt that the views from the buildings were to be maximized. We are making a substantive change without public input. In addition, the changing of materials at 25 foot widths, this was discussed at length and it was decided not to be done but now that will be undone. The working group agreed that if views from the public realm are important, then there should be a process to define which ones would be discussed. All buildings impact views. The working group decided that the place in the land use code to discuss height of buildings would be in the zoning. He stated that this motion will be a mistake.
- **C. Gray**, as a member of the working group, stated that they did spend a lot of time discussing the preamble and the document. However she was under the impression that there would be a final review and approval.
- **L. May** stated that the motion is meant to be restorative. Regarding the interpretation of the intent with regard to views, it is about the general access to views from the public realm, the surrounding area of a new building. Not to pertain to the views of people in the building. He stated that he is attempting to make it more about the public realm. He added that he is not being critical of the process, but the Planning Board needed to have its own review.
- **L. Payton** stated that with the proposed motion, important language is being restored.
- **J. Gerstle** stated that he supports **L. May’s** motion.

On a motion by **L. May**, seconded by **B. Bowen**, the Planning Board voted 5-0 (**J. Putnam** absent) to adopt the revised Downtown Urban Design Guidelines dated February 16, 2016 subject to the following additional information:

- *CHANGE 2.1.B.1 Solar Panels: – DELETE final sentence and REPLACE with “Skylights and solar panels should have low profiles. Skylights should not be visible from the public right-of-way. Solar panels should be as unobtrusive as possible.”*

Friendly Amendment by **B. Bowen**, accepted by **L. May**, the Planning Board passed 5-0 (**J. Putnam** absent) to delete the second sentence currently reading: “Skylights should not be visible from the public right-of-way.”

B. AGENDA TITLE: Public hearing and consideration of a Site and Use Review (LUR2011-00071) to redevelop the site located at 4403 Broadway Ave. with a new mixed use development. The western portion of the site, zoned RM-1 (Residential – Medium 1) would include twelve 3-story townhome units divided between two buildings. The eastern portion of the site, zoned MU-2 (Mixed Use – 2), would include three new mixed use buildings containing an additional 16 attached residential units above 9,207 sq. ft. of commercial and restaurant space. The proposal includes a request for a height modification to allow for both townhome buildings and two of the mixed use buildings to exceed the 35 foot height limit for the zone (requested heights range from 36’3” to 43’6”) as well as a request for a 5% parking reduction to allow for 57 parking spaces where 60 are required. The proposal also includes a Use Review request to allow for three restaurants which close after 11:00 p.m., two of which are over 1,000 sq. ft. in floor area. The applicant is seeking to create vested property rights as provided for in section 9-2-19, B.R.C. 1981.

Applicant: Jeff Dawson
Owner: Emerald Investments I, LLC

Staff Presentation:

C. Ferro introduced the item.

C. Van Schaack presented the item to the board.

Board Discussion Regarding Public Process and Notification:

- A minor defect in notification (the sign was only posted on the property for seven days rather than ten days leading up to the hearing as required by the land use code) that does not impair the surrounding property owners’ ability to participate in the public review process occurred. The board had the ability to stay the hearing if they felt adequate public notice was not provided.
- Board opened it up to the public to see if they felt that proper public notification had or had not been met.

1. **Eric Ponslet** spoke in support to stay the hearing stating that proper notification was not made to the public in the surrounding area because most of the residents who occupy the residents are not owners, but renters.

- The board discussed the continuation of this item to a later date.

Motion:

On a motion by **C. Gray**, seconded by **J. Gerstle**, the Planning Board voted 2-3 (**J. Putnam** absent) to move forward with the public hearing, to allow public and input and to continue board deliberations at another date after which proper notification could take place and to reopen public input at the March 17, 2016 Planning Board meeting. Motion failed.

On a motion by **B. Bowen**, seconded by **L. May**, the Planning Board voted 4-1 (**J. Putnam** absent) that adequate notification was satisfied and agreed with staff's recommendation. Motion passes.

Staff Presentation:

C. Ferro introduced the item.

C. Van Schaack presented the item to the board.

Board Questions:

C. Van Schaack answered questions from the board.

Applicant Presentation:

Jeff Dawson, with Studio Architecture, the applicant, presented the item to the board.

Board Questions:

Jeff Dawson, the applicant, and **Nader Ghadimi** with Emerald Investments, the owner, answered questions from the board.

Public Hearing:

1. **Catherine Canlin** expressed concern regarding the new height requirement and asked the board to give consideration in terms of noise and height.
2. **Eric Ponslet (pooling time with Lucie Parietti, Liesel Ritchie, Anupam Barlow and Zak Keirn)** spoke in opposition to the project. His focus was the proposed height modifications and spoke in opposition to them.

Board Comments:

Key Issue #1: Is the proposed project consistent with the vision for the area as established in the adopted 1997 North Boulder Subcommunity Plan (NBSP)?

- **L. Payton, C. Gray** and **L. May** agreed that most of the NBSP guidelines are met.
- **L. Payton** added that the proposed building design does not seem compatible with Violet Crossing across the street to the east. The proposed typography seems to be battling with the NBSP. In addition, while the plan would be providing housing, it would be missing the middle income and in fact increasing the demand for housing by adding jobs. She stated she could not grant the height modification as there is no public support and that

Buildings A, B, #1 and #2 are too tall. The transition between the project and the residential neighborhoods is not effective.

- **C. Gray** agreed regarding the issue of height and the transition of height. The internal sidewalks should be more defined. She added that the project site seems over parked.
- **L. May** added that this plan is targeting affluent people and that a diversity of housing and affordability should be provided. In regards to the height proposals, the MU-2 zoning states a clear maximum of two stories and there should be no reason to give an exception. In the residential zone, there is no limit to number of stories; however the proposed third stories on the townhome units would be considered gratuitous space which would increase the cost. He felt that by removing floor area from the third floor of the townhouse units, the units would become more affordable. He added that the project site is a transit rich site and that the amount of parking should be reduced. Driving should not be encouraged therefore parking should be constrained and unbundled.
- **J. Gerstle** stated he has the same concerns regarding the proposed height but he agrees with the vision of the project. He agreed that the commercial space proposed for the ground floors in the MU-2 zone would be reasonable. The project does not have sufficient transition in intensity between Uptown Broadway and the residential area on the south side of Violet. In regards to parking, he agreed with fellow board members regarding unbundling declaring that it would encourage people to not have vehicles and make residences more affordable. He stated this would be necessary.
- **B. Bowen** felt that the project fit the NBSP and he did not have an issue with the proposed height given the site constraints related to grade and floodplain. He mentioned that many of the buildings in Uptown Broadway are 44 to 48 feet in height and that at a maximum height of 43'6" the proposed buildings would still accomplish the desired transition. Street frontage and setbacks make sense. He supports the idea of having mixed uses extending down to the corner of Violet and Broadway. He pointed out that in terms of context, the project would transition to a school (35 foot height limit) and not into residences, and that amore urban edge was therefore appropriate. Regarding the site design and housing diversity, this zoning is disappointing in that it does not provide for outdoor communal space but rather surface parking. In terms of unbundled parking, he suggested behind Building A as a location.
- **L. Payton** added that if the proposed buildings were limited to 35 ft in height, then the parking requirements could change. Height, the missing middle income housing and parking are all tied together. She would be in support of a parking reduction as requested by other board members and unbundling that section that is not tied to the individual townhomes.

Key Issue #2: Is the proposed Site Review consistent with the Site Review criteria as set forth in section 9-2-14(h), B.R.C. 1981?

- **J. Gerstle**, in regards to setback issues, disagreed that a diminished setback would be appropriate. He did not see a valid reason to change.
- **B. Bowen** explained that the 20 foot setback would be too much for townhomes. He referred to townhomes in the Holiday development as examples of successful setbacks under 20 feet. He stated that he agrees with proposed plan and that at tight urban streetscape would work well. In terms of height, he referred to various successful townhome projects that are three-stories along Broadway.

- **C. Gray** agreed with **B. Bowen** regarding setbacks. **L. Payton** did not want to make the setbacks an issue.
- **B. Bowen** suggested a compromise regarding the height issue. Perhaps Buildings 1 and 2 are at issue and Buildings A, B and C are appropriate as planned.
- **L. May** explained that the height exception takes away from the units being affordable. It is less of an issue in the MU zone due to the apartments that would be provided; however, he still feels that the height limit for the MU-2 zone should be respected.
- **C. Gray** stated that she would like to see all buildings conform to the height limit without modifications. Buildings A and B have such a large presence on Broadway.
- **B. Bowen** explained to fellow board members that a good reason to have a one to two foot height exception for Buildings 1 and 2 would be the ability to access a roof deck with a stair. He stated that these would be great amenities for future residents. Head room over a stair cannot exist without violating the height exception. The NBSP does call for building mass along Broadway as a sound mitigation for what lies behind it and should be a consideration in terms of height.

Applicant Rebuttal:

Jeff Dawson, with Studio Architecture, the applicant, responded to some of the items brought up by the board regarding Key Issues 1 and 2. He offered to remove the third story lofts from the end units of each of the townhome buildings to reduce the apparent massing and remove floor area, to reduce the extent of the requested height modification for Building B in order to make it less than or equal to the height of Building A (39 feet), and to unbundle the parking for the apartment units.

Board Questions:

Jeff Dawson, the applicant, answered questions from the board

Board Comments:

- **C. Gray** and **L. Payton** both stated that they would not be inclined to give the height modifications as it would violate the NoBo Plans and does not meet the site review criteria. They would ask the applicants to come back with plans within guidelines. In addition, the project does not transition into the surrounding residential area effectively. They are okay with three stories but only if the buildings are kept within the 35 foot height limit.
- **B. Bowen** mentioned that there would be a strong benefit of having rooftop access in Buildings 1 and 2 for future residents, and that at a minimum there should be a height modification granted to allow for stair landings to provide rooftop access.
- **L. May** agreed with **B. Bowen's** proposal for Buildings 1 and 2. In regards to the residential zone (Buildings 1 and 2), he would be willing to do the height exception to the extent that a rooftop access is provided. He stated that he would not support a height modification for Buildings A, B and C.
- **J. Gerstle** agreed that the suggestion for Buildings A, B and C to meet the height restrictions but have three stories is reasonable. Regarding Buildings 1 and 2, to allow access to the roof and allow an exception to the height requirement for that purpose would be acceptable. Finally he encouraged the applicant to include basements on Building 1.

- **L. Payton** restated that she did not feel there was an adequate transition from the project to residential.
- The board was not open to a 38 foot height limit to Buildings A, B and C although it is available in the BMS zone to the north.

Key Issue #3: Does the proposed project meet the Use Review criteria as set forth in section 9-2-15(e), B.R.C. 1981?

- **C. Gray** requested that the hours of the proposed restaurant be changed to close at 11:00p.m. rather than 12:00a.m.
- No other board members had issue with the closing time of 12:00a.m. therefore the closing time remained at 11:00p.m.

Architectural Issues:

- **L. May** stated that the street facades were well done, but appeared jumbled on the following elevations: Building A (west and north sides) and Building B (west and east sides).
- **B. Bowen** approved of the back side elevations. He suggested an improvement on Buildings A and B, on the third story of the Broadway side, to wrap with brick rather than use stucco specifically grids 4 through 7 of Building A and grids 1 through 5 on Building B on the east elevations, such brick shall wrap around the corners of those buildings as follows: on Building A including grids A through D on the south elevation, and on Building B including grid B-through E on the north elevation. All board members agreed.
- The board agreed that the overall designs are well done.

Motion:

On a motion by **B. Bowen** seconded by **L. Payton** the Planning Board voted 5-0 (**J. Putnam** absent) to approve the Site and Use Review application LUR2011-00071, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval, with the following modifications:

Add to Site Review Condition 3.a.: *The final site plans shall be revised to show the following:*

- *Buildings A, B, and C shall not exceed the 35 ft height limit; only Buildings A and B, but not C, may have three stories;*
- *Buildings 1 and 2 shall not exceed the zoning district's maximum height, the only elements that may exceed that height limit shall be stairway access from each unit to the roof tops;*
- *The garages behind Building A shall be unbundled parking;*
- *From the proposed concrete path at the north east corner of Building 1, extend a five foot wide pervious path west to 10th Street with a public access easement;*

- *All buildings shall have conduit for future photo voltaic systems from the house panel of each unit to the roof;*
- *One dual cord electrical vehicle charging station to serve unbundled surface spots; and*
- *The brick on the east elevation of Buildings A and B shall extend up to the third floor and replace the stucco, including grids 4 through 7 of Building A and grids 1 through 5 on Building B on the east elevations, such brick shall wrap around the corners of those buildings as follows: on Building A including grids A through D on the south elevation, and on Building B including grid B-through E on the north elevation.*

C. AGENDA TITLE: Concept Plan (case no. LUR2015-00106) proposal to redevelop the properties located at 4801, 4855, 4865 and 4885 Riverbend Rd. within the Riverbend Office Park with a new 76,000 sq. ft., 55 foot hospital building and a 5-story, 467-stall parking structure with accessory office and retail space. The new facility would house BCH's relocated inpatient behavioral health, inpatient rehab and neurology department. The proposal includes consolidating the existing properties into one 2.55-acre project site and rezoning the site from BT-2 (Business – Transitional 2) to P (Public). Changes to the existing access and circulation are also proposed

Applicant: Darryl Brown for Boulder Community Health
Property Owner: Boulder Community Health

Staff Presentation:

C. **Van Schaack** presented the item to the board.

Board Questions:

C. **Van Schaack** answered questions from the board.

Applicant Presentation:

Jackie Attlesey-Pries with Boulder Community Health, and **Mary Fiore** with Boulder Associates Architects, the owner's representative, presented the item to the board.

Board Questions:

Jackie Attlesey-Pries with Boulder Community Health, **Mary Fiore** with Boulder Associates Architects, and **Vince Porreca**, a consultant for BCH, answered questions from the board.

Public Hearing:

No one spoke.

Board Comments:

Key Issue #1: Is the Concept Plan proposal compatible with the goals, objectives and recommendations of the Boulder Valley Comprehensive Plan (BVCP)?

Key Issue #2: Are the proposed Rezoning and amendment to the BVCP Land Use

Designation appropriate for the surrounding context?

