CITY OF BOULDER
PLANNING BOARD MEETING AGENDA
DATE: August 7, 2014
TIME: 6 p.m.
PLACE: Council Chambers, 1777 Broadway

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1. **CALL TO ORDER**

2. **APPROVAL OF MINUTES**

3. **PUBLIC PARTICIPATION**

4. **DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/CONTINUATIONS**
   - **A.** Call up: 28th St. Multi-Use Path, Iris Ave to Yarmouth Ave Floodplain Development Permit (LUR2014-00048). Expires: August 14, 2014.

5. **PUBLIC HEARING ITEMS**

   - **A.** Public hearing and consideration of a Use Review application, no. LUR2014-00044, for expansion of the Escoffier Culinary School within the Table Mesa Shopping Center at 693 Table Mesa Dr. The area of expansion is located within the Residential Medium-2 (RM-2) zone district. The applicant intends to pursue Vested Rights per section 9-2-19, B.R.C. 1981

     Applicant: Vince Porreca
     Owner: W.W. Reynolds Companies

   - **B.** Rehearing to consider a recommendation to City Council on an ordinance implementing recommended actions of the Economic Sustainability Strategy (ESS) and achieve "early win" goals of the Comprehensive Housing Strategy (CHS) by amending Title 9, "Land Use Code," B.R.C. 1981, by adding a new intensity standard to Chapter 9-8, "Intensity Standards," B.R.C. 1981, to permit land dedicated as right-of way for new transportation connections as designated in adopted area plans or adopted transportation network plans to be included in the zoning calculations for lot area to determine allowable density (dwelling units per acre) and Floor Area Ratio (FAR) as well as open space requirements on lots..

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

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 (5 minutes maximum*)
b. Applicant presentation (15 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.

M E M O R A N D U M

TO: Planning Board

FROM: Heidi Hansen, Civil Engineer II

DATE: July 31, 2014

SUBJECT: **Call Up Item:** 28th St. Multi-Use Path, Iris Ave to Yarmouth Ave Floodplain Development Permit (LUR2014-00048)
This decision may be called up before Planning Board on or before **August 14, 2014**

A Floodplain Development Permit was approved by Public Works, Development Review staff on July 30, 2014. The Transportation Division of the City of Boulder proposes to construct bicycle and pedestrian improvements along 28th Street between Iris Avenue and Yarmouth Avenue. The project includes construction of a 10-foot wide multi-use path along the west side of 28th Street from Iris Avenue to Fourmile Canyon Creek and a new bicycle/pedestrian bridge over Fourmile Canyon Creek. The project will also include minor asphalt widening of 28th Street in isolated locations and widening of the roadway bridge at Fourmile Canyon Creek to accommodate on-street bicyclists from Iris Avenue to Yarmouth Avenue. This floodplain development permit is for the proposed improvements within the Wonderland Creek regulatory floodplain. A separate Floodplain Development Permit will be submitted for the improvements within the Fourmile Canyon Creek floodplain. Project work included with this floodplain development permit consists of: new multi-use path; modifications to the existing roadside storm drainage system; new curb and gutter; and minor grading associated with these improvements.

The applicant has demonstrated compliance with the City's floodplain regulations. The project will not adversely impact nearby properties. The applicant provided a hydraulic analysis showing no rise in the base flood water surface elevations due to the proposed improvements. A copy of the floodplain development permit and a vicinity map showing the location of the improvements is attached.

This floodplain development permit was approved by Public Works, Development Review staff on July 30, 2014, and the decision may be called up before Planning Board on or before August 14, 2014. There is one Planning Board meeting scheduled within the required 14-day call-up period on **August 7, 2014**. Questions regarding this floodplain development permit should be directed to Heidi Hansen in Public Works, Development Review at 303-441-3273 or hansenh@bouldercolorado.gov.

Attachments:

A. Floodplain Development Permit
B. Vicinity Map

CITY OF BOULDER
Planning and Development Services

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-4241 • web boulderplandevelop.net

Land Use Review Floodplain Development Permit

Date Issued: July 30, 2014

Expiration Date: July 30, 2017
(Pursuant to Subsection 9-3-6(e), B.R.C. 1981)

Permit Number: LUR2014-00048

Contact Information

DEBBIE RITTER
CITY OF BOULDER PO BOX 791
BOULDER, CO 80306
303 441 3253

Project Information

Location: 28TH ST & IRIS AV

Legal Description:

Description of Work: Construction of a new multi-use path, pedestrian bridge, and modification to existing 28th Street bridge. Location of project is approximately Jay Road (south) and 28th street.

Type of Floodplain Permit: Floodplain Review W/ Analysis

Creek Name: Wonderland

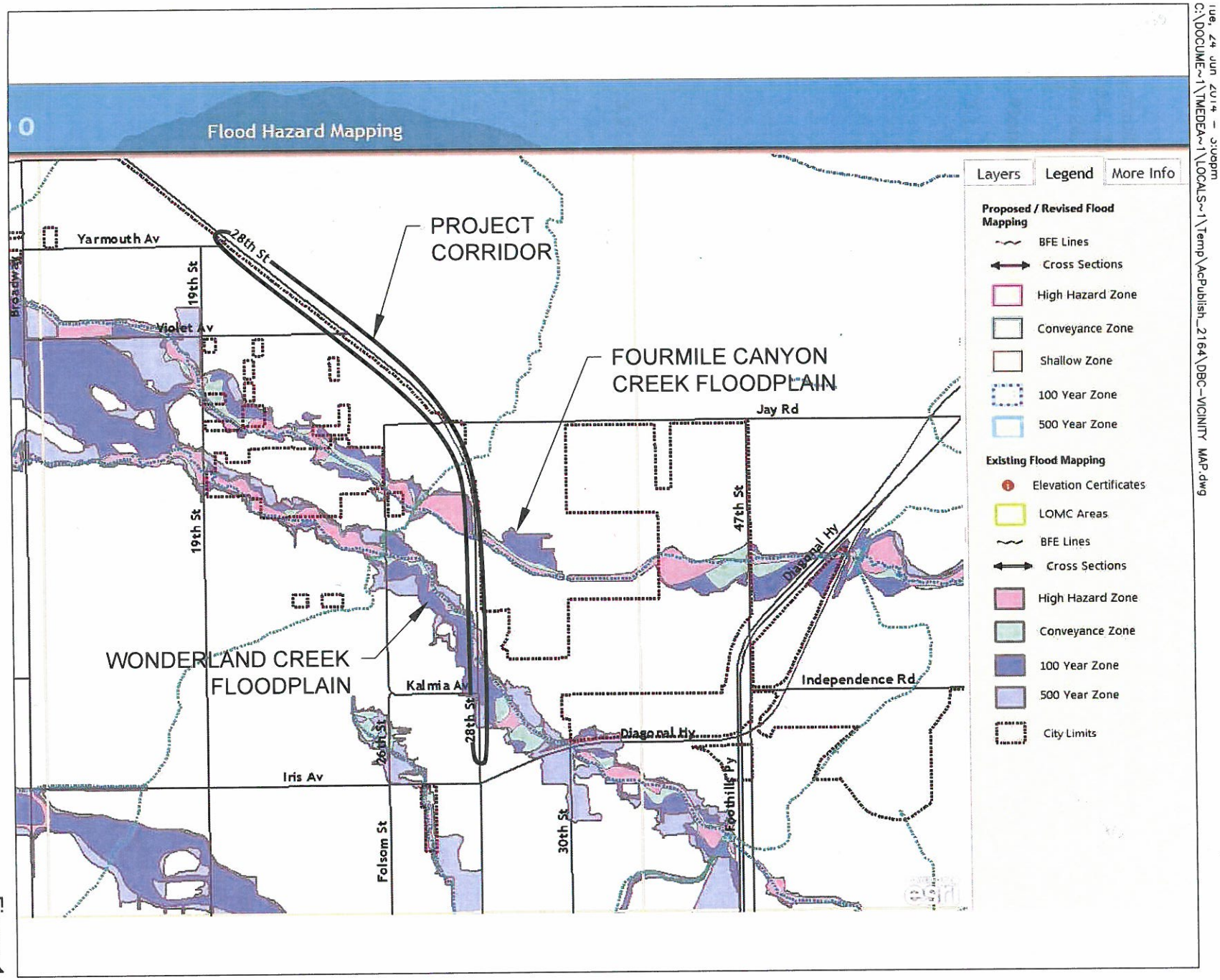
Flood Protection Elevation: Not applicable

Conditions of Approval

- The proposed project/activity is approved on the basis that it satisfies applicable requirements of Chapter 9-3-3, "Floodplain Regulations," Boulder Revised Code 1981. Other floodplain requirements as set forth in Chapter 9-3-3 which are not specifically outlined in the conditions of approval below remain applicable to this project/activity.
- Improvements shall be constructed in accordance with the plans submitted as part of the floodplain development permit application.
- The applicant shall obtain a site inspection and approval from the City of Boulder Floodplain and Wetlands Coordinator upon completion of the projects.

Inspections

To schedule an inspection, call 303-441-3280 and refer to your permit number (LUR2014-00048).



Tue, 24 Jun 2014 - 3:10pm
C:\DOCUME~1\TMEDEA~1\LOCALS~1\Temp\AcPublish_2164\DBC-VICINITY MAP.dwg

DBC
Drexel, Barrell & Co.
Traditional Services. Innovative Solutions. Since 1949

Drexel, Barrel & Co.
Engineers & Surveyors
1800 38th Street
Boulder, CO 80301
303-442-4338
sleslie@drexelbarrell.com

NORTH

NOT TO SCALE

28TH Street Multi-Use Path,
Iris Avenue to Yarmouth Avenue
Floodplain Development Permit

Figure 1
VICINITY MAP AND
FLOODPLAINS
AUGUST 20, 2013

C I T Y O F B O U L D E R
PLANNING BOARD AGENDA ITEM
MEETING DATE: August 7, 2014

AGENDA TITLE: Public hearing and consideration of a **Use Review** application, no. LUR2014-00044, for expansion of the Escoffier Culinary School within the Table Mesa Shopping Center at 693 Table Mesa Dr. The area of expansion is located within the Residential Medium-2 (RM-2) zone district. The applicant intends to pursue Vested Rights per section 9-2-19, B.R.C. 1981

Applicant: Vince Porreca
Owner: W.W. Reynolds Companies

REQUESTING DEPARTMENT:
Community Planning & Sustainability
David Driskell, Executive Director
Susan Richstone, Deputy Director
Charles Ferro, Land Use Review Manager
Chandler Van Schaack, Planner I

OBJECTIVE:
1. Hear Staff and Applicant presentations
2. Hold Public Hearing
3. Planning Board discussion
4. Planning Board action to approve, approve with conditions, or deny

Proposal:	**Use Review** application, no. LUR2014-00044, for expansion of the Escoffier Culinary School use within the Table Mesa Shopping Center at 693 Table Mesa Dr. Specifically, the request is to reuse an existing, two-story, 13,135 square foot space that is currently being leased by Mountains Edge Fitness for classroom space. The Escoffier Culinary School will continue to occupy their other existing spaces within the shopping center.
Project Name:	Escoffier Culinary School Expansion
Location:	693 S. Broadway
Size of Tract:	10.45 acres
Zoning:	Business Community-2 (BC-2) & Residential Medium-2 (RM-2)
Comprehensive Plan:	Community Business & Medium Density Residential

PROJECT DESCRIPTION:
This proposal is to reuse an existing two-story, 13,135 square foot space that is currently being leased by Mountains Edge Fitness for classroom space to serve as classroom / kitchen space for the Escoffier Culinary School. The school currently leases classroom and kitchen spaces in other areas of the city outside of the Table Mesa shopping center and would like to consolidate their operations. The school will continue to lease two existing tenant spaces within the shopping center; a 5,012 square feet of classroom /

kitchen space on the west side of the shopping center and 2,241 square feet of administrative office space on the south side of the shopping center. If approved, the Escoffier Culinary School would occupy a total of 20,388 square feet in three tenant spaces (refer to **Attachment A** for applicant's written statement and plans).

Context / Vicinity Map

Existing Classroom / Kitchen Space

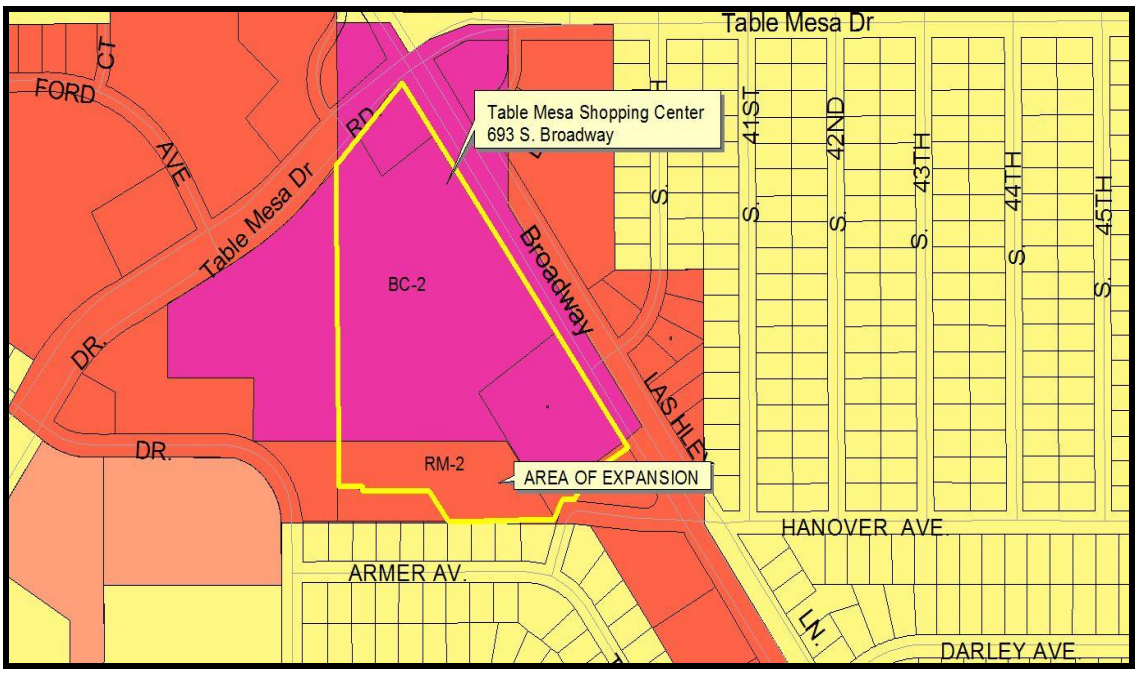
Existing Admin./Office Space

Proposed Classroom/Kitchen Space

BACKGROUND & CONTEXT:
The 10 acre site is located at the southwest corner of Broadway and Table Mesa Dr. with residential uses located immediately to the south and east and retail and office uses located to the north and west. Refer to the vicinity map below. The Table Mesa Shopping Center was originally constructed in the early 1960's with several additions to the center occurring over time. Currently, there is 187,940 square feet of leasable area within the center.

