CITY OF BOULDER
PLANNING BOARD STUDY SESSION AND MEETING AGENDA
DATE: August 15, 2013
TIME: Study Session at 5:30 p.m., Meeting at 7 p.m.
PLACE: Council Chambers, 1777 Broadway

STUDY SESSION: 5:30 p.m., Council Chambers.
North Boulder Subcommunity Plan Discussion

PLANNING BOARD MEETING: 7 p.m., Council Chambers

1. **CALL TO ORDER**

2. **APPROVAL OF MINUTES**
   The April 24, June 6, and July 25 minutes are scheduled for approval.

3. **PUBLIC PARTICIPATION**

4. **DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/CONTINUATIONS**
   - **A.** Continuation from August 1, 2013 Planning Board meeting: Adoption of final written approval for Use Review, case no. LUR2013-00020, and Site Review, case no. LUR2013-00037.

   - **B.** Nonconforming use review request, case no. LUR2013-00041) for a request to convert an 8-unit apartment building with 18 bedrooms at 2550 9th St. in the RMX-1 zone district to an 18-bedroom co-operative boarding house and two 2-bedroom apartments. The call-up period expires on August 23, 2013.

   - **C.** Nonconforming Use Review request, case no. LUR2013-00029, for exterior restoration and interior remodel to an existing nonconforming fourplex on a nonstandard lot located at the southwest corner of Pleasant and 12th streets. The request includes a reduction in the number of units from four to three as well as an increase in floor area (359 square feet) and site improvements, including parking and trash/recycle storage area. Amendment to Nonconforming Use Review case no. NC-88-25. The call-up period expires on August 23, 2013.

5. **PUBLIC HEARING ITEMS**
   - **A.** Public hearing to consider a recommendation to City Council on an ordinance amending Chapter 6-3, "Trash, Recyclables, and Compostables," and Title 9, "Land Use Code," B.R.C. 1981, to update trash removal standards and zoning standards to reduce impacts of hospitality establishments on neighboring properties.

6. **MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY**
   - **A.** Informational Item: Access easement vacation at 6655 Lookout Road (Boulder Views Apartments). Case number LUR2013-00026.

7. **DEBRIEF MEETING/CALENDAR CHECK**

8. **ADJOURNMENT**

For more information call (303) 441-1880. Board packets are available after 4 p.m. Friday prior to the meeting, online at www.bouldercolorado.gov, at the Boulder Public Main Library's Reference Desk, or at the Planning and Development Services Center, located at 1739 Broadway, third floor.

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.

MEMORANDUM

To: Members of Planning Board

From: David Driskell, Executive Director of Community Planning & Sustainability (CP&S)
Susan Richstone, Deputy Director, CP&S
Lesli Ellis, Comprehensive Planning Manager
Marcy Cameron, Historic Preservation Planner, Planner I
Jeff Hirt, Planner II

Date: August 15, 2013

Subject: Discussion Item: North Boulder Subcommunity Plan Update

The purpose of this memo is to seek feedback from the Planning Board on the scope of work and community engagement process for the North Boulder Subcommunity Plan update.

On June 6, 2013, staff sent a memo to the Planning Board and community members regarding the North Boulder Subcommunity Plan update. That memo provided an overview of potential scope items and a preliminary planning process. Both Planning Board and community members provided comments (see **Attachment 5: June 6, 2013 Memo Comments**), and the comments helped to shape this memo. This memo contains:

1. A description of the overall scope and process (see Project Scope and Process), including:
   - The focus of the analysis and action items to result from the North Broadway Market Study (see **Attachment 3: North Broadway Market Study Summary**)
   - The level and type of community engagement
2. Next steps

The following attachments provide additional information:

- Attachment 1: 1995 Plan Background and Plan Implementation Summary
- Attachment 2: North Boulder Subcommunity Development Activity (1995-2013)
- Attachment 3: North Broadway Market Study Summary
- Attachment 4: June 6, 2013 Memo Comments
- Attachment 5: Community Outreach And Feedback Summary –March/April 2013
- Attachment 6: North Boulder Alliance Comments – April And July 2013

Planning Board Role

Staff anticipates that the Planning Board will provide guidance at key points throughout the project, in addition to a decision making role. Specifically, per Chapter 4 of the Boulder Valley Comprehensive

Plan, "subcommunity and area plans are adopted by Planning Board and City Council and amended as needed with the same legislative process as originally adopted."

Issue Statement

Since its adoption in 1995, the North Boulder Subcommunity Plan (1995 Plan) has shaped significant residential, mixed use, and retail redevelopment primarily in the area around Broadway north of Violet Avenue. However, some key elements from the 1995 Plan have not been fully realized. Notably, the "Village Center" concept in and around Yarmouth Avenue and Broadway has been implemented on the east side of Broadway but not the west side. The North Armory site also has short term redevelopment potential.

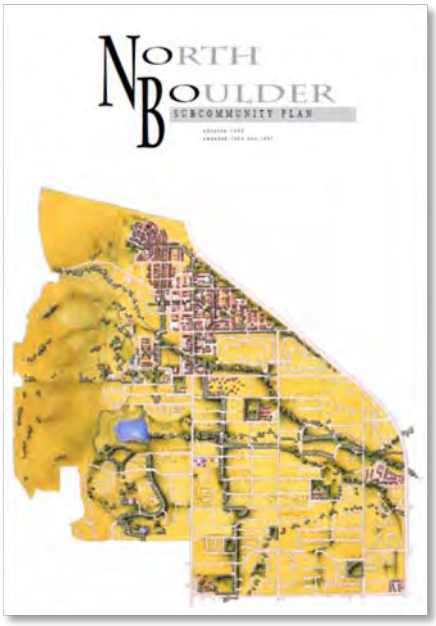
In 2013, City Council requested a targeted plan update focusing on the Village Center and Yarmouth North area along Broadway (referred to as the North Broadway area in this memo) to address these issues. [1] Both market and land use policy factors warrant consideration, as do floodplain issues.

Staff anticipates the overall outcome for this project to be a plan amendment to address a focused set of topics and action items that advance the North Boulder Subcommunity Plan's vision for the North Broadway area, further described in this memo.

[1] See 2013 Council Reference Notebook (Work Plan Items), page 139.

PROJECT BACKGROUND

The North Boulder Subcommunity Plan is the first and only subcommunity plan in the city.[2] The Planning Board and City Council adopted the original plan in 1995 after a three year process. **Attachment 1: 1995 Plan Background and Implementation Summary** provides more information on the 1995 Plan process and content.

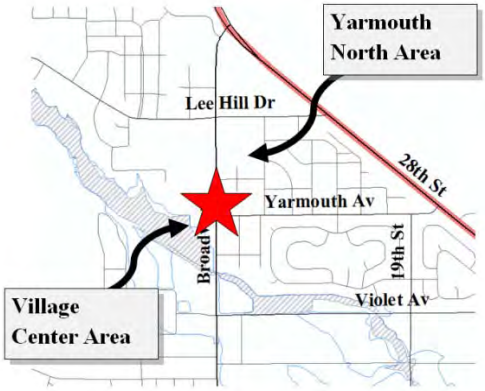


North Boulder Subcommunity Plan Cover

The city has held a number of informal community member discussions and assessed the plan's implementation to date. Based on this information and staff's assessment of the 1995 Plan, the plan's overall vision is still largely consistent with community values.[3] However, some of the 1995 Plan's key recommendations need additional action to ensure implementation.

The 1995 Plan identifies the Village Center as the "symbolic heart" of the subcommunity and the future neighborhood center. The Yarmouth North area is also an area of anticipated change that may impact the 1995 Plan's vision for the Village Center area.

The scope is based on City Council's direction for a plan update with a focus on the Village Center and Yarmouth North areas (North Broadway).



Yarmouth North and Village Center Areas (approximate)

COMMUNITY INPUT TO DATE

Over the spring and summer of 2013, staff has interviewed over 20 community members to ask about issues that this targeted plan update should address. Those interviewed included residents and neighborhood representatives, developers, land owners, arts community representatives, and community leaders. **Attachment 4** provides a detailed summary of these interviews.

In addition, staff sent a memo on June 6, 2013 to the Planning Board and community members to get feedback. **Attachment 5** provides a detailed summary of these comments.

This feedback has informed the scope and process summarized in this memo.

It is important to note that community members have also raised additional North Boulder Subcommunity-specific issues that may fall outside of the geographic focus for this project. (See **Attachments 4-6** for a detailed summary.)

Some common themes have emerged from this feedback that include:

[2] The Boulder Valley Comprehensive Plan identifies nine subcommunities. North Boulder is the only one with a plan that encompasses the entire subcommunity.
[3] Attachment 1: 1995 Plan Background further discusses the 1995 Plan's vision.

1. **1995 Plan Vision**. The 1995 Plan's overarching vision is still valid (primary concepts include strengthening established areas; redevelopment with a focus on walkable, connected, and mixed use places; a diversity of housing choices; new community and civic attractions; improved design quality; an integrated network of parks and open space; and preservation and enhancement of sensitive environmental areas);
2. **North Broadway Area Village Center.** The North Broadway area has the most opportunity and potential for change. Interviewees support some type of anchor land use (either a grocery store or other anchor land use along Broadway) in the North Boroadway area and seek to realize the Village Center vision;
3. **Housing.** Since 1995, a diversity of housing choices have emerged, as called for in the plan, but the community believes there may now be an overconcentration of affordable and/or special needs housing (analysis from the Comprehensive Housing Strategy currently underway will help understand how this may relate to the project scope);
4. **Connections.** The 1995 Plan's vision for connectivity has not been fully realized—there are several missing multi-modal connections and the need for improved transit service; and
5. **Arts District.** The community supports a North Boulder Arts District concept.

Late Summer/Early Fall 2013 Events in North Boulder

Community engagement will occur throughout the project. Specific fall opportunities will include: (1) a "storefront" workshop in North Boulder, focused around the Transportation Master Plan, and (2) a project "kickoff" event in North Boulder with city representatives from housing, transportation, and the library.

Staff recognizes that the items identified during interviews are critical towards advancing the 1995 Plan's vision. Several of these items (such as a library) are being addressed. In addition, parallel initiatives like the new Comprehensive Housing Strategy may be more appropriate venues to address specific issues like housing. The Proposed Scope Items section above provides more detail on the geography and types of issues that the plan update will address.

PROJECT SCOPE AND PROCESS

The project will focus on identifying and evaluating barriers and opportunities for realizing the North Broadway area vision and providing solutions. Recognizing that much of the 1995 Plan vision is still valid, City Council requested a focused, implementation-oriented plan update.

Staff anticipates the update should take approximately one year. The process will be guided by the following goals, to:

- Be focused and efficient.
- Understand issues and identify opportunities.
- Engage the North Boulder community in meaningfully, open, and interactive ways.
- Coordinate with stakeholders at pivotal times.
- Coordinate parallel initiatives within the city to make the process clear and easy for the public.
- Brief the Planning Board and other boards and commissions and seek their guidance.
- Create an actionable final product that reflects the community's vision for the North Broadway area and has tangible action steps to ensure implementation.

*The plan update will focus on the North Broadway geographic area and issues pertinent as barriers and opportunities to the "Village Center" concept. The market study will provide information about barriers and opportunities, including financing, land use, transportation, etc . The North Boulder Alliance has identified a number of issues that will help inform the market study (see **Attachment 6**).*

Proposed Phases

The update will occur through three-phases over one year, all of which will include public engagement:

Phase 1: Inventory and Kick off, includes compiling background information and analysis, launching the project, and preparation of a North Broadway market study, all of which will inform Phase 2.

Phase 2: Options and Analysis, will explore different options and result in a preliminary plan update.

Phase 3: Draft Plan and Adoption, will conclude with the final plan adoption and include implementation items. Phase 3 will inform specific implementation items to be later identified.

Proposed Scope Components

The list below provides the preliminary scope items that would inform the targeted plan amendments:

- **North Broadway Market Study**: A market study will inform the land use mix on North Broadway and address the viability of commercial space along the corridor, with a focus on the Village Center and Yarmouth North areas. This study will address the feasibility of an "anchor" (such as a grocery store or other) land use and other barriers and opportunities. **Attachment 3** provides more detail and a status update.
- **Analysis of Changes Since the 1995 Plan**: An analysis of North Broadway's land use mix, current zoning, and future land use categories in the plan will inform the plan update. A significant amount of work has already been done including an analysis of development activity and plan implementation (See **Attachments 1 and 2**.) The market study will provide additional analysis.
- **Plan Amendments** – The analysis and community feedback will inform the amendments. The overall outcome will be a plan amendment to address a focused set of topics and subsequent or

parallel action items that advance the North Boulder Subcommunity Plan's (1995 Plan) vision for the North Broadway area. The exact form of these amendments is yet to be determined, but will likely be some type of addendum to the 1995 Plan or a new chapter or section.

Community Engagement

To allow for meaningful engagement by the community, the city will use a combination of traditional events and meetings and digital methods. The first phase will "kick off" in the fall. Although numerous conversations and feedback portals have already helped to shaped this preliminary scope (See **Attachments 4-6**). Public engagement strategies include:

- **Events** – this will include city-hosted events at various key project stages and "piggybacking" on other scheduled community events. For example, staff plans to coordinate outreach activities with the Transportation Master Plan and Comprehensive Housing Strategy to foster a more streamlined feedback portal for a variety of issues identified.
- **Web-based** – The city will use digital engagement tools, including a project website, and is investigating the best approaches through social media.

Phase 1: Inventory and Assessment - Status

To date, city work has focused on identifying issues and the project approach. The official project "kickoff" is anticipated in the late summer 2013. This will include broader public outreach opportunities noted above in the Project Scope and Process section.

Phase 1: Inventory and Assessment, is underway. The list below summarizes some key tasks completed through July 2013.

- **Conversations** – Staff held focused conversations with over 20 North Boulder community members ranging from the North Boulder Alliance, property owners, developers, and other community members in March and April of 2013. (See **Attachment 4**.)
- **June 6, 2013, Planning Board Memo** – The June memo summarized issues and a preliminary scope and schedule and sought feedback from the Planning Board and community members. Feedback then informed this memo. (See **Attachment 5**.)
- **July 13, 2013, Holiday Neighborhood Party** – Staff hosted a booth and provided information about the plan update.
- **North Broadway Market Study –** Staff put the project out to bid, selected a consultant, and scoped a market study for the North Broadway area. (See **Attachment 3**.)

Draft Plan Update Process and Timeline

The following table summarizes the anticipated tasks and timeline to complete the plan update in a focused, efficient, and responsive manner.

FIGURE 1: NORTH BOULDER SUBCOMMUNITY PLAN UPDATE DRAFT PROCESS

	2013			2014		
	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3
Phase 1: Inventory and Kick off						
1995 Plan Implementation Analysis/Existing Conditions Assessment		✓				
North Broadway Market Study						
Market Analysis						
Development Stakeholder Interviews						
Barriers to Redevelopment/Plan Implementation						
Redevelopment Strategy						
Final Report and Presentations			✓			
Phase 1 Engagement/Public Meetings		**Planning Board** August 15 discussion				
		City Council Information Packet Item				
		Community Outreach Joint TMP Community Workshop/Plan Update, Plan Update Kickoff , Focused Community Meetings				
Phase 2: Options and Analysis						
Policy and Land Use Options (informed by North Broadway Market Study)					✓	
Draft Plan Amendments					✓	
Phase 2 Engagement /Public Meetings				**Planning Board** Market study results and check in on options		
				City Council discussion item		
				Community Outreach Feedback on Draft Plan Amendments		
Phase 3: Draft Plan and Adoption						
Final Plan with Implementation Scope and Schedule						✓
Phase 3 Engagement/Public Meetings					**Planning Board** Final Adoption	
						City Council adoption

KEY
✓= Deliverables
Meetings:
Community Outreach *(note: this may include more than one meeting per outreach stage)*; Planning Board ; City Council

NEXT STEPS

Next steps include the following:

Inventory and Assessment	Ongoing
City Council Information Packet on the Plan Update	Late Summer 2013/TBD
“Storefront” workshop - North Boulder-Focused Transportation Master Plan	Late Summer 2013/TBD
“Kickoff” event (with city staff from housing, transportation, library)	Late Summer/Early Fall 2013
North Broadway Market Study	Completed October 2013

Attachment 1: 1995 Plan Background and Plan Implementation Summary

The 1995 Plan overarching goals and objectives reflect a desire to strike a balance between preserving existing assets and to establish a vision for areas that had yet to develop at that time. A key theme throughout the 1995 Plan is also the goal of "complete, discernible neighborhoods." It also aims to "preserve positive aspects of the subcommunity and ensure that future changes are beneficial both the subcommunity citizens and the city as a whole."