- The board gave comments regarding the two key issues in terms of compatibility with the BVCP and if the proposed rezoning and amendment to the BVCP Land Use Designation would be appropriate.
- **C. Gray** stated that the zoning and height would be appropriate and supports the parking garage. She supports the parking garage materials. She suggested that some of the design elements be simplified. She also suggested looking at an additional access from 48th Street.
- **L. May** agreed with the community cycles comments sent to the board. A larger area plan should be thought about and not piecemealed. He suggested that the parking should be thought through even more and that the hospital should work harder toward diverting employees and visitors away from parking at the facility. In terms of the architecture, he stated that the garage design is more successful than care facility. He suggested that the design be more organized.
- **B. Bowen** supports the rezoning. He urged the continuation of the maximization of the sight so the hospital can thrive in this location. He suggested that the applicant pursue uses that can be expanded in the public zone and to ask for a setback variance to create an urban medical campus. He asked the applicants to look at how to conserve their energy usage by both sharing and becoming an eco-district or look at renewables. Finally, he suggested looking at resiliency.
- **L. Payton** stated that it does meet the BVCP policies. She does support the height modification request due to the context and approves of the architecture. She offered to the applicant to put an emphasis on the landscaping.
- **J. Gerstle** agrees with the other board members that the project should move forward. He offered that BCH needs to gain more credibility with respect to transportation demand management with its employees. In his opinion, the most effective way to do this would be to stop providing free parking.

Board Summary:

B. Bowen gave a summary of the board's recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. Overall, the board was in unanimous support for rezoning for the public and for City Council to allow building to 55 feet in height. The board supported the idea of an ordinance to allow additional commercial uses beyond merely "accessory" uses to create more of a rich, urban village that would support employees, neighbors and guests. The board asked to carefully consider parking and to get more serious about a transportation demand management plan. This can start with monitoring and collecting data. The board expressed a strong interest in renewable energy, EV parking, PV shading on the garage at the time of construction. They urged to look at eco-districts and to have a plan for resiliency and to have clear goals for sustainability. The architecture needs to be reviewed. There were mixed comments on the design of the hospital building. The materials for both the parking garage and the facility were acceptable. There was clear interest in extending the vision beyond and to a master plan by asking what your future growth plans are. The board suggested that the landscaping should be over and above the standards. **L. May** add that the architecture be more organized. The board supported evolving the architecture in a more organized and refined composition.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Planning Board 2016 Retreat

- The board agreed to table this matter to the March 17, 2016 meeting.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 10:46 p.m.

APPROVED BY

Board Chair

DATE

DRAFT

MEMORANDUM

TO: Planning Board
FROM: Elaine McLaughlin, Case Manager
DATE: March 3, 2016
SUBJECT: **Call Up Item:** USE REVIEW (LUR2016-00015): Use Review for a 2,500 square foot meeting/event space comprised of a 2,000 square foot meeting room and a 500 square foot pre-function area within a 7,000 square foot retail building currently under construction within the Gunbarrel Gateway property located at 6315 Lookout Road. The call-up period expires on **March 15, 2016**.

Process Summary. The owner of 6315 Lookout Rd. (near the intersection of 63rd Street and Lookout Road) would like to add a meeting/event space within a retail building that would serve both the existing adjacent hotel and the restaurant recently permitted and under construction within the same retail building. While a meeting space is considered to be compatible with a hotel use and a restaurant, the building is located on a separate lot from the hotel and the meeting space (defined as a “conference center” use is therefore considered a primary use which requires a use review under the Business Community -2 (BC-2) zoning district.

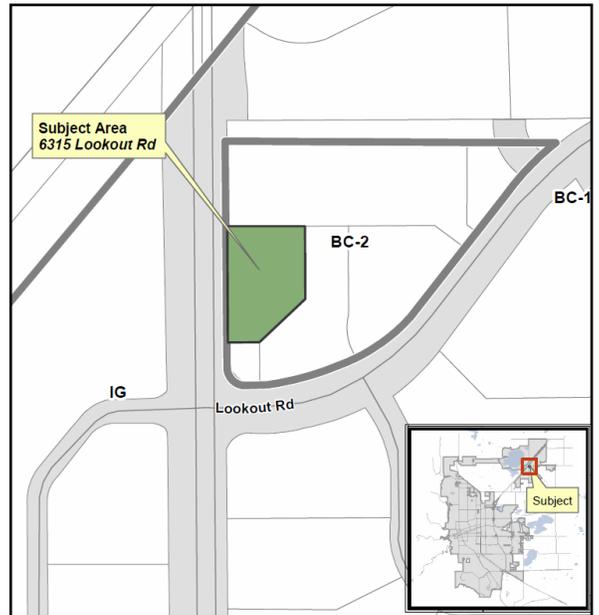
Background. The planned meeting/event space is intended to be located within a building currently under construction. The building was approved through a Site Review (LUR2008-00022) for the Gunbarrel Gateway site, currently built out with a Hampton Inn Hotel. During the permitting process for the tenant finish, it was found that the planned use as a meeting space (conference space) required the Use Review. The site’s zoning of BC-1 is *business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.* The project site is also within the boundaries of the Gunbarrel Community Center Plan which designates the site as “Community Business.” The plan defines this as,

“a focal point for commercial activity serving a subcommunity. These areas are designated to serve the daily convenience shopping and service needs of the local population, and are generally less than 150,000 to 2000,000 square feet in area.” Example uses within the plan are noted as, *“restaurants, personal services, large or small retail, banks, hotels, motels, medical or dental offices, recreational facilities, schools, day care, art studios and professional offices.”*

As a part of the retail building’s construction, where the meeting space will be located, a tenant finish for a restaurant was issued that includes a roof top patio. Additional improvements also include landscaping and buildout of a parking area to serve the building.

Project Proposal. The 2,500 square foot meeting space is planned as banquet space for the adjacent restaurant as well as conference space for the adjacent hotel. The applicant indicated that on weekends it can be used as a wedding venue or party facility and on weekdays it can serve as a meeting space for nearby businesses and community organizations as well as hotel guests. The hours of operation planned are from 7:30AM to 12:00 AM. It will have no dedicated employees but will utilize employees already at the adjacent hotel and/or restaurant, with management of the space operated by the hotel.

Public Comment. Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days. All notice requirements of section



9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. There were no comments received regarding the application.

Analysis. The proposal was found to be consistent with the Use Review criteria pursuant to subsection 9-2-15(e), "Criteria for Review," B.R.C. 1981. Refer to **Attachment B** for the complete Use Review analysis.

Conclusion. Staff finds that the proposed project meets the relevant criteria of section 9-2-15, "Use Review," B.R.C. 1981. The proposal was **approved** by staff on **March 3, 2016** and the decision may be called up before Planning Board on or before **March 17, 2016**. Questions about the project or decision should be directed to the Case Manager, Elaine McLaughlin at (303) 441-4130 or at mclaughline@bouldercolorado.gov

Attachments:

- A. Signed Disposition
- B. Analysis of Use Review Criteria



**CITY OF BOULDER
Planning and Development Services**

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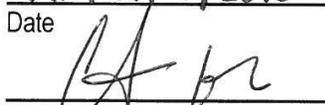
**CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION**

You are hereby advised that the following action was taken by the Planning Department based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION: **Approved with conditions**
PROJECT NAME: **GUNBARREL GATEWAY CONFERENCE SPACE**
DESCRIPTION: **USE REVIEW to install a 2,500 s.f. conference center.**
LOCATION: **6315 LOOKOUT RD**
COOR: **N10E03**
LEGAL DESCRIPTION: **Lot 2, Gunbarrel Business Park Replat B,
City of Boulder, County of Boulder, State of Colorado**
APPLICANT: **BILL MCDERMID**
OWNER: **Boulder Hospitality, LLC**
APPLICATION: **Use Review, LUR2016-00015**
ZONING: **BC-2**
CASE MANAGER: **Elaine McLaughlin**
VESTED PROPERTY RIGHT: **NO; the owner has waived the opportunity to create such right under
Section 9-2-19, B.R.C. 1981.**

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

Approved on: MARCH 3, 2016
Date

By: 
David Driskell, Executive Director of Community Planning and Sustainability

This decision may be appealed to the Planning Board by filing an appeal letter with the Planning Department within two weeks of the decision date. If no such appeal is filed, the decision shall be deemed final fourteen days after the date above mentioned.

Appeal to Planning Board expires: MARCH 17, 2016

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND FINAL PLANS FOR CITY SIGNATURE MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

Address: 6315 LOOKOUT RD

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12) the development within three years shall cause this development approval to expire.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all plans prepared by the Applicant on January 27, 2016 and the written statement dated Feb. 1, 2016** on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:
 - a. Size of the approved interior use shall be limited to 2,500 square feet.
 - b. The approved interior use shall be closed from 12:00 a.m. to 6:00 a.m. seven days per week.
 - c. Trash and bottles shall not be removed to outside trash containers between the hours of 10:00 p.m. and 8:00 a.m.
2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.
3. The Applicant shall **comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to, the following:
 - a. the Development Agreement recorded at Reception No. 2972299 on October 9, 2008 in the records of the Boulder County Clerk and Recorder; and
 - b. the Subdivision Agreement recorded at Reception No. 03214070 on April 4, 2012 in the records of the Boulder County Clerk and Recorder.

Address: 6315 LOOKOUT RD

ATTACHMENT B: USE REVIEW CRITERIA

(e) Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

√ **(1) Consistency With Zoning and Nonconformity:** The use is consistent with the purpose of the zoning district as set forth in [section 9-5-2](#), "Zoning Districts," B.R.C. 1981, except in the case of a nonconforming use;

The project site is zoned BC-2; the zoning district purpose for BC-2 is defined as, "business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate." The project site is also within the boundaries of the Gunbarrel Community Center Plan which designates the site as "Community Business." The plan defines this as,

"a focal point for commercial activity serving a subcommunity. These areas are designated to serve the daily convenience shopping and service needs of the local population, and are generally less than 150,000 to 2000,000 square feet in area."
Example uses within the plan are noted as, "restaurants, personal services, large or small retail, banks, hotels, motels, medical or dental offices, recreational facilities, schools, day care, art studios and professional offices."

The location of the proposed conference space in Retail Building 1 was considered as a part of the Site Review approval for Gunbarrel Gateway, under case no. LUR2008-00022. The intent of both the zoning and the Site Review approval is to permit active uses in this area of Gunbarrel.

√ **(2) Rationale:** The use either:

√ **(A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;**

The intent of the small conference facility is to provide meeting space that would serve the hotel, and be augmented by the adjacent restaurant, also within Retail Building 1. There's a particular synergy to having both the restaurant use (which is permitted by right in the zoning district), the conference space, and the hotel. All of them provide services to the site and the surroundings. Similarly, not only could the conference space be used by hotel guests, but is within close proximity to a number of offices within the Gunbarrel Business Park.

n/a **(B) Provides a compatible transition between higher intensity and lower intensity uses;**

n/a **(C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or**

n/a **(D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (f) of this section;**

√ **(3) Compatibility:** The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;

The conference space is compatible with the adjacent restaurant and the hotel. Because the majority of the users of the space will be hotel guests, this compatibility will likely have a minimal negative impact on the use of nearby properties. Residential uses are located well away from the site such that impacts would likely not occur.

√ (4) **Infrastructure:** As compared to development permitted under [section 9-6-1](#), "Schedule of Permitted Land Uses," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a nonconforming use, the proposed development will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater, and storm drainage utilities and streets;

The infrastructure for the site is already integrated into the urban context of the site.

√ (5) **Character of Area:** The use will not change the predominant character of the surrounding area;

The character of the area is that of a community business area as designated by the land use. There are offices and industrial buildings along with banking services and other uses. The existing hotel will be augmented with the construction of Retail Building 1 where the planned conference space will be located.

n/a (6) **Conversion of Dwelling Units to Nonresidential Uses:** There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts to nonresidential uses that are allowed pursuant to a use review, or through the change of one nonconforming use to another nonconforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a daycare center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.

Not applicable to this case, this is not a proposed conversion of residential to non-residential use.

**CITY OF BOULDER
MEETING OF THE PLANNING BOARD**

MEETING DATE: March 17, 2016

AGENDA TITLE

Reconsideration of Initial Screening of a Map Change Request at 2801 Jay Road (Request #29) as part of the Boulder Valley Comprehensive Plan Major Update

REQUESTING STAFF:

David Driskell, Executive Director, Planning, Housing & Sustainability
Susan Richstone, Deputy Director, PH&S
Lesli Ellis, Comprehensive Planning Manager, PH&S
Jeff Hirt, Planner II, PH&S
Caitlin Zacharias, Associate Planner, PH&S
Nicole Wobus, Long Range Planning Manager, Boulder County
Pete Fogg, Senior Planner, Boulder County
Abigail Shannon, Senior Planner, Boulder County
Steven Giang, Planner I, Boulder County

OBJECTIVE:

This is a continuation of the initial screening of public requests. The public hearing for this item was held on Feb. 2, 2016.

PURPOSE

At the Feb. 29, 2016 meeting, City Council requested that Planning Board reconsider 2801 Jay Road (Request 29) for the list of public requests to be analyzed further as part of the major update to the BVCP. This memo provides information on the actions taken by City Council on Feb. 29, 2016 and includes details on both requests that regard **2801 Jay Rd.**, including #29 (a request for change from PUB to MXR).

SUMMARY OF CITY COUNCIL ACTION ON FEB. 29, 2016

On Feb. 29, 2016, City Council provided the following input and took the following actions.

1. Asked Planning Board to reconsider Request 29, a land use change for 2801 Jay Road which is the subject of this memo and further described in the analysis section that follows. Eight of the council members expressed interest in further study because: (1) the land use is transitioning from a public use; (2) the BVCP major update is the opportune time to explore a land use change; and (3) it might be an appropriate site for housing which is a community need; and (4) the analysis should not presuppose the outcome.

In addition, council:

2. Did not recommend further consideration and analysis of Request 30, a service area contraction at 2801 Jay Rd. because the property has been in Area II and developed for over 25 years (no action taken).
3. Approved moving forward four requests for analysis as part of the BVCP major update:
 - 3261 3rd St. (*Request 25*)
 - 3000 N. 63rd St. & 6650 Valmont Rd. (Valmont Butte #1) (*Request 26*)
 - 6655 & 6500 Twin Lakes Rd., O Kalua Rd #2 (*Request 35*)
 - 6655 & 6500 Twin Lakes Rd., O Kalua Rd #3 (*Request 36*)
4. Passed a motion to support a facilitated process for Twin Lakes (Requests 35 and 36). (See [Attachment B](#).)
5. Decided to not further consider and analyze Request 32, a service area contraction request, for 5399 Kewanee Drive and 5697 South Boulder Road (Hogan-Pancost) to change the properties from Area II and III (a vote of 5 to 4).