The Escoffier Culinary School has been a tenant in the Table Mesa Shopping Center since 1992 and currently occupies two tenant spaces within the shopping center as noted above.

PROCESS:
The site is bifurcated by two different zoning designations (see zoning map below). A majority of the site is zoned BC-2 however, the area of expansion is located on the portion of the site that is zoned RM-2.



Zoning Map

A culinary school use meets the city's definition of an "Adult Education Facility" as defined in Section 9-16-1, B.R.C. 1981 (below).

"Adult education facility" means an academic educational use serving a clientele at least fifty percent of which are individuals who are eighteen years of age or older.

Per Section 9-9-6, B.R.C. 1981, "Adult Education Facilities" located in the RM-2 zone are allowed through the Use Review process. Per Section 9-2-15(d)(1), B.R.C. 1981, nonresidential uses located in residential zoning districts require Planning Board review at a public hearing.

ANALYSIS OF USE REVIEW CRITERIA:

(1) Consistency with Zoning and Non-Conformity: The use is consistent with the purpose of the zoning district as set forth in Section 9-5-2(c), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

The project site is zoned Residential Medium – 2 (RM-2). These areas are defined in the City's Land Use Code as "Medium density residential areas which have been or are to be primarily used for attached residential development, where each unit generally has direct access to ground level, and where complementary uses may be permitted under certain conditions." Additionally, Section 9-6, B.R.C. 1981 supports "Adult Education Facility" uses through the Use Review process. The proposed relocation of the existing culinary school into a different tenant space is consistent with the intent of complimentary uses contemplated by the RM-2 zone district.

(2) Rationale: The use either:

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

Not applicable.

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

The proposed use will not result in additional impacts compared to the existing use. Additionally, a landscape buffer and fencing exists directly to the south to screen adjacent residential properties.

(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

Not applicable.

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

Not applicable.

X (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 proposal is compatible with the surrounding area. The exterior of the existing building will not change and no new impacts will be created.

The current fitness center use of the building represents a high-traffic, high turn-over use that will be reduced by the new proposed use. The fitness center is open 363 days per year, seven days a week from 5:00 A.M. to 10:00 P.M. Monday – Thursday, 5:00 A.M. to 9:00 P.M. on Fridays, 7:00 A.M.

– 7:00 P.M. on Saturdays, and 8:00 A.M. to 7:00 P.M. on Sundays, totaling 107 hours of operation per week. With over 700 persons holding memberships, and offerings of almost 65 fitness classes per month, added to a population that largely accesses the property via private vehicle, this business relies on large numbers of patrons to remain viable.

In contrast, the culinary school has a somewhat typical academic schedule comprised of classes that are offered weekdays with regular seasonal breaks. The hours of operation are from 7:00 a.m. to 11:00 p.m., Monday through Friday totaling 80 hours of operation per week. There are no classes on holidays, and there are winter and summer breaks. Classes are held in three sessions per day Monday through Friday and the average class size is 12-15 students. The school has a total active student body of 170 adults 18 years and over attending classes and 16 faculty members in the current location and other locations in the City of Boulder that will all be located at Table Mesa Shopping Center. The average age of the students is 24 to 28 years.

With regard to parking, there is currently a previously approved 6% parking reduction granted for the entire shopping center. Since the parking requirements for an adult education use are the same as a gym (1 space per every 300 square feet), the parking requirements on the site will not be impacted. Overall, proposed use will have reduced impacts on surrounding properties and will maintain more predictable periods of operation than the previous use. Gyms are considered high turn-over uses for parking, similar to a medical or dental office whereas the school will maintain three regular sessions per day and provide eco passes to students. Weekend impacts will also be diminished since the school is not open on Saturdays or Sundays. While there are no dedicated parking spaces for the culinary school, the lease indicates that there is a "preferred" parking area along the edge of the building and to the southwest.

With regard to the use, the zoning in the area supports a variety of non residential uses including office uses and a variety of personal service and convenience retail however; the location of the space is considered low visibility and is not necessarily a desirable retail space.

(4) Infrastructure: As compared to development permitted under Section 9-6-1, "Schedule of Permitted Uses of Land," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a non-conforming 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 proposed development will not adversely impact the existing infrastructure of the surrounding area. The replacement of a gym use with a culinary school use will not introduce new demands on the exiting systems.

(5) Character of Area: The use will not change the predominant character of the surrounding area or the character established by adopted design guidelines or plans for the area; and

The expansion of the existing culinary school use into an additional tenant space will not alter the character of the area. The shopping center has served a multitude of diverse retail, office, restaurant, automotive and personal services uses over the last 50 years. Further, the culinary school has held a presence in the shopping center for over 20 years. (Note that there are no area plans or design guidelines that have been adopted for the area).

(6) Conversion of Dwelling Units to Non-Residential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts set forth in Subsection 9-5-2(c)(1)(a), B.R.C. 1981, to non-residential uses that are allowed pursuant to a use review, or through the change of one non-conforming use to another non-conforming 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 day care center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.

Not applicable.

PUBLIC COMMENT AND PROCESS

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. Staff received a few questions from neighboring property owners however; one adjacent property owner expressed opposition to the proposal based on traffic and a potential loss of neighborhood serving retail uses. Refer to **Attachment B.**

STAFF FINDINGS AND RECOMMENDATION

Staff recommends that the Planning Board approve the Use Review application LUR2012-00101, adopting the staff memorandum as findings of fact and subject to the recommended conditions of approval.

RECOMMENDED CONDITIONS OF APPROVAL:

1. The Applicant shall ensure that the **development shall be in compliance with all approved plans** and the Applicant's written statement dated June 12, 2014 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.

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: PUD# P-79-20 and Special Review #SR-79-22.

ATTACHMENTS:

A: Applicant's Written Statement & Proposed Plans

B: Neighborhood Comments

A RAGING THUNDER LIZARD COMPANY

THE W.W. Reynolds COMPANIES

June 12, 2014

City of Boulder
Planning & Development Services
P.O. Box 791
Boulder, Colorado 80306

RE: Table Mesa Shopping Center—Land Use Review

Dear Planning & Development Services Staff:

The subject property, 693 S. Broadway, Building 2, Boulder, Colorado, is owned by Table Mesa Shopping Center, LLC. Since October 2009 the building has been leased to a fitness club. The owners now wish to lease the building to an existing tenant in the shopping center, a culinary school, which will use the building as an Adult Educational Facility. The culinary school has been a tenant in the shopping center for 22 years. Their program currently occupies space in two different locations at Table Mesa Shopping Center: 5,012 square feet of classroom space on the west side of the Center, and 2,578 square feet of administrative offices in another building on the south side of the Center. The school also leases classrooms and kitchens in other areas of Boulder outside of the Shopping Center and is now seeking to consolidate all of its classrooms onto one campus at Table Mesa. It also would like to have the potential of eventually expanding their operation in a larger space.The building in question will be used for classrooms only; administration will remain where it is currently located.

The building was constructed in 1980; it is two stories in height with a total square footage of 13,135. The proposed reuse will involve interior renovations only; no expansion of the footprint is contemplated. The building is part of an established shopping center that is primarily retail space.

The current fitness center use of the building represents a high-traffic, high-density use that will be greatly reduced by the new proposed use. The fitness center is open extended hours 363 days per year. With over 700 persons holding memberships, and offerings of almost 65 fitness classes per month, added to a population that largely accesses the property via private vehicle, this business relies on large numbers of patrons to remain viable. In contrast, the culinary school has a somewhat typical academic schedule comprised of classes that are offered weekdays with regular seasonal breaks. The hours of operation are from 7:00 a.m. to 11:00 p.m., Monday through Friday. There are no classes on holidays, and there are winter and summer breaks. Classes are held in three sessions per day Monday through Friday; the average class size is 12-15 students. The school has a total active student body of 170 adults 18 years and over attending classes in the current location and other locations in the City of Boulder that will all be located at Table Mesa Shopping Center. The average age of the students is 24 to 28 years. There are 16 instructors on the faculty.

W.W.R.
REAL ESTATE SERVICES, LLC
CREATING VALUE THROUGH CHEERFUL, INNOVATIVE AND SUSTAINABLE REAL ESTATE PRACTICES
TEL: 303.442.8687 FAX: 303.442.8757 1375 WALNUT STREET, SUITE 10, BOULDER, CO 80302

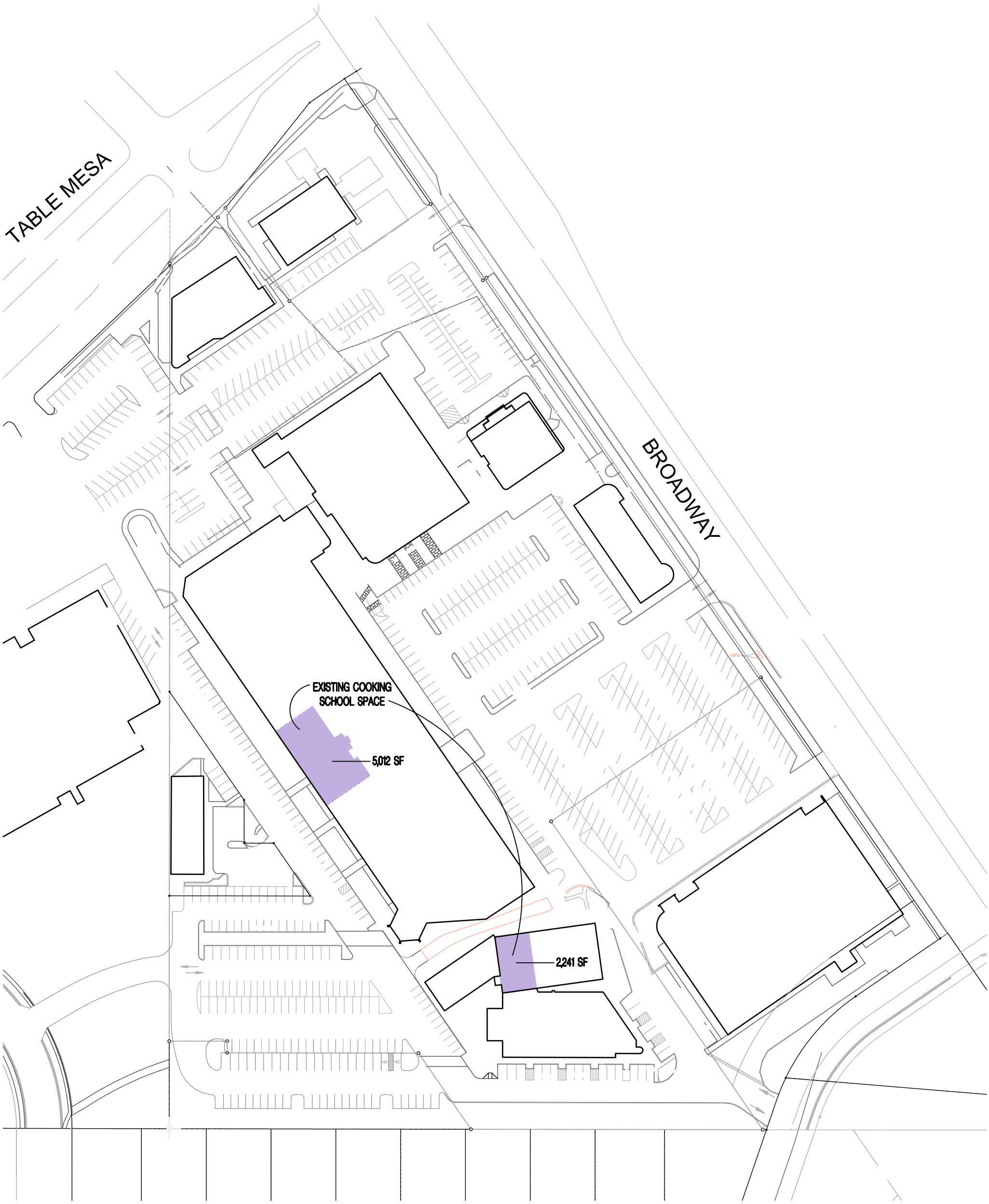
With regard to the infrastructure of the property, this project will have a positive impact. Utility use will decrease; the use of showers will be reduced if not eliminated, electricity will be used only as needed in focused areas rather than the entire building as is now the case. Noise and traffic will be much reduced because of the lower load on parking. The student body averages 25 to 35 monthly active riders on the bus (the school issues a RTD College pass to each student).

This proposed project is highly compatible with the existing use of the shopping center, in fact is more compatible because of the reduced traffic as previously mentioned. The building's appearance will continue to retain the predominant character of the surrounding buildings; the exterior will not change, nor will the floor area increase. Because of the transition from high-density use to low-density use, this project will enhance compatibility with the nearby neighborhood.

During the preparation of the Application for Land Use Review, we have had invaluable feedback from city staff and believe that we have addressed any comments and concerns that there may be. Please do not hesitate to contact me with any question or if you require additional information regarding this review request.