The North Boulder Subcommunity Plan is the only such plan in the city. The original 3-year process took place from 1992-1995, involving stakeholders and steering committee. For the most part, the process followed a common set of steps from inventory and analysis, to recommendations, to public review and comment, to adoption before the Planning Board and City Council (August 1995). In 1993, the process was briefly put on hold to address citywide goals through the Integrated Planning Process (IPP).[4]

In 1996 and 1997, the plan was amended to address recommended land use patterns in specific locations. The table on the following page provides a more detailed, chapter-by-chapter summary of the 1995 Plan.

[4] The Integrated Planning Process (IPP) in 1993 was a citywide effort that resulted in several broad goals and objectives (e.g., strengthening and supporting existing neighborhoods), and more specific goals like population targets. City Council requested the North Boulder Subcommunity Plan be suspended pending the outcomes of that project.

Figure 2: North Boulder Subcommunity Plan Chapters and Key Concepts

Plan Chapter	Summary and Key Concepts
Chapters 1-4 Executive Summary, Introduction, History, Existing Conditions	Chapters 1-4 establish the overall framework and process for the 1995 Plan. These chapters also establish overarching goals and objectives with a focus on smart growth principles like walkable, mixed use neighborhoods patterned after the character of historic neighborhoods.
Chapter 5 Neighborhoods	Chapter 5 establishes an overarching set of goals and objectives for North Boulder neighborhoods and establishes neighborhood-specific development guidelines. This chapter also stresses the protection of the character of existing neighborhoods with guidelines for new neighborhoods. New residential neighborhoods should provide a diversity of housing types with a walkable and connected transportation network.
Chapter 6 Employment and Retail Centers	Chapter 6 identifies current and expected employment and retail centers within each neighborhood. It includes additional goals and objectives that reflect the desire for "complete, discernible neighborhoods." The focus areas are the Village Center around Yarmouth Avenue and Broadway and the Service Industrial Areas along Broadway and Lee Hill Road. This chapter identifies the Village Center area as the "symbolic heart" of the subcommunity, with a full complement of neighborhood-scale services. This chapter also recognizes the importance of existing industrial areas that serve a community need and provide affordable nonresidential space.
Chapter 7 Community Facilities	Chapter 7 sets forth recommendations for new community facilities like libraries, schools, police and fire stations, and social services, while preserving existing community facilities. This chapter also establishes related goals and objectives to better serve subcommunity residents, including a branch library, transit centers at key destinations, and several new parks.
Chapter 8 Transportation	Chapter 8 sets forth recommendations for a transportation network with an emphasis on creating walkable and well connected streets and blocks. This chapter also includes an "Auto/Transit Improvements Right-of-Way Plan" that guides decision making for new infrastructure.
Chapters 9-10 Open Space and Natural Resource Protection, Parks and Open Lands	Chapters 9-10 set forth related goals and objectives for view protection, open space, topography, creeks, and irrigation ditches.
Chapter 11 Future Growth	Chapter 11 contains a summary of the projections and build out analysis that was conducted as part of the Integrated Planning Project (IPP) is included in this chapter. The results of this analysis informed North Boulder subcommunity-wide and neighborhood-specific target density ranges and square footages. This chapter also includes the Land Use Map that summarizes the recommended future land uses.

North Boulder Subcommunity Plan Implementation Summary

The North Boulder Subcommunity Plan contains numerous recommendations, many of which have been implemented. These recommendations range from new development and design standards, capital investments in civic facilities, and new transportation connections. Some of the key items from the 1995 Plan that the city has implemented include:

- **Five new zoning districts**, including a Business Main Street (BMS) district that was used for a rezoning for the Village Center area;
- **Numerous new parks** in accordance with the 1995 Plan, including Foothills Community Park and Holiday Neighborhood Park;
- **Several annexations** of county enclaves consistent with the 1995 Plan; and
- **New transportation connections** made in accordance with the 1995 Plan as redevelopment has occurred.

***NOTE: This is an updated version of the "1995 North Boulder Subcommunity Plan Implementation Status" section of the June 6, 2013 Planning Board memo.*

1999 AND 2012 NORTH BOULDER AERIAL IMAGES

FIGURE 9: 1995 PLAN IMPLEMENTATION SUMMARY

Category	Implementation Item and Description	Implementation Status
Zoning and Land Use	**New Zone Districts and Development Standards** The 1995 Plan contains numerous recommendations for new North Boulder zone districts and development standards.	Five new zoning districts were created and properties were subsequently rezoned to: • A business main street zone, patterned after historic 'Main Street' business districts; • Three mixed use zones that provide a transition between the higher intensity business 'Main Street' and surrounding residential or industrial areas; and • A mixed density residential zone district.
North Broadway Area (Village Center and Yarmouth North)	**Village Center** The 1995 Plan calls for a Village Center concept on both sides of Broadway at around Yarmouth Avenue.	• The city has rezoned properties in the Village Center and Yarmouth North areas to BMS, MU-1, and RMX-2 (see current zoning map to the right). • The east side of the Village Center has seen significant redevelopment, but the west side has not. • These redevelopment areas have been largely consistent with the plan's goals for vertical mixed use and pedestrian-oriented design.

CURRENT ZONING MAP

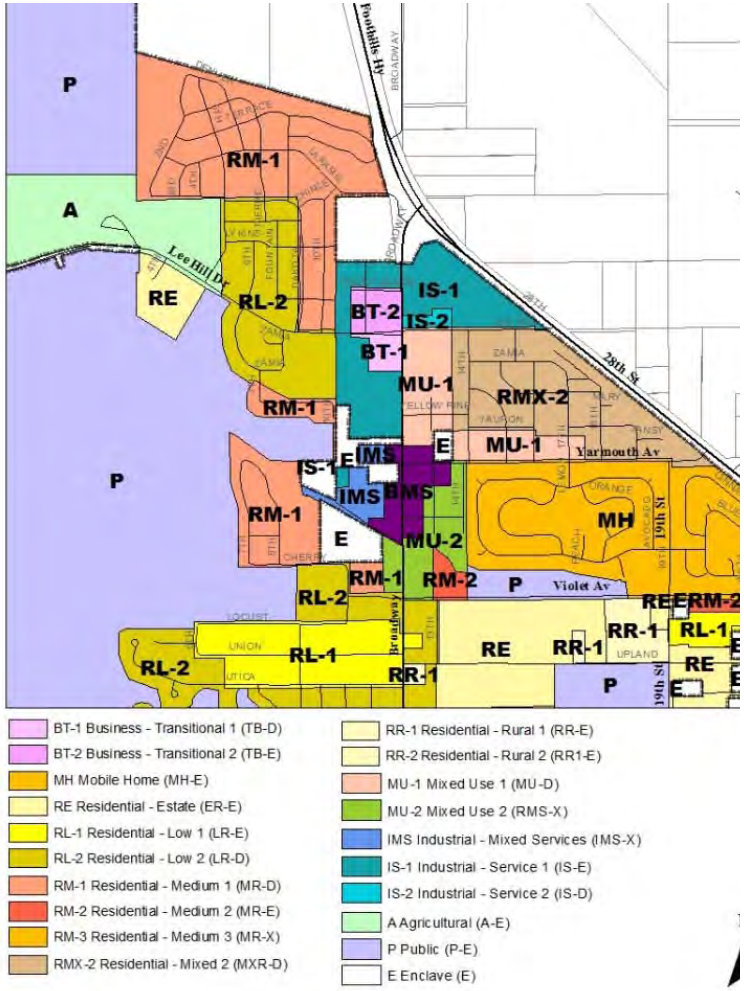


FIGURE 9: 1995 PLAN IMPLEMENTATION SUMMARY

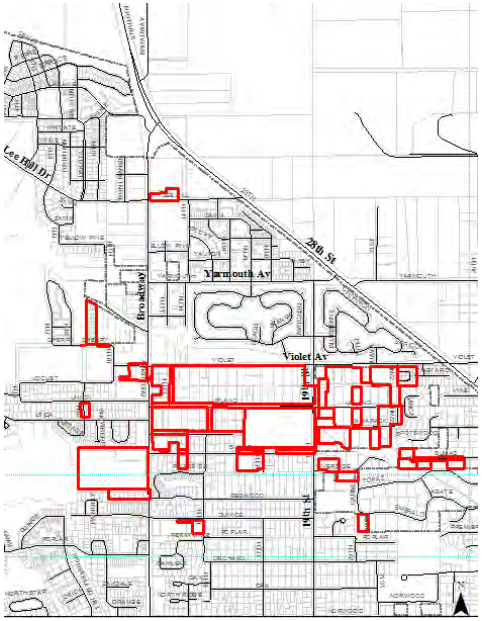
Category	Implementation Item and Description	Implementation Status
Community Facilities, Parks, and Open Space	**Parkland** The 1995 Plan recommends several new parks throughout the subcommunity.	Since 1995, the following parks have been built or are in the process of being built: • Foothills Community Park • Neighborhood Park on the Mann property • Holiday Neighborhood Park • The Elks Neighborhood Park is in the 2013-2018 Capital Improvements Plan • Dakota Ridge Neighborhood Parks
	North Boulder Library The 1995 Plan recommends a new Boulder Library branch in North Boulder	The Boulder Public Library Commission recently passed a resolution endorsing the concept of a North Boulder Library Station (570 square feet) operating in the Westview Apartment storefront in the vicinity of the Broadway and Yarmouth intersection. The library staff is currently evaluating costs and benefits of the proposed Library Station.
Annexation	The 1995 Plan supports annexation of county enclaves (Area II properties) in the North Boulder Subcommunity.	Since 1995, several county enclaves have annexed into the city in the North Boulder Subcommunity. The map below highlights these areas: **ANNEXATIONS SINCE 1995 (OUTLINED IN RED)** 

FIGURE 9: 1995 PLAN IMPLEMENTATION SUMMARY

Category	Implementation Item and Description	Implementation Status
Transportation and Streetscape	**Development Compliance with Transportation Plan** The 1995 Plan recommended a new requirement for compliance with the Transportation Plan during development or redevelopment.	The city adopted an ordinance that requires dedication or reservation of Rights-of-Way in conformance with the North Boulder Subcommunity Transportation Plan.
	North Broadway Streetscape The 1995 Plan recommended development and implementation of streetscape improvements along North Broadway	A draft North Broadway Streetscape Plan was developed and has been used as a guide to establish the streetscape design for Broadway from US 36 to Upland and improvements that were required when properties redeveloped (e.g., street trees, benches, lighting, on-street parking).
	Auto/Transit Improvements Right-of-Way Plan The 1995 Plan calls for transportation connections that encourage walking, biking, and transit use.	**Connectivity:** As new development has occurred in North Boulder (particularly north of Violet Avenue), connectivity has been enhanced by introducing more of a street grid consistent with the Auto/Transit Improvements Right-of-Way Plan. Streets have generally been designed to be narrower and more pedestrian friendly. **Enhanced Transit:** The 1995 Plan calls for enhanced transit service in North Boulder. The Auto/Transit Improvements Right-of-Way Plan recommends circulator transit routes through some of the North Boulder neighborhoods along with a route along US 36 connecting to shopping areas along 28th Avenue. Currently, bus service along Broadway only extends to Front Range Avenue and Broadway (one block north of Lee Hill Road). **US 36 Gateway:** The city has also not implemented a gateway feature where Broadway intersects with US 36, as recommended by the plan.[5]

[5] See page 22 of the 1995 North Boulder Subcommunity Plan.

FIGURE 9: 1995 PLAN IMPLEMENTATION SUMMARY

Category	Implementation Item and Description	Implementation Status	
Stormwater Utilities	The 1995 Plan recommends protection for riparian areas and utilization of flood plain areas for bicycle and pedestrian travel.	While not a specific implementation item from the 1995 Plan, the city completed the Fourmile Canyon Creek and Wonderland Creek Major Drainageway Planning effort in 2011. This document will inform future planning and development decisions in North Boulder, particularly in the Village Center area. Staff does not anticipate any updates to this study.	

Attachment 2: North Boulder Subcommunity Development Activity (1995-2013)

The 1995 Plan sets forth specific estimates for future growth in the North Boulder Subcommunity. Staff analysis of building permit records from 1995-2013 reveal the North Boulder Subcommunity is:

FIGURE 3: LEE HILL ROAD CONCEPT

1995 Plan Concept for Lee Hill Road Area

2013 Development Pattern

The above images illustrate how the 1995 Plan helped shaped development patterns.

- **Approaching the 1995 Plan's Estimate for New Residential Units** - The 1995 Plan approximated between 1,629-1,784 new housing units would be built within "about 13-17 years" in the subcommunity based on a number of factors.[6] According to city building permit records, approximately 1,700 new housing units have been built since the 1995 Plan. The city's growth projections for the North Boulder Subcommunity estimate an additional approximately 550 housing units by 2035.[7]
- **Adding More Retail than the 1995 Plan Estimated** – The 1995 Plan estimated 85,000 square feet of new retail subcommunity-wide. Since 1995, about 178,000 square feet of new retail has been built.
- **Adding Office Space at Faster Rate than any other Land Use** – From 1995 to 2013, the amount of new office space increased by 291% from approximately 100,000 square feet to approximately 391,000 square feet, exceeding the 1995 Plan's estimated new office space of approximately 299,000 square feet.

The tables that follow provide a more detailed summary of residential and nonresidential development activity since the 1995 Plan, along with existing land use and zoning.[8]

[6] These factors included Boulder Valley Comprehensive Plan density assumptions by zone district and growth rates consistent with the North Boulder projections from the Integrated Planning Project.
[7] The city's growth projections use a variety of factors from current zoning to future land use, to more qualitative analysis of specific sites with growth potential.
[8] SOURCES: North Boulder Subcommunity Plan, city building permit records. The numbers reflect building permits where Certificates of Occupancy (C.O.) were issued between 1995 and 2013. There are several developments under review that have not received C.O.'s to date.

Table 1: NORTH BOULDER SUBCOMMUNITY-WIDE RESIDENTIAL DEVELOPMENT ACTIVITY (1995-2013)

	1995 Total	Percent of 1995 Total	1995 Plan Estimate for Future Units	New Since 1995	Total Units 2013	Percent of Total Units 2013	Increase 1995-2013
Attached Units	1,084	27%	n/a	1,096	2,180	38%	101%
Detached Units (includes mobile homes)	2,930	73%	n/a	635	3,566	62%	22%
Total North Boulder Subcommunity Wide Housing Units	4,014	100%	1,629-1,784 New Units	1,731	5,745	100%	43%

Table 2: NORTH BOULDER SUBCOMMUNITY NONRESIDENTIAL DEVELOPMENT ACTIVITY

	1995 Count (sq. ft)	Percent of 1995 Total	1995 Plan Estimate for Future Square Footage	New Square Feet Since 1995	Total Square Footage 2013	Percent of Total 2013	Increase 1995-2013
Retail	200,000	27%	85,000	178,177	463,177	28%	89%
Office	100,000	13%	299,000	291,057	690,057	42%	291%
Industrial	450,000	60%	n/a	45,969	495,970	30%	10%
Total	750,000	100%		515,203	1,265,203	100%	69%

Existing Zoning and Land Use in the North Boulder Subcommunity

The following tables illustrate the current zoning and land use conditions in the North Boulder Subcommunity. Generally, the data shows that:

- Most of the subcommunity is zoned low or medium density residential;
- A significant portion of the subcommunity is zoned and used as public (open space, parks, etc);
- A higher percentage of land is *classified* as a commercial land use than the amount of land that is *zoned* for commercial, and
- A lower percentage of land is *classified* as an industrial land use than is actually *zoned* industrial.