BACKGROUND – 2801 Jay Road

Planning Board has previously received information about the two 2801 Jay Road requests (29 and 30) in the [Feb. 2, 2016 memo](#). Additionally, the presentation and public comments from the joint public hearing with City Council on Feb. 2 can be found on the Boulder Channel 8 archive, [here](#).

Request 29 for a land use change from Public (PUB) to either Medium (MR) or Mixed Density (MXR) Residential was put forward for the purposes of creating a mixed density affordable housing project, with the applicant expressing flexibility to determine the appropriate use of the site.

On Oct. 1, 2015, as part of a concept review, Planning Board indicated that a residential use could potentially be supportable on this site and that the BVCP process may be the appropriate venue to evaluate the kind of land uses appropriate and future intensity. Staff originally recommended further analysis of Request 29 to determine the appropriate intensities for the property as it transitions from a public church use to a future use. The property has been developed and used as a place of worship since 1990.

On Feb. 2, 2016, Planning Board expressed concerns about intensifications of the site, not recommending further analysis of Request 29, and asking for further study of the alternative Request 30.

Request 30 is a request to change the property designation from Area II to Area III-Planning Reserve because of concerns related to consistency of redevelopment with neighborhood character, incremental development, traffic, and safety, among other reasons. The purpose of the Planning Reserve is to maintain the option of future service area expansion and is an interim classification until it is decided whether the property should be placed in Area III-Rural or in the Service Area (Area II). Because of existing urban development on the property, Area II and Public land use designations, and contiguity with the city's existing service area, staff did not recommend further analysis of Request 30. The BVCP also does not contain clear criteria regarding how to change the designation of a property from Area II to Area III-Planning Reserve.

SUMMARY OF ACTIONS TO DATE ON INITIAL SCREENING

Based on results from initial screening hearings, the following requests will move forward for additional analysis:

Land use map changes in Area I

- 2130 Arapahoe Ave. & 6287 Arapahoe Ave. (Naropa) (Request 1)
- 385 Broadway (member of the public) (Request 3)
- 0, 693, & 695 S. Broadway (Table Mesa Shopping Center) (Request 12)
- 3485 Stanford Ct. (Mt. Calvary Lutheran Church) (Request 13)

Note: The requestor withdrew 4801, 4855, 4865, 4885, and 4895 Riverbend Rd. (Boulder Community Health), so Request 10 will not move forward as part of the BVCP.

Land use map changes for Area II, Area III:

- 3261 3rd St. (Request 25)
- 3000 N. 63rd St. & 6650 Valmont Rd. (Valmont Butte #1) (Request 26)
- 6655 & 6500 Twin Lakes Rd., 0 Kalua Rd #2 (Request 35)
- 6655 & 6500 Twin Lakes Rd., 0 Kalua Rd #3 (Request 36)

Note: City Council passed a motion to recommend a facilitated process occur for the two Twin Lakes requests above, so that process is being scoped and will proceed concurrently with staff analysis. (See [Attachment B](#).)

Policy and text requests:

- Enhance public benefit (Ch. 2: Built Environment) (Request 16)
- Clarification re: ditches (Ch. 2: Built Environment, Ch. 9: Agriculture and Food, and VI: Urban Service Criteria and Standards) (Request 17)
- Reflect public interest in renewable energy and reduction of carbon footprint (Ch. 4: Energy and Climate) (Request 18)

Level of Detail and Analysis

In general, the BVCP analysis following the initial screening has focused on issues such as intensity of development, mix of uses, and ability to provide urban services to a property or area. Criteria for further analysis will be based on BVCP criteria that are outlined in the Amendment Procedures, including consistency with the policies and overall intent of the comprehensive plan, compatibility with the surrounding area, and minimal effect on service provision, among others. [Attachment A](#) contains additional information about the approach for analysis of the above requests and reports to be produced.

[Attachment B](#) contains the motion by City Council regarding the Twin Lakes facilitated process.

Attachments

- A. [Analysis Approach for Public Requests](#)
- B. [City Council Motion for a Facilitated Process for Twin Lakes](#)

Attachment A: Approach to Analysis of BVCP Public Requests

This section helps to clarify what to expect regarding level of detail and timing for analysis of the public requests. Staff is currently sorting the requests according to level of complexity, required review (two or four-body), and expected level of community engagement, among other factors to determine when hearings might take place. This is information that was shared with City Council as part of the Feb. 29, 2016 memo.

In general, the BVCP analysis following the initial screening has focused on issues such as intensity of development, mix of uses, and ability to provide urban services to a property or area. Criteria for further analysis will be based on BVCP criteria that are outlined in the Amendment Procedures (p. 59, land use map changes, 2010 BVCP) and minor adjustments to the service area boundary (p. 61, 2010 BVCP)). These criteria include consistency with the policies and overall intent of the comprehensive plan, compatibility with the surrounding area, and minimal effect on service provision, among others.

Specifically, analysis during the further analysis phase in past major updates has entailed the following:

1. Summary Data: zoning and future BVCP land use designations, parcel acreage, square footage of existing buildings, and dwelling units and jobs based on current and proposed land use designations
2. Site Location and Context: including a description of what is permitted under the current land use designation, surrounding land uses, transit, and any environmental concerns
3. Discussion of relevant history and key issues: key issues vary by property and may included the following, among others: land use discrepancy with BVCP, development potential after floodplain re-mapping, consistency with adopted area plans, previous council direction, preservation of rural or historic character, and compatibility with surrounding area
4. Summary points from public engagement: most requests involved a public engagement component

In past updates, staff has not provided detailed analysis regarding environmental resources, hydrology, or site design. In addition to the criteria in the Amendment Procedures, compatibility with policies and land use designations in existing subcommunity or area plans and priorities for the major update are among additional considerations used in the further analysis phase. In 2010, for example, staff recommendations were based on prior or ongoing detailed studies or adopted plans and did not include any new detailed studies for the BVCP process (e.g., recommendations based on adopted plans (TVAP and the North Boulder Subcommunity Plan) and prior studies (RH-2 zoning district study, University Hill Study)). In general, the 2010 staff recommendations cite existing policies and regulations without conducting technical analysis to comprehensively examine the implications of potential alternative land use designation and zoning scenarios.

In 2010, the volume of public comment was substantially less for final decisions than seen for the 2015 requests. Nevertheless, of the ten 2010 requests that made it to the final stages, four had at least one public meeting, and some had several focused smaller group meetings with community members.

Attachment B: Twin Lakes Facilitated Process

Language from the Motion as Passed by City Council

Move that BVCP Requests #35 and #36 be further considered and analyzed, with the following request: That Boulder County Housing Authority, Boulder Valley School District, and Twin Lakes Action Group engage in an open and transparent facilitated discussion comprised of representatives of each group who are vested with the authority to speak for and bind their respective constituents. Each group should have equal representation and the discussion should be facilitated by an independent facilitator selected by the City of Boulder, with facilitator compensation shared between the City of Boulder and Boulder County. Boulder Valley School District shall be requested to be part of the process and if agreeable to pay an equitable share of the costs.

The three groups are expected to do the following, with the timing of work to align with the BVCP process:

1. Jointly formulate recommendations for areas of expertise and selection of experts to inform the desired land use patterns for the area. The areas for study should include the suitability for urban development, desired land use patterns, and environmental constraints.
2. Jointly recommend the appropriate range of potential housing units with consideration given to intensity and community benefit, regardless of who holds title to the property.
3. Following the outcome of the BVCP process and 1 and 2 above, jointly recommend a timeline for the formulation of a set of guiding principles to inform next steps.

While Council requests these groups engage in such good faith facilitated discussions, the failure of such discussions, for any reason, shall not affect Council's determination that BVCP Requests #35 and #36 be further considered and analyzed.

**CITY OF BOULDER
PLANNING BOARD AGENDA ITEM**

MEETING DATE: March 17, 2016

AGENDA TITLE: Public hearing to consider a recommendation to City Council on an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to allow for changes to the city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations.

REQUESTING DEPARTMENT:

Planning, Housing + Sustainability

Tom Carr, City Attorney

David Driskell, Executive Director

Susan Richstone, Deputy Director

Charles Ferro, Development Land Use Review Manager

Hella Pannewig, Assistant City Attorney

OBJECTIVES:

1. Hear Staff presentation
2. Planning Board discussion
3. Recommendations on changes to the code

PURPOSE

The purpose of this item is Planning Board consideration of a recommendation to City Council on the following two proposed code changes to the city's signage regulations:

1. To allow for letter heights on canopies and awnings of 24" inches in the Boulder Valley Regional Center where a maximum letter height of 12" currently exists.
2. To bring the city's sign code into compliance with a recent United States Supreme Court ruling regarding content based signage regulations.

BACKGROUND / ANALYSIS:

In February, 2016, The Dairy Center for the Performing Arts applied for a permit for a canopy sign that is not consistent with the city's sign code regulations. Currently, lettering heights for such signs are limited to 12" in height. On February 29, 2016, City Council requested that staff bring forward an amendment to the city's sign code to allow for larger, 24" letter heights in the Boulder Valley Regional Center (BVRC). The boundaries of the BVRC are as follows:

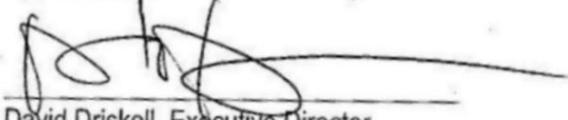


Sign codes are restrictions on speech and therefore must conform to the First Amendment to the United States Constitution. A government may impose reasonable time, place and manner restrictions on speech if there is a rational basis for the restriction. For sign codes, the rational basis is generally esthetics and the need to limit distractions for drivers. Such restrictions have been upheld to the extent that they regulate the manner of speech, but not the content. That is, the government can restrict how a party speaks, but not what the party says. To restrict the content of speech there must be a compelling government interest. During the 2015 term, the United States Supreme Court struck down the sign code for the Town of Gilbert, Arizona as a content-based restriction on speech. *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015). The court took a broad view of what constituted a content-based regulation. The holding in *Reed* was that if one needed to read the sign to determine whether the code applied, the code was a content-based regulation. The city's current sign code includes certain exceptions which make it vulnerable to the *Reed* decision. These include exemptions for signs for lost animals, real estate signs and garage sale signs currently found in Section 9-9-21(c)(1)(C) B.R.C. 1981. One could argue that because the city needs to read the sign to determine whether the exemption applies makes the city's sign code a content-based regulation. Thus, if staff were to recommend that signs advertising performing arts organizations be exempt, the ordinance could be considered a content-based regulation, hence the additional proposed changes to the city's sign code found in [Attachment A](#).

STAFF RECOMMENDATION (MOTION LANGUAGE):

Staff recommends that Planning Board recommend approval to the City Council of an ordinance amending Title 9, "Land Use Code," B.R.C. 1981 to allow for changes to the city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations.

Approved By:

A handwritten signature in black ink, appearing to read 'David Driskell', written over a horizontal line.

David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS

- A. [Draft ordinance](#)

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ORDINANCE NO. 8108

AN AMENDING CHAPTER 9-9-21, "SIGNS," BY ELIMINATING ANY CONTENT-BASED RESTRICTIONS AND AMENDING THE RESRICTION ON AWNING SIGNS TO ALLOW AWNING SIGNS IN THE BOULDER VALLEY REGIONAL CENTER TO INCLUDE LETTERS OF NOT GREATER THAN TWENTY-FOUR INCHES IN HEIGHT AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 9-9-21 is amended to read as follows:

9-9-21. - **Signs.**

(a) Application and Legislative Intent:

(1) Application of Section: This section applies only to signs erected on private property by the owner or lessee in possession of that property, or by persons acting with the permission or at the request of the owner or lessee. It applies only to signs which are visible beyond the boundaries of the property upon which they are located. There are two exceptions to this rule which are most conveniently included in this section: signs erected on private property as part of a sign program which was a condition of approval of development under this title; and signs on private vehicles located on public property. This section does not apply to a sign carried by a person, whether on public or private property. This section does not apply to signs, other than those on vehicles, on public property.

(2) Intent: The purpose of this section is to protect the health, safety, and welfare of the residents of the city by regulating the design, construction, and installation of private signs in the city. The city council recognizes that signs are necessary means of visual communication for the public convenience and that businesses and individuals have the

1 right to identify themselves and convey messages by using signs that are accessory and
2 incidental to the use on the premises where the signs are located. In this section the
3 council intends to provide a reasonable balance between the right of a business or an
4 individual to identify itself and to convey its message and the right of the public to be
5 protected against the visual discord that results from the unrestricted proliferation of
6 signs, especially off-premises billboards. The ability to convey messages by signs is
7 important to the proper and efficient functioning of society. However, the natural desire
8 to speak more "loudly" through signs which are more numerous, larger, higher, and
9 closer to the street than the signs used by one's neighbors and competitors requires a set
10 of rules applicable to all similarly situated. With a level playing field the community as
11 a whole benefits and no individual is disadvantaged in communicating. The council also
12 intends by this section to ensure that signs are compatible with adjacent land uses and
13 with the total visual environment of the community and that the value of nearby
14 property and the economic health of the community as a whole are protected from
15 visual blight. Another purpose of this section is to protect the public from hazardous
16 conditions by prohibiting signs that: are structurally unsafe, particularly in light of the
17 unique wind hazards in the city, obscure or distract the vision of motorists, or compete
18 or conflict with necessary traffic signs and warning signals. In adopting this section, the
19 council recognizes that the size of signs that provide adequate identification in
20 pedestrian-oriented areas differs from that necessary in vehicular-oriented areas where
21 traffic is heavy, travel speeds are greater, and required setbacks are greater.
22

23
24 (A) The city council recognizes that since the sign code was originally enacted in 1971,
25 most nonconforming signs have been eliminated through attrition and through the

1 amortization provision of chapter 48 of the Revised Code of the City of Boulder,
2 Colorado 1965. But nonconforming signs may enter the city as it annexes
3 developed land, and code changes may make conforming signs nonconforming.
4 The council recognizes that permitting the continuation of such nonconforming
5 signs provides an unfair competitive advantage over persons whose signs conform
6 to the section requirements and intends that signs that do not conform with this
7 section be eliminated as expeditiously as practicable to protect the public safety and
8 welfare and the visual environment.

9
10 (B) The city council recognizes the right of residents of the city to fully exercise their
11 right to free speech by the use of signs containing noncommercial messages that are
12 subject to minimum regulations regarding size, number, structural safety and visual
13 setbacks.