Sincerely,

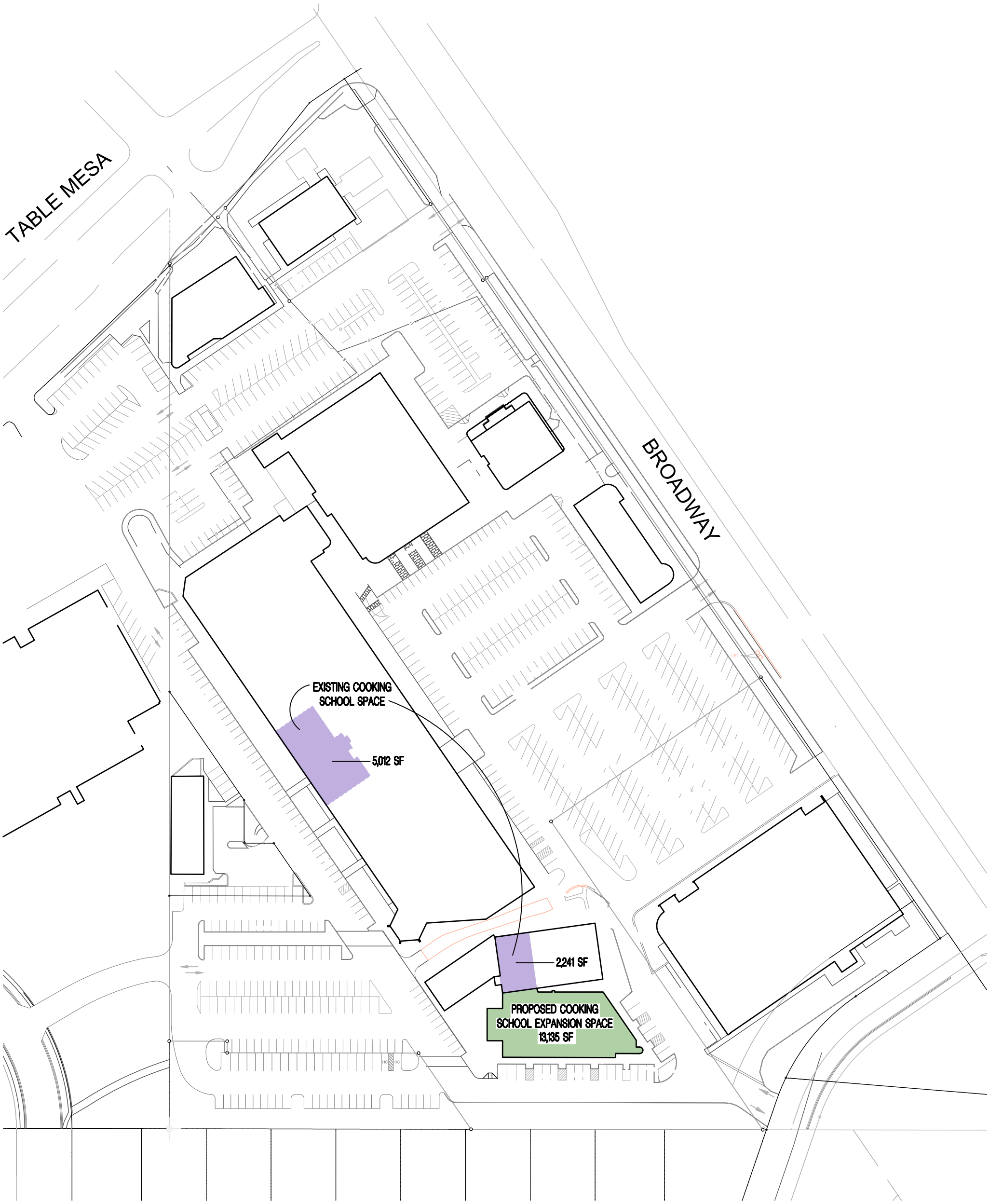
Jeffrey Wingert
Manager, W.W. Reynolds Companies



5,012 SF	(EXIST)
2,241 SF	(EXIST)
7,253 SF	(TOTAL EXISTING AREA)

NORTH

TABLE MESA SHOPPING CENTER
SCHEMATIC SITE PLAN
1" = 100'-0"



5,012 SF	(EXIST)
2,241 SF	(EXIST)
13,135 SF	(PROPOSED EXPANSION)
20,388 SF	(TOTAL PROPOSED)

NORTH

TABLE MESA SHOPPING CENTER
SCHEMATIC SITE PLAN
1" = 100'-0"

From: Ferro, Charles
Sent: Monday, July 28, 2014 10:18 AM
To: Ferro, Charles
Subject: RE: comment on zoning variance request

From: bolderbaker@aol.com]
Sent: Friday, June 27, 2014 1:22 PM
To: Meissner, Susan
Subject: Re: comment on zoning variance request

Thank you for your quick reply. I'm afraid I don't know who is overseeing things. As I understand the situation, WW Reynolds is applying to have the retail zoning of the Table Mesa shopping center changed to 'adult education'. Many of the local merchants are being forced out which is a big loss in a part of town with limited retail and restaurant options even before this change. If you can let me know who to direct my concerns to, I'll do my best to make them as clear and concise as I can.

Thanks,
Paula

Sent from my iPhone

On Jun 27, 2014, at 1:12 PM, "Meissner, Susan" <MeissnerS@bouldercolorado.gov> wrote:

From: kalbturner@aol.com
Sent: Thursday, July 24, 2014 8:55 PM
To: Ferro, Charles
Subject: Escoffier Culinary School Expansion

Follow Up Flag: Follow up
Flag Status: Flagged

I live at 3935 Carlock Dr which is a few blocks from the Table Mesa Shopping Center. I understand that there will be a hearing on August 7, 2014 to review the proposed move of the Culinary School into the building that now houses Mountain Edge Fitness. I have lived in the neighborhood for 16 years. As a community member I have concerns that this is not good use for shopping center space. The Culinary School already occupies quite a bit of space at the shopping center. The school really does not provide services to the community that one would want at their local shopping center. In the past year I have noticed a large increase in traffic at the shopping center and parking is a problem. If they are holding classes in this building parking is going to be an even bigger problem. I usually walk or ride my bike to the shopping center. If less services are offered at the shopping center that means I will have to drive my car to other locations in Boulder to obtain services that are no longer offered at the shopping center.
I strongly urge you to deny this application as the proposed use of this space does not complement the residential area and the zoning is Residential Medium.
Thank you for your time.

Nancy Turner

Sent from AOL Mobile Mail

C I T Y O F B O U L D E R
PLANNING BOARD AGENDA ITEM

MEETING DATE: August 7, 2014

AGENDA TITLE: Rehearing to consider a recommendation to City Council on an ordinance implementing recommended actions of the Economic Sustainability Strategy (ESS) and achieve "early win" goals of the Comprehensive Housing Strategy (CHS) by amending Title 9, "Land Use Code," B.R.C. 1981, by adding a new intensity standard to Chapter 9-8, "Intensity Standards," B.R.C. 1981, to permit land dedicated as right-of way for new transportation connections as designated in adopted area plans or adopted transportation network plans to be included in the zoning calculations for lot area to determine allowable density (dwelling units per acre) and Floor Area Ratio (FAR) as well as open space requirements on properties.

REQUESTING DEPARTMENTS:
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Charles Ferro, Land Use Review Manager
Karl Guiler, Senior Planner/Code Amendment Specialist
Hella Pannewig, Assistant City Attorney

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

EXECUTIVE SUMMARY

On May 1, 2014, Planning Board recommended approval of an ordinance intended to implement two recommended actions of the Economic Sustainability Strategy. One related to allowing right-of-way required to be dedicated to the city to be included in the land area calculations for project sites to determine density; and the other change related to acceptable documentation to determine valuation of projects for zoning purposes. The proposed change to the density calculation (Land Use Intensity Standards) is also an identified "early win" of the Comprehensive Housing Strategy (CHS). **Attachment A** contains the proposed ordinance.

The board evaluated the proposed ordinance and made separate motions for each respective code change (i.e., density calculation and the valuation change). **Attachment B** contains a summary of the Planning Board discussion and the subsequent motions. Each motion passed with a 4 to 2 vote for the recommended code change and the memorandum and audio of the meeting can be accessed here. City Council approved the proposed ordinance on first reading on May 20, 2014 and posed several HOTLINE questions to staff. Those questions and staff responses are found in **Attachment C**. Second reading for the ordinance before City Council is tentatively scheduled for Sept. 2, 2014.

During a discussion under matters at the Planning Board's June 5th meeting, the board voted unanimously to have a rehearing on the density calculation portion of the ordinance before council

considers approval of the ordinance. Much of the content of the memorandum below is similar to that presented on May 1st; however, staff has added additional information to help guide the board's discussion that may inform any alternative recommendation.

BACKGROUND

In efforts to implement recommended actions of the Economic Sustainability Strategy, adopted by City Council on Oct. 29, 2013, and to continually update the Land Use Code to implement the Boulder Valley Comprehensive Plan (BVCP) and achieve high quality design results, staff has proposed the following changes:

1. Add a new intensity standard to Chapter 9-8, "Intensity Standards," B.R.C. 1981, to permit land dedicated as right-of way for new transportation connections as designated in adopted area plans or adopted transportation network plans to be included in the zoning calculations for lot area to determine allowable density (dwelling units per acre) and Floor Area Ratio (FAR) as well as open space requirements on lots, and

2. Create an additional method of property valuation for the determination of whether proposed work on a property triggers upgrades to lighting, landscaping, site access and non-conforming drive-throughs under the Land Use Code.

The proposed changes would implement two specific recommended actions of the Economic Sustainability Strategy. The intent of the recommended actions is to remove regulatory barriers to reinvestment in buildings and also to encourage redevelopment in areas where the city wants to see redevelopment (e.g., Boulder Junction, core of North Boulder, Gunbarrel Community Center) and the installation of new public right-of-way connections to realize the vision of adopted areas plans and transportation network plans.

The May 1st Planning Board packet and audio of the discussion of the items above can be accessed here. First reading of the ordinance occurred on May 20, 2014. Council members indicated that there were questions for staff and would be sent via HOTLINE. These questions and the staff responses are found within **Attachment C**.

Staff is also proposing the Land Use Code change as an "early win" of the Comprehensive Housing Strategy (CHS). Staff did not present the change as such during the May 1st meeting as it had not been discussed and supported by City Council at the time. City Council discussed the CHS at its May 27th meeting. The packet can be accessed here. Select 'Browse City Council Records' ➔ 'Study Session' ➔ '2014' ➔ '05.27.14'

The goals of the Comprehensive Housing Strategy (CHS) are:

1. Strengthen the city's affordable housing programs for low- and moderate-income households.

2. Expand housing opportunities for middle-income households.

3. Explore innovative approaches to providing additional housing and a broader range of housing options, particularly for housing needs not being met by the market.

ANALYSIS

Key Issues for the Aug. 7th rehearing and summary of staff conclusions

As stated above, much of the content and information within this 'Analysis' section is from the May 1st memorandum to the board. However, additional information has been added to help guide and inform the board's discussion and recommendation to City Council. **Attachment A** contains the ordinance previously reviewed by the Planning Board with one board requested modification to the language to clarify the scope of the change regarding density (see page 14 for further explanation).

As the rehearing was requested on the density change exclusively, staff will not discuss the valuation change as part of this memorandum. Staff encourages the board to also review **Attachment C** for the responses to the HOTLINE questions from City Council.

To help guide the discussion, staff poses the following questions to the board:

1. **CONCEPT: Does the Planning Board support the concept of allowing density calculations to include the land area that is being dedicated to the city for rights-of-way?**

At the May 1st discussion, staff ascertained from the board's discussion and motions that the board was in support of the concept. However, communications following the discussion alluded to perhaps a different perspective. If the board does not agree with the concept, staff would recommend that the board recommend denial of the change. Staff would then present the board's findings to the City Council for consideration.

If the board agrees with the concept, the next question is:

2. **METHODOLOGY: Does the Planning Board agree with the methodology proposed to calculate density in the proposed ordinance?**

Staff has included additional information throughout the memorandum to supports staff's proposed methodology of counting up to 70 percent of the land to be dedicated into the open space calculation to determine density for zoning districts based on open space (discussed in analysis that follows).

The options considered by staff are summarized below and are followed by the staff analysis of the proposed methodology.

Table 1- Options considered for alternative density calculation where right-of-way dedications are required.

Option considered	Description of option	Advantages	Disadvantages
1) Add a **new land use intensity modification** to the Site Review criteria.	The city already allows intensity modifications in limited areas either by reducing lot area or open space to have higher density or greater FAR (Floor Area Ratios) under limited scenarios. In such scenarios specific criteria are within section 9-2-14(h)(2)(H), B.R.C. 1981. This option would add yet another set of Site Review criteria for area plan areas subject to right-of-way dedications.	• Quality would be controlled through the Site Review process. • Would require consistency with Boulder Valley Comprehensive Plan (BVCP) and adopted area plans.	• Would further complicate the Site Review criteria. • Would necessitate a new set of criteria that may or may not result in quality above what would already be achieved through the Site Review process. • Would not follow the logic established in Chapter 9-8, "Intensity Standards," B.R.C. 1981, which specifies adjustments to density and intensity in specific areas rather than specific zoning districts.
2) Amend the useable open space standards to allow right-of-way (above the 10% possible) to count as open space for density purposes.	Section 9-9-11, "Useable Open Space," B.R.C. 1981 specifies broadly what counts as open space (i.e., landscaping, plazas, decks etc.). This option would specify an option where a specific percentage of dedicated right-of-way could count as open space in area plan areas.	• Would be a targeted change within one section of the land use code.	• Specifying dedicated areas as open space would not be consistent with the "purpose" section of the open space standards as much of the areas would be pavement and not technically "open space." This would be inconsistent with other parts of the open space standards. • The open space standards are performance standards meant to inform the design and quality of projects, not specifically the density.
3) Rewrite the intensity standards for zoning districts that rely on open space.	Chapter 9-8, "Intensity Standards," B.R.C. 1981 contains all of the city zone districts and the different mechanisms to determine the density of each either by a minimum lot area per dwelling unit figures or a specified amount of open space per dwelling unit. Lot area calculations are commonplace and are relatively straightforward. Open space	• Density calculations could be simplified where detailed analysis of projects sites and the amount of open space would no longer be required.	• Would not be a straightforward fix and would require a fundamental rewrite of the Intensity Standards, which have otherwise been effective in implementation for years. • Implementation would have to be initiated as a work program item and given the complexity, would likely not

	calculations have been in effect for over 25 years and would require a different method for calculating open space.		be completed within a one year timeframe given other prioritized considerations. • If open space was removed from the calculation it would create thousands of non-conforming Planned Unit Developments (PUDs) and Site Reviews. • Current projects in the pipeline would be delayed or deterred.
4) Make density calculations in area plan areas exempt from the Land Use Code and rely on the BVCP Land Use Map density ranges.	This option would rely solely on the density ranges permitted in the BVCP rather than doing any of the density calculations in Chapter 9-8.	• Could be a more straightforward method for determining density. • Increases predictability of what a developer could do on a site.	• Removes the requirement of open space to be provided on a site, unless a base percentage was required. Percentages would either have to be fixed or variable according to how much land was being dedicated. • Could not be implemented for projects that do not have a residential component.
5) Add a new standard to the Intensity Standard that would permit a proportional increase in units based on how much land is being dedicated.	**THIS IS THE PROPOSED OPTION.** This option would add a new section to Chapter 9-8, "Intensity Standards," B.R.C. 1981, that would enable density to be calculated based on gross rather than net land area if basic criteria are met.	• Would follow the current construct of the code and add standards specifically applicable to calculating density in area plan areas subject to right-of-way dedications to the Intensity Standards where similar standards exist. • Could be implemented more expeditiously. • Would not require a fundamental rewrite of the intensity standards or the Site Review criteria. • Includes a relatively straightforward calculation to determine density (i.e., calculate 70% of area to be dedicated and add to provided open space calculation). • Has a mechanism for open space districts that keeps the permissible increase proportional to the amount of land being dedicated. • Would apply to area plan areas instead of being zone specific.	• Would continue to require staff to calculate the total amount of open space within a proposal to determine density as currently done.

		• Quality would be controlled through the Site Review process. • Would require consistency with Boulder Valley Comprehensive Plan (BVCP) and adopted area plans. • Would be a targeted change within one section of the land use code.	

Staff conclusion:

Based on the number of advantages compared to disadvantages, staff felt that option no. 5 was the most intuitive, straightforward option that would not require fundamental changes to the Land Use Code and could be initiated expediently. Staff believes that the proposed process to enable density and floor area ratio to be calculated based on gross land area as opposed to net land area (as proposed) will encourage redevelopment in areas expected to redevelop in a manner consistent with adopted plans and applicable zone districts and recommends the proposed change as the most efficient and most effective way to carry out Action 3.5 of the Economic Sustainability Strategy. Staff has also found that this option would be consistent with goals of the Comprehensive Housing Strategy (CHS). A more detailed discussion of staff's conclusion can be found on page 14. In an-depth analysis of the proposal follows.