Table 3: EXISTING LAND USE BY LAND AREA, NORTH BOULDER SUBCOMMUNITY[9]

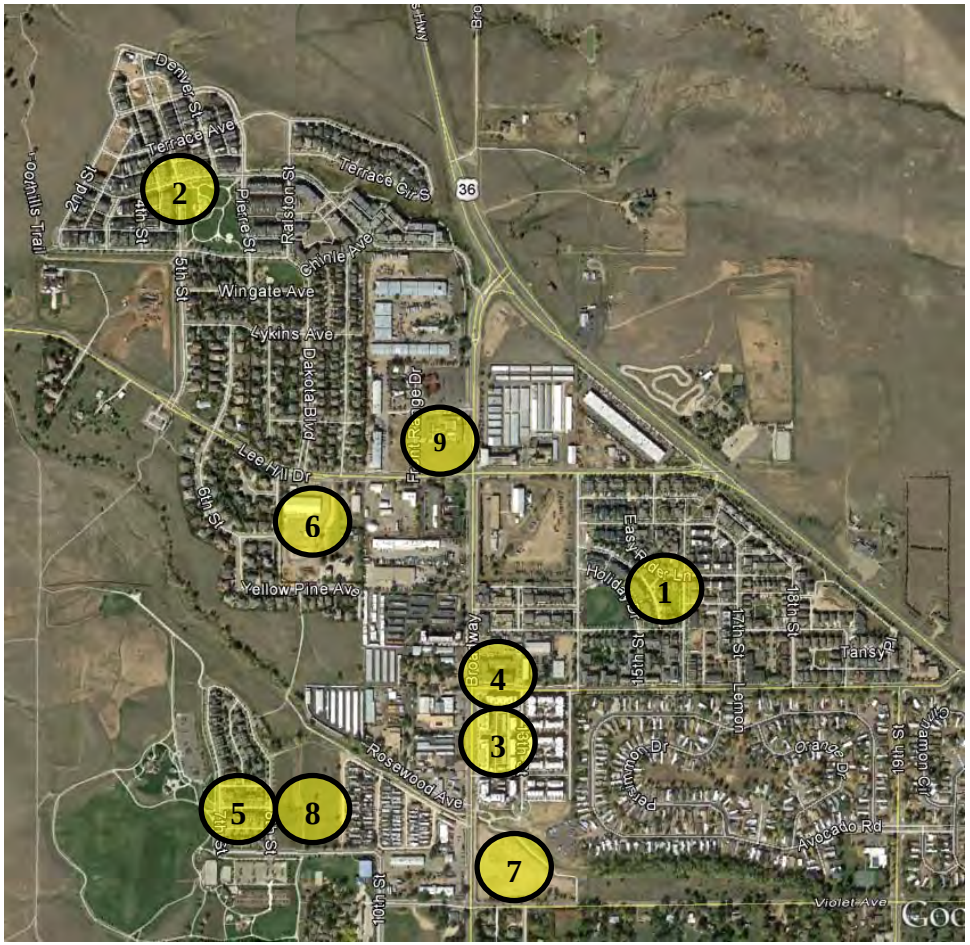
Name	Acres	Percent
Agricultural	1.0	0.07%
Commercial	103.7	6.9%
Industrial	3.7	0.2%
Mixed Use	11.4	0.8%
Residential	1,088.5	72.4%
Public/Institutional	204.7	13.6%
Vacant	90.7	6%

Table 4: EXISTING ZONING BY LAND AREA, NORTH BOULDER SUBCOMMUNITY

Zone District Category	Acres	Percent
Agricultural	17.8	1.0%
Commercial	23.9	1.2%
Industrial	120.1	6.0%
Mixed Use	34.8	1.7%
Residential	1,391.1	69.9%
Public/Institutional	222.5	11.2%

[9] SOURCE: Boulder County Assessors Office (based on how the county classifies land uses, which may not align with city zoning classifications).

FIGURE 8: MAJOR DEVELOPMENTS IN NORTH BROADWAY AREA (1995-2013)



	Construction Date	Approx. Site Size	Characteristics
1. Holiday	**2003-2005**	**27 acres**	324 residential units (187 market rate units and 137 permanently affordable units), 55,164 square feet of non-residential space and a 1.7 acre park.
2. Dakota Ridge	**2001 – present**	**42 acres**	420 residential units composed of 195 apartments, 65 townhouses and 130 single-family homes, and 30 (possible) commercial area conversion units. In addition, 23,025 square feet of office/retail space is located in the Neighborhood Center.
3. Uptown Broadway	**2003, 2008**	**8.5 acres**	223 residential units and 40,337 square feet of mixed use commercial space
4. Westview	**2011-2012**	**1 acre**	34 permanently affordable residential units that meet the affordable housing requirements for the development for the Residences at 29th
5. Foothills	**2001-2002**	**5 acres**	75 permanently affordable units in duplexes, fourplexes, townhomes, apartments, carriage units, a group home and a community center
Pipeline/Under Review			
6. 820 Lee Hill	**2014 (expected)**	**6 acres**	32 single family detached homes proposed
7. Violet Crossing	**2013 (expected)**	**4.7 acres**	10 two- and three-story buildings that house 78 market rate apartments and 20 affordable apartments
8. 1000 Rosewood	**2013 (expected)**	**4.5 acres**	18 dwelling units (16 single family units, 2 duplex units)
9. 1175 Lee Hill	**2014 (expected)**	**1.2 acres**	2 story multifamily transitional housing with 31 units

Total number of housing units in pipeline/under review: 179 (including 31 transitional housing units)

Attachment 3: North Broadway Market Study Summary

The plan update should produce outcomes that are based on the current economic and market realities of the North Boulder Subcommunity. The Market Study will help inform the plan. ArLand Land Use Economics will prepare the Market Study that will achieve several purposes, including:

- **A Market Demand Analysis** – The market study will assess the current market demand in North Boulder for different land uses, with an emphasis on the role of an "anchor" land use such as a grocery store (and other potential anchor land uses). This will include focused interviews with developers, commercial brokers, and other area development interests.
- **Barriers Analysis** – The market study will analyze the related barriers towards redevelopment and plan implementation based on the market information.
- **1995 Plan Village Center and Yarmouth North Implementation** – The market study will analyze of the feasibility of fully developing the 1995 Plan's Village Center concept and evaluate redevelopment potential in the Yarmouth North area.
- **Action Items** – The market study will result in a set of action items based on the market analysis and identified barriers towards realizing the 1995 Plan's vision.

The schedule below briefly summarizes the anticipated market study schedule and key tasks.

Figure 10: Anticipated North Broadway Market Study Schedule

Task	Outcomes	Timeline
Interviews/Roundtable Discussions/Public Meetings	• Interviews with area development interests • Public meeting presentation(s)	Ongoing
Market Analysis	Establish Market Area and Analyze: • Population and Demographics • Anchor Land Use Potentials • Office/Employment Potentials • Other Commercial Services and Mixed Use Potentials	Final Report – Expected October 2013
Barriers to Redevelopment/Plan Implementation	Identify key market barriers and related actions towards realizing the 1995 Plan's Village Center and Yarmouth North area vision	
Redevelopment Strategy	Recommendations for changes to Village Center and Yarmouth North concepts	
Report and Presentations	Final report summarizing the market analysis, findings from interviews, barriers, and recommendations to inform plan update	

Attachment 4: Community Outreach and Feedback Summary –March/April 2013

Staff has reached out to numerous community members to obtain feedback that has informed the project scope and schedule. The detailed results from community member interviews during March and April of 2013 are included below. In addition, the detailed results from the Planning Board and community member review of the June 6 Planning Board memo are included below. Please note that the Summary of June 6, 2013 Planning Board Memo Comments Section also summarizes these comments along with staff responses.

Residents/Neighborhood Groups

General / Planning Process

- Agrees that we should take a targeted approach to the update
- The North Boulder community would support good planning with this process
- Good planning could also draw more businesses to North Boulder
- The far north and west side of Broadway have the most potential to focus on
- The North Boulder Alliance has about 1,000 members. Their membership stretches from about Lucky's Market to US 36 on both sides of Broadway, but their primary focus is north of Violet Avenue
- Would like to see which major items from the original plan were implemented, and what development activity has occurred
- This process should be more of a conversation between the community and the city
- The area is well served by parks and open space
- Should start the public process at a time when more people are in town
- Everyone outside of this North Broadway area (i.e., south of Violet Avenue) seems to be doing fine and likes things the way they are
- There are not many things that have changed that necessitate an update to the plan - just need to more fully realize the vision and follow through
- Not enough attention paid to constraints in the original plan
- Holiday and the areas with larger lot and larger homes are established and should not be revisited with this process
- North Boulder Alliance Vision for North Boulder:
    - Broadway connects neighborhoods east/west, rather than divides them
    - Retain neighborhood character by requiring new development to be context sensitive
    - Attract businesses with a variety of retail and commercial services
    - Retain a distinct identity and function as northern gateway
- Keep residents well informed and give opportunities to provide input that affects the outcome
- Examine how and why development has occurred since the original plan
- Ideally would complete this update process before any new development is approved

Economic Vitality

- Should consider the economic development component of the plan update (see below)
- Need to look at the economic impacts of anything we propose - it is important to understand this because nothing will happen unless it is economically feasible.
- The small lots on the west side of Broadway make it hard to assemble and redevelop (boulder does not have redevelopment authority to do this)
- There is no imminent development on the west side of Broadway where many of the industrial uses are – they seem to be working and serving a community need

Housing

- Like the diversity of housing in the area
- Need to keep building new housing that is characterized by smaller lots and walkable communities - that will then support more redevelopment along Broadway and other places in North Boulder
- The city's new comprehensive housing strategy may have implications for North Boulder
- There is an overconcentration of special needs/affordable housing in North Boulder
- Three affordable housing projects sprung the neighborhood into action, asking the question - why are we concentrating these uses in North Boulder, and how are we letting developers transfer their affordable housing requirement to North Boulder? The three projects include: 17th Street and Yarmouth Avenue, NE; Broadway and Yarmouth Avenue, NE (why do we have 100% residential and affordable on such a key corner); and the Lee Hill/Boulder Housing Partners Project in North Boulder. The whole process for these three was very non-transparent.
- Supports mixed income but has some concerns about overconcentration
- Do not allow the continued concentration of shelters, permanent supported housing, affordable housing, and social services – the area has a disproportionate amount already

Arts

- An arts district is a good idea to build off of the eclectic nature of North Boulder
- There is the opportunity to celebrate North Boulder as the most eclectic part of town
- One way to support the arts district is to brand the corridor with streetscape, signage, building design standards
- Support an arts district in North Boulder with an arts-oriented anchor that is dedicated where the Armory now sits
- The Armory site could become a vibrant, multi-use space where art plays an integral part.
- Some examples of good arts oriented projects include:
    - The Short North arts district in Columbus, OH – it is a good example of how economically advantageous an arts district can be
    - Gallery/artist loft space created in an historic hotel in Fergus Falls, MN
    - An "arts campus" from old Tannery buildings in Santa Cruz, CA
    - A 1920's office building in Michigan City, Indiana will soon be home to artist lofts, classroom, studio and commercial space
    - In Loveland, CO the old Feed and Grain is becoming artists' live/work space, creative business, community space, and an outdoor plaza.

Transportation/Connectivity

- Lack of connectivity is an issue – when this area developed it was more of a suburban, cul-de-sac model
- The north/south connections are especially lacking
- North Broadway needs attention – there may have been some ideas in the 95' plan to address this we could revisit
- Getting across Broadway on foot to any new village center will be problematic
- A traffic light at Yarmouth Avenue would help
- There are still a lot of dead ends and missing links with roads and multi use paths
- The SKIP ends at the homeless shelter – it would get much better ridership if it extended north (for proximity and not feeling comfortable sharing station with homeless shelter)
- Locate a new transit center away from the homeless shelter to get more use
- Speed limits are too high on North Broadway for it to be pedestrian oriented
- The lack of parking in North Boulder has already become an issue as we grow (which we want to happen)
- Residents on the west side of Broadway and up Lee Hill drive here to North Broadway. Those who live in Holiday walk everywhere
- The intersections along Broadway are dangerous and need to be addressed.
- The traffic coming and going due to people who work here but don't live here will only be a bigger issue

- Would like to see more round abouts or trees and benches along Broadway
- Want to see the Gateway addressed. It only needs landscaping per the plan and we don't even have that
- Would like to see signage as well welcoming people to Boulder
- Create an integrated network of streets
- Use street and pedestrian connections to tie the neighborhoods together
- Transportation improvements should address the traffic impacts of new development on the existing transportation systems

Groceries/Food

- The neighborhood wants a grocery store
- Like idea for a small scale grocery store
- Like idea of some type of North Boulder farmers market

Land Uses and Zoning

- The use review process for redevelopment on the west side of Broadway is onerous and costly.
- Even in industrially zoned areas many office uses are not allowed
- Not happy that Violet Crossing and Westview developments have minimal retail space
- Would like to see more contiguous redevelopment
- North Boulder needs land uses that are destinations (Amante and bike shops to some extent now, but need more)
- Some type of entertainment venue could be oriented around music (e.g., how Lyons uses music to draw people)
- North Boulder has a lot of interesting land uses, but they are scattered
- The issue isn't just zoning – e.g., you can't just expect to change the zoning and for development to happen – we need to be more creative and incentivize the right things so they really happen
- Should look at zoning along Broadway between Violet Avenue and Quince Avenue – that area could accommodate more density
- Need to understand what has worked and not worked (and why) with commercial and retail development on the Broadway corridor north of Lee Hill
- Need to understand the advantages and disadvantages of current zoning and potential zoning changes on the corridor
- Need to understand the residential concentration and economic mix that will support viable commercial and cultural development on the Broadway corridor
- The village center concept feels ½ done with west side of Broadway being missing piece. Sees two obstacles to redeveloping rest of this area: the market area is limited (i.e., if you draw a 2 mile radius much of it is open space) and the land use patterns that created North Boulder make it difficult to have an urban, walkable place
- Take a closer look at the zoning and what is allowed – would like more flexibility for the right kind of development
- The MU-1 zoning category may be too restrictive for the market
- The area needs an anchor –a grocery store, a brewpub, or some type of movie theater/brewpub to generate activity and draw people
- Supports some type of live/work spaces on west side of North Broadway
- Interested in a Library and how the plan can benefit North Boulder businesses.
- Do not want to see huge box stores so I like the current zoning

Developers, Nonresidential Property Owners, Business Owners

Land Use and Development

- The density in Holiday is actually more than the plan calls for in that area
- The assumption for 95,000 square feet of office in the armory area does not make sense anymore
- Some of the commercial space as part of uptown/Holiday took 10 years to lease up

- The area needs some type of anchor before much more retail/nonresidential will be supported
- The village center concept should not just be on four corners – why not extend it north into the armory site?
- The armory site is currently zoned MU-1, which is more restrictive than BMS (MU-1 has restrictions on nonresidential square footage); the intent of the MU-1 district is more for residential with small scale neighborhood-serving retail and other nonresidential
- Concern about affecting the viability of the village center area building out by allowing any more nonresidential and extending the BMS zoning north to the armory site. However, the BMS zoning will not allow for an anchor.
- The market is really different in North Boulder – prices, demand, etc. don't necessarily align with concepts in the plan yet
- Many of the properties will not redevelop because of the zoning
- If there was a way to reduce fees for annexation and then modify the zoning it might work for county enclaves in North Boulder
- Only allowing live/work units in North Boulder is problematic – the city doesn't need it that much
- Income producing light industrial space provides no incentive to redevelop
- North Boulder will never be a "hot item" for commercial because it is on the edge of town
- Would like to see some type of study to evaluate what is really needed in the area – the conditions have changed since 1995 and there may need to be a different land use mix
- The city should be more open to development that may not be consistent with the plan but is responsive to the areas current needs – that would spur more redevelopment
- The development on the west side of Broadway is an eye sore and should redevelop. However, it could price out artists and other unique users. Ideally we would improve the aesthetics but keep it affordable for unique users like this.

Activity in Area

- Would like to see more pedestrian activity
- The area needs to be more inviting for pedestrians
- Would like to see more retail in the area

Artists Community

- The NoBo Art District in itself should be promoted as an attraction

Homeless Issue

- Concern with the homeless population in the area. Routinely see activities disruptive to businesses as a result
- The homeless population is too concentrated in North Boulder.
- Some of the homeless in the area can be aggressive.

Transportation and Parking

- Parking is of concern. Most people drive to North Boulder now. Having minimal parking is great for the locals that want to live in a walkable community, but not great for businesses who rely on customers finding parking spaces (especially for businesses that directly front on Broadway)
- From an urban design standpoint, minimal parking is good (parking in rear, reduced), but for retailers is it not good
- Could make the southeast corner of Broadway and US 36 a Park N' Ride

Nonprofits

General

- Should revisit the vision in the plan. Conditions and attitudes about the area have changed (e.g., the rural character may not be as important now as it was in 1995)

Zoning and Land Use

- Should be more flexibility to go outside of zoning code for new interesting projects
- Density bonuses could work
- Could adopt some type of overlay where developers don't have to build affordable housing (if we really want the west side of broadway to redevelop)
- The zoning code has limited allowances for efficiency units (very small apartments) with minimum square footages – if there was more flexibility for these we may be able to get more density and affordable units
- Keep in mind affordable commercial space

Affordable Housing

- There used to be large scale, multifamily developments in boulder – hence, it was easier to provide the required 20% affordable housing on site. Now, sites are smaller so developers and the city have to get creative.
- The affordable housing will even out in the rest of the city relative to the disproportionate amount in North Boulder now.
- Research shows that affordable housing can have a positive impact on neighborhoods when there is the right balance of land uses – this includes having a good mix of housing, but also daily services nearby (e.g. grocery store)

Economic Vitality

- Any plan strategies should be backed up by a market study so they are grounded in economic realities
- A Tax Increment Financing (TIF) district could be a tool if we really want this area to redevelop (or some type of district to help with financing for flood issues, affordable housing, etc.)

Transportation

- The plan falsely assumes that Broadway's capacity is fine. With significant redevelopment, it may not be.