14 (C) The city council finds that certain types of signs are not appropriate for regulation
15 by permit under this section because they:

16 (i) Would not create a structural safety or traffic safety hazard;

17 (ii) Would promote public safety or the dissemination of public information;

18 (iii) Would not give rise to aesthetic or traffic concerns;

19 (iv) In the case of art, are deemed a privilege of individual creative expression;

20 (v) In the case of other noncommercial signs, are accessory to the exercise of first
21 amendment rights;

22 ~~(vi) With respect to real estate signs, the council finds that a small "for sale" or "for~~

23 ~~rent" sign is an important means of advertising real estate and does not create a~~

1 ~~traffic hazard. In fact, appropriate real estate signs prevent traffic hazards by~~
2 ~~easing the task of the motorist looking for the property. In addition, the council~~
3 ~~finds that a substantial portion of such rentals occur as a result of prospective~~
4 ~~tenants examining areas of interest to them looking for signs indicating that~~
5 ~~space is for rent, and that approximately fifty four percent of the dwelling units~~
6 ~~in the city are rental units;~~

7
8 ~~(vii) With respect to permitted construction warning signs, the council finds that~~
9 ~~such signs are essential to warn persons entering the property of dangers~~
10 ~~created by the construction and that their prompt and unfettered use constitutes~~
11 ~~a compelling governmental interest and requires a different form of regulation;~~

12 ~~(viii) With respect to permitted garage sale signs, the council finds that sporadic~~
13 ~~"garage sale" signs for garage sales permitted under this title do not constitute~~
14 ~~a commercial use of residential property and do not compromise the residential~~
15 ~~values served by the restrictions on home occupations, and that other means of~~
16 ~~advertising such sales are unacceptably burdensome. The need for such sales in~~
17 ~~the City, and the attendant signs on the premises where the occupant lives and~~
18 ~~is holding the sale, is particularly high because of the large college student~~
19 ~~population (approximately one fourth of the City's population), and the high~~
20 ~~proportion of persons living in rental housing as opposed to owner occupied~~
21 ~~housing (approximately fifty four percent of the dwelling units in Boulder are~~
22 ~~rental units), and who have from time to time a pressing need to unburden~~
23 ~~themselves from possessions they have determined they cannot reasonably take~~
24 ~~with them to their new place of abode;~~
25

1 ~~(ix) With respect to permitted lost animal signs, the council finds that notices in~~
2 ~~newspapers or other means of communicating this information are inadequate,~~
3 ~~and that notice of the animal's loss near the site of the loss is necessary to~~
4 ~~increase the likelihood and timeliness of the animal's return to its owner, and~~
5 ~~promotes the government's interest in avoiding euthanasia and the other costs~~
6 ~~attendant upon stray animals;~~

7
8 (vix) With respect to permitted private traffic signs, the council finds that such
9 signs serve a compelling governmental interest in the safe movement of traffic
10 in private parking lots and drives and serve a function which cannot effectively
11 be served in any other manner;

12 (viixi) With respect to signs required by law, the council finds that the law
13 requiring the sign is sufficient regulation of the sign, and that it is inappropriate
14 for the government to require a sign to be posted but count it against allowable
15 private signage, and that such signs by definition serve a compelling
16 governmental interest in a site-specific manner which cannot otherwise be
17 served as effectively;

18
19 ~~(xii) With respect to small permitted residential wind signs, the council finds that~~
20 ~~the safety valve for personal expression provided by such signs serves a~~
21 ~~compelling governmental interest and is within the penumbra of the First~~
22 ~~Amendment;~~

23 (vxi) With respect to permitted utility warning signs, the council finds that the
24 dispersed nature of utility lines throughout all the community does not lend
25

1 itself to the property by property regulation otherwise used in this code, and
2 that warning of the location of utilities and of their hazards so that persons will
3 not be injured thereby, so that fire, police, and other public emergency services
4 may be conducted expeditiously and safely, and so that the essential public
5 functions served by such utilities will not be impaired constitutes a compelling
6 governmental interest and requires a different form of regulation;

7
8 (~~v~~iv) With respect to permitted vehicular signs, the council finds that regulation
9 of bumper stickers and other forms of personal expression is inappropriate in a
10 free and highly mobile society and that such signs are ordinarily small,
11 whereas regulation of commercial signs on motor vehicles, which the council
12 finds are often large, is appropriate for those who have chosen to engage in
13 commerce within the City and serves a substantial governmental interest in
14 aesthetics and traffic safety;

15
16 (~~x~~v) With respect to permitted window signs, the council finds that such signs
17 present no structural hazards and provide a method by which messages may be
18 displayed on short notice by the property owner or tenant as that person
19 perceives the need to communicate without need for any government role in
20 the protection of the broader public interest, and that within the limitations
21 given have not and will not cause aesthetic blight or traffic hazards of the sort
22 unacceptable to the community; and

23 (~~x~~vi) With respect to signs on bicycles, the council finds that the use of signs on
24 bicycles will not cause aesthetic blight or traffic hazards of the sort
25 unacceptable to the community and will service a substantial governmental

1 interest by reducing the cost of an environmentally beneficial transportation
2 option that will relieve vehicular congestion, reduce greenhouse gas emissions
3 and improve public health by providing opportunities for exercise; and

4 ~~(xvii) — Because of the extraordinary importance, amounting to a compelling
5 societal and governmental interest, of election campaigning for public office
6 and of voting on initiatives and referenda, and because political speech has its
7 fullest and most urgent application during a political campaign from the time a
8 candidate is nominated for electoral office until the day after the election, and
9 from the time an initiative or referendum is placed on the ballot until the day
10 after the election, the limit of one noncommercial residential sign within the
11 residential noncommercial sign setback should not apply to signs urging the
12 election or defeat of such candidates, or the passage or defeat of such
13 measures, and the applicable provisions of this sign code reflect this
14 determination. Without in any way limiting the applicability of the general
15 severability provisions of section 1-1-4, "Severability of Parts of Code,"
16 B.R.C. 1981, but mindful of the possibility that a reviewing court might
17 disregard such an otherwise clear expression of legislative intent because of its
18 generality, the city council intends that this exception for signs during
19 campaigns be considered severable from the remainder of the sign code should
20 it for some reason be found wanting under the state or federal constitutions,
21 just as it intends all other provisions of this sign code to be severable.~~

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23
24 (D) Council finds that commercial signs towed over the City by aircraft are a
25 distraction to motorists, pedestrians, and other users of the public streets and ways,

1 and impair traffic safety, and constitute unfair competition for earthbound
2 advertisers who comply with the City's sign code when made by multiple passes
3 over the City, and therefore are detrimental to the health, safety, and welfare of the
4 people of the City, and urges the Federal Aviation Administration to place suitable
5 restrictions upon any certificate of waiver to prohibit towing such signs over the
6 City.

7
8 (b) Prohibitions and Prohibited Signs:

9 (1) Conformity With Sign Code Required: No person shall display, construct, erect, alter,
10 use, or maintain any sign in the City except in conformance with the provisions of this
11 section. No person shall display, alter, use, maintain, or enlarge any legal,
12 nonconforming sign except in conformity with the provisions of this section. No person
13 shall perform or order the performance of any act contrary to the provisions of this
14 section or fail to perform any act required by the provisions of this section.

15
16 (2) Sign Permit Required: Except as provided in subsection (c) of this section, no person
17 shall display, construct, erect, alter, or relocate any sign without first applying to the
18 city manager and obtaining a permit under this section.

19 (3) Specific Signs Prohibited: No person shall erect, install, post, display, or maintain any
20 of the following signs:

21 (A) Animal: A sign that involves the use of a live animal.

22
23 (B) Flashing: A sign with lights or illuminations that flash, move, rotate, scintillate,
24 blink, flicker, vary in intensity, vary in color, or use intermittent electrical
25 pulsations.

1 (C) Height: A sign twenty-five feet or more above the ground level.

2 (D) High Window: A window sign exceeding four square feet in area twelve feet or
3 more above the ground level.

4 (E) Illuminated: An illuminated sign with any of the following characteristics:

5
6 (i) A beam or ray of light used to illuminate the sign shines directly from the sign
7 onto the surrounding area.

8 (ii) Direct or reflected light from any light source associated with the sign creates a
9 traffic hazard or distraction to operators of vehicles or pedestrians on the
10 public right-of-way.

11 (iii) The sign is directly illuminated and is in a residential or an agricultural zoning
12 district.

13 (iv) If a sign is indirectly or internally illuminated and is in a residential or an
14 agricultural zone, the illumination may not continue between the hours of
15 11:00 p.m. and 7:00 a.m., unless the illumination is required for safety
16 purposes.

17 (v) No illuminated sign visible from and located within three hundred feet of any
18 property in a residential zoning district may be illuminated between the hours
19 of 11:00 p.m. or one-half hour after the use to which it is appurtenant is closed,
20 whichever is later, and 7:00 a.m.; but this time limit does not apply to any light
21 primarily used for the protection of the premises or for safety purposes.
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1 (F) Illusion: A sign with optical illusion of movement by means of a design giving the
2 illusion of motion or changing of copy, including, without limitation, a sign that
3 presents a pattern capable of reversible perspective.

4 (G) Moving: A sign with visible moving, revolving, or rotating parts or visible
5 mechanical movement of any description or other apparent visible movement
6 achieved by electrical, electronic, or mechanical means, except for gauges and dials
7 that may be animated to the extent necessary to display correct measurement.
8 Electronic signs which change the message not more than once per minute are
9 considered copy changes and not prohibited moving signs. Vertical rotating
10 cylindrical signs, in which the text or graphic is on the surface of the cylinder, and
11 nothing beyond the radius of cylinder surface rotates, whose rotating part does not
12 exceed twelve inches in diameter and thirty inches in height, are not considered
13 prohibited moving signs.
14

15 (H) Non-Appurtenant or Off-Premises: An off-premises commercial sign not
16 appurtenant and clearly incidental to the principal use of the property where
17 located.
18

19 (I) Obstructing: A sign or sign structure that obstructs or interferes in any way with
20 ingress to or egress from or use of any standpipe, fire escape, required door,
21 required window, or other required exit way; or any sign that obstructs any window
22 to such an extent that light or ventilation is reduced to a point below that required
23 by any provision of this code or other ordinance of the City.

24 (J) Projected Image: A sign that incorporates a projected image.
25

1 (K) Roof: A roof sign, except as specifically permitted by subsection (d)(11) of this
2 section.

3 (L) Sound: A sign or building that emits any sound, except for a non-commercial
4 signwork-of-art located in a zoning district other than an agricultural or a residential
5 district, which may emit noncommercial human voice or music recordings which
6 do not exceed fifty dBA, measured at the nearest property line, between 8:00 a.m.
7 and 6:00 p.m.

8 (M) String of Lights: A string of light bulbs used in connection with commercial
9 premises for commercial purposes and attached to or suspended from a structure.
10 This prohibition does not apply to a string of lights in a window for which a permit
11 has been issued under subparagraph (d)(14)(I) of this section, concerning wall
12 signs.
13

14 (N) Traffic Vision Obstruction: A freestanding sign or sign structure between a height
15 of two and one-half feet and ten feet above the street elevation, other than a pole
16 twelve inches or less in cross-sectional area, within the corner triangular areas
17 described in Section 9-9-7, "Sight Triangles," B.R.C. 1981.

18 (O) Unsafe: A sign or structure that constitutes a hazard to safety or health including,
19 without limitation, any sign that is structurally inadequate by reason of inadequate
20 design, construction, repair, or maintenance, is capable of causing electrical shock
21 to persons likely to come into contact with it, or has less than three feet horizontal
22 or eight feet vertical clearance from overhead electric conductors that are energized
23 in excess of seven hundred fifty volts.
24
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1 (P) Vehicular: A sign displayed on a motor vehicle if:

- 2 (i) The vehicle is not in operable condition;
- 3 (ii) The sign is roof-mounted and has more than two faces or any face exceeds four
4 square feet in area;
- 5 (iii) More than two signs are mounted on the roof of the vehicle;
- 6 (iv) The sign, if not roof-mounted, is not painted on or securely affixed on all edges
7 to the surface of the side of the body of the vehicle;
- 8 (v) The principal use of the vehicle at the time of the display is for display of the
9 sign;
- 10 (vi) It is a commercial sign which does not identify the owner of the vehicle or a
11 good or service which may be purchased from the owner;
- 12 (vii) It is a commercial sign and the vehicle is not being operated in the normal
13 course of business;
- 14 (viii) It is a commercial sign and the vehicle is not parked or stored in the normal
15 course of business in an area appropriate to the use of the vehicle for delivery
16 or another commercial purpose; or
- 17 (ix) It is a commercial sign and the vehicle, if parked on private property, is not
18 parked within the setback requirements of this section, unless no other
19 reasonable provision can be made for such parking.
- 20 (x) It is a specific defense to a charge of violation of subparagraph (b)(3)(P)(vi) of
21 this section that the vehicle was licensed by the Colorado Public Utilities
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1 Commission for the commercial transportation of passengers, or was engaged
2 in such transportation but was exempt from such licensure.

3 (Q) Wind: A wind sign, except as permitted for flags in subparagraph (c)(1)(B) of this
4 section, or in a residential or agricultural zone as permitted in subparagraph
5 (c)(1)(I) of this section.

6
7 (R) Bicycles: A sign displayed on a bicycle if:

- 8 i. The bicycle is not in operable condition; or
- 9 ii. The signs exceed two square feet in area.

10
11 (c) Signs Exempt From Permits:

12 (1) Specific Signs Exempted: The following signs are permitted in all zoning districts and
13 are exempt from the permit requirements of this section, but shall in all other respects
14 comply with the requirements of this code except as expressly excepted below:

15 (A) Construction ~~site signs~~ ~~Warning~~: A sign not exceeding sixteen square feet erected
16 by a licensed construction contractor on property on which it is working ~~to warn of~~
17 ~~danger or hazardous conditions~~. Such sign is also exempt from the setback,
18 limitation on number of freestanding signs, and total sign area regulations of this
19 section.

20
21 (B) Flags: Up to three different flags per property, subject to the following restrictions:

- 22 (i) The total area of all flags shall not exceed seventy square feet;

1 (ii) The area of each such flag shall be exempt from the sign area limitations of
2 paragraph (d)(2) of this section, but shall not exceed forty square feet, with no
3 one dimension of any flag greater than eight feet;

4 (iii) The flag pole or other structure on which such a flag is displayed shall be
5 treated as part of any building to which it is attached for all height
6 computations and not as an appurtenance or a part of the sign;
7

8 (iv) No freestanding flagpole shall exceed twenty feet in height outside of the
9 principal building setbacks or thirty-five feet in height within the principal
10 building setbacks; and

11 (v) No flag bearing an explicit commercial message shall constitute an exempt
12 flag.
13

14 (C) Garage Sale: One ~~garage sale~~ sign per property in an agricultural or residential
15 district placed on private property owned or leased by the person holding ~~at~~
16 ~~garage~~ sale, for a period not to exceed ten consecutive days and not more than
17 twice in a calendar year. The sign must be within the total signage permitted for the
18 parcel. This provision does not restrict the content of the sign.