IN-DEPTH ANALYSIS: Land Use Intensity Standard Code Change:

The recommended code change is intended to implement recommended Action 3.5 of the Economic Sustainability Strategy and is also an identified "early win" of the Comprehensive Housing Strategy.

In recent years following adoption of the North Boulder (NoBo) Subcommunity Plan, the Transit Village Area Plan (TVAP) and other adopted transportation network plans, redevelopment of sites has been somewhat constrained by required dedications of rights-of-way for new streets, alleys, sidewalks and paths for pedestrians and bicycles in areas subject to such plans. Area plans and transportation network plans include connection plans to realize a more gridded, interconnected pattern of streets and paths. Areas designated in right-of-way plans for right-of-ways must be reserved and cannot be developed with any structures. Where dedication of such areas as right-of-way is necessary to adequately serve the proposed development with public infrastructure or is roughly proportionate in scope and nature to infrastructure impacts generated by a development, dedication is required by the city as part of the development approval. That is frequently the case for projects in the Site Review process and much less frequently the case for smaller projects.

With the intent of clarifying the proposed change, staff has organized the memorandum with responses to some key questions that staff felt may be useful for the board. They are:

- What is being proposed?
- Why is the proposed change being recommended?
- How is density/intensity calculated per the Land Use Code?
- What areas of the city are eligible?
- Why is the proposed methodology the best option?

What is being proposed?

The proposed code section would enable an applicant to use the gross land area instead of the net land area after public right-of-way dedications to determine density and floor area ratio calculations for a project. In zones that determine density and floor area based on lot size, the calculations are relatively straightforward. However, zones that determine the permitted number of dwellings units by amount of open space, the calculation is more complicated. In such instances, staff is proposing that an applicant be able to include up to 70 percent <u>of any right-of-way to be dedicated</u> to be added to the open space calculation to determine the allowable number of units. The allowance to count up to 70 percent <u>of the land being dedicated</u> from an open space perspective enables an increase in density roughly proportional to the amount of land be dedicated, which staff finds to be a reasonable incentive and one that is still tied to the total amount of open space provided. The resulting density would be no more than a lot of equal size that does not have right-of-way dedication requirements and would also have to conform with the BVCP Land Use Designation limitations per Site Review criterion 9-2-14(h)(1)(B), B.R.C. 1981, which states:

> *(B) The proposed development shall not exceed the maximum density associated with the Boulder Valley Comprehensive Plan residential land use designation. Additionally, if the density of existing residential development within a three-hundred-foot area surrounding the site is at or exceeds the density permitted in the Boulder Valley Comprehensive Plan, then the maximum density permitted on the site shall not exceed the lesser of:*

(i) The density permitted in the Boulder Valley Comprehensive Plan, or

(ii) The maximum number of units that could be placed on the site without waiving or varying any of the requirements of chapter 9-8, "Intensity Standards," B.R.C. 1981.

Based on the current construct of the Land Use Code and the hierarchy of densities prescribed by zoning districts, staff finds the proposed methodology to count up to 70 percent of the area to be dedicated as right-of-way into the open space total (to be divided to determine density) to be the most straightforward solution because it is less dependent on the specific site design and more on the amount of land that will be dedicated. Tying the calculation to the amount of land being dedicated also keeps the additional number of units that may be permitted in proportion to the amount of land dedicated similar to how gross and net land area for zones using lot area can be determined.

Some examples of how the proposed code changes would have affected the allowed density in projects that were recently approved, had the proposed code changes been in effect at the time of approval of such projects, are contained within Table 2 below:

Table 2- Examples of possible densities in projects if new standards were in place.

Project	Zone District	Allowed density per code	Possible density through proposed change	Change
Dakota Ridge	RM-1	412 units (7.2 du/ac)	540 units (13 du/ac)	+128 units
1000 Rosewood *	RM-1	16 units (6.8 du/ac)	23 units (10.5 du/ac)	+7 units
820 Lee Hill	RL-2	31 units (4.8 du/ac)	38 units(5.8 du/ac)	+7 units
4051 Broadway	RL-2	8 units (3.2 du/ac)	10 units (4 du/ac)	+2 units

**1000 Rosewood was permitted to have 18 dwelling units per special ordinance to reduce open space requirements.*

The new language can be found in **Attachment A** and an excerpt of the specific modification is provided below:

(1) Public right-of-way, including but not limited to streets, alleys, sidewalks, bike paths, paths, and landscaped areas, may be counted as lot area and useable open space as specified in paragraphs (1)(A) and (1)(B) below, if the criteria of paragraph (2) are met:

(A) Lot area to meet the minimum lot area and minimum lot area per dwelling unit requirements and to calculate allowed floor area under the floor area ratio standards of Chapter 9-8, "Intensity Standards," B.R.C. 1981; and

(B) Useable open space to meet the open space per dwelling unit and minimum open space on lots requirements of Table 8-1 of Section 9-8-1, "Intensity Standards," B.R.C. 1981. No more than seventy percent of the total area dedicated may count as useable open space.

(2) Criteria for qualification:

(A) The property is not in the RR-1, RR-2, RE, RL-1, A, and P zoning districts;

(B) The land is dedicated to the city for a new transportation connection as designated in an adopted area plan or in an adopted transportation network plan and as part of the project under review;

(C) The dedication is recorded with the Boulder County Clerk and Recorder's office after August 16, 2014;

(D) The project under review is a new development project or a redevelopment project exceeding one hundred percent of the value of any existing structures based on their actual value assessed by the Boulder County Assessor or their fair market value determined by a real estate appraiser licensed in Colorado; and

(E) The project is approved through a site review pursuant to Section 9-2-14, "Site Review," B.R.C. 1981.

Since the May 1st discussion of the draft ordinance, staff is proposing a change to subsection (1)(B) above, which is discussed further on page 16.

Why is the proposed change being recommended?

Because right-of-way dedications can result in significantly smaller project sites, the dedication requirements can be a disincentive for dedication of planned connections for redevelopment, since this increases the costs of building new connections and reduces development potential. These deductions effectively reduce allowable density (dwelling units per acre) and/or the allowable floor area of a development. Without incentives it makes it difficult for the city to realize the connections envisioned within the adopted plans. In some zoning districts, lot area governs the number of units permitted and the total permitted FAR.

To present an idea of how much land is necessary for dedication in area plan areas; staff has analyzed the following projects to provide a reference:

Table 3: Percentage of land dedicated in example projects.

Project	Zoning district	Type of density limitation	Percentage of land dedicated
Gunbarrel Center (Lookout & Gunpark)	BR-2 (Business Regional – 2)	Open space	14%
Dakota Ridge (West of Broadway/north of Lee Hill)	RM-1 (Residential Medium – 1)	Open space	28%
Holiday (east of Broadway/north of Yarmouth)	RMX-2 (Residential Mixed – 2)	Open space	30%

Uptown Broadway (Broadway & Yarmouth)	BMS/MU-2 (Business Main Street/Mixed Use – 2)	Open space	27%
1000 Rosewood	RM-1 (Residential Medium – 1)	Open space	35%
820 Lee Hill	RL-2 (Residential Low – 2)	Open space	23%
Violet Crossing (Broadway & Violet)	RM-2 (Residential Medium – 2)	Lot area	3%
4051 Broadway	RL-2 (Residential Low – 2)	Open space	17%
Kalmia Estates (Harper Hollow) (Kalmia east of 28th)	F (Flex)	Open space	31%
3100 Pearl (Pearl east of 30th)	MU-4 (Mixed Use – 4)	Open space	21%
Depot Square (Pearl east of 30th)	MU-4 (Mixed Use – 4)	Open space	18%

As the majority of large projects are occurring in developing areas, the applicable zoning districts tend to use open space to determine density as opposed to older zoning districts in established areas that are based on lot area. However, as some BR-1 areas like Twenty Ninth Street or the Village may redevelop in the future, those calculations would be related to lot area.

Based on Table 3 above, the percentage of land dedicated in projects ranges from 3 percent to 35 percent and averages 22 percent. Through pre-application meetings on other yet to be redeveloped project sites, staff has heard concerns about the extent of land dedications – particularly in the Boulder Junction area. For example, it was determined through one pre-application submission that over 42 percent of one project site would have to dedicate land to public right-of-way in order to redevelop.

Recognizing the impact that dedications have on the feasibility of redevelopment and to encourage redevelopment in areas that are expected to change as anticipated by adopted land use plans and transportation network plans, staff is proposing a new standard within chapter 9-8, "Intensity Standards," B.R.C. 1981, which would enable developers to count land that they are required to dedicate into the calculations for the purposes of calculating density and floor area.

Staff is also proposing the change to address one of the identified "early wins" of the Comprehensive Housing Strategy (CHS). The goals of the CHS are to add more housing to the city inventory and encourage more modest sized units and in greater diversity. As illustrated in the section that follows, while density would be increased through a mechanism that allows 70 percent of right-of-way areas to count into the open space calculation, open space will continue to be relatively plentiful on such sites and with an allowance to add units, the city can expect to see more attached products and more units of modest size than what would occur if the additional units were not permitted.

Examples:
Staff has received some examples of how the proposed change would play out in active development projects. One example is the S*park project in the Boulder Junction area (within the Transit Village Area Plan) and other is the Armory project in North Boulder (within the North Boulder Subcommunity Plan).

*S*park project*: The proposed project is located in Boulder Junction within the RH-6 (Residential High -6) zoning district that determines density on a factor of 1,600 square feet of lot area per dwelling unit.

Attachment E contains a letter from the applicant, example calculations and a reference site plan. The applicant's findings are that required public right-of-way dedications on the site comprise 22 percent of the site area. This amount of land area reduces the allowable density from a possible 100 units on 4.14 acres (24 du/ac) to 73 units (17 du/ac). The proposed change would enable 100 units while also including open space in excess of required (e.g., roughly 25 percent). The S*park project is scheduled to come before the Planning Board as a Concept Plan on Sept. 4, 2014.

The Armory project: The proposed project is located in North Boulder at the southwest corner of Broadway and Lee Hill Drive. The project is located within MU-1 (Mixed Use -1) and RMX-2 (Residential Mixed -2) zones, both of which have no density limits. Intensity is therefore controlled by floor area ratio. The MU-1 zone has a 0.6 FAR (floor area ratio) limitation. With 26 percent of the site required for public right-of-way dedication, the applicant is concerned about the feasibility to build the project based on how the required dedications reduce the allowable floor area. **Attachment F** contains a letter from the applicant, example calculations and a reference rendering and site plan. The Armory project is scheduled to come before the Planning Board as a Concept Plan on Aug. 21, 2014.

How is density/intensity calculated per the Land Use Code?

The Land Use Code includes a large number of zoning districts created over the last several decades and reflect a variety of planning philosophies and policies and their development over time. Older zoning districts (pre-1970s) determined density by dividing lot area, whereas more contemporary zoning districts (1970s to now) have calculated density based on open space. This is described further below.

With zoning districts that determine density based on lot area, the calculation is straightforward; effectively, the total lot area (net lot area) is divided by a figure (e.g., 7,000 square feet, 1,600 square feet, 3,200 square feet depending on the zoning district) to determine the total permitted number of dwelling units. Similarly, floor area ratio (FAR) is determined by multiplying a percentage (e.g., 1.7, 0.6 etc.) by the total land area to determine how much floor area can be built in a project.

Most zoning districts have a base open space requirement that is a percentage of the total lot area. This requirement is more attributed to design than allowable number of units. However, there are some zones that base the allowable number of units on the amount of open space provided. In this zones based on open space, density is not tied to lot area, but as a ratio to the amount of open space that is provided in a development per dwelling unit. This requires detailed staff review of plans and verification of the amount of open space. Open space is typically landscape areas, plazas, pedestrianways, active and passive hardscape/greensapce areas, including decks and balconies. The permitted density is the total amount of open space provided within a development site divided by a figure (e.g., 6,000 square feet, 3,000 square feet, 1,600 square feet of open space depending on the zoning district). The Planning Board raised concerns about the complexity of this method and recommended to City Council to "*direct staff to investigate how to simplify the calculation to achieve the city's goals for density in non-FAR governed areas, where the zoning currently controls the allowed density and intensity.*"

Despite the appearance of complexity, staff has not found the open space standards to be overly complex in their application. **Attachment D** shows in further detail how density is currently calculated for zones in which density is regulated through minimum open space requirements and how the regulations of the proposed ordinance would be applied to open space standards. The attachment contains two example projects.

Current standards have for many years created stable expectations related to density in those zone districts. Staff finds that a comprehensive change to the open space based density regulations would be very resource intensive and outside of the scope of this particular code change. If such a request were to move forward, staff asks that the proposed ordinance be tabled and a comprehensive analysis of the zoning districts be prioritized and addressed through the annual departmental work program.

What areas of the city are eligible?

The proposed standards would only apply to limited areas of planned growth and intensity and where area plans and or TNP's have been adopted. It should be noted that there are areas of the city where area plans were adopted with very specific TNP's. There are also areas of the city where stand alone TNP's (that are not associated with an area plan) have been adopted. Procedurally, all such requests would be required to be evaluated through the Site Review process.

Areas of the city with adopted area plans that include companion TNP's (See Figure 1 below).

- Gunbarrel Community Center Plan
- North Boulder Subcommunity Plan
- Transit Village Area Plan
- Boulder Valley Regional Center

Areas of the city with adopted stand alone TNP's (See Figure 2 below).

- North 28th St. TNP
- 28th St. Frontage Rd. TNP

It should be noted that the Downtown and University Hill areas have been intentionally excluded from this proposal as both areas already have strong gridded pedestrian and vehicle connections. Accordingly, those areas do not have adopted TNP's. Additionally, the proposal would exclude rural and low density residential and public and agricultural zones: RR-1, RR-2, RE, RL-1, A, and P regardless of whether such properties are included in an area plan or a TNP. These zones require large minimum lot sizes and permit very low density therefore, dedications have a lesser impact on total density. Further, these zones typically are within established residential areas that are more insulated from change and are not generally in areas where redevelopment is occurring.

Properties located within an area plan and or TNP boundary zoned RL-2 have been made eligible under the proposal because the density is determined by open space. RL-2 is a bit of an outlier in that it's considered a low density zone; however, unlike other low density zoning districts, the RL-2 zone permits a diversity of housing types (e.g., townhomes, multi-family dwellings) in addition to single-family dwellings. RL-2 projects can therefore take the form of medium density development with attached dwelling units, shared open space and common parking and therefore could be significantly impacted by right-of-way dedications.