Library

- The library site may have water/flood and parking issues
- The library recently did a survey of North Boulder residents regarding community needs

Arts District

- The arts group wants to apply to the state for an arts district designation (a state creative district)
- The state has a tiered process, where the applicant has to get local government approval (via a resolution or similar) before they can apply
- With this, the first step is getting council to approve a resolution recognizing the North Boulder Arts District
- The general process is 1) submit a proposal to the arts commission for a recommendation, 2) city council accepts, 3) apply to the state for designation and funds, and as part of that process set up their own organization with sustainable funding, etc.
  The state sees these districts also as economic engines – could the city as well?

Other

Commercial and Neighborhood Issues

- Lack of change in the commercial areas in last several years is a concern– would really like to see a true neighborhood center
- North Boulder needs to be more of a self-sustaining neighborhood – need day-to-day conveniences like a pharmacy, groceries, etc.

- The small format retail has struggled more so with Uptown than Holiday. Holiday is fully leased, maybe as a function of better design.
- The village center concept in the original plan should remain and not become a strip
- There is no incentive for property owners on the west side of Broadway (between Violet Avenue and Yellow Pine Avenue) to develop
- Focus the plan update on areas of change (north of Violet Avenue)
- A market study of the village center area would inform this process
- Look at the subcommunity as a whole- Table Mesa has a neighborhood/commercial center and so should North Boulder.
- Armory Site (southeast corner of Lee Hill Drive and Broadway)
    - The area needs cultural amenities
    - Naropa consolidating their campuses there would be supported
    - Single-family detached housing would be okay; high density mixed use is over saturated in Boulder
    - Should have heart, occupied 24/7
    - Should be the glue of the community, cohesive, and the entry into the city.

Parking, Transportation, and Infrastructure

- Consider allowing height to compensate for flood mitigation cost
- Explore new approaches to parking. A parking district where users share may be a good solution to avoid seas of asphalt, keep the area pedestrian oriented, and provide adequate parking for retailers/restaurants
- New restaurants on North Broadway can be challenging because there is not enough parking along and near North Broadway
- Garages may not be a solution because they primarily get used for car storage. They benefit some of the residents/offices.
- Would like to see a bus line running along US 36 to the commercial areas along 28th/29th Streets. This would get good ridership as an underserved route.
- Would support roundabouts at Yarmouth Avenue and Violet Avenue
- Some bicycle connections have been made since the original plan
- North Boulder is the northern gateway to Boulder, it should be welcoming. It is very confusing and dangerous as it is
- Connections needed on west side (pedestrian/bike) to the mobile home parks

Land Use Mix

- Any type of large format retail that could be an anchor is difficult to do with the current zoning along North Broadway
- The whole area north of Violet Street could be one neighborhood center. It doesn't have to be just concentrated in the village center area.
- The MU-1 zone restricts uses to those that are neighborhood serving, but there could be opportunities to expand uses that draw from outside the neighborhood (the North Boulder residents would also benefit from it)
- There is a good mix of tenants right now along the North Broadway commercial area
- Some of the storage units in North Boulder may redevelop soon
- Some area along the west side of Broadway may support a small grocery, but developers may not invest in a grocery store unless there is high-traffic infrastructure to support it (4 lane intersection).
- The existing grocery options need to be better advertised – there is a mexican grocer, a gas station, and some small shops

Arts District

- Arts district may be a good idea if it can integrate with what is already in North Boulder
- Some related businesses may include welding, studio space, live/work, or small coffee shops

- Smaller mixed use commercial is acceptable
- Supports commercial on the east side of the site, but commercial shouldn't extend past Yellow Pine.
- Some existing retail along 28th Street is underused

Affordable Housing

- Keeping the area around 40% (near what Holiday is) affordable housing units is a good mix.
- Less concerned than others about overconcentration of affordable housing. However, if we start getting into 60%-70% affordable housing units for the area that might be too high

Attachment 5: June 6, 2013 Memo Comments

The feedback staff received from the March and April community interviews informed a North Boulder Subcommunity Plan update memo to Planning Board on June 6, 2013. The purpose of that memo was to introduce the Planning Board to the project and solicit feedback. Staff also sent this memo directly to community members for review and comment. Both groups reviewed and commented on the June 6 memo. Staff has also summarized these comments and provided responses below.

Comment: Keep It Geographically Focused

The plan update should not reopen the entire original North Boulder Subcommunity Plan. Staff should focus the effort on the Village Center and Yarmouth North areas.

> **Response:** This is consistent with the direction provided by City Council in the 2013 Work Plan.

Comment: Broaden the Scope Within the Focused Geographic Area

The scope should be broadened within the North Broadway geographic focus area to include several other issues, including:

- Transportation and Parking - The transportation network along Broadway may be a barrier towards realization of the Village Center and Yarmouth North concepts. Broadway is not very walkable, and east west connections across Broadway are problematic due to traffic speeds and street widths. Similarly, parking issues present a challenge to balance business needs with the 1995 Plan's vision for a pedestrian scale environment.
- Housing – The overconcentration of affordable and special needs housing in North Boulder, particularly north of Violet Avenue, continues to be a concern. Similarly, the number and types of surrounding housing also relates to the success of the Village Center and Yarmouth North areas.
- Cultural Facilities - Land uses like an arts district and library can contribute to the success of the Village Center and Yarmouth North areas.

> **Response:** Staff will be assessing all of the key barriers and opportunities towards realizing the 1995 Plan's vision for the Village Center and Yarmouth North areas. A market study (see Attachment 3: North Boulder Market Study Summary) will inform what some of these key barriers are. However, the plan update will not address any topics that do not directly relate to these geographic areas.

Comment: Citywide Initiatives May Not Adequately Address North Boulder-Specific Issues and Community Involvement

While there are several citywide efforts to address issues like housing (Comprehensive Housing Strategy) and transportation (Transportation Master Plan) noted in the June 6 Planning Board memo, the North Boulder-specific issues may not get adequately addressed in these broader initiatives. The North Boulder Subcommunity Plan should be the implementation mechanism for the recommendations that come out of these efforts.

The North Boulder Subcommunity Plan update is potentially the most effective process for community feedback on issues around housing, transportation, arts, and the library.

> **Response:** Both the Comprehensive Housing Strategy and the Transportation Master Plan (TMP) are citywide efforts that will have opportunities for community feedback and geographically specific implementation items. Both processes are in early stages so it is too soon to tell if there will be any recommendations to integrate into the North Boulder Subcommunity Plan. In order to keep this plan update focused and efficient (and in accordance with the 2013 Work Plan), staff will only focus on issues that relate to the Village Center and Yarmouth North areas, and coordinating with the Comprehensive Housing Strategy and Transportation Master Plan only as they relate to these geographic areas.

Staff is also working with housing and transportation staff to develop more user-friendly communications portals for North Boulder specific issues that may or may not be part of this plan update. This will include joint TMP and North Boulder Subcommunity Plan outreach later in 2013 (see Proposed Update Process and Timeline), and a North Boulder city staff point person to assist community members with addressing their concerns and directing them to the appropriate channels.

Specific Comments on June 6, 2013 Planning Board Memo

June 6, 2013 Planning Board Memo Comment 1 (Planning Board Member)

I think the focus on the commercial North Broadway corridor makes a lot of sense. It keeps the scope of the update manageable while addressing the most important issues that the subcommunity faces. However, I think the scope needs to be broadened somewhat from what is proposed in the memo we received. Issues around parking, transportation and housing are central to the success of the commercial area and should be included in the sub-community plan revision.

For example, high traffic speeds along North Broadway along with the lack of crossing opportunities and the absence of a traffic light at Yarmouth and Broadway make it very difficult to realize the walkable, pedestrian friendly vision for the commercial area. The commercial viability of the area could increase dramatically if the two sides of Broadway were better linked and the roadway noise and danger were reduced. The TMP will be looking at issues across the entire city, and the specific needs of the North Broadway area will be easily lost in the larger process. Similarly with parking -- there are great opportunities to increase development feasibility for the west side of Broadway by creating a parking district and/or some kind of parking sharing. Again, the larger parking process wouldn't have the same focus on the needs of the North Broadway area.

Regarding housing, I agree that this is not the place to evaluate the larger issue of the ratio of affordable housing in the region north of Violet. However, how much housing is allowed or encouraged by the zoning is an important factor for the corridor development, and that needs to factor into the discussion.

Finally, an important reason to widen the scope is to make the process viable for neighborhood representatives. It's unreasonable to expect people to advocate for the neighborhood through as many as six separate processes: the sub-community revision, the TMP, the parking strategy, the comprehensive housing strategy, the library commission and the arts district designation. To the extent that we can centralize the process while keeping the focus on the North Broadway commercial corridor, it makes it feasible for residents to stay involved and engaged.

June 6, 2013 Planning Board Memo Comment 2 (Planning Board Member Comment)

In general, I agree that connectivity and multi-modal issues are best addressed in the Transportation Master Plan (TMP). It is an actual plan. I think, however, that because the Housing and Parking are strategies and not plans, the North Boulder Subcommunity Plan (NBSP) update should address housing and parking as it would be the place to implement whatever strategies are developed in the corresponding strategy document.

Specific comments on the 6/6/ memo:

- What constitutes "overconcentration"? Does quantitative criteria exist to define such a condition? Without such definitions, how can we make that call? What are the impacts of overconcentration? Are they negative?

- The subcommunity plan should address the specific issues related to housing, while the housing strategy creates the overarching policies and objectives. Therefore, the housing issues related to this area should be addressed in this document.
- The NBSP should be the implementation tool of these strategies therefore, parking should be addressed as guided by the strategies.
- The TMP is actually a plan and agree that multi-modal and connectivity are addressed more appropriately in that document.
- Shouldn't the NBSP implement strategies defined by the Comprehensive Housing Strategy?
- Does this preclude the planned library? If so, any update to the NBSP should reflect this.
- However, as North Boulder is built out, a library comparable to Reynolds or Meadows would be more appropriate. The incubator station should be treated as a stop gap measure.

June 6, 2013 Planning Board Memo Comment 3 (Public Comment)

We appreciate that the City's commitment is not to reopen the Subcommunity plan in its entirety. We agree with limiting the focus. We just want to be sure that the critical elements of the original plan that are not working from our perspective get addressed. We agree with your approach in the following respects:

- Focus on that portion of North Boulder from Violet north to the City limits at Broadway and 36. (We would have the focus start just south of the Broadway Violet intersection, using the Didomenico Art house installation as the southern anchor. An analysis of the commercial viability of the North Broadway corridor would then include its three central intersections: Broadway/Violet; Broadway/Yarmouth and Broadway/Lee Hill.)
- Focus on the commercial/retail viability of this portion of the North Broadway Corridor. We have requested and support a market study that comprehensively examines what is working and not working about commercial development on this corridor. We would like to understand much better than we do the zoning, market, environmental, annexation, property ownership issues and their contribution to this corridor's commercial/retail stagnation. We would also like to understand how/whether the creation of a flourishing Art District in North Boulder, building on our existing artist community, can support commercial/retail development here.

We want to be sure, however, that any tailored reopening of the plan actually focuses on the factors that, from our perspective, are critical to the commercial and retail viability of Broadway North of Violet. Those are primarily transportation, housing and cultural issues.

Transportation and circulation
We and the North Boulder Alliance both believe that resolution of the transportation and circulation issues inhibiting must be integrated into any update of the Subcommunity Plan. While transportation issues are critical to any planning effort, this proposed update of the plan, after all centers on a transportation artery: Broadway. Many aspects of the current transportation and circulation inhibit the connection between the east and west sides of Broadway and are unsafe. Necessary improvements include:

- Pedestrian and bike friendly improvements: Slow traffic, two lanes, traffic circles
- Motorist friendly improvements: Yarmouth signal, Lee Hill turning lane, adequate parking
- Integrated network of streets improving circulation and providing routes other than Broadway both for everyday use and for emergency access
- Streetscape improvements to Broadway that make it more attractive and comfortable for neighbors and visitors to patronize North Boulder businesses.

Housing
We and the North Boulder Alliance have stressed repeatedly the importance of constraining the concentration of affordable housing in North Boulder even as we recognize the necessity of increasing housing units in our

community to support the commercial/retail growth we desire. We don't think it is merely an issue of fairness. We are convinced that the commercial/retail viability of our community depends on attracting residents who have the means to support local restaurants and retail.

Cultural amenities
The two cultural amenities we believe are critical to the commercial/retail viability of this portion of the North Broadway corridor are the creation and support of a North Boulder Art District and the fulfillment of the original Subcommunity plan's original commitment to a North Boulder Branch Library.

NoBo Art District
We know plans are underway for designation of a North Boulder Art District. We urge that the Subcommunity plan update be coordinated with this designation because we have become increasingly convinced that a thriving art scene in North Boulder can play a critical role in overcoming the economic stagnation we are experiencing. As it has done in so many other communities, a variety of artistic activity can draw neighbors and visitors, enhancing local businesses and events.

Branch Library
We believe the City's and Boulder Housing Partners' commitment to a library station at WestView will help anchor the Broadway/Yarmouth intersection and enhance its commercial viability. Our primary concern, however, remains the City's lack of follow through on the full service branch for which the site was acquired many years ago.

North Armory Site
We are concerned that the timing of your project will limit the options available to the current option holders on the Armory site. The size, location and major Broadway frontage of this site make it one of the most important remaining parcels in the North Broadway corridor for enhancing the corridor's commercial and retail viability.

In our April 16th note and vision submission to you, we tried briefly to set out the potential elements of a new vision for a viable North Broadway corridor. We took a deliberately brainstorming approach to reflect the diversity of opinion that we know exists in our North Boulder community while at the same time providing a focus on the issues we thought most important. We did not see our note and vision submission included in their entirety in your June 6 Information Item. We would appreciate your including them, as well as this note, in the submission you make to the Planning Board for its August 15th study session. If you would prefer a more focused submission, we're glad to oblige.

June 6, 2013 Planning Board Memo Comment 4 (Public Comment)

After reviewing your attachment further I realized that the North Boulder Sub-Community Plan is not intending to address the housing issue. I am a bit confused by the list of what the Plan will address and what it will not. The 'will not address' list is much longer and it seems that many of the concerns we have expressed over the past three months to you are being exempted from the Plan. Why document our concerns if they are not going to be addressed?

Isn't there already a NoBo Business Corridor Plan for the Village Center that is separate from the SubCommunity Plan? It seems short-sighted to not include residential in the Sub-Community Plan? The word community is comprehensive. I am not sure I am understanding the goal of the revisit to the Plan if it does not include all areas of concern.

If the subject of our over-concentration of affordable housing and social services is to be included in the New Comprehensive Housing Strategy for Boulder, then please address these concerns there. I see that both your name and Lesli's are on the staff list for that document. Although reading through the report on the study

session it is clear from the market study that North Boulder is going to be hit even harder due to the amount of developable space. The market study does not go near the topic of concentration, which is a huge oversight. This small community will continue to carry the load of affordable housing for Boulder, thus segregating populations within the city by economics. This is a sure formula for slumming and it is not what the BVSD called for. It is the exact opposite of the dispersal called for in the BVSD. Dispersal is not addressed in depth in the New Comprehensive Housing Strategy study session report.

I believe that the North Boulder SubCommunity Plan needs to address our local community's particular issues and protect our future development, not just along the commercial corridor. The infrastructure of housing will or will not support the business model, depending on the success of the residential community development. The infrastructure of transportation and parking will or will not support the business model, depending on the success of the residential community development. Community facilities and an art district directly impact the success of the commercial corridor.

Please excuse me if I am misunderstanding the scope of the Plan, or lack thereof. It looks like the new plan is only taking into consideration the topics addressed by the old plan. How can we ignore the many changes that have occurred in our community since the first plan was drafted? If we are going to put the time and effort into rethinking this, why not make it as effective as possible?

June 6, 2013 Planning Board Memo Comment 5 (Public Comment)

Thank you for the update: it seems to comprehensively report the various opinions and concerns you have collected on the future development of North Boulder.

One thing caught my eye: the comment that HHS is not concerned about the concentration of affordable housing and social services in Boulder north of Violet Street if it continues to hover around 40%. I am attaching a special report generated by/for her department in November 2010. I hope that you will read it carefully as it expresses concern at that early date that the community is well out of balance with the Boulder Valley Comprehensive Plan. It states, in fact, that the concentration was already well above 40% then. Not included in the count is the 100% affordable Westview apartments, 1175 Lee Hill, 820 Lee Hill, Violet Crossing, the Blue Spruce auto development, Rosewood, the Armory, and whatever else might be developed on the west side of Broadway north of Violet. HHS knows perfectly well that with the completion of these projects the percentage will be in the mid to high 50% range, perhaps over 60%.