19 (D) Lost Animal: One ~~lost animal~~ sign per property placed on private property with the
20 permission of the owner for a period not to exceed ten consecutive days, in an
21 agricultural or residential district and within the total signage permitted for such
22 parcel. This provision does not restrict the content of the sign.
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1 (E) Noncommercial: A ~~sign work of art~~ that in no way identifies or advertises a
2 product, service, or business or impedes traffic safety, a political sign, or any other
3 noncommercial sign.

4 (F) Private Traffic: A private traffic directional sign guiding or directing vehicular or
5 pedestrian traffic onto or off of a property or within a property that does not exceed
6 three square feet per face in area and six feet in height, does not contain any
7 advertising or trade name identification, and is not illuminated, internally
8 illuminated, or indirectly illuminated. But a private traffic control sign that
9 conforms to the standards of the state traffic control manual defined in subsection
10 7-1-1(a), B.R.C. 1981, may exceed three square feet per face in area but shall not
11 exceed seven square feet per face or eight feet in height. Such sign also is exempt
12 from the setback, limitation on number of freestanding signs, and total sign area
13 regulations of this section.
14

15 (G) Real Estate: At any time that a property is offered for sale or rent. ~~One~~ temporary,
16 non-illuminated ~~real estate~~ sign per property or per dwelling unit street frontage, set
17 back at least eighteen inches from the nearest public sidewalk, that does not exceed
18 six square feet per face in area and a total of twelve square feet in area and four feet
19 in height in the RR, RE, RL, RM, RMX, RH, and MH zones or sixteen square feet
20 per face and a total of thirty-two square feet in area and seven feet in height in any
21 other zone, but only if the sign remains in place no more than seven days after sale
22 or rental of the subject property. The area of such a sign shall not be deducted from
23 the allowable sign area or number of freestanding signs for the building or business
24 unit. If the property owner or tenant is not using this real estate sign allowance,
25

1 such person in possession of the property may place a noncommercial sign
2 conforming ~~to with~~ these limitations in lieu of such a real estate sign. This
3 provision does not restrict the content of the sign.

4 (H) Sign Required by Law: A sign required or specifically authorized for a public
5 purpose by any federal, state, or city law of any type, including, without limitation,
6 the number, area, height above grade, location or illumination authorized by the
7 law under which such sign is required or authorized. But no such sign may be
8 placed in the public right-of-way unless specifically authorized or required by law.
9 Except for a warning sign or barricade of a temporary nature, any such sign shall be
10 securely affixed to the ground, a building, or another structure. So much of such a
11 sign as is required by law also is exempt from all other provisions of this section.

12 (I) Residential Wind Sign: A wind sign in a residential or an agricultural zone, within
13 the limitations set forth in subsection (d) of this section, notwithstanding the
14 prohibition of subparagraph (b)(3)(Q) of this section.

15 (J) Utility Warning: A sign not exceeding sixteen square feet erected by a public utility
16 within a utility easement on property on which it is working to warn of danger or
17 hazardous conditions or to indicate the presence of underground cables, gas lines,
18 and similar devices. Such a sign also is exempt from the setback, limitation on
19 number of freestanding signs, and total sign area regulations of this section.

20 (K) Vehicular: A sign displayed on a motor vehicle if not prohibited by this section.

21 (L) Window: A non-illuminated window sign of no more than four square feet in area
22 and placed no more than twenty-five feet above finished grade, if the total area of
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24
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1 such signs fills less than twenty-five percent of the area of the architecturally
2 distinct window, and such signs do not exceed twenty-five percent of the total
3 allowable sign area for the building or business unit. The area of a window sign not
4 exempt from permit requirements under this subparagraph is calculated as a part of
5 and limited by the total allowable sign area for the premises.

6 (M) Cottage Foods and Fresh Produce Signs. On any premises meeting the
7 requirements of Chapter 6-17, a sign meeting the size restrictions applicable to
8 residential detached dwellings in Table 9-13 of this section. This provision does not
9 restrict the content of the sign.

10
11 (2) Copy Change and Maintenance: No permit is required for copy changes or maintenance
12 on a conforming sign if no structural changes are made. This exception does not apply
13 to copy changes in signs covered by a private sign program as specified in subsection
14 (k) of this section.

15
16 (d) Size Limitations and Other Rules for Certain Signs:

17 (1) Awning: An awning sign that extends more than fifteen inches beyond a wall of a
18 building shall comply with the following conditions:

19 (A) The total area of such awning sign may not exceed the lesser of one hundred fifty
20 square feet or one square foot of sign area for every linear foot of awning length.
21 Awning length is that portion of the awning that is parallel to the building wall on
22 which it is located.

1 (B) No awning sign may project above, below, or beyond the face of the architectural
2 projection on which it is located, except for an awning sign that meets the
3 following standards:

4 (i) An awning sign may project horizontally beyond the face of a marquee or
5 canopy no more than twelve inches, measured from the bottom of the sign, if
6 necessary to accommodate the letter thickness and required electrical
7 equipment;

8
9 (ii) An awning sign composed entirely of individual opaque alphanumeric
10 characters twelve inches or less in height, or for any awning sign in the
11 Boulder Valley Regional Center twenty-four inches or less in height, may
12 project above the point at which they are attached to the marquee or canopy by
13 no more than the height of the character plus two inches;

14 (iii) The canopy or marquee to which the awning sign is attached must be located
15 over an entry to the building; and

16 (iv) The awning sign shall be substantially parallel with the building wall to which
17 the canopy or marquee is attached.

18
19 (C) Awning signs that extend fifteen inches or less from a wall of a building shall be
20 considered to be wall signs, subject to the requirements of paragraph (d)(14) of this
21 section.

22
23 (D) Permission to construct, install, and maintain an awning sign over the public right-
24 of-way must be obtained from the city manager pursuant to section 4-18-3,

1 "Sidewalk Banner or Awning Permit Required," B.R.C. 1981, prior to the issuance
2 of the sign permit.

3 (E) For purposes of determining projection, clearance, height, and materials, an awning
4 sign shall be considered a part of and shall meet the requirements for a marquee,
5 canopy, or awning, as specified in the city building code, chapter 10-5, "Building
6 Code," B.R.C. 1981.

7
8 (F) If an awning sign is located on a marquee, canopy, or awning and is internally
9 illuminated through translucent material, the entire illuminated area of the awning
10 or awning sign shall be included in the calculation of the area of the sign.

11 (2) Banner: A banner is permitted for any permitted use in a business or industrial zoning
12 district if the person wishing to display such sign applies therefore and obtains a permit,
13 but such sign may be displayed for a maximum period of thirty consecutive days at the
14 same location, one time during the first year of such use by the occupant. The area of
15 the single sign permitted under this exception shall not exceed fifty square feet in total
16 area and shall not exceed twenty feet in height, including, without limitation, the
17 appurtenance on which the banner is displayed. Such a sign shall be firmly attached on
18 at least all four corners.

19
20 (3) Downtown Pedestrian District:

21 (A) An application for a permit for a sign to be located in the downtown pedestrian
22 district, as shown on the map in appendix E, "Downtown Pedestrian District," of
23 this title, and which otherwise complies with all applicable provisions of this
24 section and is not exempted under subparagraph (d)(3)(B) of this section shall be
25

1 presented by the city manager to the downtown management commission for
2 comment. The downtown management commission shall return the application
3 within ten working days to the manager with its comments. The manager shall
4 forward the comments to the applicant, who may resubmit the application to the
5 manager in its original form or as amended based upon the downtown management
6 commission's comments. If the downtown management commission fails to give its
7 comments to the manager by the ten-working-day deadline, or if the applicant
8 resubmits the original application unaltered after considering the downtown
9 management commission's comments, the manager shall issue the permit. If the
10 application is resubmitted with amendments, the manager shall issue the permit if
11 the amended application still complies with all other applicable provisions of this
12 section.
13

14 (B) Sign permit applications which meet the following criteria are exempt from the
15 downtown management commission comment procedure of subparagraph (d)(3)(A)
16 of this section:

- 17 (i) The top of the sign is located no higher than the windowsill level of the second
18 story of the building;
- 19 (ii) The sign is not internally illuminated;
- 20 (iii) If the sign is indirectly illuminated the light source must not be visible to
21 pedestrians on public property, and all mounting hardware and electrical
22 ducting must be concealed or integrated into the sign design;
- 23 (iv) If the sign is illuminated by neon, it does not exceed four square feet in area;
- 24
25

- (v) The sign is not painted directly on the wall of a structure;
- (vi) The sign uses a commercially available typeface;
- (vii) The sign is rectangular or circular;
- (viii) The sign is composed of colors from a palette approved by regulation by the downtown management commission; and
- (ix) If a freestanding sign, it does not exceed seven feet in height or twenty square feet in area per sign face.

(4) Construction site: A sign erected by a licensed contractor at a construction site at which the contractor is working identifying the type, duration, and responsible party of construction of a property in any zoning district is permitted only if it is:

(A) Limited to a freestanding, wall, or window sign or signs not exceeding thirty-two square feet in total area and sixteen square feet per face and seven feet in height, with no riders or attachments in nonresidential zones, and twelve square feet in total area and six square feet per face and four feet in height in residential zones. Such signs are exempt from the sign area regulations of this section;

(B) Displayed only on the property to which the sign pertains, and no more than one such sign per street upon which the property has frontage; and

(C) Displayed only for the duration of construction for which a building permit has been obtained until issuance of a certificate of occupancy.

(D) A construction site sign may be erected only if an exempt real estate sign is not displayed on the same property.

1 (5) Fence-Wall: A sign displayed upon a fence, or upon a wall that is not an integral part of
2 a building or that is used as a fence, shall be erected or mounted in a plane parallel to
3 the fence or wall and shall not extend above the top of the fence or wall or project more
4 than fifteen inches from the face of the fence or wall. Such sign is subject to all
5 requirements of this section applicable to freestanding signs, including, without
6 limitation, maximum area per sign, maximum sign height, minimum setback, and
7 number of permitted signs.

8
9 (6) Freestanding:

10 (A) A freestanding sign in any zoning district shall be set back the following distances,
11 and no point on any such sign may extend beyond the required setback line:

12 (i) Except in BMS, DT, and MU-1 districts, a sign up to and including seven feet
13 in height shall be set back ten feet from any property line adjacent to a street.
14 In the BMS, DT, and MU-1 districts, no setback is required for such a sign, but
15 no sign may be located within eighteen inches of a public sidewalk or obstruct
16 the view of motor vehicle operators entering or leaving any parking area,
17 service drive, private driveway, street, alley, or other thoroughfare.

18
19 (ii) A sign over seven feet in height shall be set back at least twenty-five feet from
20 any property line adjacent to a street in all zones.

21 (iii) No sign in a business or industrial district may be located less than twenty-five
22 feet from any adjacent residential zoning district line.

23
24 (B) In addition to any other permitted signs on the property, no more than one
25 freestanding sign may be maintained for each street frontage of the property.

1 (C) If a property has more than one street frontage, the freestanding sign permitted for
2 each frontage must be located adjacent to that frontage, and the minimum
3 permissible horizontal distance between freestanding signs on the same property is
4 seventy-five feet.

5 (D) Except as otherwise provided in subparagraph (d)(6)(K) of this section, the
6 maximum permissible total area of any freestanding sign is one hundred square
7 feet; and the maximum permissible area of any one face of any freestanding sign is
8 fifty square feet. For buildings with a linear frontage of less than or equal to one
9 hundred feet, the maximum permissible sign area of all freestanding signs on a
10 property is one and one-half square feet of sign area for every linear foot of
11 building frontage up to a maximum of one hundred square feet per sign and fifty
12 square feet per face. For a building with a linear frontage greater than one hundred
13 feet, the allowable sign area for freestanding signs shall be deducted from the total
14 allowable sign area for all signs for the building.

15 (E) Unless otherwise specified in subsection (e) of this section, the maximum
16 permissible height of freestanding signs is the lesser of: twenty-five feet or one and
17 one-fourth times the height of the principal building on the property where the sign
18 is located.

19 (F) The horizontal distance between freestanding signs on adjacent properties must be
20 not less than the height of the taller sign.

21 (G) The area of the support structure of a freestanding sign is counted in the total area
22 of the sign to the extent that the support structure exceeds the minimum required
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1 for the support of the sign. But if the sign is less than seven feet in height, a plain
2 pedestal for a freestanding sign shall not be counted in the total area of the sign.

3 (H) A flag on flagpole shall not be subject to this paragraph, but shall be regulated as
4 set forth in subparagraph (c)(1)(B) of this section.

5 (I) Supports for a freestanding sign shall be designed in accordance with the
6 requirements of this code and shall not be placed upon any public right-of-way or
7 public easement, except pursuant to the terms of a lease to the adjacent property
8 owner.

9 (J) Where a freestanding sign is located in a vehicular parking or circulation area, a
10 base or barrier of concrete or steel, not less than thirty inches high, shall be
11 provided to protect the base of the sign from damage by vehicles.

12 (K) The maximum total sign area for freestanding signs may be increased by one-third
13 when such signs are located adjacent to the following major streets or specified
14 portions thereof:

15 (i) Arapahoe Avenue - from 28th Street to the east city limits;

16 (ii) Baseline Road - from Broadway to Foothills Parkway;

17 (iii) 28th Street - from Arapahoe Avenue to Iris Avenue;

18 (iv) 30th Street - from Arapahoe Avenue to the Diagonal Highway;

19 (v) 63rd Street - from the north city limits to the south city limits; and

20 (vi) Lookout Road - from the west city limits to the east city limits.

1 But the increased sign area permitted in this subparagraph does not include any
2 increase in sign height.

3 (L) All freestanding signs located within two hundred fifty feet of the nearest right-of-
4 way line of Foothills Parkway (Colorado State Highway 157) or Pearl Parkway east
5 of Foothills Parkway and visible from such parkway shall be further limited to a
6 maximum height of twelve feet.
7

8 (7) Historic District or Building: In addition to satisfying the provisions of this section,
9 signs installed or maintained on a historic building or in a historic district must comply
10 with the provisions of chapter 9-11, "Historic Preservation," B.R.C. 1981.