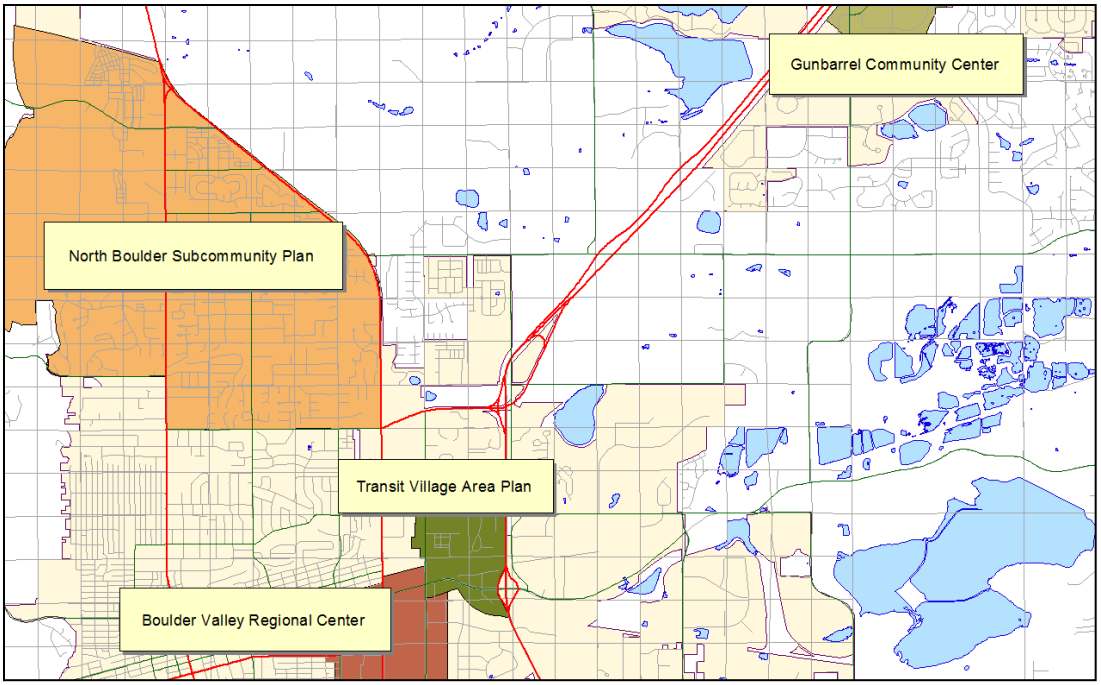


Figure 1- Adopted area plans in Boulder.

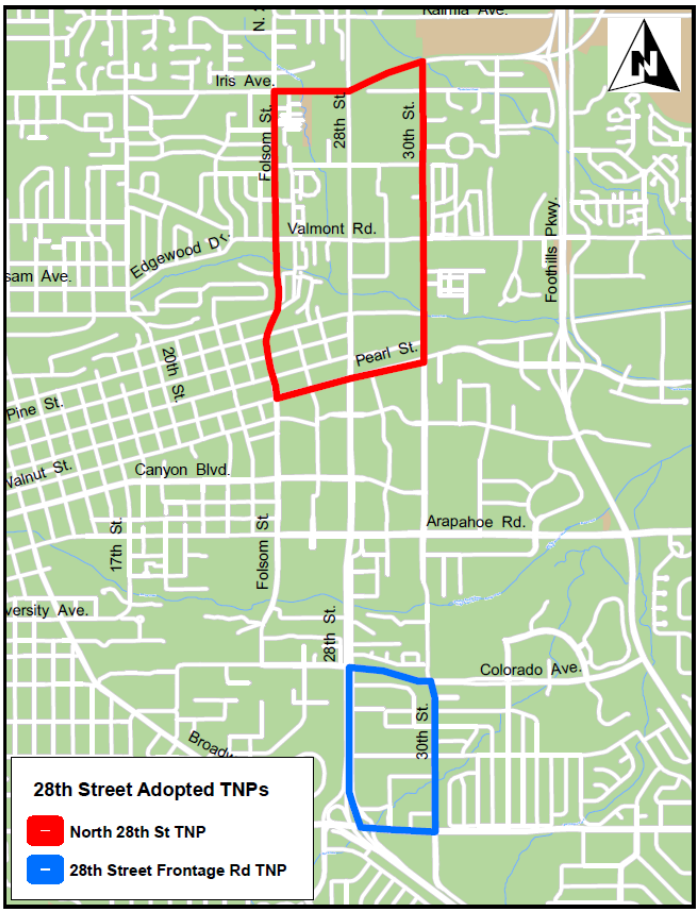


Figure 2- Transportation Network Plans (TNP) outside of area plans.

The Planning Board recommended that the language of the ordinance be changed to state "adopted area plans and transportation network plans" instead of "right-of-way plans" to clarify that the intended scope of the ordinance is limited to areas subject to adopted area plans and transportation network plans and to prevent a city wide application of the ordinance. Staff agreed with the board's recommendation to clarify this language and incorporated the board's proposed language into the ordinance clarifying that the ordinance applies only to properties subject to "area plans and transportation network plans."

Why is the proposed methodology the best option?

Staff is recommending approval of the proposed change for the following reasons (each of which is described in further detail below):

Aside from implementing the goals of the ESS and the CHS (discussed in detail below), the proposed change to the Land Use Code would:

1) Work within the construct of the current intensity standards: While staff agrees that a long-term look at how density is calculated in zones tied to open space may be warranted, this would be a fundamental shift in how the city has governed density over the last few decades. The goals of this project are to work within the framework of the existing Land Use Code and implement a change that can encourage redevelopment in redeveloping areas to their more urban potential and initiate an "early win" for gaining more and diverse housing consistent with the CHS. Staff finds that the proposed solution is consistent with other sections of the Intensity Standards, which apply to specific areas and zones of the city, and is the simplest way of calculating density for redeveloping areas under the current construct of the code.

2) Quality and compatibility assured through Site Review process: While it is true that the proposed change would enable FARs higher than would ordinarily be possible because of required dedications, it is important to point out that the FAR permitted would be no more than what would be possible on a site of identical size that had no public right-of-way requirements. Oftentimes, these sites would contain private vehicular circulation that would limit building floor area similar to how streets and other rights-of-way would affect development with dedications. It is possible that more upper floor construction could result from the change (if there are disproportionally higher numbers of rights-of-way required), but this is largely dependent on a number of other factors including required setbacks and placement of site features like buildings, parking and open space. Either way, instances of upper floor construction would trigger height modifications if over 35 feet and would as a result require mandatory Planning Board review and decision.

Staff believes that the Site Review process would enable the city to assess the overall quality and site design against the detailed Site Review criteria and ultimately ensure that building design and massing as well as overall site design would be consistent with the guidelines and objectives set forth within the adopted area plans to determine that the character and intensity of the project is appropriate. The allowance for density would be evenly applied to applicable sites, but approval of projects would be contingent on meeting the detailed Site Review criteria.

3) Implementation of Recommended Action 3.5 of the Economic Sustainability Strategy:
Recommended Action 3.5 of the Economic Sustainability Strategy states:

> Action 3.5, page 17, ESS - Revise the land use regulations to allow, through Site Review, the density and floor area that would otherwise be permitted prior to the dedication of land for public

right-of-way in areas where the city has adopted connections plans.

The proposed change would be consistent with the recommended action.

4) Greater density will be consistent with goals of CHS: Enabling density that is otherwise not more than what would be possible on a site without dedication requirements can encourage developers to create more dwelling units of more modest sizes consistent with the goals of the Comprehensive Housing Strategy (CHS), which are:

1. Strengthen the city's affordable housing programs for low- and moderate-income households.

2. Expand housing opportunities for middle-income households.

3. Explore innovative approaches to providing additional housing and a broader range of housing options, particularly for housing needs not being met by the market.

Staff understands that this option was not framed under the CHS at the May 1st discussion. This is because the CHS "early wins" identified at the time were not yet presented to and sanctioned by the City Council and therefore, staff did not include the item as an "early win" at that time.

To achieve a higher number of units with the open space requirements or greater FAR, developers will be more likely to provide more modest sized units and more attached units as opposed to higher numbers of single-family dwellings, which have been provided in the past (e.g., Dakota Ridge, Holiday etc.). This ability to provide more units and a greater diversity of unit types would better achieve the aforementioned CHS goals while also having the assurance that there will still be ample open space to provide relief to density and high quality site design, as discussed below.

5) Open Space will continue to be provided in appropriate amounts: Open space will continue to be provided and with respect to zones that determine density based on open space, the amounts of open space would continue to be relatively high. Staff finds that the adjustment of the 'open space per dwelling' figure reasonable considering that the city would be gaining important transportation connections and enhancements to the public realm in areas with a more urban typology. While the open space would be modified by including 70 percent of the land area required for dedication, it is important to understand that zoning districts that determine density from amount of open space (many of which are applied to areas anticipated to become urban) have proportionally very high percentages of open space. While it is true that the amount of open space per dwelling unit would decrease, applicable projects would continue to have high percentages of open space, albeit with more units and likely smaller units, which is within the intent of CHS goals as stated above. To illustrate the amount of open space that would remain on lots, staff has prepared the following analysis:

Table 4- Open space within developments under current code and proposed change.

Project	Allowed density per code	Possible density through proposed change	Total % of open space within the development under both scenarios
Dakota Ridge	412 units (7.2 du/ac)	540 units (13 du/ac)	68%
1000 Rosewood	16 units (6.8 du/ac)	23 units (10.5 du/ac)	74%
820 Lee Hill	31 units (4.8 du/ac)	38 units (5.8 du/ac)	86%
4051 Broadway	8 units (3.2 du/ac)	10 units (4 du/ac)	54%

Concerns were raised about elimination or minimizing of open space through the proposed code changes. Table 4 above shows that in actuality it is a reduction in open space per dwelling unit and not holistically across an entire site. Furthermore, Table 4 shows how high open space requirements are within zones that determine open space per dwelling unit with the examples ranging from 54 percent of 86 percent of a total site area. As the proposed increase in the number of dwelling units would still be fixed to the overall amount of open space on the site, high percentages of open space on sites would be retained. There will continue to be generous amounts of open space within developments, albeit with a higher number of units; many of which would more likely be attached and more of a modest size.

In response to concerns about reducing open space and after review of some of the examples received, staff has rethought one aspect of the proposed change and proposes the following alteration to proposed section (1)(A) as follows:

> *(B) Useable open space to meet the open space per dwelling unit ~~and minimum open space on lots~~ requirements of Table 8-1 of Section 9-8-1, "Intensity Standards," B.R.C. 1981. No more than seventy percent of the total area dedicated may count as useable open space.*

Staff proposes the elimination of enabling the 'minimum open space on lots' to be used in the calculation because:

- The 'minimum open space on lots' requirement does not govern density (number of units per acre), but rather is a basic open space design requirement to encourage a good site design and relief from density. It requires open space as a base percentage of the total site based on building height and/or zoning district rather than being amount of open space per dwelling unit.
- Staff was concerned that the proposed language could be used in a way to reduce the overall percentage of open space on a site to a very low percentage for zones that have 10-20 percent open space requirements. Most of the zones with the lower open space requirements have FAR limits which would already be based on gross land area as proposed. Retaining the base amount of open space would ensure relief from building massing received by the FAR calculations based on gross land area and would encourage open space to be integrated into the plan (see Table 8-1, "Intensity Standards," B.R.C. 1981 for the IM, BT-2, IG, MU-1, MU-2, MU-3, BMS zones here.)
- Zoning districts with high open space percentage requirements (e.g., 40 to 60 percent) or no FAR limits already have mechanisms in the Land Use Code to reduce open space and/or increase density. See the following zoning districts: BR-2, RMX-2, RH-2, RH-3, RH-7 in the weblink above.

- The proposed change would simplify the application of the regulations and avoid situations where there may be more than one method of allowing a reduction of open space on sites.

Again, staff is supportive of the proposed methodology proposed above as each project would still be subject to Site Review consideration. The quantity and quality of open space will remain subject to review under the Site Review criteria in terms of amount, accessibility and functionality and its role in providing relief to density, both within the project and from surrounding development. Site Review is an appropriate process to review for the relationship of design factors, including but not limited to building and site design, landscaping, open space and circulation and overall consistency with BVCP policies.

STAFF RECOMMENDATION (MOTION LANGUAGE)

Staff recommends that Planning Board recommend to the City Council adoption of an ordinance implementing recommended actions of the Economic Sustainability Strategy (ESS) by amending Title 9, "Land Use Code," B.R.C. 1981, by adding a new intensity standard to Chapter 9-8, "Intensity Standards," B.R.C. 1981, to permit land dedicated as right-of way for new transportation connections as designated in adopted area plans or adopted transportation network plans to be included in the zoning calculations for lot area to determine allowable density (dwelling units per acre) and Floor Area Ratio (FAR) as well as open space requirements on lots.