HHS was concerned enough in 2010 to order a special study. Now they use casual language and loose statistics to suggest there is no problem. I have presented this document repeatedly in the past to City Council, City Manager, Planning, etc. It is important to understand the full history and momentum of affordable housing in North Boulder. Our Housing and Human Services Department has not been candid with the public or city officials. They continue to ignore their own report of an imbalance in the city's goal of 10% affordable housing dispersed throughout the city of Boulder.

I recommend that Planning order from the Housing and Human Services Department an updated and accurate report on the current and projected percentages of affordable housing in Boulder north of Violet. This is essential to developing a plan for North Boulder that meets the expectations of the BVSD and addresses the concerns of the community. The department needs to be accountable for the situation of imbalance they have created. If I sound bitter and frustrated it is because we continually run up against this HHS "wall of denial" in our efforts to improve the future of our community.

The word 'moratorium' has been brought up by both citizens and several city council members to no avail. Perhaps it is the North Boulder Sub-community Plan that needs to propose this concept. Calling for an

exemption from the 20% affordable requirement for any future development (development that has not to date been issued permit) in the area of Boulder North of Violet between city boundaries west and east.

Please let me know if that is something the citizens of North Boulder could collect and document support for and that you could include in the NBSCP.

Attachment 6: North Boulder Alliance Comments – April and July 2013

North Boulder Alliance Comments – April 15, 2013

Vision for North Boulder

- Broadway connects the neighborhoods to its east and west, rather than divides them, as is currently the case.
- Neighborhoods retain their individual character by requiring new development and redevelopment to be in harmony with the adjacent areas.
- The North Broadway corridor attracts business owners to provide a variety of retail and commercial services.
- The North Broadway corridor has a distinct and coherent visual identity appropriate to its function as Boulder's northern gateway.

North Boulder Subcommunity Plan

- Residents of North Boulder need to be well-informed about the process for updating the plan and need multiple opportunities (of varying degrees of intensity) to provide input that actually affects the outcome.
- The update process should examine how and why development since its adoption has deviated from the plan in so many ways and make appropriate policy changes that will address the adverse consequences of those deviations from plan. In particular, the heavy presence of the homeless population has an adverse impact on adjacent neighborhoods, local businesses, pedestrians, and bus ridership.
- The update process should be completed before any significant development/redevelopment projects that are not already approved are allowed to move forward.

Transportation and Circulation

- A North Boulder transportation plan creates an integrated network of streets that improves circulation and provides alternate routes, both for everyday use and for emergency access and/or evacuation.
- Street and pedestrian connections across Broadway "tie" the neighborhoods together.
- Transportation improvements address the dramatic increase in traffic resulting from recent and new development, especially the more high-density infill developments and redevelopments that are planned. These include upgrading signals at Broadway and Lee Hill, making street connections across Broadway from the residential developments on both sides, making pedestrian movement across Broadway safer and more inviting, adding shelters to bus stops to make them more user-friendly, and filling in missing links in bicycle lanes and multi-use paths.
- A new transit center located away from the Boulder Shelter for the Homeless helps to increase ridership and improve transit users' perception of safety.
- Streetscape improvements to Broadway will make it more attractive and comfortable for neighbors and visitors to patronize North Broadway businesses. Additional parking will help those businesses attract customers, both from North Boulder and outside.

Neighborhoods

- The concentration of shelters, permanent supported housing, affordable housing, and social services that has taken place since the adoption of the subcommunity plan should not be allowed to continue. The area north of Violet now has 50% or more affordable housing, in contrast to the citywide goal of 10%. New development should provide no more affordable housing than is required under Boulder's inclusionary housing ordinance or should use the cash-in-lieu option to build affordable units in under-served neighborhoods. Social service agencies should be encouraged to locate or grow in other parts of Boulder so that they may serve the broader community without having a disproportionate impact on North Boulder.
- North Boulder has a variety of neighborhoods, each of which addresses its residents' needs and preferences in an effective way. This variety has contributed to the diversity of North Boulder's population with respect to age, family structure, and income.

- The individual character of these neighborhoods should be respected and protected; infill development should be in harmony with respect to density, home type, and design. Adjacent redevelopment should be designed to provide effective transitions, not harsh contrasts.

Business and Retail

- North Broadway should become a hub for a wide range of businesses that serve both the neighborhood market and that of Boulder as a whole.
- North Broadway's existing low-cost commercial and industrial space on the west side is important for nurturing artists, small business start-ups, and niche businesses. However, streetscape and signage improvements can integrate these businesses into a more coherent North Broadway business district on both sides of the street.
- The North Broadway commercial corridor should be managed as a business center, with efforts to analyze the market for various businesses, recruit business owners, and manage design and parking issues.
- The business components of developments on parcels such as the Armory will be especially critical to the future of North Broadway's economic health. Development of the Armory site should include businesses that attract both daytime and night-time patrons from beyond the neighborhood.

Community Facilities and Amenities

- The village center proposed in the 1995 subcommunity plan should be developed as a focal point that provides a sense of community to the diverse neighborhoods of North Boulder. It would be an excellent location for facilities such as meeting spaces, a police substation, or a library branch (see below).
- The subcommunity plan envisioned a library branch in North Boulder. We are still waiting. We understand that financial limitations make a full branch difficult to build in the near term; there are lower-cost options that could at least provide some service to the growing population of library patrons in North Boulder

NORTH BOULDER ALLIANCE

Preserving the integrity of our community as it grows.

P.O. Box 2063, Boulder, CO 80306

(303) 444-5757

July 31st, 2013

Dear Jeff,

The North Boulder Alliance (NBA) would like to offer comments on the proposed scope of the North Boulder Subcommunity Plan (NBSP) update. The planning staff recommended to the Planning Board that the NBSP update focus exclusively on the viability of the North Broadway commercial area -- by focusing on barriers to and opportunities for realization of the 1995 Plan's vision for a village center. Unfortunately, we believe you will find that the principal barriers are issues excluded from the scope, as are the most promising opportunities to achieve the vision for North Broadway and the village center that were embodied in the 1995 plan. We also have concerns about the plans for community engagement and would like to recommend ways to make this a robust and productive partnership.

Vision for North Boulder: The staff document acknowledges that it has received input from some residents, businesses, and taxpayers in North Boulder, but fails to recommend a visioning process that would engage the community in a meaningful way to shape a vision that will have broad public support and will thus be more likely to influence future development.

Recommendation: Hold professionally facilitated, in-depth visioning meetings in North Boulder.

Assessment of Today's North Boulder Relative to the 1995 Plan: We question if the staff has really examined the ways in which North Boulder's development has diverged from the 1995 plan. As a small example, referring to WestView as a mixed-use development is gratuitous at best and misleading at worst. Labeling Dakota Ridge North as Wonderland Hills shows a similar lack of familiarity with North Boulder as it exists today.

The staff memo states that "the [1995] plan calls for a Village Center concept on both sides of Broadway at around Yarmouth Avenue. The east side of this area has seen significant redevelopment, but the west side has not. These redevelopment areas have been largely consistent with the plan's goals for vertical mixed use and pedestrian-oriented design."

The above statement is inaccurate in that the northeast corner of Yarmouth and Broadway (the center of the Village Center) commonly known as WestView in no way meets the vertical mixed use/pedestrian-oriented design requirement. In fact, it is 100% affordable rental housing. This raises the question of whether the city really knows whether the plan has been followed at all. We therefore request that the assessment process verify what's really there now.

Recommendation: Provide a comprehensive assessment of the ways the 1995 NBSP did meet and did not meet its targeted goals.

Barriers to a Viable North Broadway Business Corridor/Village Center: The growing concentration of social services, shelters, subsidized housing, and vagrants north of Violet has serious implications for the market for businesses on North Broadway, yet these issues are to be excluded from the scope of the NBSP update. Street connectivity, traffic flow, and parking are and will continue to be critical factors in the

accessibility of North Broadway businesses to their local customers, but they are not included in the scope. Similarly, community facilities that serve as a magnet for potential customers (and vagrants) are also excluded from the plan update.

The scoping document also does not acknowledge that a principal barrier to the success of the plan is the city's desire to locate more affordable housing here due to lower land values. This trend could be considered a market reality that must be acknowledged and addressed. The document correctly acknowledges that affordable housing is overly represented in north Boulder compared to other parts of the city but it does not address the reason for this, which, if not addressed, will continue to serve as a barrier to the realization of the plan.

Recommendation: Explain in detail the barriers that inhibit healthy, thriving business development in North Boulder.

Opportunities for a More Viable Business Environment: The staff also proposes to exclude two of the more promising opportunities for adding vitality and identity to the business corridor – capital investments in streetscape and signage and the nascent arts district.

By excluding so many of the critical barriers and opportunities for achieving the kind of thriving business district envisioned in the 1995 plan from consideration in the current update, we fear the effort will be doomed to result in recommendations to address the very issues that will not be addressed in the update. Aside from wasting resources in a futile effort, the City and the community risk losing our last opportunity to influence development in a way that realizes the vision of the 1995 plan (which is still supported by so many North Boulder residents, businesses, and taxpayers).

Recommendation: Incorporate into the 2014 NBSP update clearly defined steps to reverse the barriers into opportunities for business growth in NB.

Community Engagement: Given recent history in the City's relationship with North Boulder residents, business owners, and taxpayers, it is especially important that the public engagement process be robust and citizen-friendly. Holding public meetings or Planning Board study sessions in prime vacation time would not send the message that the City welcomes citizen engagement. Holding public meetings downtown, rather than in North Boulder, de-emphasizes and dilutes the special importance of these issues to North Boulder neighborhoods. We urge the City to take the time and make the effort to do this right.

Recommendation: Hold a series of formally scheduled meetings in North Boulder to encourage maximum resident participation and buy-in of the NBSP update process.

NBA appreciates the opportunity to participate in the NBSP update but believes these issues important to North Boulder residents must be addressed within the City's update process.

Sincerely,

The North Boulder Alliance

cc: Lesli Ellis

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
April 24, 25 and 26, 2013
1777 Broadway, Council Chambers

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

PLANNING BOARD MEMBERS PRESENT:
Aaron Brockett
Bryan Bowen
Crystal Gray
Leonard May
John Putnam
Mary Young, Chair
Sam Weaver

STAFF PRESENT:
Michelle Allen, Housing Planner
Bill Cowern, Traffic Engineer
David Driskell, Director of Community Planning and Sustainability
Lesli Ellis, Comprehensive Planning Manager
Charles Ferro, Development Review Manager for CP&S
Karl Guiler, Planner II
Jeff Hirt, Planner II
Katie Knapp, Flood Plain and Wetlands Administrator
Scott Kuhna, Development Review Supervisor
Susan Meissner Administrative Specialist III
Chris Meschuk, Planner II
Hella Pannewig, City Attorney
Susan Richstone, Deputy Director of Community Planning & Sustainability
Heidi Schum, Development Review manager for PW
David Thompson, Civil Engineer II- Transportation

DRAFT

April 24th, 2013

1. **CALL TO ORDER**
   The meeting was called to order at 6:00 p.m.

2. **APPROVAL OF MINUTES**
   There were no minutes for approval

3. PUBLIC PARTICIPATION

No one spoke

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

There were no items for discussion

5. PUBLIC HEARING ITEMS

A. Public hearing and consideration of the following applications for two parcels of land located at 5399 Kewanee Drive and 5697 South Boulder Road:

1. Annexation and Initial Zoning, LUR2006-00099: Application to annex the approximately 22- acre properties at 5399 Kewanee Drive and 5697 South Boulder Road with an initial zoning of Residential Low -2 (RL-2) zoning; and

2. Site Review and Preliminary Plat, LUR2012-00048: Application to subdivide and develop the site with 50 permanently affordable congregate care rental units, six permanently affordable duplex ownership units, two permanently affordable single-family ownership units, and 63 market rate single-family units for a total of 121 dwelling units. The Applicant is seeking to establish a vested property right pursuant to section 9-2-19, B.R.C. 1981.

Notice to Planning Board of pendency of application to vacate an unused portion of the 55th Street public right of way pursuant to charter section 79 and section 8-6-9, B.R.C. 1981.

Applicant/Property Owner: Michael Boyers

Staff Presentation:
C. Ferro and **K. Guiler** presented the item to the board.

Board Questions:
K. Guiler, **H. Schum**, **K. Knapp, H. Pannewig, D. Thompson** answered questions from the board.

Applicant Presentation:
Bruce Dierking, the attorney for the applicant, presented to the board.
Dave Williams, the architect from DTJ Design, presented to the board.
David Gregg from Boulder Creek Builders, presented to the board
Jerry Gloss, the architect for Boulder Creek Builders, presented to the board
Walt Niccoli, engineer for the applicant, presented to the board.

Board Questions

DRAFT

Public Participation:

1. **Emily Ditty, 951 Arapahoe Ave,** works with the Senior Community in Boulder County and supports the addition of units for seniors in Boulder.
2. **Suzanne DeLucia, 86 Minneola,** spoke in opposition due to environmental impacts.
3. **Christine Rubin, 5355 Kewanee Dr., (**pooled with **Kathryn E. Lewis)** spoke in opposition to the project and showed a video produced by the neighborhood group.
4. **Gordon McCurry, 3266 Berea Dr., (**pooled with **Patricia Coats, John Weiner, MaryAnn Mc Whitter),** a groundwater hydrologist, spoke about the key issues that he found in his review of the reports. He did not think that development was appropriate on this site.
5. **Jeff Rifkin, 32 Cimmaron Way, (**pooled with **Clare Telleen)** spoke in opposition due to a lack of understanding of the hydrology.
6. **Ron Craig, 260 Cimmaron Way (**pooled with **Deb Grojean)** spoke in opposition to the project due to groundwater concerns through personal observation over years of living in this neighborhood.
7. **Ramon Jesch, 250 Cimmaron Way (**pooled with **MaryAnne Eckert, Joyce Takamine)** opposed the project due to flooding concerns. He showed a presentation of historical flood photos.
8. **Jeff McWhirter, 5435 Illini Way (**pooled with **Bill Eckert, Carol Atkinson, Luan Jesch)** spoke in opposition to the project due to flooding concerns.
9. **Jeff Hale, 5390 Kwanee Dr,** spoke in opposition to the project due to flood and traffic concerns.
10. **Harry Holland, 5323 Aztec Drive, (**pooled with **Roger Kautz)** spoke in opposition to the project due to traffic concerns.
11. **Geno Treppeita, 265 Cimmaron Way,** spoke in opposition to the project due to traffic concerns.
12. **Christy Vaughn, 140 Manhattan Dr., (**pooled with **Warren Barker, Julie Hale),** spoke in opposition to the project due to the degradation of the wetlands.
13. **Karin Chin, 130 Cimmaron Way, (**pooled with **Jeff Scharch)** spoke in opposition to the project due to the importance of retaining critical habitat for wildlife.
14. **Debra Flora, 150 Seminole Dr., (**pooled with **Michelle Travis)** spoke in opposition to the project citing that it fails to support the Boulder Valley Comprehensive Plan.
15. **Bill Silberstein, 5459 Illini Way,** spoke in opposition to this project due to flood and traffic concerns.
16. **Gary Klein, 4973 Clubhouse Ct.,** spoke in opposition to the project and submitted a letter to the board.
17. **Gary Myre, 3175 11th Street,** spoke in favor of senior housing in Boulder.
18. **Mike Befeler, 890 Cypress Drive,** spoke in opposition of the project.
19. **Raymond Bridge, 435 S. 38th Street,** spoke on behalf of PLAN Boulder County. He noted the need for senior housing but expressed concern about the degradation of wetlands and flooding potential.

Meeting Adjourned at 11:01 p.m.

DRAFT

April 25, 2013

Meeting Called to Order at 6:08 p.m.

20. **Mike Trynosky, 218 Irquois Dr.,** Spoke in opposition due to safety concerns due to increases in traffic and impacts on school children.
21. **Tim Beal, 1480 Violet Ave.,** the director of Boulder Housing Partners spoke to the need for affordable senior housing in Boulder. He encouraged support of the project.
22. **Wendy Meyer, 5284 Pueblo Place,** spoke in support of housing for seniors and in opposition of the annexation.
23. **Ruth Blackmore, 705 S. 41st Street,** spoke in opposition of the annexation and development of the property due to hydrology issues.
24. **Paul Romotschke, 230 Cimmaron Way,** spoke in opposition to the project based upon flawed scientific modeling in the applicant's hydrology report.
25. **Connie Holubar, 1536 Harrison Ct., Louisville,** came to represent Elisabeth Borden. She supports affordable housing for seniors and this project.
26. **T. Carpenter, 5395 Kewanee Drive,** spoke in opposition to the project.
27. **Steve Meyer, 5482 Pueblo Place,** spoke in opposition to the project.
28. **Robert Prostko, P.O. Box 286,** spoke in opposition to the project.
29. **Peter Ornstein, 556 Aztec Drive,** spoke in opposition to the project.
30. **Steve Koester, 5467 Blackhawk Rd,** spoke in opposition to the project due to the social impacts of this development.
31. **Alan Katz, 103 Genesee Ct., (**pooled time with **Marilyn Larson and Mireille Key),** spoke in opposition to the project.