11 (8) Noncommercial Nonresidential: A noncommercial sign, including, without limitation, a
12 work of art or a political sign in all nonresidential zoning districts that does not impede
13 traffic safety is exempt from the total sign area and setback limitations of this section,
14 except the following:
15

16 (A) Noncommercial freestanding, projecting, suspended, and awning signs are subject
17 to the total sign area and setback limitations of this section.

18 (B) Prior to placing a noncommercial wall sign of more than nine square feet in area on
19 an exterior wall, the building owner shall give thirty calendar days' notice to the
20 city manager by delivery or by first class mail, effective on mailing, including the
21 building address and a colored representation of the sign. The city manager may
22 comment on the sign but shall have no power to prevent it from being placed on the
23 building wall.
24
25

1 (C) Noncommercial signs on temporary construction barriers not located in the public
2 right-of-way shall be deemed not to be wall or freestanding signs subject to
3 regulation under this section during that period of time for which a building permit
4 for the property which necessitated the barrier is valid.

5 (9) Noncommercial Residential: A noncommercial sign, including, without limitation, a
6 work of art or a political sign, in all residential zoning districts, that does not impede
7 traffic safety is exempt from the total sign area and setback limitations and wind sign
8 prohibitions of this section, subject to:

9 (A) Noncommercial signs shall be set back at least eighteen inches from any public
10 sidewalk adjacent to a street or from the curb or outer edge of the roadway if there
11 is no such sidewalk.
12

13 (B) Noncommercial signs within twenty-five feet of any public sidewalk adjacent to a
14 street, or thirty feet of the curb or outer edge of the roadway if there is no such
15 sidewalk, shall not exceed seven feet in height or thirty-two square feet in total
16 area, with no face larger than sixteen square feet, and there shall be only one such
17 sign. However, during a political campaign from the time a candidate is nominated
18 for electoral office or nominated or certified for a primary election, or a recall
19 election date is set, until the day after the election, and from the time an initiative or
20 referendum or other measure to be voted upon by the electors is placed on the
21 ballot until the day after the election, this limit of one noncommercial residential
22 sign in the setback shall not apply ~~to signs urging the nomination, election, or~~
23 ~~defeat of such candidates or recall of such officials, or the passage or defeat of such~~
24 ~~measures.~~ These ~~election~~ signs in the setback in excess of the one otherwise
25

1 permitted may not exceed twelve square feet in total area per sign, with no face
2 larger than six square feet.

3 (C) There are no setback, number, or area limitations in residential zoning districts for
4 noncommercial signs which are set back farther than twenty-five feet from the
5 property line. If a side of a residential building is closer than thirty feet to the public
6 sidewalk, or thirty-five feet to the curb or outer edge of the roadway if there is no
7 such sidewalk, then that area within five feet of such building side shall be
8 excluded from the restrictions of subparagraph (d)(9)(B) of this section, if
9 applicable.
10

11 (D) Reference in this paragraph to sidewalks, curbs, and roadway edges does not
12 authorize placement of signs off premises on public property or in the public right-
13 of-way.
14

15 (10) Projecting: A projecting sign shall comply with the following conditions:

16 (A) Signs projecting over public property may not project more than thirty-six inches
17 from a wall of a building, and the maximum permissible total area for such a sign is
18 the lesser of:

19 (i) One square foot of sign area for each linear foot of frontage of the building
20 upon which such sign is displayed; or

21 (ii) Eighteen square feet per sign, with no face of the sign exceeding nine square
22 feet.
23

24 (B) Signs projecting over private property may not project more than six feet from a
25 wall of a building nor beyond the minimum required building setback line and may

1 not exceed twenty-four square feet in total area, and no face of a sign shall exceed
2 twelve square feet.

3 (C) Projecting signs must have a minimum clearance above the sidewalk of eight feet
4 and may not extend twelve feet or more above the sidewalk nor above the roof line.

5
6 (D) Any end panel on a projecting sign is considered a face of the sign and included in
7 the area of that sign if the end panel is twelve inches or more in width.

8 (E) No more than one projecting sign may be maintained per tenant space frontage at
9 the ground level of a building. The minimum horizontal distance between
10 projecting signs on a building shall be twenty-five feet.

11 (11)Roof: A sign may be erected upon or against the side of a roof having an angle of forty-
12 five degrees or more from the horizontal, but must be architecturally integrated with the
13 building and roof by a dormer or similar feature. Such a sign is a wall sign and must
14 comply with the provisions of paragraph (d)(14) of this section concerning wall signs,
15 and must not project more than a total of fifteen inches horizontally, measured at the
16 bottom of the sign, from the side of the roof upon which it is displayed.

17
18 (12)Subdivision: In addition to other such signs that may be allowed, signs erected at the
19 time of identifying a subdivision of a property in any zoning district may be issued a
20 sign permit if they comply with the following:

21 (A) A freestanding, wall, or window subdivision sign not exceeding thirty-two square
22 feet in total area and sixteen square feet per face, not exceeding seven feet in
23 height, and set back at least ten feet from any public right-of-way, with no riders or
24 attachments;
25

1 (B) Displayed only on the subdivision for which a subdivision plan has been filed~~to~~
2 ~~which the sign pertains~~, no more than one such sign per street frontage, and with a
3 minimum distance between such signs in a single subdivision or property of one
4 thousand feet;

5 (C) Displayed on or after the date of filing of the subdivision plan and removed within
6 two years from the date of issuance of the first building permit in the subdivision or
7 within thirty days from the time that seventy-five percent of the properties or
8 dwellings in the subdivision or filing thereof have been sold, whichever is sooner.

9
10 (13) Suspended: A suspended sign may not exceed ten square feet in total area or five square
11 feet per face; may not project beyond the outside limits of the architectural projection to
12 which it is attached; and shall have a minimum clearance above the sidewalk of eight
13 feet. The minimum permissible horizontal distance between suspended signs is fifteen
14 feet.

15
16 (14) Wall: A wall sign shall comply with the following conditions:

17 (A) The total area of all wall signs on a face of a building may not exceed fifteen
18 percent of the area of that portion of the building face between ground level and the
19 roof line or a line twenty-five feet above grade level, whichever is less.

20 (B) The total area of all wall signs on an architecturally distinct wall, where two or
21 more such walls form a face of a building, shall not exceed twenty-five percent of
22 such wall.

23
24 (C) No part of a wall sign may be located more than twenty-five feet above grade level.
25

1 (D) No wall sign may be attached to or displayed against any parapet wall that does not
2 extend around the entire perimeter of the roof enclosed by the parapet. No sign on
3 such a parapet wall may extend more than twenty-four inches above the roof
4 elevation immediately behind the sign, unless approved as part of a site review
5 under section 9-2-14, "Site Review," B.R.C. 1981.

6 (E) No wall sign may extend above the roof line of a building except as permitted on a
7 parapet wall. No wall sign may be displayed on the wall of a mechanical room or
8 penthouse or other such enclosed space which is not habitable by the occupants of
9 the building.

10 (F) The length of a wall sign shall not exceed seventy percent of the length of the wall
11 or the width of the leased space of the wall on which it is located, whichever is less.

12 (G) The lettering height for wall signs located within two hundred fifty feet of the right-
13 of-way of Foothills Parkway (Colorado State Highway 157) or Pearl Parkway east
14 of Foothills Parkway, and visible from such parkway, shall not exceed twenty-four
15 inches.

16 (H) The lettering height for wall signs located within the B.V.R.C. and the BMS, MU-
17 3, DT, and BT-2 zoning districts shall not exceed twenty-four inches for single
18 lines of copy and a total of thirty-two inches for multiple lines of copy, and any
19 graphic symbol may not exceed thirty inches in height.

20 (I) A string of lights which extends on or around the perimeter of a window is subject
21 to the following conditions: the linear length of a string of lights counts as fifty
22

percent of the allowable square footage for wall signs. The maximum linear length of all strings of lights in windows cannot exceed ninety feet.

(e) Limitations on Area, Number, and Height of Signs by Use Module:

(1) Use Modules: The use modules set forth in section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, apply to this section, and the boundaries of such districts are determined by reference to the zoning map of the city and to interpretation of such map under section 9-5-3, "Zoning Map," B.R.C. 1981.

(2) Maximum Sign Area Permitted: The maximum sign area permitted per property, maximum area per sign face, maximum number of signs, and maximum height of freestanding signs in the use modules in the city are as in Table 9-13 of this section, except as modified by other provisions of this section.

TABLE 9-13: LIMITATIONS ON AREA, NUMBER, AND HEIGHT OF SIGNS BY USE MODULE

Maximum Sign Area Permitted Per Property	Maximum Area Per Sign Face	Maximum Number Signs Permitted	Maximum Height of Freestanding Signs
Residential and Agricultural Districts (RR, RE, RL, RM, RMX, RH, and A)			
For detached dwelling uses: 4 square	2 square feet	1 per use	7 feet

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feet			
For attached dwelling uses: 32 square feet	16 square feet	1 per street frontage	7 feet
For other uses permitted by zoning chapter 9-6, "Use Standards," B.R.C. 1981: 32 square feet	16 square feet	1 per street frontage	7 feet
For other uses permitted by special review and for lawful nonconforming uses: the lesser of 50 square feet or the maximum sign area for the use in the zoning district in which the use is permitted by chapter 9-6, "Use Standards," B.R.C. 1981	16 square feet	The lesser of 1 per street frontage or 2 per use	7 feet
Public District (P)			
The greater of: 15 square feet or ½ square foot of sign area for each foot of street frontage	50 square feet for freestanding signs. See subsection (d) of this section for	1 per street frontage for freestanding signs. 1 per ground level tenant for	7 feet

	limits on other signs	projecting signs. No limit on other signs	
--	-----------------------	----------------------------------------------	--

Downtown, Mixed Use, and Business - Transitional Districts (BMS, BT, MU, DT)

Any use that is permitted in a residential zone shall be regulated as in the residential zoning districts

For any use not permitted in residential zones, other than MU-3, in addition to freestanding signs, as permitted in paragraph (d)(6) of this section, 1.25 square feet of sign area for each linear foot of total building frontage for the first 200 feet of frontage, plus 0.5 square feet of sign area for each foot of frontage thereafter	See subsection (d) of this section for area restrictions	1 per street frontage for freestanding signs. 1 per ground level tenant for projecting signs. No limit on other signs	See paragraph (d)(6) of this section for height restrictions
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------

Business - Community, Business - Commercial Services, Business - Regional, and Industrial Districts not in the B.V.R.C. (BC, BCS, BR, IS, IG, IM, and IMS)

For any use permitted in residential	See subsection (d)		Varies with
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<p>zones, as regulated in residential zoning districts</p>	<p>of this section for area restrictions</p>		<p>setback; see paragraph (d)(6) of this section</p>
<p>In addition to freestanding signs, as permitted in paragraph (d)(6) of this section, 2 square feet sign area for each linear foot of total building frontage for the first 200 feet of frontage, plus 0.5 square foot sign area for each linear foot of frontage, except as provided in subparagraph (d)(6)(D) of this section</p>	<p>See subsection (d) of this section for area restrictions</p>		<p>See paragraph (d)(6) of this section for height restrictions</p>
<p>Boulder Valley Regional Center and Regional Business Districts</p> <p>Properties zoned BR-1 and properties located within the Boulder Valley Regional Center unless zoned BT-1 or BT-2</p>			
<p>For any use not permitted in residential zones, in addition to freestanding signs, as permitted in paragraph (d)(6) of this section, 1.5</p>	<p>See subsection (d) of this section for area restrictions</p>	<p>1 per street frontage for freestanding signs. 1 per ground level</p>	<p>See paragraph (d)(6) of this section for height</p>

1	square feet of sign area for each linear		tenant for	restrictions
2	foot of total building frontage for the		projecting signs.	
3	first 200 feet of each frontage, plus ½		No limit on other	
4	square foot sign area for each		signs	
5	additional linear foot of each frontage			
6				
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8				

9 (f) Computation of Signs and Sign Area:

10 (1) Regular Shape: In computing the area of a sign, this section shall be administered using
 11 standard mathematical formulas for regular geometric shapes, including, without
 12 limitation, triangles, parallelograms, circles, ellipses, or combinations thereof.

13 (2) Irregular Shape: In the case of an irregularly shaped sign or a sign with letters or
 14 symbols directly affixed to or painted on the wall of a building, the area of the sign is
 15 the entire area within a single continuous rectilinear perimeter of not more than eight
 16 straight lines enclosing the extreme limits of any writing, representation, emblem, or
 17 any figure of similar character, together with any material or color forming an integral
 18 part or background of the display if used to differentiate such sign from the backdrop or
 19 structure against which it is placed, but if a freestanding sign structure is not a fence
 20 which functions as such, the sign area shall be the area of the entire structure.

21 (3) Sign Structures: In computing the area of a sign, the portion of the sign structure to be
 22 included is that which is visible and viewed in the same plane as the sign face and
 23 which is made a part of the background of the display.

- 1 (4) More Than One Element: The total surface area of signs composed of more than one
2 sign element includes the vertical and horizontal spacing between each element of the
3 sign.
- 4 (5) Three-Dimensional: For three-dimensional figure signs, the sign area is the total area,
5 projected on a vertical plane, of each side of the sign that is visible beyond the
6 boundaries of the property upon which the figure is located. For purposes of this
7 paragraph, a figure is considered to have a side for each ninety degrees or part thereof
8 of visibility from a public right-of-way.
- 9 (6) Attachments: Any temporary or permanent rider or attachment to a sign or sign
10 structure is included as part of the total sign area for the sign to which it is attached.
- 11 (7) Two Faces: A sign is computed as having two display faces if the angle between two
12 faces is equal to or less than sixty degrees. If a sign has two or more display faces, the
13 area of all faces and all noncontiguous surfaces is included in determining the sign area.
- 14 (8) Number of Signs: For the purpose of determining the number of signs that may be
15 subject to the provisions of this section, a sign shall be considered to be a single display
16 surface or display device containing elements clearly organized, related, and composed
17 to form a unit. Where elements are displayed in a random manner without an organized
18 relationship of elements or where there is reasonable doubt about the relationship of
19 elements, each element shall be considered to be a single sign.
- 20 (9) One Use of Building Frontage: Building frontage used as the basis of determining
21 permitted sign area for one use may not be used again as the basis for determining the
22 permitted sign area for another use, but nothing in this paragraph shall be construed to
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1 prohibit the additional use from erecting a sign that would otherwise be authorized by
2 the provisions of this section.