Approved By:

David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS

A. Draft ordinance
B. Summary of the Planning Board discussion and subsequent motions
C. HOTLINE questions from City Council to staff and responses
D. Density calculations in zoning districts based on open space (existing and proposed)
E. Example of density calculations for the proposed S*park project
F. Example of density calculations for the proposed Armory project

ORDINANCE NO. 7976

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO AMEND DENSITY AND INTENSITY STANDARDS FOR SITE REVIEW PROJECTS INVOLVING DEDICATION OF RIGHT-OF-WAY CONSISTENT WITH ADOPTED TRANSPORTATION NETWORK PLANS AND TO ADD A VALUATION METHOD FOR EXISTING STRUCTURES FOR DETERMINATION OF UPGRADE REQUIREMENTS UNDER TITLE 9, B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Table 8-1 of Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, is amended to read:

TABLE 8-1: INTENSITY STANDARDS

Zoning District	Intensity Module	Minimum Lot Area (in square feet unless otherwise noted)[c]	Minimum Lot Area Per Dwelling Unit (square feet)[c]	Number of Dwelling Units Per Acre	Minimum Open Space Per Dwelling Unit (square feet)[c]	Minimum Open Space on Lots (Residential Uses)[c]	Minimum Open Space on Lots (Nonresidential Uses)[a][c]	Minimum Private Open Space (Residential Uses) (square feet)	Maximum Floor Area Ratio[c]
					See Section 9-9-11 for additional open space requirements. For mixed use developments, use the requirements of either the residential or nonresidential standards that result in the greatest amount of open space				
A	1	5 acres	5 acres	0.2	0	–	10 - 20%	0	0
RR-1, RR-2	2	30,000	30,000	1.4	0	–	10 - 20%	0	See Table 8-3
RE	3	15,000	15,000	2.9	0	–	10 - 20%	0	See Table 8-3
RL-1	4	7,000	7,000	6.2	0	–	10 - 20%	0	See Table 8-3
P	5	7,000	7,000	6.2	0	–	10 - 20%	0	0
RL-2	6	0	0	–	6,000	–	10 - 20%	0	See Table 8-3
RMX-1	7	6,000	6,000	7.3	600	–	10 - 20%	0	See Table 8-3
RMX-2	8	0	0	10 (up to 20 by	0	15%	15%	60	0

				review)					
RM-1	9	0	0	–	3,000	–	10 - 20%	0	0
IS-2	10	0	0	–	600	–	10 - 20%	60	0.5:1
IS-1	11	7,000	0	–	0	–	10 - 20%	60	0.5:1
RH-1	12	0	0	–	1,600	–	10 - 20%	0	0
RH-2	12.5	6,000	3,000	14 (up to 27.2 by review)	600	–	10 - 20%	0	0
RM-2, RM-3	13	6,000	3,500	12.4	–	–	10 - 20%	0	0
RH-3, RH-7	14	0	0	–	0	60% [(b)]	60% [(b)]	60	0
RH-4, BT-1, BC-1	15	0	0	–	1,200	–	10 - 20%	0	0
BR-2	16	0	0	–	0	40%	10 - 20%	60	0
BMS	17	0	0	–	0	15%	15%	60	0.67 (1.85 if within CAGID or UHGID)
RH-6	17.5	–	1,800	–	600	–	–	–	
MU-1, MU-2, IMS	18	0	0	–	0	15%	15%	60	0.6:1
RH-5, BC-2	19	6,000	1,600	27.2	600 (400 by site review if in a mixed use development)	–	10 - 20%	0	0
IM	20	7,000	1,600	27.2	600	40% (20% if within a park service area)	10 - 20%	60	0.4:1
BT-2	21	6,000	1,600	27.2	600	–	10 - 20%	0	0.5:1
IG	22	7,000	1,600	27.2	600	40% (20% if within a park service area)	10 - 20%	60	0.5:1
BR-1	23	6,000	1,600	27.2	0	–	10 - 20%	0	2.0:1
MU-3	24	0	0	–	0	15%	15%	60	1.0:1
MU-4	24.5	0	0	–	0	15%	15%	60	2.0
DT-1	25	0	0	–	0	–	10 - 20%	60	1.0:1
DT-2	26	0	0	–	0	–	10 - 20%	60	1.5:1
DT-3, DT-4, DT-5	27	0	0	–	0	–	10 - 20%	60	1.7:1
BCS	28	–	–	–	–	–	10 - 20%	–	–

Footnotes:

(a) This requirement may increase based on building height pursuant to Subsection 9-9-11(c), B.R.C. 1981.

(b) Open space may be reduced using the standards in Sections 9-8-3, "Density in the RH-1, RH-2, RH-3 and RH-7 Districts," and 9-9-11, "Useable Open Space," B.R.C. 1981.

(c) Lot area, open space, and floor area ratio may be calculated according to the standards in Section 9-8-8, "Density and Intensity Standards on Properties subject to Transportation Network Plans," B.R.C. 1981.

Section 2. Chapter 9-8, "Intensity Standards," B.R.C. 1981, is amended by the addition of a new section to read:

9-8-8 Density and Intensity Standards on Properties Subject to Transportation Network Plans.

(a) Public right-of-way, including but not limited to streets, alleys, sidewalks, bike paths, paths, and landscaped areas, may be counted as lot area and useable open space as specified in paragraphs (a)(1) and (a)(2) of this section if the criteria of subsection (b) of this section are met.

(1) Lot area to meet the minimum lot area and minimum lot area per dwelling unit requirements and to calculate allowed floor area under the floor area ratio standards of Chapter 9-8, "Intensity Standards," B.R.C. 1981; and

(2) Useable open space to meet the open space per dwelling unit and minimum open space on lots requirements of Table 8-1 of Section 9-8-1, "Intensity Standards," B.R.C. 1981. No more than seventy percent of the total area dedicated may count as useable open space.

(b) Criteria for qualification:

(1) The property is not located in the RR-1, RR-2, RE, RL-1, A, and P zoning districts;

(2) The land is dedicated to the city for a new transportation connection as designated in an adopted area plan or in an adopted transportation network plan and as part of the project under review;

(3) The dedication is recorded with the Boulder County Clerk and Recorder's Office after August 16, 2014;

(4) The project under review is a new development project or a redevelopment project exceeding one hundred percent of the value of any existing structures based on either the actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado; and

(5) The project is approved through a site review pursuant to Section 9-2-14, "Site Review," B.R.C. 1981.

Section 3. Section 9-9-5, "Site Access Control," B.R.C. 1981, is amended to read:

9-9-5 Site Access Control.

(a) Access Control: Vehicular access to property from the public right-of-way shall be controlled in such a manner as to protect the traffic-carrying capacity and safety of the street upon which the property abuts and access is taken, ensuring that the public use and purpose of public rights-of-way is unimpaired as well as to protect the value of the public infrastructure and adjacent property. The requirements of this section apply to all land uses, including single-family residential land uses, as follows:

(1) For all uses, except single-family residential, the standards shall be met prior to a final inspection for any building permit for new development; redevelopment exceeding twenty-five percent of the ~~Boulder County Assessor's actual~~ value of the existing structure; or the addition of a dwelling unit. For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.

(2) For single-family residential uses, the standards of this section shall be met prior to a final inspection for any building permit for new development; the demolition of a principal structure; or the conversion of an attached garage or carport to a use other than use as a parking space.

(b) Access for Properties Subject to Annexation: Each parcel of land under a single ownership at the time of its annexation will be reviewed in terms of access as one parcel (regardless of subsequent sales of a portion) unless the property is subdivided at the time of its annexation.

(c) Standards and Criteria for Site Accesses and Curb Cuts: Any access or curb cut to public rights-of-way shall be designed in accordance with the City of Boulder Design and Construction Standards and the following standards and criteria:

(1) Number of Access Points Permitted: One access point or curb cut per property will be permitted, unless a site plan or traffic study, approved by the city manager, demonstrates that additional access points and curb cuts are required to adequately address accessibility, circulation, and driveway volumes, and only where additional accesses and curb cuts would not impair any public use of any public right-of-way, or create safety or operational problems, or be detrimental to traffic flow on adjacent public streets.

(2) Access Restrictions: On arterial and collector streets, or if necessary for the safe and efficient movement of traffic, all accesses shall be designed and constructed with physical improvements and appropriate traffic control measures to assist or restrict turning movements, including, without limitation, acceleration or deceleration lanes,

access islands, street medians, and signage, as may be required of the development if the city manager finds that they are necessary to preserve the safety or the traffic-carrying capacity of the existing street. The city manager shall determine the length and degree of the required access restriction measures for the property.

(3) Residential Access to Arterial and Collector Streets Restricted: No residential structures shall have direct access onto an arterial. However, if no alternative street access is possible, an access may be permitted subject to the incorporation of any design standards determined to be necessary by the city manager to preserve the safety and the traffic-carrying capacity of the arterial or collector.

(4) Access From Lowest Category Street Required: A property that has frontage on more than one street, alley or public access shall locate its access or curb cut on the lowest category street, alley or public access frontage. If more than one access point or curb cut is necessary, an additional access or curb cut will be permitted only where the proposed access or curb cut satisfies the requirements in this section.

(5) Property Right to Access: If a property cannot be served by any access point or curb cut that satisfies this section, the city manager will designate the access point or curb cut for the subject property based on optimal traffic safety.

(6) Multiple Access Points for Single-Family Residential: The city manager will permit multiple access points on the same street for single-family residential lots upon finding that there is at least one hundred linear feet of lot frontage adjacent to the front yard on such street, the area has a limited amount of pedestrian activity because of the low density character, and there is enough on-street parking within three hundred feet of the property to meet the off-street parking needs of such area. The total cumulative width of multiple curb cuts shall not exceed the maximum permitted width of a single curb cut. The minimum spacing between multiple curb cuts on the same property shall not be less than sixty-five feet.

(7) Shared Driveways for Residential Structures: A detached single-family residential lot that does not have frontage on the street from which access is taken may be served by a shared driveway that meets all of the standards and criteria for shared driveways set forth in the City of Boulder Design and Construction Standards.

(8) Minimum Driveway Width: The minimum width of a driveway leading to an off-street parking space shall not be less than nine feet. A driveway, or portion of a driveway, may be located on an adjacent property if an easement is obtained from the impacted property owner. (See figure 9-1 of this section.)

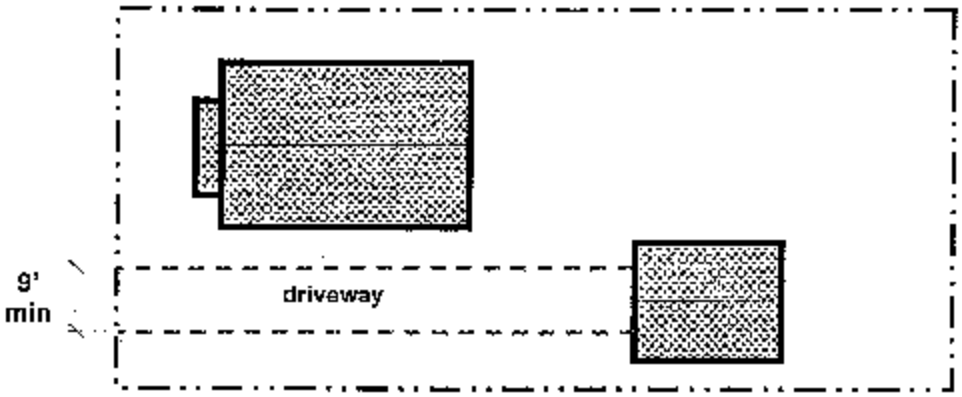


Figure 9-1: Minimum Driveway Width

(9) Exceptions: The requirements of this section may be modified under the provisions of ~~section 9-2-14~~Section 9-2-14, "Site Review," B.R.C. 1981, to provide for safe and reasonable access. Exceptions to this section may be made if the city manager determines that:

(A) The topography, configuration of a lot, or other physical constraints makes taking access from the lowest category street, alley or public access frontage impractical, or the character of the existing area is such that a proposed or existing access to the street, alley or public access frontage is compatible with the access of properties in such area;

(B) The site access and curb cuts would not impair public use of the public right-of-way; create safety or operational problems or be detrimental to traffic flow on adjacent public streets; and

(C) The site access and curb cuts will minimize impacts to the existing on-street parking patterns.

. . .

Section 4. Section 9-9-12, "Landscaping and Screening Standards," B.R.C. 1981, is amended to read:

9-9-12 Landscaping and Screening Standards.

. . .

(b) Scope: This section and Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981, apply to all nonresidential and multi-family residential developments unless expressly stated otherwise.

(1) The standards in this section and Sections 9-9-13, "Streetscape Design Standards," and 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981, shall be met prior to a final inspection for any building permit for:

(A) New development;

(B) Redevelopment involving expansion of the total building floor area which exceeds twenty-five percent of the ~~Boulder County Assessor's actual~~ value of the existing structure for any use except a property with three or fewer attached dwelling units;

(C) Redevelopment involving the expansion of the total floor area for a property that has three or fewer attached dwelling units, shall meet the landscaping standards as follows:

(i) Redevelopment valued at more than twenty-five percent, but less than fifty percent of the ~~Boulder County Assessor's actual~~ value of the existing structure shall require compliance with the street and alley tree requirements and the trash and parking screening requirements;

(ii) Redevelopment valued at fifty percent or more, but less than seventy-five percent of the ~~Boulder County Assessor's actual~~ value of the existing structure shall require compliance with the street and alley tree requirements and the trash and parking screening requirements and the front yard landscape requirements; and

(iii) Redevelopment valued at seventy-five percent or more of the ~~Boulder County Assessor's actual~~ value of the existing structure shall require compliance with the landscape regulations.

(D) Redevelopment exceeding one hundred percent of the ~~Boulder County Assessor's actual~~ value of the existing structure and not involving expansion of the total building floor area; or

(E) The addition of a dwelling unit.

(F) For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the

actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.

(2) When additional parking spaces are provided, or for a change of use where new off-street parking spaces are provided, the provisions of Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981, shall be applied as follows:

(A) When the number of additional parking spaces that will be provided exceeds twenty-five percent of the number of existing parking spaces on the site, all standards in Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981, shall be met for the entire parking lot (existing and new portions) prior to the final inspection for a change of use or concurrent with the addition of the parking spaces.

(B) When the number of additional parking spaces that will be provided is less than twenty five percent of the number of existing parking spaces on the site, the standards in Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981, shall be met for the new portions of the parking lot prior to the final inspection for a change of use or concurrent with the addition of the parking spaces.

. . .

Section 5. Section 9-9-16, "Lighting, Outdoor," B.R.C. 1981, is amended to read:

9-9-16 Lighting, Outdoor.

. . .

(c) Scope: This section shall apply to all exterior lighting, including illumination from outdoor signs that impact the outdoor environment. No person shall install any light fixture unless such fixture meets the requirements of this section.

(1) Conformance at the Time of Building Permit Application: Compliance with the requirements of this chapter shall be required for all new development. The following outdoor lighting improvements shall be installed prior to a final inspection for any building permit for any redevelopment which exceeds the following thresholds:

(A) When development or redevelopment exceeds twenty-five percent of the ~~Boulder County Assessor's actual~~ value of the existing structure, then all existing unshielded exterior light fixtures shall be retrofitted with shielding to prevent light trespass.

(B) When development or redevelopment exceeds fifty percent of the ~~Boulder County Assessor's actual~~ value of the existing structure, then:

(i) All exterior lighting, except existing parking lot lighting, shall be brought into conformance with the requirements of this section; and

(ii) All existing parking lot light fixtures shall be retrofitted with shielding to prevent light trespass.

(C) When development or redevelopment exceeds seventy-five percent of the ~~Boulder County Assessor's actual~~ value of the existing structure, then all exterior lighting fixtures shall be brought into full conformance with the requirements of this section.

(D) For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.

(2) Replacement of Fixtures: If an existing light fixture is removed, it shall only be replaced with a conforming light fixture.

. . .

Section 6. Section 9-10-2, "Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures and Lots," B.R.C. 1981, is amended to read:

9-10-2 Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures and Lots.

. . .

(d) Drive-Thru Facilities: A drive-thru facility that was established prior to July 31, 1986, on a property not abutting Canyon Boulevard in the DT zoning districts, and has not expired pursuant to subsection (a) of this section, shall be considered a nonconforming use, and may:

(1) Be renovated or remodeled, by improvements the cumulative total of which increases the structure's fair market value by no more than twenty-five percent of the ~~Boulder County Assessor's actual~~ value of the structure, without meeting the criteria for drive-thru uses in ~~subsection~~ Subsection 9-6-9(c), B.R.C. 1981;

(2) Be renovated or remodeled by improvements the cumulative total of which increases the facility's structure's fair market value by more than twenty-five percent of the ~~Boulder County Assessor's actual~~ value of the structure; or be relocated on site if the development meets the criteria for drive-thru uses in ~~subsection~~ Subsection 9-6-9(c), B.R.C. 1981; or

(3) Be relocated off site or expanded on site, subject to the conditional use requirements for drive-thru uses. For the purposes of this paragraph, "expanded" means creation of an additional drive-thru bay, lane, or teller window.