Board Questions about Groundwater concerns:
Scott Parker, an engineer from Anderson Consulting, answered questions from the board.
S. Kuhna, answered questions from the board.
Walt Niccoli, an engineer for the applicant, answered questions from the board.
Terry Fairbanks, an engineer for the applicant, answered questions from the board.
Gordon McCurry, an engineer from the neighborhood, answered questions from the board.
Lesli Ewy, an engineer from Sanitas Group, answered questions from the board.

Board Questions about Flood concerns:
Katie Knapp answered questions from the board.
Leslie Ewy, Sanitas Group engineer, answered questions from the board.

Board Questions about Wetland concerns:
Katie Knapp answered questions from the board.
Leslie Ewy, Sanitas Group engineer, answered questions from the board.
Bruce Dierking, attorney for the applicant, answered questions from the board.
David Johnson, an engineer for the applicant, answered questions from the board.

DRAFT

Board Questions about Traffic concerns:
Bill Fox, traffic engineer, answered questions from the board.
Chris McGranahan, traffic consultant, answered questions from the board.
Bill Cowern, city traffic engineer, answered questions from the board.
Leslie Ewy, an engineer, answered questions from the board.
Jeff McWhirter, a representative from the neighborhood, answered questions from the board.

The Planning Board adjourned at 11:04 p.m.

April 26, 2013

Meeting was called to order at 1:07 p.m.

Bruce Dierking, the applicant's attorney, spoke briefly to address emails sent to the board.

Board Disclosures:
C. Gray visited the site.

S. Weaver visited the site and received two emails. He was contacted by members of the public but did not have conversations about the topic.

J. Putnam visited the site and received emails to which he did not respond.

M. Young visited the site.

A. Brockett visited the site and received an email from a member of the public.

B. Bowen visited the site and received the same emails as the other board members.

L. May visited the site and received the same emails as the other board members.

The board agreed not to read any emails pertaining to the public hearing beyond that point.

Board Discussion:

Temperature Check
L. May felt neutral due to uncertainties.

B. Bowen felt undecided at this point. He thought the RL-2 zoning would be in compliance with the Comprehensive Plan. The use, proximity to open space and Recreation Center are beneficial. He felt comfortable with the traffic and flood plain issues but was nebulous about the groundwater issues.

DRAFT

A. Brockett was still undecided but expressed concern about more development in this area because the existing developed areas already have significant issues with traffic, flood and groundwater. The new development would also have these issues, whether or not they affect their neighbors. He did not want to remake mistakes made in the past or adversely impact neighbors. He felt that the use would provide a great community benefit and the applicant has dealt with the issues as best as possible. He did not want to put seniors in harm's way.

M. Young agreed with **A. Brockett**. She is still concerned about the groundwater and the fact that the neighbors have no recourse. She thought that could be addressed via the Annexation.

J. Putnam felt similarly to **B. Bowen** but was leaning toward denial at that point. The annexation would provide significant benefit to the community but did not know if it outweighed the impacts. He felt that there has been a high level of engineering pertaining to the floodplain. He felt that groundwater still poses a significant risk and wanted to see a better mitigation plan. He wanted to hear more about renewable energy.

S. Weaver felt similarly to **J. Putnam**. He believed strongly in the need for congregate care and affordable housing in the community. He felt comfortable with the wetlands, traffic and the flood engineering. He did not think that the groundwater had not been fully vetted or that the siting considered solar orientation for passive and active systems.

C. Gray agreed with the previous comments. She thought the congregate care met the community benefit requirement but did not think it was an allowed use in the surrounding zones. She liked the affordable housing and thought it hit the mark on housing design with the master bedroom on the ground floor. That is a need in this community.

Annexation and Initial Zoning: Boulder Valley Comprehensive Plan compliance

BVCP Natural Environmental Policies:
J. Putnam thought the proposed wetland configuration would be higher functioning and better connected than the existing low functioning, fragmented wetland condition. Though this would be preferable, he did not think it met the BVCP objective as currently stated in section 3.06 of the Wetland Ordinance.

B. Bowen thought that wetlands removal was the largest problem facing this project. This is mitigated by how the water is channeled. The wetland on the east parcel makes sense and is good.

L. May agreed with **J. Putnam's** concerns. The wetland issue is not a deal breaker but in conjunction with other issues, he felt more uncertain. The proposal does not meet the intent of the code about wetlands preservation.

A. Brockett noted that the surveys were done after alterations to the site in 2008. The wetlands as currently documented are the product of a disturbance. He is concerned about the effects. He does feel that it could be good to have the high functioning wetlands but does not feel that it balances.

DRAFT

L. May drew a parallel between the Landmarks Board and this issue of preserving a current condition versus improving upon history.

S. Weaver was uncomfortable that the survey was done after 2008 because the precondition information is spotty and unclear. The developers and city need to understand the wetlands and groundwater conditions.

C. Gray agreed with **J. Putnam** on the wetlands. She would prefer that they not be disturbed.

M. Young agreed with the concern that there is no baseline data for the property prior to 2008.

J. Putnam agreed with concerns about the alteration but noted that this is common with the acquisition of open space land; County agricultural land is handled differently. This is not a deal breaker, but it could require more information.

L. May did not think the owner did anything inappropriate but did not want to set a precedent that other landowners could shift baseline data through similar action.

B. Bowen thought that building on this site would make sense since it is an isolated piece of open space. But, it should only be done if it is worthwhile. This site could be used for a wetlands mitigation project to dewater neighborhoods to the east and preserve habitat as open space land.

J. Putnam noted that this would likely be a low priority for Open Space acquisition because it is within city bounds, does not have great habitat value and is a low functioning wetland.

Groundwater:
S. Weaver did not think that that groundwater was at an environmental risk for pollution by the proposed development but did think there was a potential risk that neighbors could incur external costs as a result of the development. He quoted code section 8.03 about equitable distribution of resources. Geographic groups cannot be impacted unduly.

A. Brockett agreed with **S. Weaver**. He thought that it was still very unclear as to whether the groundwater will affect the neighbors. The original data is so poor that the board cannot come to any definitive conclusions.

B. Bowen agreed that the uncertainty is a real problem. He suggested getting a snapshot of current conditions via sump pump data, and then to taking steps to dewater the current condition.

L. May noted that the exact characteristics of the aquifer are unknown and difficult to predict. He didn't find fault with the applicant's work but did not think the groundwater conditions could be predicted. He noted that there is no recourse for the neighborhood and this gives him a growing sense of unease. This is a good project but perhaps not in this location.

DRAFT

S. Weaver noted that there is a correlation between the timing between the groundwater issues and the construction of the soccer fields. In the absence of true knowledge and proof of causation, he thought that there was evidence that they're related. He could only conceive of annexation if there is much better data about these. Anecdotes are not data but they are informative in the absence of data.

M. Young noted that there were other related issues occurring in the neighborhood that seemed to correlate to sump pump usage. This pluralized the anecdotes.

J. Putnam did not think that the process was well served by the consultants' polar positions and thought that the groundwater issue could be solvable; many other communities have groundwater but he didn't feel that he had enough information about the scope of impact. He thought that there could be creative approaches and encouraged that applicant and neighborhood to work together to solve them.

M. Young noted that there is no prototype for development but that there are often things that have not been considered. It is difficult to assure that nothing wrong will occur.

B. Bowen disagreed. He noted that this issue has been troubleshot in other locations and can be mitigated. There are concrete engineering solutions for dewatering the site. This could be included in an annexation agreement. It is doable but may not be feasible.

C. Gray referenced section *3.28: Surface and Ground Water* in the BVCP. She noted the potential impacts to dewatering and how those could impact the adjacent properties. She did not think that they had been resolved. There was still ambiguity in the Anderson report and data.

L. May didn't find it possible to impose a condition for dewatering the site when the conditions are not understood. He agreed with **B. Bowen** that it is solvable but didn't think that the board should consider it unless it was fully understood. He noted that groundwater goes wherever it wants. Any measure short of dewatering the site is always going to have a great deal of uncertainty.

B. Bowen suggested that a performance criterion could be instated.

A. Brockett quoted a letter from a resident who stated that the adjacent neighborhood should not have been developed due to groundwater. There are unintended impacts on the residents.

J. Putnam noted that the groundwater issues would likely be improved by piping the ditches and the water used to currently flood irrigate the property would be added to the wetlands. This area should not have homes with basements. It might not be necessary to dewater the site if other measures could be taken to protect the existing homes.

L. May noted that groundwater could impinge on houses that are not currently affected. He recommended dewatering to make sure that neighbors do not incur the cost.

S. Weaver thought the applicant would be responsible for assuring that the engineers make the best possible effort to assure that external costs will not be imposed on the neighbors. He does not feel

DRAFT

comfortable with the current engineering and is not convinced that there will not be a problem.

J. Putnam was not convinced that the engineering piece needs to be done. The whole community already has a water problem. At most, he thought that the neighbors would have to pump more. The board has two choices: 1. Give the applicant and staff the opportunity to devise a better solution prior to going before Council. The plan is not met as it stands today. 2. Put together more procedural means of approval; approve the annexation with conditions that solutions be met. He would favor the first option at this point. There is still room for creativity and analysis.

Flood:
L. May explained that the possibility of flood is the only deal breaker for him. The engineering by Sanitas has been well done but he is concerned that there may be other factors to be considered. He cited section 3.23 of the BVCP: Large Flooding Events. The board does not have enough information about the South Boulder Creek floodplain analysis to see the whole picture. Potential problems could be avoided by not developing in the floodplain. Groundwater causes property damage, but flood relates to life safety. He did not dispute the analysis that has been done on this site, but he didn't think the right information had been considered. He didn't think this is a safe location for development and isn't willing to put people at risk.

M. Young agreed with **L. May**. She thought the intensity of storms will increase due to climate change and did not feel comfortable locating a vulnerable population in the floodplain.

B. Bowen thought the proposed floodwater management strategy is the best approach that he has ever seen. However, the historical photos of the properties under water resonate with him. Despite the technical solutions, there are other unknowns.

A. Brockett agreed with **B. Bowen**. He was impressed with the engineering but noted that different storms will flood differently; it is not known how this site will flood. He did not think congregate care for vulnerable population is a good use for this flood prone area.

S. Weaver agreed with **L. May** that the confluence of climate change, the congregate care and flood zone combine to make this application difficult to support.

J. Putnam disagreed with **L. May's** comments. Critical facilities and floods are going to affect all of Boulder given the historical layout of the city. The standards that are being suggested are much more stringent than those in other parts of the city as much of it is in the 500 year floodplain. The whole burden of the issue should not be applied to this project. He thought that the risk is relatively low. They're looking at inches to a foot of water in the event of a large flood event. The issue will be more about property damage than safety.

S. Weaver was concerned about the externality. The fact that it hasn't been developed yet makes this a different situation. He did not want to repeat the same mistakes twice.

L. May thought continued development in the floodplain would exacerbate the problem and did not want to take a casual approach to this. Annexation has a different bar for development; he did not think the

DRAFT

community benefit criteria would be met due to potential impacts to the people external to this site. Neighbors may be worse off as a result of this development

J. Putnam thought this proposal would create an improved scenario given the proposed improvements and volume of water that could be held on the site. The greater problem will not be solved by keeping a small number of units outside of the floodplain. It is important to understand the consequences of saying that congregate care cannot be built in a 500-year floodplain because much of the city is already built out.

Community Benefit:
B. Bowen thought the application met the requirement for community benefit. He would like to push for higher energy requirements but this is not the key issue for the current decision-making at hand.

S. Weaver saw community benefits due to the proposed housing type but also acknowledged potential severe impacts of developing this site.

C. Gray noted that though affordable housing is a community benefit, she found it to be an incompatible use in this case, thus taking away from the community benefit.

L. May agreed that the uses warrant community benefit but was concerned about some other land use issues. There is no easily accessible commercial space in the area to support seniors.

A. Brockett agreed that there are powerful community benefits as well as some deterrents.

M. Young thought that senior housing is very important and needed use; this project gives as much community benefit as it takes.

Community Design and Neighborhood Compatibility:
C. Gray thought the project should be compatible with RL-1in order to protect and enhance neighborhood character. She did not find congregate care to be compatible with RL-1.

J. Putnam disagreed with **C. Gray**. He thought the density would fit in the area because the congregate care is located away from the existing neighborhood and adjacent to the Senior and Recreation Centers. He didn't think the height of the building along 55th Street was appropriate, but did think the traffic increase, albeit noticeable, was acceptable. The design addresses those issues well. He thought that speed bumps might help to mitigate traffic concerns.

S. Weaver generally thought the design was consistent and compatible with the surrounding urban fabric. He had some concerns about how to get to zoning that would allow for the congregate care. He commended the energy efficiency measures taken, but did not find the layout conducive to supporting renewable energy.

A. Brockett thought the proposal was consistent with the existing neighborhood but shared **S. Weaver's** concerns about siting for solar access.

DRAFT

L. May agreed with the previous comments. He would like to see development patterns that decrease automotive traffic and dependence in the future.

C. Gray thought that additional traffic could degrade the neighborhood. RL-1 zoning allows for OAU and ADUs which promote ageing in place and provide additional income by bringing rentals into the neighborhood. She wanted more compatibility with the existing zone because it adds additional benefits.

B. Bowen agreed with **C. Gray**. He thought it would be difficult to add ADUs to this plan but would like to continue the conversation.

A. Brockett would support the Kewanee connection.

L. May thought the volume of cut though traffic may have been underestimated and wanted to discuss how this might be remediated after the fact if necessary. He didn't want to recommend something that would have an economic impact on the neighbors.

C. Gray noted that there is no money in the city's traffic mitigation program. The costs for these different mechanisms vary.

M. Young wanted to make the accommodation of seniors congruent with the zoning per **C.Gray's** comments, quoting BVCP sections *2.21: Commitment to a Walkable and Accessible City, 2.22: Improve Mobility Grid, and 2.3: Trail Corridors/Linkages*. She felt those issues were of primary importance, but did think that traffic issues will be important.

B. Bowen noted that the developer could be made responsible for traffic calming measures through conditions of approval.

J. Putnam noted that traffic calming measures by the developer can only be done within the bounds of the site and not in the adjacent neighborhood.

S. Weaver suggested that the developer designate a fund to mitigate traffic within the neighborhood as a whole.

Initial Zoning:
L. May wanted to discuss the definition of congregate care. The allowed density will be affected by the definition.

C. Gray noted that the developer would need to comply with specific requirements to meet the ordinance. Per the site development notes, 88 residential units would be allowed under RL-2 because a ratio of 3:1 is allowed under this ordinance. While she would like to see affordable options, she thought these units should be deemed "congregate care" as opposed to "affordable units for seniors" to meet the ordinance.

DRAFT

A. Brockett is okay with the percentage as defined but would support additional affordable housing if the board were to reach that agreement.

C. Gray wanted to make a case for RL-1 zoning because it would create more community benefit though the incorporation of ADUs. This would require larger lot sizes but it would not be possible to monitor that the ADUs remain affordable. She did not think that prohibited uses should be added to the Annexation Agreement.

Staff noted that RL-1 would decrease the allowable densities. Only 10 percent of homes in an area are allowed to have ADUs but this could be altered through the Annexation Agreement.

M. Allen explained how affordable housing was accomplished in Northfield Commons. There is no means to require that ADUs comply with affordable housing requirements.

C. Gray did not want a congregate care facility because she thought it would be incompatible with the neighborhood. She thought it would be overreaching to add another use.

J. Putnam thought the congregate care was compatible with the BVCP and the source of much of the community benefit. He recommended that the design be revised to appear less monolithic. He was okay with the initial zoning as proposed.

A. Brockett thought that the congregate care facility would be compatible from a use perspective but it would not be compatible from a critical facilities perspective.

L. May did not think the building traffic would compatible with the neighborhood but thought that the community benefit outweighed those concerns. However, he had a fundamental issue with development of the site due to flood concerns.

S. Weaver thought that the alterations to the zoning would be feasible and should be considered as a part of the annexation package.

C. Gray thought adding a new use would appear as spot zoning. She would prefer to designate it as RL-1.

B. Bowen noted that this is the most straightforward annexation language that he has seen.

The board requested that the minutes reflect that some members had concerns about the annexation and zoning.

The board took a straw poll whether to recommend annexation to City Council and unanimously recommended against annexing this property.

DRAFT

Summary of Issues:

Wetlands:
BVCP section *3.06: Wetland and Riparian Protection*
There was general agreement that there has not been a demonstration that the filling of wetlands could not have been avoided or minimized.
There was some concern that the earthwork performed on site prior to this application impacted the mapping of wetlands, thus creating a new baseline for the amount of wetlands impacted. The board did not want to set this as a precedent for future projects on similar sites.
The board was concerned that the proposal did not meet the requirement of the BVCP section 3.06 to avoid and minimize the filling of wetlands and destruction of riparian areas.