3 (10) More Than One Frontage: For the purpose of determining the total allowable sign area
4 for buildings with more than one frontage, the following criteria apply:

5 (A) If a building has more than one frontage, the maximum sign area for the building is
6 based on the total horizontal length of not more than two contiguous frontages; and
7

8 (B) Signs may be located on any side of the building, but the total sign area on any one
9 side of the building may not exceed the area permitted on the basis of that frontage
10 considsign aered independently of other frontages.

11 (g) Permits and Applications:

12 (1) The owner or tenant of property on which a sign is to be located or an authorized agent
13 thereof or a sign contractor licensed by the city shall apply for a sign permit in writing
14 on a form furnished by the city manager, shall sign the application, and shall pay the fee
15 prescribed in section 4-20-21, "Sign Contractor License Fees and Sign Permit Fees,"
16 B.R.C. 1981. There is no fee for signs placed by a homeowner on residential property,
17 for banners, or for exempt signs.
18

19 (2) The owner of a multi-tenant or multiple use property or an agent of the owner shall
20 apply for all sign permits for the property or shall develop a plan for apportioning
21 permitted sign area among tenants and file such plan with the city manager, in which
22 case each tenant may apply for a sign permit in conformity with the plan.
23

24 (3) The applicant shall submit the following information as part of the application:
25

1 (A) The name, address, and telephone number of the owner or persons entitled to
2 possession of the sign and of the sign contractor or installer;

3 (B) The street address or location of the proposed sign;

4 (C) Complete information required on application forms provided by the city manager,
5 including a site plan and elevation drawings of the proposed sign, copy of the
6 proposed sign, and other data pertinent to the application;

7 (D) Plans indicating the scope and structural detail of the work to be done, including
8 details of all connections, guy lines, supports, footings, and materials to be used;

9 (E) Complete application for an electrical permit for all electric signs if the person
10 building the sign is to make the electrical connection; and

11 (F) Statement of the sign's valuation.

12 (4) Within five working days of the date of the application, the city manager will either
13 approve or deny the application or refer it back to the applicant for further information.

14 (5) No person issued a sign permit under this section shall change, modify, alter, or
15 otherwise deviate from the terms or conditions of the approved application or permit
16 without first requesting and obtaining approval to do so from the city manager.

17 (6) If the sign conforms to all other applicable requirements of this section, no permit is
18 required for maintenance of the sign.

19 (h) Expiration of Permit:

20 (1) If a person to whom a permit is granted under this section has not commenced work on
21 the sign within sixty days from the date on which the permit was issued or if substantial
22

1 building operations under such permit are suspended for a period of 60 consecutive
2 days, the permit automatically expires, but the city manager may grant an extension of
3 the time limits provided in this paragraph for construction delays that are not the result
4 of willful acts or neglect by the permittee, upon a written request for such an extension
5 received by the manager before expiration of the permit.

6
7 (2) The city manager shall not refund any permit fees paid under this section if any permit
8 is revoked pursuant to subsection (t) of this section, or expires under this subsection.

9 (i) Inspections:

10 (1) In enforcing the provisions of this section, the city manager may enter any building,
11 structure, or premises in the city at reasonable times to perform any duty imposed by
12 this section.

13
14 (2) The city manager may require footing inspections on the day of excavation for a
15 freestanding sign.

16 (3) The city manager may require inspection of an electrical sign before its erection within
17 forty-eight hours after being notified that the sign is ready for inspection.

18 (4) A permit holder or agent thereof shall notify the city manager when a sign is complete
19 and ready for final inspection, which shall be no more than sixty days after work is
20 commenced.

21
22 (j) Licensed Sign Contractor Required to Install Signs: No person other than a sign contractor
23 licensed under chapter 4-21, "Sign Contractor License," B.R.C. 1981, shall install any sign
24 for which a permit is required under this section, except:

1 (1) A homeowner may install a sign on the premises of such person's residence, for which a
2 permit is otherwise required, if the homeowner obtains a permit and complies with all
3 requirements of this section other than that of licensed sign contractor installation.

4 (2) Banner signs for which permits are required.

5 (3) Window signs for which permits are required.

6
7 (k) Signs in Approved Site Review Developments:

8 (1) A sign located in an approved site review development shall conform to all
9 requirements of this section, including those of the district in which the property is
10 located, except for those subsections dealing with sign setbacks from property lines and
11 spacing between projecting and freestanding signs if alternative setbacks and spacing
12 are specifically shown on a site plan approved under section 9-2-14, "Site Review,"
13 B.R.C. 1981, or approved as part of a sign program for the site review project. In no
14 case may the total square footage for signage permitted under this section be increased
15 through a site review or sign program.

16
17 (2) Sign lettering and graphic symbol height as specified in subparagraph (d)(14)(H) of this
18 section concerning wall signs may also be varied in accordance with paragraph (k)(1) of
19 this section.

20
21 (3) If a condition of site review development approval requires a uniform sign program, the
22 following additional conditions shall apply:

23 (A) The owner or developer of the site review development shall submit a uniform sign
24 program to the city manager for approval prior to the issuance of any sign permits
25 within the planned unit development. Such program shall include, as a minimum:

1 (i) Type of sign permitted (wall sign, projecting sign, awning sign, window sign,
2 etc.).

3 (ii) Type of construction (individual letters, cabinet, internal or indirect
4 illumination, etc.).

5 (iii) Color.

6 (iv) Size of sign (maximum height of letters, maximum length of sign, and
7 maximum size).

8 (v) Location of sign.

9
10 (B) The aggregate area of all signs and the size of any freestanding sign shall not
11 exceed that permitted in subsection (e) of this section.

12
13 (C) The owner or developer of the site review development shall notify all potential
14 tenants or property owners of the sign program at the time of sale or lease of the
15 property.

16 (D) The property owner or developer or an authorized representative shall review all
17 signs for compliance with the sign program prior to a tenant applying for a sign
18 permit and shall countersign the application signifying such compliance.

19 (E) The sign program may not be altered without written permission of the city
20 manager. In addition, no changes may be made without the written permission of a
21 majority of tenants whose existing signs are in compliance with the previously
22 established sign program.
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1 (4) The city manager shall apply the following standards in approving or denying a sign
2 program or request to alter a sign program:

3 (A) All signs shall be in compliance with law;

4 (B) The program shall ensure a reasonable degree of sign uniformity and coordination
5 within the program area and will enhance the visual quality of the area;

6 (C) The program shall be simple, clear, and to the point;

7 (D) The program shall limit the number of signs allowed for each tenant of the area;

8 (E) Signs shall be compatible with the area in color, shape, and materials;

9 (F) A color plan for signs is required;

10 (G) Signs are simple and clearly legible; ~~and~~

11 (H) Freestanding signs are integrated in appearance with their surroundings; and

12 (I) The city manager shall not consider the content of the sign.

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15
16 (5) The city manager may write uniform sign program guidelines to serve as an example of
17 a sign program which meets the requirements of this subsection.

18 (l) Structural Design Requirements:

19
20 (1) Signs and sign structures shall be designed and constructed as specified in this
21 subsection to resist wind and seismic forces. All bracing systems shall be designed and
22 constructed to transfer lateral forces to the foundations. For signs on buildings, the dead
23 and lateral loads shall be transmitted through the structural frame of the building to the
24 ground so as not to overstress any of the elements thereof. The overturning moment
25 produced from lateral forces may not exceed two-thirds of the dead load resisting

1 moment. The structural frame of the building or the anchoring of the sign shall be
2 adequate to resist uplift due to overturning. The weight of earth superimposed over
3 footings may be used in determining the dead load resisting moment, if it is carefully
4 placed and thoroughly compacted.

5 (2) Signs and sign structures shall be designed and constructed in compliance with the city
6 building code, chapter 10-5, "Building Code," B.R.C. 1981, including all requirements
7 to resist seismic forces.

8 (3) Wind loads and seismic loads need not be combined in the design of signs or sign
9 structures. Signs shall be designed to withstand the loading that produces the larger
10 stresses. Vertical design loads, other than roof live loads, shall be assumed to be acting
11 simultaneously with the wind or seismic loads.

12 (4) The design of structural members shall conform to the requirements of the city building
13 code, chapter 10-5, "Building Code," B.R.C. 1981. Vertical and horizontal loads exerted
14 on the soil shall not produce stresses exceeding those specified in the city building code.

15 (5) The working stresses of wire rope and its fastenings shall not exceed twenty-five
16 percent of the ultimate strength of the rope or fastening. Working stresses for wind
17 loads combined with dead loads may be increased as specified in the city building code,
18 chapter 10-5, "Building Code," B.R.C. 1981.

19 (m) Construction Standards:

20 (1) Signs and sign structures shall be securely built, constructed, and erected in conformity
21 with the requirements of this subsection.

- 1 (2) Supports for signs or sign structures shall not be placed on property not owned or leased
2 by the sign owner.
- 3 (3) Materials of construction for signs and sign structures shall be of the quality and grade
4 specified for buildings in the city building code, chapter 10-5, "Building Code," B.R.C.
5 1981. Plastic materials shall be those specified in the building code that have a flame
6 spread rating of 0-25 or less and a smoke density no greater than that obtained from the
7 burning of untreated wood under similar conditions when tested in accordance with the
8 building code standards in the way intended for use. The products of combustion shall
9 be no more toxic than the burning of untreated wood under similar conditions.
- 10 (4) All sign structures, except for construction signs, those signs specifically excepted in
11 subparagraphs (c)(1)(A), (c)(1)(E), (c)(1)(G), (c)(1)(H), (c)(1)(J), and (c)(1)(L) of this
12 section, window signs, and signs located inside buildings, shall have structural members
13 of heavy timber or incombustible material. Wall signs, projecting signs, and awning
14 signs shall be constructed of incombustible material, except as provided in paragraph
15 (m)(5) of this section or as specifically approved by the city manager. No combustible
16 materials other than approved plastic shall be used in the construction of electric signs.
- 17 (5) Nonstructural elements of a sign may be of wood, metal, approved plastic, or any
18 combination thereof.
- 19 (6) Members supporting unbraced signs shall be so proportioned that the bearing loads
20 imposed on the soil either vertically or horizontally do not exceed safe values. Braced
21 ground signs shall be anchored to resist specified wind or seismic loads acting in any
22 direction. Anchors and supports shall be designed for safe bearing loads on the soil for
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1 effective resistance to pull-out amounting to a force of twenty-five percent greater than
2 the required resistance to a depth of not less than three feet. Anchors and supports shall
3 be guarded and protected when near driveways, parking lots, or similar locations where
4 they could be damaged by moving vehicles.

5 (7) Signs attached to masonry, concrete, or steel shall be safely and securely fastened
6 thereto by means of metal anchors, bolts, or approved expansion screws of sufficient
7 size and anchorage to support safely the loads applied.
8

9 (8) No anchor or support of any sign, except flat wall signs, shall be connected to or
10 supported by an unbraced parapet wall.

11 (9) Display surfaces in all types of signs shall be of metal or other approved materials.

12 (10) Signs intended for temporary placement of less than six months and which have no
13 electrical or other special features:
14

15 (A) If less than six square feet per face and under four feet in height, may be
16 constructed of any sturdy material and shall be anchored securely to the ground or a
17 building, fence, or other structure and may be supported by any suitable support
18 which will withstand the wind loading.

19 (B) A freestanding sign more than six square feet in area or four feet or more in height
20 shall have at least two supports pounded at least two feet into the ground.

21 (C) Construction ~~warning site~~ signs placed over concrete or asphalt or other materials
22 into which posts may not conveniently be driven may instead be held in place by
23 weights sufficient to withstand the wind.
24
25

1 (11) The city manager may approve the use of any material if an applicant submits sufficient
2 technical data to substantiate such proposed use and if the manager determines that such
3 material is satisfactory for the use intended.

4 (12) Where any freestanding sign has a clearance of less than eight feet from the ground,
5 there shall be provided a barrier or other adequate protection to prevent hazard to
6 pedestrians and motorists.

7
8 (n) Electric Signs:

9 (1) An electric sign shall be constructed of incombustible material. An electric sign shall be
10 rain tight, but service holes fitted with waterproof covers may be provided to each
11 compartment of such sign. All electric signs installed or erected in the city shall bear the
12 label of Underwriters Laboratories, Inc., on the exterior of the sign.

13
14 (2) No electric sign shall be erected or maintained that does not comply with the city
15 electrical code, chapter 10-6, "Electrical Code," B.R.C. 1981.

16 (3) No electric equipment or electrical apparatus of any kind that causes interference with
17 radio or television reception shall be used in the operation of an illuminated sign.
18 Whenever interference is caused by a sign that is unfiltered, improperly filtered, or
19 otherwise defective, or by any other electrical device or apparatus connected to the sign,
20 the city manager may order the sign disconnected until it is repaired.

21
22 (o) Sign Maintenance: No person shall fail to maintain a sign on such person's premises,
23 including signs exempt from the permit requirements by subsection (c) of this section, in
24 good structural condition at all times. All signs, including all metal parts and supports
25 thereof that are not galvanized or of rust-resistant metals, shall be kept neatly painted. The

1 city manager is authorized to inspect and may order the painting, repair, alteration, or
2 removal of a sign that constitutes a hazard to safety, health, or public welfare because of
3 inadequate maintenance, dilapidation, or obsolescence, under the procedures prescribed by
4 subsection (t) of this section.

5 (p) Continuation of Legal Nonconforming Signs: A legal nonconforming sign that is not
6 required to be discontinued under the provisions of subsection (q) of this section, may be
7 continued and shall be maintained in good condition as required by subsection (o) of this
8 section, but it shall not be:
9

- 10 (1) Structurally changed to another nonconforming sign, to a degree that would require a
11 sign permit;
- 12 (2) Structurally altered in order to prolong the life of the sign, except to meet safety
13 requirements;
- 14 (3) Altered so as to increase the degree of nonconformity of the sign;
- 15 (4) Expanded;
- 16 (5) Re-established after its discontinuance for ninety days;
- 17 (6) Continued in use after cessation or change of the business or activity to which the sign
18 pertains;
- 19 (7) Re-established after damage or destruction if the estimated cost of reconstruction
20 exceeds fifty percent of the appraised replacement cost as determined by the city
21 manager; or
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1 (8) If the landmarks board finds that a sign which otherwise would violate this section was,
2 before January 6, 1972, an integral part of a building, since designated as a landmark, or
3 in a historic district since designated, pursuant to chapter 9-11, "Historic Preservation,"
4 B.R.C. 1981, and is a substantial aspect of the pre-1972 historic character of such
5 building, then such a sign is exempt from the provisions of paragraphs (p)(2), (p)(6),
6 and (p)(7) of this section, and the period of discontinuance for such a sign in paragraph
7 (p)(5) of this section shall be one year.