(4) For purposes of this subsection (d), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.

Section 7. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 8. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of May, 2014.

.

_____
Mayor

Attest:

_____
City Clerk

K:\PLCU\Ordinance No. 7976 1st rdg.EHF.docx

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of June, 2014.

_____
Mayor

Attest:

_____
City Clerk

K:\PLCU\Ordinance No. 7976 1st rdg.EHF.docx

ATTACHMENT B

May 1, 2014 Planning Board public hearing summary

Planning Board reviewed and recommended approval of the Economic Sustainability Study on Oct. 10, 2013. The board heard the proposed ordinance on May 1, 2014 and made separate motions for each respective code change (i.e., density calculation and the valuation change), which are reflected in the underlined, italicized text below. Audio and complete meeting minutes from the May 1, 2014 meeting can be found on the Planning Board's website at www.bouldercolorado.gov/boards-commissions/planning-board.

⇨ Land Use Intensity Code Change:

The motions were as follows:
*On a motion by **C. Gray**, seconded by **L. Payton**, the Planning Board voted 4-2 (**L. May** and **J. Gerstle** opposed; **A. Brockett** absent) to recommend approval to the City Council of an ordinance implementing recommended actions of the Economic Sustainability Strategy by amending Title 9, "Land Use Code," B.R.C. 1981, in particular:*

1. *Revising the land use regulations to allow, through Site Review, on properties that are subject to right-of-way dedications consistent with adopted right-of-way plans the density and floor area that would be permitted in the absence of such dedications (Action 3.5, ESS) with the recommendation that City Council change the wording under Section 9-8-8 (b)(2) from "or any other right of way plan approved by City Council and as part of a project under review" to "or within a subarea plan or a transportation network plan and as part of the project under review".*

***L. May** supported the sentiment of what it was trying to achieve but did not feel that it was the right way to go about it.*

***J. Gerstle** opposed the motion because he did not feel that the board understood the proposed ordinance sufficiently to recommend it to Council.*

*On a motion by **L. May,** seconded by **B. Bowen** the Planning Board voted 6-0 (**A. Brockett** absent) to recommend that Council direct staff to investigate how to simplify the calculation to achieve the city's goals for density in non-FAR governed areas, where the zoning currently controls the allowed density and intensity.*

***J. Putnam** thought that this should be considered in the housing strategy as well.*

One board member expressed concern that the wording of the ordinance may be too broad in referencing "right-of-way" plans that apply city wide where the scope should be more focused to area plans and transportation connections plans.

⇨ Property Valuation Code Change:

The motions were as follows:
***J. Putnam**, seconded by **B. Bowen**, moved that the Planning Board recommend approval to the City Council of an ordinance implementing recommended actions of the Economic Sustainability Strategy by amending Title 9, "Land Use Code," B.R.C. 1981, in particular:*

1. *Updating the land use regulations that require site improvements and upgrades if a project exceeds a certain percentage of the value of any existing structures on the property by allowing the value of existing structures to be established through a professional appraisal of the fair market value of such structures (Action 3.6, ESS).*

*On a subsidiary motion to amend the main motion **J. Gerstle,** seconded by **L. May**, the Planning Board voted 4-2 (**B. Bowen** and **J. Putnam** opposed, **A. Brockett** absent) to recommend that if a private appraisal is used in this process, that information shall be provided to the County Assessor.*

*The main motion, as amended, passed 4-2 (**B. Bowen** and **J. Putnam** opposed, **A. Brockett** absent).*

Planning Board members Bowen and Putnam, despite proposing the original motion, voted against it because of the amendment to the motion requiring a referral of any appraisal to the county.

ATTACHMENT C

HOTLINE questions and staff responses

1. Are there examples of other municipalities that calculate the density (floor area or dwelling units per acre) in the manner that is proposed?

Yes. Communities across the nation often determine density either by gross (pre-dedication) or net (post-dedication) land area- usually the latter is through a discretionary review process like Site Review. Some examples of communities that allow gross land area are Pasadena, CA, which defines density as follows: "*Density. The number of dwelling units on a lot in relation to the lot size, expressed in units per acre. If a street dedication is required, density shall be calculated using the size of the lot prior to the street dedication*." Another example is Arlington, VA, which has code section 15.10. Density Credit for Public Dedication (see here for the code language). Portland, OR has a process where an overlay district can be applied to area and a density bonus is applied for developments that go through a discretionary review process. This is not unlike how proposed projects in area plan areas would undergo a Site Review to achieve the density based on gross land area. The proposal in Boulder is unique, however, with the allowance to count up to 70 percent of the areas required for dedication. This is largely due to the method of calculating density as a factor of open space, rather than land area. This is discussed in more detail below.

2. In the case of allowing dedicated ROW as open space, how was the 70% number arrived at?

Density determined by lot area is more straightforward as the amount of additional units is directly proportional to the amount of land area being dedicated. This is more difficult when density is determined by amount of open space per dwelling unit. For zones that base density on open space, the original idea was to allow 100 percent of right-of-way areas to be added to the open space calculation to determine density. Staff was concerned with this as it allowed density increases greater than the percentage of land being dedicated. When 70 percent is applied, the percentage increase in the number of units is roughly proportional to the amount of land being dedicated. This makes the amount of increases roughly equivalent between zones that determine density by lot area and open space. Attachment D shows how the density calculation would work and also demonstrates that projects would continue to have a high amount of open space despite the open space per dwelling unit figure being reduced.

3. Was consideration given to how these proposed changes would interact with the various plans that are underway (Comprehensive Housing Strategy, Access Management and Parking Strategy, Transportation Master Plan, etc.)?

Yes. In addition to removing barriers to redevelopment in area plan areas, staff has identified the proposed change to the density calculation as an "early win" of the Comprehensive Housing Strategy. This is because additional density in area plan areas would incentivize the construction of additional dwelling units in areas where density is anticipated and desired. Under the existing open space restrictions and other site design factors, developers would most likely provide more attached dwelling units of modest size and with that a greater diversity of housing types for the city, where without the allowance to use gross land area, more detached, larger units would be more likely. This allowance would be consistent with the goals of the CHS. Parking and access would continue to be required under current code requirements (until changed in

the future) and therefore, the proposed change has not been explicitly considered as part of the AMPS or TMP processes.

4. Current site review criteria allow for reductions in open space and parking requirements based on qualitative aspects of particular projects. How would these interact with the proposed changes?

As illustrated in the staff memorandum, zoning districts that determine density by open space have high open space requirements. Examples within the memo show a range of roughly 50 percent to 80 percent of sites as open space, whether or not the density is per gross or net land area. Applicants would be able to continue to request reductions of open space or lot area per section 9-2-14(h)(2)(H), B.R.C. 1981 if the criteria were met. This could be done in addition to the proposed density calculation and both requests would have to be evaluated as part of the Site Review process. Zones that have 'minimum open space on lots' requirements, which is independent of density calculations are being proposed to be removed from the density calcuaqtion as many already have mechanisms within the Land Use Code to reduce open space and/or increase density. This is discussed in more detail on page 16 of the staff memorandum.

ATTACHMENT D

OPEN SPACE DENSITY CALCULATIONS

Example #1: 1000 Rosewood Avenue

Gross land area prior to dedication: 98,682 sf (2.265 acres)
Net land area after dedication: 64,489 sf (1.48 acres)
Area dedicated: 34,193 sf (0.78 acres) (35% of development site)

Current density calculation:

The 1000 Rosewood project was approved with a special ordinance that permitted a slight reduction in the open space requirements to attain 18 units on the site. For the purposes of this example, the approved ordinance is not being factored into the calculation.

The applicant proposed 48,000 square feet of open space in the project. Based on the RM-1 (Residential Medium – 1) zoning district, density is determined by providing 3,000 square feet of open space per dwelling. Therefore, 16 dwelling units would be permitted on the property.

⇨ ***48,000 square feet / 3,000 = 16 units***

Given the fact that 35% of the site was required as new public rights-of-way, this affected the total density permitted for the site.

Proposed density calculation:

The proposed ordinance would permit up to 70 percent of the areas required for public right-of-way to be factored into the open space calculation for density.

70% of area dedicated: **23,935 sf** (34,193 X 0.70 = 23,935)

The figure above would be added to the open space amount to determine density, as shown below:

48,000 square feet + 23,935 square feet = 71,935 square feet

⇨ ***71,935 square feet / 3,000 = 23 units***

This enables 7 additional units and an increase of 30 percent, which is roughly proportional to the amount of land area being dedicated.

TOTAL % OF SITE AS ACTUAL OPEN SPACE (BOTH SCENARIOS): *74%*

Example #2: 820 Lee Hill

Gross land area prior to dedication: 281,839 SF (6.47 acres)
Net land area after dedication: 217,985 sf (5.00 acres)
Area dedicated: 63,854 sf (1.47 acres) (23% of the development site)

Current density calculation:

The applicant proposed 187,727 square feet of open space in the project. Based on the RL-2 (Residential Low – 2) zoning district, density is determined by providing 6,000 square feet of open space per dwelling. Therefore, 31 dwelling units would be permitted on the property.

⇨ ***48,000 square feet / 6,000 = 31 units***

Given the fact that 23% of the site was required as new public rights-of-way, this affected the total density permitted for the site.

Proposed density calculation:

The proposed ordinance would permit up to 70 percent of the areas required for public right-of-way to be factored into the open space calculation for density.

70% of area dedicated: **63,854** (63,854 X 0.70 = 44,698 sf)

The figure above would be added to the open space amount to determine density, as shown below:

44,698 square feet + 187,727 square feet = 232,425 square feet

⇨ **232,425 square feet / *6,000* = *38 units***

This enables 7 additional units and an increase of roughly 23 percent, which is roughly proportional to the amount of land area being dedicated.

TOTAL % OF SITE AS ACTUAL OPEN SPACE (BOTH SCENARIOS): *86%*

ELEMENT PROPERTIES

MEMORANDUM

TO: City of Boulder Planning Staff
FROM: Element Properties
DATE: July 23, 2014
RE: Proposed Right-of-Way Ordinance

For nearly two years Element Properties has been involved in planning efforts for much of Bluff Street within Boulder Junction. Our interest in the area was largely drawn from the Transit Village Area Plan (TVAP) and the opportunity to partner with the City of Boulder to fulfill TVAP's vision for a new mixed-use and mixed-income area that would leverage our local and regional transit investments.

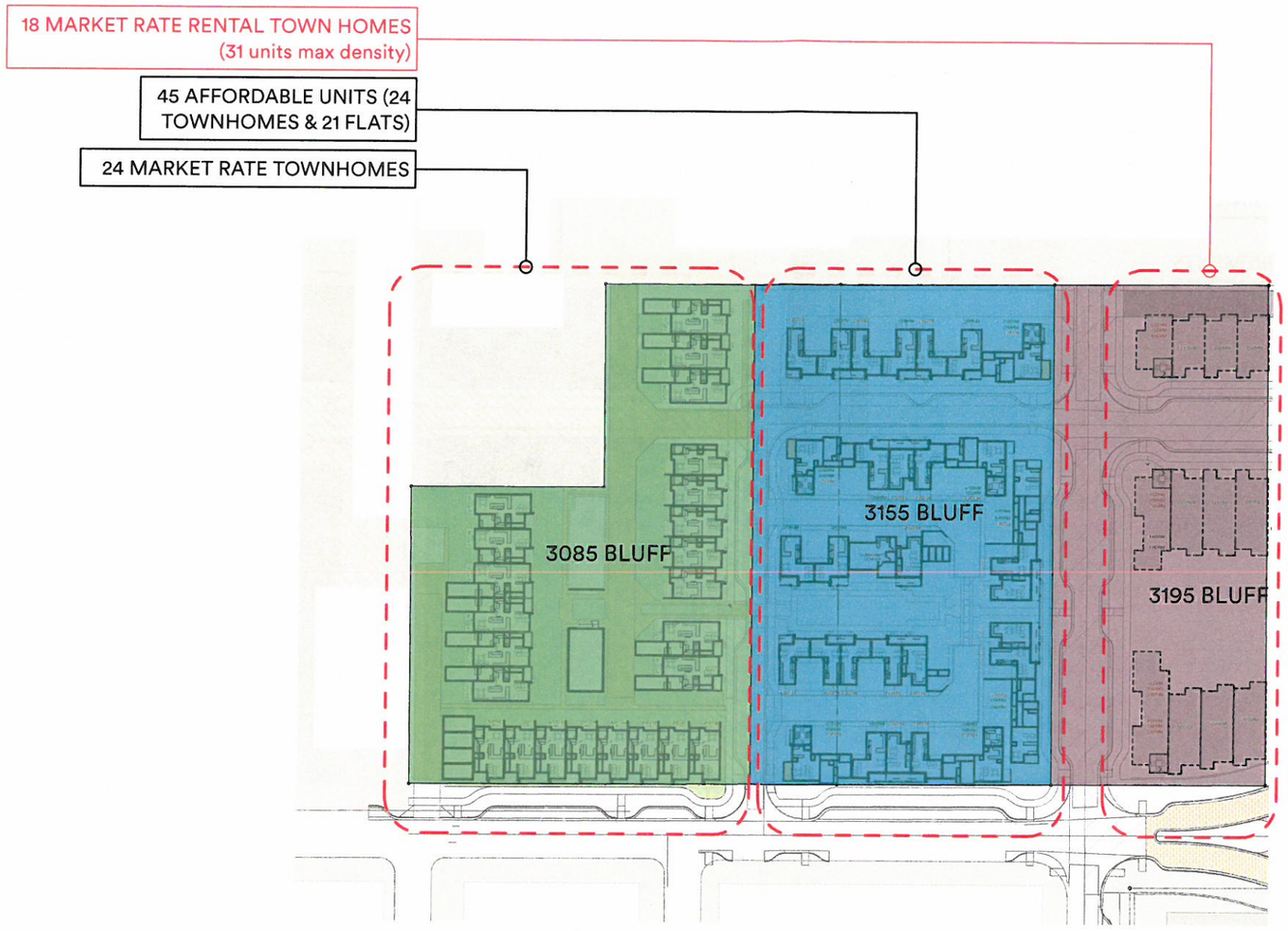
Element's partnership with City staff on these sites has been extremely collaborative, productive and a model for the effectiveness of public-private partnerships. However, our common goals and efforts will continue to be compromised without the approval of the proposed right-of-way ordinance.

The current land assemblage we're working on includes the former Sutherland's Lumber Yard and three adjacent parcels zoned RH-6 located at 3085, 3155 and 3195 Bluff St. On these parcels we're planning to fulfill TVAP's vision of mixed-income townhomes and flats, both for-sale and tenant-occupied with affordable and market rate rents. Element has partnered with Boulder's Division of Housing for the acquisition of one of these sites, 3155 Bluff. We've also recently submitted a Concept Plan Review that proposes a shift in the lot lines so that the sites under our control at 3085 and 3195 Bluff would contribute land area to 3155 Bluff, thus allowing for an increase in affordable homes on the site. Forty-five units of permanently affordable housing are proposed at 3155 Bluff.