Groundwater:
BVCP section *8.03: Equitable Distribution of Resources*
The board felt the proposal violated the intent of the section *8.03: Equitable Distribution of Resources* in the case of groundwater. It violated the portion pertaining to: the City and County will consider the impacts of policies and planning efforts on moderate and low income and special needs populations and ensure costs of sustainable decision making do not unfairly burden any one geographic or socioeconomic group. This case pertains to a geographic group.

The board felt that the application did meet BVCP section *3.28: Surface and Groundwater*.

The board's concerns were based on the uncertainty of the degree of potential impacts to other neighbors. Much of this the hesitation is due to a lack of data. Any future attempts to annexation this property should include more robust data. In addition, the engineering solutions presented were fraught with other challenges.

Flood:
BVCP section *3.23 Larger Flood Events*
The board, with the exception of one member, felt uncomfortable with the externalization of the costs and impacts of floods offsite. The data that was used in the evaluation and engineering looked to historical flood events but the board felt it necessary to look at the probabilities of larger flood events in the future. An additional challenge for many board members was the intentional placement of a critical facility for a vulnerable population in the floodplain.

Community benefit:
Some board members felt that the community benefit was met and others felt that it was outweighed by the potential impacts of the project. There was broad agreement that senior housing is a high priority in the community but not in this location, the wetland enhancement on the eastern parcel was of value, and more housing helps with the housing-jobs balance.

Built Environment:
The majority of the board did not think that the proposal met code section 4.03: Energy Conservation and Renewable Energy. The conservation portion was reasonably well done but the renewable energy portion,

DRAFT

namely passive and active solar, was not sufficiently addressed.

Despite the undesirable impact on the neighborhood, the majority of the board agreed that the proposed Kewanee connection should be implemented. A minority of board members thought that the cut through could potentially overburden and impact the liveability of the neighborhood per BVCP section *2.10 Preservation and Support for Residential Neighborhood*.

The board was comfortable with the general traffic scenario but would like to encourage further traffic calming devices on and off site. The board wanted to assure that there not be financial consequences to the neighboring sites as a consequence of this development.

The board felt that the multifamily building had inappropriate bulk and scale boarding Open Space and edging the residential neighborhood. The renewable energy possibilities of the building were poor.

Initial Zoning:
The majority of the board felt that the RL-2 zoning was appropriate for the site, however, one member felt that the zoning should be RL-1 and that the addition of congregate care to a low density zone was not consistent with the Boulder Valley Land Use Designation. Another member felt uncomfortable with spot zoning and preferred to designate zoning and assure that the plan match the zoning.

Motion:
On a motion by **S. Weaver** and seconded by **L. May** the Planning Board recommended 7-0 that City Council reject the application for the annexation of the Boulder Creek Commons citing the reasons summarized by the board.

L. May recommended that this parcel be changed back to Area 3 during the next major update to the BVCP.

J. Putnam and **C. Gray** disagreed with **L. May's** proposal because the topic was not fully explored.

S. Weaver did not want to accept this as a friendly amendment or link the Area designation in the BVCP to this particular motion.

Site Review:
B. Bowen did not think the proposed site plan could be approved.

A. Brockett felt his issues with the site had been captured in the comments about the annexation.

The board agreed that the site review does not meet the first site review criteria 1A; it does not meet the Boulder Valley Comprehensive Plan.

J. Putnam requested that the board briefly discuss what the board liked and did not like.

DRAFT

S. Weaver did not think the roof layout was conducive to solar access. The wetlands were well done.

J. Putnam liked the connection of open spaces to the park and East Boulder Recreation Center.

B. Bowen had concerns with the site and massing of the congregate care facility.

L. May noted that little was done to foster placemaing and to create quality spaces. He did not feel that the structures represented quality architecture and thought the site plan could have been improved.

B. Bowen liked the site plan but did not like the traffic flow.

C. Gray agreed with **L. May** that she would have liked to see improved placemaking.

S. Weaver and **A. Brockett** recommended that the project go through a separate Site Review process if City Council decides to approve the annexation.

The site plan needed more pedestrian connectivity and better solar access especially at the center of the site. The congregate care facility needed improved massing and solar orientation. The eastern and southern wetlands and pocket park were done well. The "fingers" could have better connectivity to East Boulder Park and enhanced placemaking. The board found that the proposal fails to meet Site Review Criteria 1A in particular that the policies of the Boulder Valley Comprehensive Plan were not met.

Motion:
On a motion by **A. Brockett** and seconded by **S. Weaver**, the Planning Board recommend 7-0 that City Council deny the application for Site Review based on the findings that it failed to meet Site Review Criteria 1A: Consistency with the Boulder Valley Comprehensive Plan.

Motion:
On a motion by **A. Brockett** and seconded by **S. Weaver**, the Planning Board recommended 7-0 that should City Council move to approve the annexation, the project should be sent to the Planning Board for a full Site Review process.

On a motion by **S. Weaver** and seconded by **J. Putnam**, the Planning Board recommended 6-1 (**C. Gray** in opposition) to City Council that RL-2 zoning would be acceptable should annexation be approved.

A. Brockett thanked the applicant, neighbors and board.

M. Young thanked the applicant for making the effort to look at the groundwater issues.

S. Weaver thanked everyone for the civility.

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

DRAFT

DEBRIEF MEETING/CALENDAR CHECK

ADJOURNMENT

The Planning Board adjourned the meeting at 5:05 p.m.

APPROVED BY

_____
Board Chair

_____
DATE

DRAFT

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
June 6, 2013
1777 Broadway, Council Chambers

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

PLANNING BOARD MEMBERS PRESENT:
Aaron Brockett
Bryan Bowen
Crystal Gray
Leonard May
John Putnam
Mary Young, Chair
Sam Weaver

PLANNING BOARD MEMBERS ABSENT:
None

STAFF PRESENT:
David Driskell, Executive Director of Community Planning and Sustainability
Maureen Rait, Executive Director of Public Works
Charles Ferro, Development Review Manager for CP&S
Chandler Van Schaack, Planner I
Hella Pannewig, Assistant City Attorney
Dave Thacker, Chief Building Official
Kirk Morris, Senior Plans Examiner
Brett KenCairn, Senior Environmental Planner
Karl Guiler, Planner II
Dave Lowry, Chief Fire Marshal
Susan Meissner Administrative Specialist III

DRAFT

1. **CALL TO ORDER**
   Chair, **M. Young**, declared a quorum at 5:09 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**

   On a motion by **A. Brockett** and seconded by **B. Bowen** the Planning Board approved 6-0 (**J. Putnam** absent) the April 4, April 18 and May 16, 2013 minutes as amended.

3. **PUBLIC PARTICIPATION**
   Amy Tremper, 1529 Easy Rider Lane, spoke about the North Boulder Subcommunity Plan and noted that neither traffic concerns nor a new library will be discussed. These are both topics of particular importance to the community. She would like the community to be more involved in the master plans that are being vetted that will affect the neighborhood and recommended that the meetings be televised.

4. **DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/CONTINUATIONS**
   A. **2641 4th Street; FINAL PLAT # TEC2013-00002: Request to subdivide an existing approximately 5.8 acre site into 23 lots, ranging from 4,313 square feet to 26,518 square feet, and three outlots. The plat also includes new public right-of-way and alleys to serve the lots.**

      This item was not called up.

5. **MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY**
   A. **Council Chambers Remodel Design Review**

      Staff Presentation
      Joe Castro and **Glenn McGee** presented the proposed changes to the board.

A. Brockett would like to be able to see presentations more clearly on monitors in the dius that can be turned on and off individually. He also liked the idea that large screen placement accommodate people in the first few rows.

S. Weaver suggested that the screens to be moved closer to the dius. Planning Board members will bring their own computers and tablets so screens incorporated in the dius only need to show presentations.

M. Young asked that the monitors not exceed the dius height or block the board members.

B. Information Item: 2014-2019 Greenways Capital Improvement Program

C. Gray will attend the next Greenways meeting for **A. Brockett**. The board will send any comments to **C. Gray**.

6. **PUBLIC HEARING ITEMS**

   A. Public hearing and consideration of Technical Document Review application # TEC2013-00006, Geneva Park Addition Replat B Final Plat, for the subdivision of Lot 6A of Geneva Park Addition Replat A into two lots: Lot 6B (9,554 s.f.) and Lot 6C (8,151 s.f.). Lot 6C will contain an existing single family home. The site is located at 546 Geneva Avenue and is within the RL-1 (Residential Low-1) zone district.

   Applicant: Nooshin Katebini
   Owner: Michael Stengel and Nooshin Katebini
   Appellant: Daniel Harvey, 504 Geneva Ave.

Staff Presentation:
C. Ferro and **C. Van Schaack** presented to the board.

DRAFT

Board Questions:
C. Gray requested that the board address utility easements at a future date.

Applicant presentation:
Rick Johnson, the applicants' attorney, presented to the board.

Board Questions:

Public Participation:

1. **Mark Gelband, 505 College Avenue,** spoke in support of the project. He hoped that the board abide by the criteria. He would like to see a sidewalk added in the future.
2. **Michael Stein, 1026 6th Street,** read a statement on behalf of Daniel Harvey.
3. **Louise Padden, 575 Euclid Avenue, (**pooled with **Lisa Spalding, Evert Brown, Amie Jobolonski)** spoke to save the trees along Geneva and 6th Street and in opposition to sidewalks in the neighborhood.
4. **Otis Taylor, 595 Euclid,** asked that the board pay attention to the character of the neighborhood. He does not want a sidewalk or the loss of trees.

Board Questions

Board Comments:

S. Weaver recommended that the Planning Board approve the application. He saw this as a technical evaluation and thought that staff showed that the criteria have been met. He is sympathetic to the neighbors and their issues, but found them to be outside of the board's purview.

C. Gray proposed a friendly amendment, recommending that staff remove the requirement to provide a sidewalk upon receipt of building permit.

A. Brockett noted that he supports the city sidewalk system but did not think that it needed to be continuous in this instance.

J. Putnam agreed with **A. Brockett**. He did not think that it would be possible to achieve a continuous sidewalk in this area at the time being.

S. Weaver suggested, per **H. Pannewig's** recommendation, that the sidewalk not be tied to the subdivision approval but be included in the record.

<u>On a motion by **S. Weaver**, seconded by **B. Bowen** that Planning Board approved 7-0 the Technical Document Application TEC2013-00006 for the Geneva Park Addition Replat B Subdivision incorporating the staff memorandum and the Final Plat Subdivision Review Criteria as findings of facts.</u>

<u>On a motion by **C. Gray**, seconded by **B. Bowen**, regarding the Geneva Park Addition Replat B Subdivision that Planning Board recommends based on public input that staff not impose any requirement to build a sidewalk along 6th Street which would be triggered by a building permit application at 546 Geneva and record that in the subdivision agreement.</u>

DRAFT

B. Public hearing to consider a recommendation to City Council on an ordinance that would

1. adopt by reference and with local amendments the 2012 Editions of the

- **a. International Property Maintenance Code,**
- **b. International Building Code**
- **c. International Residential Code,**
- **d. International Energy Conservation Code,**
- **e. International Fire Code,**
- **f. International Wildland-Urban Interface Code,**
- **g. International Mechanical Code,**
- **h. International Fuel and Gas Code, and**
- **i. International Plumbing Code;**

2. adopt by reference and with local amendments the 2011 Edition of the National Electrical Code;

3. amend Section 9-2-14, "Site Review," B.R.C. 1981 to clarify energy conservation standards; and

4. amend Sections 4-20-47, "Zoning Adjustment Filing Fees," and 2-3-4, "Board of Building Appeals," related to the adoption of the International Wildland-Urban Interface Code.

Staff Presentation:
D. Driskell presented to the board.
D. Thacker and **K. Morris** answered questions from the board.
Judy Dorsey from the Brendle Group answered questions from the board.
Don Elliot from the Clarion Group answered questions from the board.
Brett KenCairn answered questions from the board.
Dave Lowry, the Boulder Fire Chief, answered questions from the board.

Board Questions

Public Hearing:

1. **Mark Gelband, 505 College,** spoke about the proposed changes to the fire code that could potentially limit the amount of allowable space for solar panels. He thought this could have unintended negative impacts.
2. **Dan Yechout, (**pooled with **Jason Wiener),** wanted to find a goal to maximize firefighter safety while minimizing the impact on the solar industry. He outlined some ideas to constitute a compromise.

Board Comments:

International Building Code
No changes.

International Residential Code
No changes.

International Energy Conservation Code
B. Bowen recommended that in addition to adoption of the proposed IECC plus 30%, the city also adopt the Architecture 2030 Challenge at a policy level. It would act as a guiding principle

DRAFT

as it aligns with the city's goals and is consistent with the GHG reductions proposed by **S. Weaver** and **L. May**. In the next code cycle, he suggested shifting to an Energy Usage Intensity (EUI) metric of kbtu per square foot and implementing a commercial Green Points program; this could be LEED. These would serve as action steps for the Climate Action Plan. He referenced a chart showing that an estimated 75% of Boulder's building stock will go through a permitting process by 2030. Therefore, the majority of buildings could have greatly improved efficiencies. In Boulder, it is more important to focus on remodeling, weatherization and Energy Smart than on new construction.

S. Weaver agreed with staff's vision and with **B. Bowen's** suggestion. The 2030 challenge could be a foundational vision document for the building code. He appreciated staff's quantitative approach and was impressed that it is considering Net Zero Energy by 2030. He recommended that the city take a more aggressive stance in the first few years because results are based upon compound interest.

M. Young requested that the Brindle Group data to be included in the next memo.

B. Bowen thought a 30% reduction to the 2012 IECC in the residential code would be achievable because it wouldn't trigger different systems or products that are not readily available on the market. He did not know whether a 40% reduction in commercial building codes would be as easy to accomplish.

S. Weaver was interested in a 30 – 35% reduction in the residential sector but didn't want to go too much higher than ASHRAE because he felt it would be an unfair requirement.

L. May ran some compounding numbers and noted that the proposed standard, IECC plus 30%, would provide a 15% improvement over the current Boulder Code by 2015. If a 5 % annual reduction were adopted, it would provide a 55% improvement over the current 2006 + 30% code by 2015.

A. Brockett would like to vote for a 35% reduction. He would err on the aspirational side.

J. Putnam would feel more comfortable with 30%. He was fearful that we have not modeled the higher numbers and don't know what costs or risks may be associated with them. He could recommend a range between 30- 35% if the impacts would be explored prior to adoption.

A. Brockett liked the idea of proposing a range.

S. Weaver clarified that this is for commercial and multifamily buildings. He liked the idea of proposing a more aggressive range to Council.

L. May wanted to understand how the proposal translates to goals, noting that in the absence of a Climate Commitment Plan, we need to determine whether this is proactive enough. He suggested jumping in aggressively now and potentially scaling back at a later date once the other Climate Commitment program has been developed.

S. Weaver suggested that plug loads for commercial buildings be discussed in the future. He also summarized the board recommendations that Council adopt a range between 30 – 35% above 2012 IECC,

DRAFT

consider adopting the 2030 Challenge as a goal prior to the completion of the Climate Commitment. Once Climate Commitment has been adopted, reevaluate the need for the 2030 Challenge. And, aim to require Net Zero buildings by 2031 if the building sector can reasonably comply.

C. Gray noted that Council will ask how Planning Board arrived at the numbers and 35% aspirational goals. She suggested that the board be prepared to answer those questions. It is important to relate carbon savings to a percentage and cost.

S. Weaver explained that the cost benefit would provide a good explanation. There is currently a known 2% cost impact for a 30 % reduction in building emissions. We can potentially get to a 50% reduction in building emissions if we go to the unknown. He suggested that staff model the probable cost impact of a 35% reduction prior to going before Council.

B. Bowen suggested that the board recommend that Council adopt the IECC plus a percentage between 30 and 35% and the 2030 Challenge. He also wanted ask for staff time to correlate Boulder's progress based on the Kbtu usage per square foot over the next two years and initiate a process of a Green Points type of program for commercial buildings. Look at LEED, PassivHaus for commercial buildings and the Living Building Challenge. He thought that the frameworks of these programs could provide a useful tool for developing Boulder's requirements.

A. Brockett noted that the current goals are more concrete while a LEED-like point system could be too broad. Keep our focus on actual energy use.

J. Putnam was hesitant to recommend that Council adopt the 2030 Challenge because the board and public have not had a chance to look at it to date.

B. Bowen agreed but he felt comfortable recommending that Council review and consider it. It could be aspirational but not adopted now.

S. Weaver thought it would be important to validate the energy model savings by tying data to building codes. He thought that it would be helpful to monitor plug loads and recommended that the metric system be used in these analyses.