8
9 (q) Discontinuance of Prohibited Legal Nonconforming Signs:

10 (1) Except as provided in paragraph (q)(2) or (q)(3) of this section, a legal nonconforming
11 sign prohibited by subsection (b) of this section shall be removed or brought into
12 conformity with the provisions of this section within sixty days from the date on which
13 the sign became nonconforming.

14 (2) A legal nonconforming sign described in subparagraph (b)(3)(C), (b)(3)(D), (b)(3)(H),
15 or (b)(3)(K) of this section is subject to the amortization provisions of subsection (r) of
16 this section, unless excepted by paragraph (q)(3) of this section.

17
18 (3) Existing legal signs in the city which became nonconforming solely because of a
19 change in this sign code enacted by Ordinance No. 5186 (1989) or Ordinance No. 6017
20 (1998) are subject to all the requirements of subsection (p) of this section, but are not
21 subject to the sixty-day discontinuance provisions of paragraph (q)(1) of this section or
22 the amortization provisions of subsection (r) of this section. Such amortization
23 provisions are also inapplicable to lawfully permitted nonconforming advertising
24 devices, as those terms are defined and applied in the Outdoor Advertising Act, 43-1-
25

1 401 et seq., C.R.S. The city manager is authorized, subject to appropriation, to remove
2 such devices by eminent domain proceedings.

3 (r) Amortization Provisions: Except for signs described in paragraph (q)(1) or (q)(3) of this
4 section, or a temporary sign, a legal nonconforming sign shall be brought into conformity or
5 removed under the following schedule:

6
7 (1) A sign that exceeds the maximum area or height limitations of this section by twenty
8 percent or less will be treated as a conforming sign and need not be removed or altered,
9 but if such sign is replaced or renovated it shall conform to all requirements of this
10 section.

11 (2) A sign having an original cost of \$100.00 or less shall be brought into conformity with
12 the provisions of this section or removed within sixty days after the date on which the
13 sign became nonconforming under this section.

14
15 (3) A sign having an original cost exceeding \$100.00 that is nonconforming only in the
16 respect that it does not meet the requirements of this section concerning height, setback,
17 distance between signs on the same or adjacent properties, or limitations on window
18 signs, shall be brought into conformity with the requirements of this section or removed
19 or a contract for timely completion of such work shall be executed within one hundred
20 eighty days after the date upon which the sign became nonconforming under this
21 section.

22 (4) A sign having an original cost exceeding \$100.00 that is nonconforming as to permitted
23 sign area or any other provision of this section that would require the complete removal
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1 or total replacement of the sign may be maintained for the longer of the following
2 periods:

3 (A) Three years from the date upon which the sign became nonconforming under the
4 provisions of this section by annexation or code amendment; or

5
6 (B) A period of three to seven years from the installation date or most recent renovation
7 date that preceded the date on which the sign became nonconforming. But if the
8 date of renovation is chosen as the starting date of the amortization period, such
9 period of amortization shall be calculated according to the cost of the renovation
10 and not according to the original cost of the sign. The amortization periods in Table
11 9-14 of this section apply according to the original cost of the sign, including
12 installation costs, or of the renovation:

13
14 TABLE 9-14: AMORTIZATION SCHEDULE

15

Sign Code or Renovation Cost	Permitted Years From Installation or Renovation Date
\$ 101 through \$1,000	3 years
\$1,001 through \$3,000	4 years

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<p>1 \$3,001 through</p> <p>2 \$10,000</p> <p>3</p>	<p>5 years</p>
<p>4 Over \$10,000</p> <p>5</p>	<p>7 years</p>

6

7

8 (5) To be eligible for an amortization period longer than three years pursuant to

9 subparagraph (r)(4)(B) of this section, the owner of a sign shall, within one year from

10 the date on which the sign became nonconforming, file with the city manager a

11 statement setting forth the cost of such nonconforming sign, the date of erection or the

12 cost and date of most recent renovation, and a written agreement to remove or bring the

13 nonconforming sign into conformity with all provisions of this section at or before the

14 expiration of the amortization period applicable to the sign.

15 (s) Appeals and Variances:

16

17 (1) Any aggrieved person who contests an interpretation of this section which causes denial

18 of a permit, or who believes a violation alleged in a notice of violation issued pursuant

19 to paragraph (t)(2) or (t)(3) of this section, to be factually or legally incorrect, may

20 appeal the denial or notice of violation to the BOZA or board of building appeals in a

21 manner provided by either such board under the procedures prescribed by chapter 1-3,

22 "Quasi-Judicial Hearings," B.R.C. 1981, or may, in the case of a denial, request that a

23 variance be granted. An appeal from a denial and a request for a variance may be filed

24 in the alternative.

25

1 (A) An appeal from an interpretation which causes denial of a permit or from a notice
2 alleging a violation of subsections (l), (m), (n), and (o) of this section shall be filed
3 with the BOZA.

4 (B) An appeal from any other interpretation alleging any other violation of this section
5 shall be filed with the BOZA.

6
7 (C) An appellant shall file the appeal, request for variance, or both in the alternative
8 with the BOZA within fifteen days from the date of notice of the denial or the date
9 of service of the notice of violation. The appellant may request more time to file. If
10 the appellant makes such request before the end of the time period and shows good
11 cause therefore, the city manager may extend for a reasonable period the time to
12 file with either board.

13 (2) No person may appeal to or request a variance from the BOZA if the person has
14 displayed, constructed, erected, altered, or relocated a sign without a sign permit
15 required by paragraph (b)(2) of this section. The boards have no jurisdiction to hear an
16 appeal nor authority to grant any variance from the permit requirements of this section.
17 But the BOZA has jurisdiction to hear an appeal of a notice of violation alleging
18 violation of the permit requirements if the appeal is from the manager's interpretation
19 that a permit is required, and the appellant's position is that the device is not a sign or
20 that it is exempt from the permit requirements under subsection (c) of this section.
21

22 (3) An applicant for an appeal or a variance under this subsection shall pay the fee
23 prescribed by subsection 4-20-47(b), B.R.C. 1981.
24
25

1 (4) Setbacks, spacing of freestanding and projecting signs, and sign noise limitations are the
2 only requirements which the BOZA may vary. If an applicant requests that the BOZA
3 grant such a variance, the board shall not grant a variance unless it finds that each of the
4 following conditions exists:

5 (A) There are special physical circumstances or physical conditions, including, without
6 limitation, buildings, topography, vegetation, sign structures, or other physical
7 features on adjacent properties or within the adjacent public right-of-way that
8 would substantially restrict the effectiveness of the sign in question, and such
9 special circumstances or conditions are peculiar to the particular business or
10 enterprise to which the applicant desires to draw attention and do not apply
11 generally to all businesses or enterprises in the area; or
12

13 (B) For variances from the noise limitations of subparagraph (b)(3)(L) of this section,
14 the proposed variance is temporary in duration (not to exceed thirty days) and
15 consists of a temporary exhibition of auditory art; and
16

17 (C) The variance would be consistent with the purposes of this section and would not
18 adversely affect the neighborhood in which the business or enterprise or exhibition
19 to which the applicant desires to draw attention is located; and
20

21 (D) The variance is the minimum one necessary to permit the applicant reasonably to
22 draw attention to its business, enterprise, or exhibition.

23 (5) If an applicant requests that the board of building appeals approve alternate materials or
24 methods of construction or modifications from the requirements of subsections (l), (m),
25 (n), and (o) of this section, the board may approve the same under the standards and

1 procedures provided in the city building code, chapter 10-5, "Building Code," B.R.C.
2 1981.

3 (6) Except as provided in paragraph (s)(7) of this section, the BOZA has no jurisdiction to
4 hear a request for nor authority to grant a variance that would increase the maximum
5 permitted sign area on a single property or building, or from the prohibitions of
6 paragraph (b)(3) of this section. But the BOZA has jurisdiction to hear an appeal of a
7 permit denial or of a notice of violation alleging that a sign would exceed the maximum
8 permitted sign area or is prohibited if the appellant's position is that the sign does not
9 exceed such area or is not prohibited by such paragraph.
10

11 (7) The BOZA or board of building appeals may make any variance or alternate material or
12 method approval or modification it grants subject to any reasonable conditions that it
13 deems necessary or desirable to make the device that is permitted by the variance
14 compatible with the purposes of this section.
15

16 (8) The city manager's denial or notice of violation becomes a final order of the BOZA or
17 board of building appeals if:

18 (A) The applicant fails to appeal the manager's denial or order to the board within the
19 prescribed time limit;

20 (B) The applicant fails to appeal the order of the board to a court of competent
21 jurisdiction within the prescribed time limit; or
22

23 (C) A court of competent jurisdiction enters a final order and judgment upon an appeal
24 filed from a decision of the board under this section.

25 (t) Enforcement:

1 (1) The city manager may enforce the provisions of this section in any one or more of the
2 following ways:

3 (A) by issuing a criminal summons and complaint, followed by prosecution in
4 municipal court.

5
6 (B) If the city manager desires to use self-help to remove a sign for which a permit has
7 been issued, by issuing a notice of violation, revoking a permit, removing a sign,
8 and collecting the cost of removal pursuant to paragraph (t)(2) of this section.

9 (C) If the city manager desires to use self-help to remove or correct a sign for which no
10 permit has been issued, by issuing a notice of violation, correcting the violation,
11 and collecting the cost of correction pursuant to paragraph (t)(3) of this section.

12 (D) by removing any sign posted in violation of subsection 5-4-15(a), B.R.C. 1981,
13 concerning posting signs on government property. Such signs are a public nuisance.
14 After such removal the manager may also file a civil complaint in municipal court
15 against the person who posted the sign or the beneficiary of the sign or both. The
16 court shall award the city as damages the costs of removal of the sign and
17 restoration of the surface upon which it was posted. This judgment shall be
18 enforceable as any civil judgment.

19 (E) by filing a civil complaint for declaratory or injunctive relief in District Court.

20 These remedies are cumulative and not exclusive, and use of one does not foreclose use
21 of any other also.

22
23
24 (2) If the city manager finds that any sign for which a permit has been issued does not
25 comply with the permit or approved permit application or violates any provision of this

1 section or any other ordinance of the city, the manager may send a notice of violation to
2 the owner of the sign by first class mail to the address on the sign permit application.
3 The notice shall state the violation, and any required corrections, and that if the
4 corrections are not made within thirty days or an appeal filed within fifteen days
5 pursuant to subsection (s) of this section, the permit shall be revoked, and the manager
6 may then proceed as specified in paragraphs (t)(4) and (t)(5) of this section.

7
8 (3) The city manager may issue a notice of violation ordering the sign owner or possessor
9 or property owner to alter or remove a sign which is in violation of this section and for
10 which no permit has been issued within thirty days from the date of the notice. Notice
11 under this paragraph is sufficient if it is mailed first class to the address of the last
12 known owner of the real property on which the sign is located as shown on the records
13 of the Boulder County Assessor. The notice shall state the violation, order removal of
14 the sign or state any reasonable corrections which would bring the sign into compliance
15 with this section, and that if removal or correction is not accomplished within thirty
16 days or an appeal filed within fifteen days pursuant to subsection (s) of this section, the
17 manager may proceed as specified in paragraphs (t)(4) and (t)(5) of this section. If the
18 violation is of paragraph (b)(2) or (b)(3) of this section, the manager may require
19 removal of the illegal sign within one day from the date of actual notice or five days
20 from the date of mailing of mailed notice.

21
22 (4) If the property owner or sign owner or possessor fails to complete alteration or removal
23 as required by the notice given as prescribed by paragraph (t)(2) or (t)(3) of this section,
24 or to appeal pursuant to subsection (s) of this section, or loses such appeal and it
25 becomes a final order pursuant to paragraph (s)(8) of this section, the city manager may

1 cause such sign to be altered or removed at the expense of the owner or possessor of the
2 property or sign and charge the costs thereof to such person.

3 (5) If any property owner fails or refuses to pay when due any charge imposed under this
4 subsection, the city manager may, in addition to taking other collection remedies,
5 certify due and unpaid charges, including interest, to the Boulder County Treasurer to
6 be levied against the person's property for collection by the county in the same manner
7 as delinquent general taxes upon such property are collected, as provided in section 2-2-
8 12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer
9 for Collection," B.R.C. 1981.

10
11 (6) The penalty for violation of any provision of this section is a fine of not more than
12 \$2,000.00 per violation. In addition, upon conviction of any person for violation of this
13 section, the court may issue a cease and desist order and any other orders reasonably
14 calculated to remedy the violation. Violation of any order of the court issued under this
15 subsection is a violation of this subsection, and is punishable by a fine of not more than
16 \$4,000.00 per violation, or incarceration for not more than ninety days in jail, or both
17 such fine and incarceration.

18
19 (u) Rules and Regulations: The city manager is authorized to adopt reasonable procedural rules
20 and interpretive regulations consistent with the provisions of this section to aid in its
21 implementation and enforcement.

22 (v) Compliance With State Law Required: In addition to compliance with this section, all signs
23 to which the provisions of the Outdoor Advertising Act, 43-1-401 et seq., C.R.S., and its
24

1 supplemental regulations apply shall comply with such Act and regulations. ^[18] Signs which
2 do not so comply shall be deemed illegal nonconforming signs under this section.

3 (w) Substitution Clause: It is the intention of the city council that this sign code not favor
4 commercial over noncommercial messages. However, all sign codes are complex, and
5 sometimes when provisions which do not appear to be related are read together, unintended
6 results may occur. If any provision of this code is judicially construed to allow a commercial
7 message but not a noncommercial message, then the property owner may substitute any
8 noncommercial message under the same limitations as to physical characteristics and
9 location of the sign as would apply to a commercial message on such sign.
10

11 Section 2. The following definitions in section 9-16-1 are amended as follows, all other
12 definitions remain unchanged.

13 ~~Construction sign means a temporary sign announcing development, construction, or~~
14 ~~other improvement of a property by a building contractor or other person furnishing services,~~
15 ~~materials, or labor to the premises, but does not include a real estate sign. (Signs)~~
16

17 ~~Political sign means a noncommercial sign concerning candidates for public office or~~
18 ~~ballot issues in a primary, general, municipal, or special election.~~

19 ~~Real estate sign means a sign indicating the availability for sale, rent, or lease of the~~
20 ~~specific property, building, or portion of a building upon which the sign is erected or displayed.~~
21 ~~(Signs)~~
22

23 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
24 the residents of the city, and covers matters of local concern.
25