Together the three properties along Bluff cover ~185,000 SF of land area. When these properties were acquired it was presumed that the zoning would allow for 102 housing units with the 1800 SF of land required per unit in the RH-6 zone; potentially more with density bonuses mentioned in TVAP for LEED certification and on-site affordable housing. However, to provide the necessary transit connections, a land dedication of 41,200 SF, roughly 22% of the combined land area, is required therefore limiting the net amount of allowable units to 77. The Concept Plan, in it's current form and using the net land area calculation for density, allows for only 8 units on a 1.1 acre parcel at 3195 Bluff. We believe that would be an unfortunate result for a high-density zone in Boulder's most transit-oriented area and contrary to our community's land use, transit and sustainability goals. Our hope is that this issue is resolved so we can revise our plans to include the additional units allowed when density is calculated on gross land area. In this circumstance that will not require the proposed reduction in open space that's included in the ordinance.

We look forward to Planning Board's next review of this issue on August 7th and a subsequent review by City Council. Your consideration is much appreciated.

1539 Pearl St. Boulder, CO 80302 - (303) 325-2606 - elementproperties.com



PROPERTY PARCEL	GROSS SITE AREA	ALLOWABLE GROSS DENSITY PER RH-6 REQUIREMENTS	PROPOSED DENSITY
COMBINED PROPERTY PARCEL (3085, 3155 & 3195)	180,516.54	100	93

GROSS AREA DENSITY

N 0 50 100

7/24/14

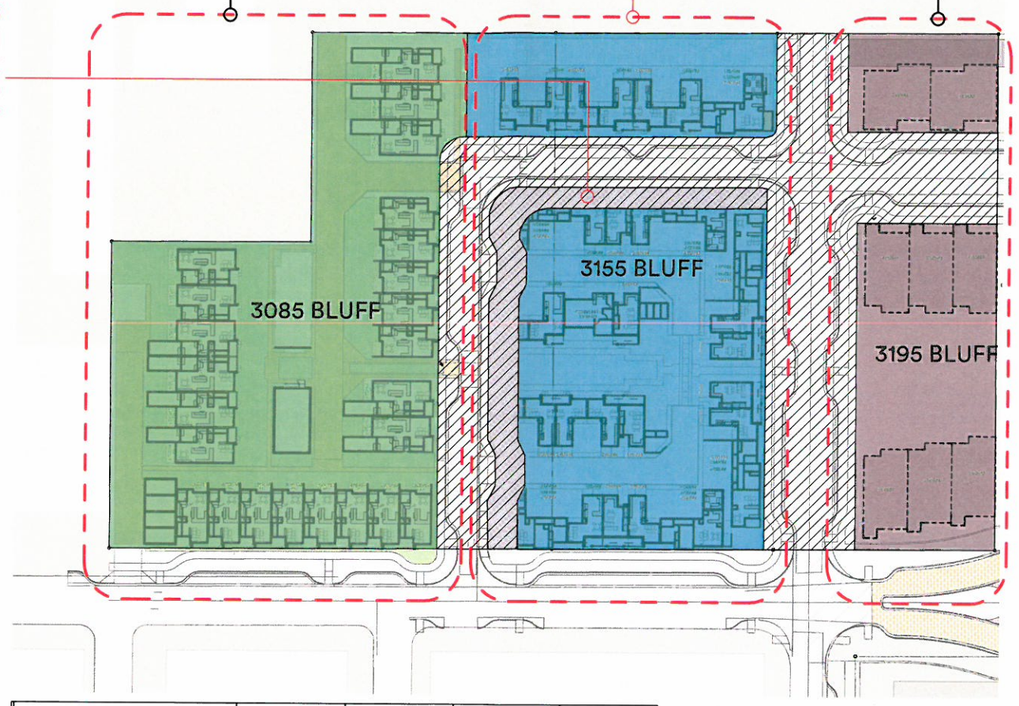
S'PARK_west

8 MARKET RATE RENTAL TOWN HOMES

±37 AFFORDABLE UNITS (reduced from 45 if connections plan changes not approved)

24 MARKET RATE TOWNHOMES

REJECTION OF PROPOSED CONNECTION PLAN CHANGES (ONE WAY STREET ON MEREDITH AND 32ND) WILL INCREASE THE ROW DEDICATIONS AND FURTHER REDUCE THE AMOUNT OF UNITS POSSIBLE ON THE AFFORDABLE SITE.



PROPERTY PARCEL	GROSS SITE AREA	ROW DEDICATIONS (W/ INCREASE)	NET SITE AREA	ALLOWABLE NET DENSITY PER RH-6 REQUIREMENTS
COMBINED PROPERTY PARCEL (3085, 3155 & 3195)	180,516.54	48,807.00	131,709.54	73

INCREASE IN ROW DEDICATIONS IF MODIFICATIONS TO CONNECTION PLAN NOT APPROVED	7,100

SPARK_west

NET AREA_INCREASED ROW DEDICATION

N 0 50 100

7/24/14

Conceptual Views

Birdseye view of site

View of 3155 site, southwest along Junction Place

View of 3155 site at northeast corner of Bluff and 32nd

View of 3155 site, looking west along Meredith

Conceptual Views

View of 3085 site along Bluff St

View of 3085 Site along 32nd

the ARMORY

July 16, 2014

Karl Guiler
City of Boulder Dept. of Community
Planning & Sustainability
1739 Broadway, 3rd Floor
Boulder, CO 80306

Re: Proposed Density/Right of Way Ordinance

Dear Karl:

As you know, the proposed ordinance that would allow right of way dedications to be included in the land area for density and development calculations is directly applicable to the future Armory redevelopment. We look forward to the Planning Board's discussion on our Concept Review Plan on August 21, but in the interim, we urge staff and the Planning Board to recommend passage of this ordinance by City Council.

For the Armory, we will purchase approximately 8.55 acres from the State of Colorado. Our expectation is that in connection with redevelopment of the property, we will dedicate to the City in fee simple, at no cost, approximately 2.26 acres of that property. We expect that we will build 13th Street, Zamia Street and all of the associated sidewalks, multi-use paths, curb, gutter, storm sewers, utility extensions and right of way landscaping through and around the property at our expense. The cost of the land for ROW dedications and public infrastructure improvements will easily exceed $5 million.

Here is a summary of what loss of the development potential associated with those right of way dedications means if the proposed ordinance is not passed:

Total land area	=	372,460 s.f. (8.55 acres)
0.6 Floor Area Ratio	=	223,476 s.f. of development potential
Less ROW Dedications	=	98,584 s.f. (2.26 acres)
Remaining Land Area	=	273,876 s.f. (6.29 acres)
0.6 Floor Area Ratio	=	164,326 s.f. of development potential

.THE MULHERN GROUP, LTD.
ARCHITECTURE • PLANNING • INTERIORS

July 25, 2014

City of Boulder
Department of Community Planning and Sustainability
1739 Broadway, 3rd Floor
Boulder, Colorado 80306

Attn: Karl Guiler
Senior Planner/Code Amendment Specialist

Re: **North Boulder Armory Redevelopment Project**
4750 Broadway, Boulder, Colorado

Re: **Proposed Density/ROW Ordinance**

Karl,
Thank you for contacting our team to participate in the presentation package presented to Planning Board for consideration of the ROW ordinance amendment now under review. Our development is a perfect example of how quality open space can be furthered by instilling these anticipated principles. Integral to the success of our proposal is to use the additional ROW toward floor-area-ratio calculation to support our density and to allow for a high-quality site character with active community spaces and the addition of an arts market pavilion which serves the Boulder arts community.

The North Boulder Armory Redevelopment project is in for Concept Review and will be a part of the August 21, 2014 public hearing for discussion and comment. Our design team has worked closely with city staff to establish sound design concepts for this project, which is intended to anchor the North Boulder neighborhood and surrounding areas. As we established our design concept, it was deemed essential to build the site with enough density to balance out the costs needed to create the rich public spaces seen in the Community Plaza, Broadway sidewalk art display areas, tree lawns and sidewalks, and the below-grade parking structure which eliminates the car from the visual fabric. We worked diligently with North Boulder residents and members from the Boulder arts community to assure that our design concepts would be seen as favorable, creating the 1, 2 and 3-story buildings seen in our Concept Review package; the positive reaction and support we have seen so far solidifies the direction we are taking.

Also, the anticipated density allowed us to work with local artists to establish the principles for an Art Pavilion building to hold the corner of Lee Hill and Broadway, where artists can perform, practice, display and live in the North Boulder neighborhood. The anticipated additional density allowed us to establish the existing Armory Mess Hall building as a brew pub and neighborhood restaurant, luring in Oskar Blues as the tenant. With this, we have researched the idea of following the landmark commissioning process to establish the mess hall building as a registered landmark, an idea that neighbors embrace as the building is really their only nod to historic reference.

All of this was made possible by using the proposed ROW dedication area toward our density.

Below is a summary of the density calculations, laid out as "current development proposal" which uses the FAR density formula as it exists, and "Submitted Density proposal" which follows the proposed ROW density change. Our Concept Review is based on using the proposed increase in FAR by using the additional ROW dedication lands.

1730 Blake Street, Suite 435 • Denver, Colorado 80202 • TEL: (303) 297-3334 • FAX: (303) 292-2601

North Boulder Armory Redevelopment project
4750 Broadway, Boulder, Colorado

Gross Land Area Prior To Dedication:	372,460 SF (8.55 Ac)
Dedicated Land Area:	-98,584 SF (2.26 Ac)
Net Land Area after Dedication:	=273,876 SF (6.28 Ac)
	= 73% of site

Submitted development proposal-	127 units	Blk 1 and 2	372,460 x 0.6=223,476 SF
(w/ proposed density calc.	80 units	Blks 3 and 4	
allowing ROW to be incl)	207 units		
Current development proposal-	92 units	Blk 1 and 2	273,876 x 0.6=164,325 SF
(w/o ROW to be incl)	60 units	Blks 3 and 4	
	152 units*		

* Note: this results in loss of 11permanently affordable units.

Current density calculation-
For MU-1 Zoning, density is determined by FAR of 0.6:1, so 273,876 SF x 0.6=164,325 SF allowable floor area
Applicant proposing approximately 129,425 SF open space, which is approx. 47% of site

Submitted density calculation-
For MU-1 Zoning, density is determined by FAR of 0.6:1, so 372,460 SF x 0.6=223,476 SF allowable floor area
Applicant proposing approximately 129,425 SF open space

Sincerely,

Liz Petersen
Senior Project Designer/Senior Project Manager
The Mulhern Group, Ltd

1730 Blake Street, Suite 435 • Denver, Colorado 80202 • TEL: (303) 297-3334 • FAX: (303) 292-2601

NORTH BOULDER ARMORY

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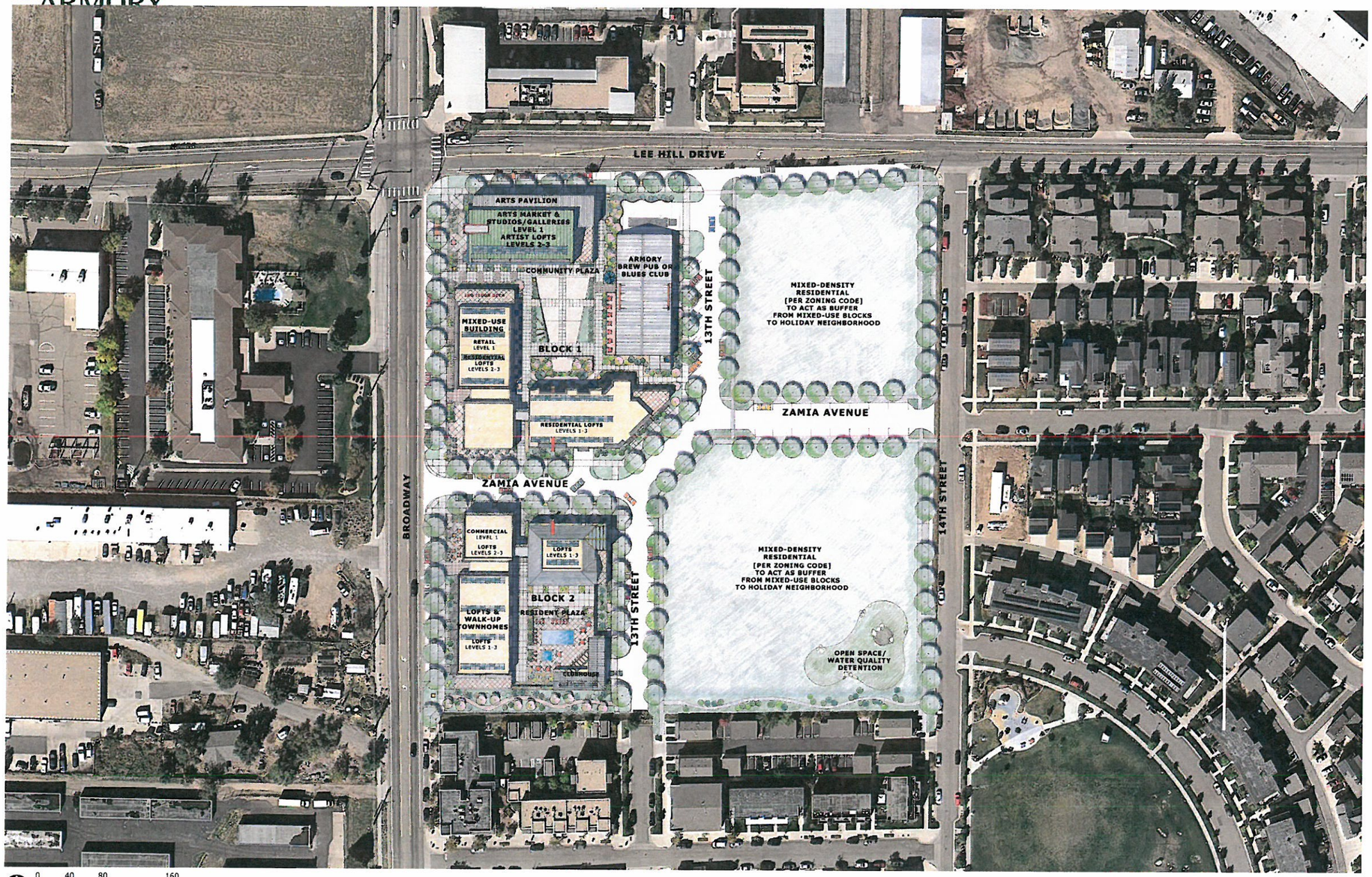
CONCEPT REVIEW - JUNE 16, 2014
ARCHITECT: THE MULHERN GROUP, LTD.

NORTH BOULDER ARMORY



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