International Fire Code

J. Putnam thought that there was still some room to look at this code and to make some changes. He thought it would be helpful to have more prescriptive rules as opposed to making decisions on a case by case basis.

S. Weaver agreed with **J. Putnam** and thought that the fire code should not be adopted until it goes through a stakeholder public process with respect to PV panel restrictions. The soft costs on a residential PV installation are a much larger fraction of building cost than commercial. There is more pushback on residential because it will require a larger cost increase.

D. Lowry would like to adopt something now because he feels that it is important. He liked the model that Golden, Colorado recently adopted. He thought that the process would be slower at first, but would speed up as all parties get more comfortable with it.

DRAFT

S. Weaver requested that the evaluations be limited to only what is strictly necessary to get to the roofline. The California model has been criticized because it favors the fire department and is not paired down to what is only necessary.

J. Putnam would prefer to see something well thought out. If that cannot be achieved right away he would recommend that staff create a safe harbor document that would provide a guideline.

A. Brockett expressed concern that this piece of the fire code might need to take a bit longer. He recommend that it be worked out with the stakeholders and return to Council as soon as possible thereafter.

S. Weaver recommended adding an Alternate Means and Methods section rather than just adopting the code.

L. May recommended that the code be adopted but that staff hold an alternate stakeholder process to amend it in the future.

B. Bowen would like to have a predictable guideline for the industry. Adopt the IFC with a guideline that will allow the implementation to be worked out with a deadline.

A. Brockett would like staff to work through alternate options to present to Council.

The board recommended that staff work out the guidelines before meeting with Council. The goal over time is to develop the best possible balance between firefighter safety and the solar industry. If something cannot be worked out, delay adoption of the code until it has been done.

International Wildland-Urban Interface Code
J. Putnam thought this is important because many of the fire lines have been built on Open Space. He would encourage a more holistic view to achieve a balance between fire mitigation on personal property.

The board recommended that this be adopted. This is critical for new construction but the retroactive portions may need to be better vetted with the public.

International Mechanical Code
The board recommended that Council adopt the International Mechanical Code.

International Plumbing Code
The board recommended that Council adopt the International Plumbing Code.

Motion:

On a motion by **A. Brocket**, seconded by **J. Putnam**, the Planning Board recommend 7-0 to City Council adoption of an ordinance that would adopt by reference and with local amendments, the International Code Council codes listed as 1.a. through 1.e. of Item 5.B. of the agenda in the packet, and adopt by reference with local amendments the 2011 Edition of the National Electrical Code, and amend Sections 4-20-47, “Zoning Adjustment Filing Fees,” and 2-3-4, “Board of Building Appeals,” B.R.C. related to the adoption of the International Wildland-Urban Interface Code, with the following modifications:

DRAFT

- with regard to the IEEC, Planning Board recommends that the City adopts a 30% to 35% above 2012 IECC standard;
- with regard to the IFC, Planning Board recommends adoption of section 605.11 only if specific guidelines have been worked out between the fire department and stakeholders establishing how an alternative method of compliance with the requirements of section 605.11 may be approved under section 104.9; and
- with regard to the Wildland-Urban Interface code, the Planning Board recommends to delay adoption of Chapter 6 of the Wildland-Urban Interface Code to allow for public outreach and development of an enforcement strategy.

On a motion by **B. Bowen**, seconded by **L. May**, the Planning Board recommended 7-0 that City Council adopt the 2030 Challenge set forth by Architecture 2030 to provide a framework for future energy code goals towards meeting overall city goals relating to greenhouse gas emissions reductions. It is further moved that City Council verify the results of improvements in the energy code using portfolio manager or similar software and allocate staff time to evaluate our programs in the context of LEED, Living Building Challenge, and Passivhaus.

A friendly amendment by **J. Putnam** recommended to also provide a framework for future energy code goals, and friendly amendment by **L. May** recommended to add "towards meeting overall city goals relating to greenhouse gas emissions reductions". The amendments were accepted by **B. Bowen** and **L. May**.

S. Weaver and **B. Bowen** will present the item to Council.

7. DEBRIEF MEETING/CALENDAR CHECK

L. May would like to get the baseline of the carbon emissions of the buildings for the baseline and renovation.

C. Gray will now be present for the July 14th meeting.

8. ADJOURNMENT

The Planning Board adjourned the meeting at 10:57 p.m.

APPROVED BY

_____

Board Chair

_____

DATE

DRAFT

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
July 25, 2013
1777 Broadway, Council Chambers

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

PLANNING BOARD MEMBERS PRESENT:
Crystal Gray
John Putnam
Mary Young, Chair
Sam Weaver

PLANNING BOARD MEMBERS ABSENT:
Aaron Brockett
Bryan Bowen
Leonard May

STAFF PRESENT:
Susan Richstone, Deputy Director of Planning and Development Services
Hella Pannewig, Assistant City Attorney
Chris Meschuk, Planner II
Susan Meissner, Administrative Assistant III
Charles Ferro, Development Review Director for CP&S
Elaine McLaughlin, Senior Planner
Chandler Van Schaack, Planner I
Bob Harberg, Utilities
Mike Orosel, OSMP
Frank Young, Fire Department
Stephany Westhusin, Transportation
Jeff Dillon, Parks & Recreation
Don Ingle, Information Technology
Dave Hayes, Police
Donna Jobert, DUHMD
Joe Castro, Facilities & Asset Management
Peggy Bunzli, Finance

1. **CALL TO ORDER**
   Chair, **M. Young**, declared a quorum at 6:07 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
   There were no minutes scheduled for approval.

DRAFT

3. **PUBLIC PARTICIPATION**
No one from the public spoke.

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

A. USE REVIEW (LUR2013-00032): Request to convert an existing 5,000 square foot retail space into "Made Movement" professional office and accessory retail use at 2206 Pearl in the MU-3 zone district. The call-up period expires on July 29, 2013.

The board did not call this item up.

B. USE REVIEW (LUR2013-00024): Request to convert an existing 2,400 square foot office space into a new indoor athletic facility, at 5485 Conestoga in the IG zone district. The call-up period expires on July 29, 2013.

The board did not call this item up.

C. **Administrative SITE REVIEW: For assisted living and memory care facility with 93 rooms for up to 117 residents. Includes associated accessory support services.**

The board did not call this item up.

5. PUBLIC HEARING ITEMS

A. Public hearing and consideration of a recommendation to City Council on the proposed 2014-2019 Capital Improvement Program (CIP).

Staff Presentation:
C. Meschuk and **P. Bunzli** presented to the board.

Board Questions:
J. Dillon, **S. Westhusin**, **B. Harberg, J. Castro, M. Orosel, F. Young** and **M. Beckner** answered questions from the board.

Public Hearing:
No one from the public spoke

Board Comments:

C. Gray would like to acknowledge and include energy savings in the CIP. She

DRAFT

would also like the city to more aggressively pursue GOCO funding.

S. Weaver recommended including a table with a list of projects having something to do with energy, to reinforce integration between the CIP process and BVCP and Climate Commitment. He did not think this was necessary this year but should be considered in future CIP planning. He thought the CIP was well written and easy to understand.

J. Putnam thought that the format, level of information and consistency were very strong. Some of the utilities water projects were a bit difficult to understand and could be made more user friendly by adding a larger map to show the water projects west of Boulder. He also recommended tracking carbon reduction data in future CIPs.

Motion:
On a motion by **J. Putnam**, seconded by **S. Weaver**, the Planning Board voted 4-0 (**A. Brockett**, **B. Bowen** and **L. May** absent) to recommend to City Council the 2014 Capital Improvement Program, including the list of CIP projects to undergo a Community and Environmental Assessment Processes as outlined in the staff memorandum dated July 25, 2013.

The board would like to integrate and assure consistency between the city's Climate Commitment and BVCP policies. They recommended that future CIP documents include summary information on energy and greenhouse gas emissions savings through capital projects as well as project information sheets outlining a more detailed analysis on reductions and savings.

B. Public Hearing and Recommendation to City Council for Acceptance of the Boulder Police Master Plan and Approval of the Boulder Valley Comprehensive Plan (BVCP) Police Master Plan Summary and Amend Urban Service Criteria and Standards.

Staff Presentation:
M. Beckner and **J. Crean** presented to the board.

Board Questions:
M. Beckner and **J. Crean** answered questions from the board.

Public Hearing:
No one from the public spoke.

Board Comments:
C. Gray recommended that other board members do a ride along with the Boulder Police Department to better understand the Land Use Alcohol Code changes.

DRAFT

S. Weaver thought that the format for the plan was excellent and easy to read. He would like to see other Master Plans follow a similar format.

Motion:

On a motion by **C. Gray**, seconded by **J. Putnam**, the Planning Board voted 4-0 (**A. Brockett**, **B. Bowen** and **L. May** absent) to recommend to City Council acceptance of the Police Master Plan and that the Planning Board approve the proposed amendments to the BVCP Police Master Plan Summary and to the BVCP Urban Service Criteria and Standards.

C. Public Hearing and Recommendation to City Council for Acceptance of the Boulder Parks and Recreation Master Plan and Approval of the revised Boulder Valley Comprehensive Plan (BVCP) Parks and Recreation Master Plan Summary.

Staff Presentation:
K. Kincannon and **J. Rhodes** presented the item to the board.

Board Questions:
K. Kincannon and **J. Rhodes** answered questions from the board.

Board Comments:
C. Gray commended staff on the public process and community engagement. She expressed concern that the new trend in high-density infill will require more parks for residents lacking in their own dedicated outdoor space. She thought that Parks and Recreation and the Urban Forestry unit need to be better funded.

S. Weaver thought this was an excellent and thorough document. He noted that gardening is the single most common pastime in the country and thought it would continue to be a growing trend. He recommended adding more community gardening opportunities in city parks. Perform use studies at passive parks and use the lesser-used areas in parks as gardens.

M. Young recommended adding a community garden to a location on 13th Street between Alpine and North Streets. This area would be in very high demand.

C. Gray agreed with **S. Weaver**. She thought the gardens could tie back to the neighborhood involvement and ownership portion of the Master Plan as an important role in programming neighborhood-specific activities in parks.

S. Weaver appreciated the breakdowns in the Plan and recommended adding a prioritized list of items that are of importance to their mission.

DRAFT

Public hearing:
No one from the public spoke.

Motion:

On a motion **S. Weaver**, seconded by **J. Putnam**, the Planning Board voted 4-0 (**A. Brockett**, **B. Bowen** and **L. May** absent) to recommend to City Council acceptance of the Parks and Recreation Master Plan and that the Planning Board approve the proposed amendments to the BVCP Parks and Recreation Master Plan Summary. With a friendly amendment by **M. Young** to add a paragraph about the changing demographics, similar to the section found in the Police Master Plan. The friendly amendment was accepted by **S. Weaver**.

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

A. Civic Area Preliminary Draft Plan

S. Weaver thought that this process has successfully engaged the community and the vision gives a good amount of specificity while maintaining flexibility. He thought that the middle portion of the site design is spot on, liked the proposal for the West end, and found it helpful to consolidate city functions in one location. He suggested that staff closely consider the farmers market's needs and asked if it could be replicated in other areas of the city on non-competing days to make it more accessible to residents. He noted that the band shell has not been included in these drawings and thought that it would be hard to site with the current program. The arts area should be driven by the needs of the community.

J. Putnam recommended that staff consider the approach to planning for capacity in the park. He noted that Golden recently completed a similar project and has experienced higher volumes of people than the infrastructure can accommodate. He encouraged staff to consider how to plan for crowds at peak times.

S. Weaver agreed with **J. Putnam's** comment. He recommended that outdoor sculpture be changed every few months. He cited Tesuque in Santa Fe as an example.

J. Putnam also cited the Walker Art Center in Minneapolis.

C. Gray would like to see the band shell represented on the plan and emphasized the importance of creating opportunities to have many eyes on the park for safety. She liked the idea of repurposing the Municipal Building and cited the old Palo Alto Municipal building that was converted to an arts facility.

DRAFT

She thought that staff did a great job on the Civic Area process hoped that the city could meet the timeline to utilize the civic use pad by the St. Julien Hotel.

M. Young noted that the Civic Area plan has several features, as opposed to one primary feature, to draw people to the park.

J. Putnam recommended that the creek become an area of attraction through an engineered wave, water hole, or other feature. He explained that Englischer Garten in Munich has a popular engineered wave in the river that people surf. He thought that there could be some opportunities along the river that are smaller rather than large blockbusters.

B. Update on proposed City Council discussion about emails related to an agenda item sent to Planning Board members during deliberations of the item.

H. Pannewig addressed this item in an email and did not feel that it was necessary to discuss it further. She encouraged the board members to call her with questions.

J. Putnam thought that it would make sense to draft a written policy per the recommendation in **H. Pannewig's** email.

C. Electronic Board Communications

H. Pannewig explained that she was concerned about emails that sounded like a discussion. All meetings must be public and decisions may not be made via email. It is okay to send informational and organizational items, note that there is a topic that a member wants to bring up at a consequent meeting, and ask questions of staff as long as none become a discussion. Members may ask questions of staff while copying Planning Board members as long as it is not related to a previous conversation.

J. Putnam recommended that protocols be written pertaining to questions submitted by the public with regard to public hearing items. He thought that it would be helpful send an automatic response.

S. Meissner will follow up with IT to create an auto response to emails sent to boulderplanningboard@bouldercolorado.gov.

C. Gray recommended that Planning Board to have a hotline similar to the Council hotline. She did not think that important items are being sufficiently forwarded to interested members of the public. She would like to see more transparent communication.

H. Pannewig noted that Council has person dedicated to maintaining the hotline and there is not currently funding for a similar role for Planning Board. She

DRAFT

proposed a study session to discuss these issues.

S. Weaver did not think that a hotline would be helpful or is something that the public would want. He saw little value because it does not change the board's ability to respond to correspondence. He recommended that all correspondence be posted to the website instead.

This will be discussed further at the dedicated study session.

S. Richstone explained that the absences have become a matter of difficulty for applicants.

S. Weaver asked that **S. Richstone** explain this in an email to the board members.

The September 12th meeting will consist of a study session to discuss these matters from 5:30- 7p.m. and the public hearing for Boulder Jewish Commons will begin at 7p.m.

S. Meissner will send calendars through the end of the year to allow for holiday planning.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 10:29 p.m.

APPROVED BY

_____
Board Chair

_____
DATE

DRAFT

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

MEETING DATE: August 15, 2013

AGENDA TITLE: Continuation from August 1, 2013, Planning Board meeting: Adoption of final written approval for Use Review, case no. LUR2013-00020, and Site Review, case no. LUR2013-00037.

Applicant: James Trewitt, Arch 11, Inc.
Owner: Arapahoe Mercantile Co., LLC

REQUESTING DEPARTMENT:
Community Planning & Sustainability
David Driskell, Executive Director
Susan Richstone, Deputy Director
Charles Ferro, Development Review Manager
Jessica Vaughn, Planner I

OBJECTIVE:
Define the steps for Planning Board consideration of this request:

1. Planning Board action to approve written Planning Board findings approving Use Review, case no. LUR2013-00020, and Site Review, case no. LUR2013-00037.

SUMMARY

Proposal:	Expand a previous Use Review approval (case no. LUR2012-00011) that would result in a 2,275 square-foot coffee shop with 62 seats (50 indoor and 12 outdoor), open seven days a week from 6 a.m. until 11 p.m., located at 1852 Arapahoe Ave. The expansion of the coffee shop would result in the loss of the existing residential unit. The applicant is also requesting a 57 percent parking reduction in a residential zone district, which requires a Site Review approval and a public hearing before the Planning Board.
Project Name:	1852 Arapahoe Ave. Coffee Shop Expansion
Location:	1852 Arapahoe Ave.
Size of Tract:	7,297 square feet
Zoning:	Residential High-1 (RH-1)

PROCESS
On August 1, 2013, the Planning Board held a quasi-judicial hearing on the use review and site review applications for a coffee shop to be located at 1852 Arapahoe Avenue. Planning Board voted to approve the application. The board is required to make findings within 30 days of the hearing.

STAFF RECOMMENDATION

Staff recommends Planning Board consideration of this matter and action in the form of the following motion:

Motion to approve Planning Board findings approving Use Review, case no. LUR2013-00020, and Site Review, case no. LUR2013-00037, and adopting this memorandum as the findings of the Planning Board.

PUBLIC FEEDBACK

Planning Board heard a staff presentation and testimony from members of the Applicant's team during the quasi-judicial hearing on August 1, 2013. The Board reviewed the staff memo, including letters from residents of the neighborhood, regarding these applications, and heard testimony from staff members and members of the Applicant's team, one of which lives in the neighborhood where this coffee shop is to be located.

BACKGROUND

The Use Review application and Site Review application are a request to expand a previous Use Review approval (case no. LUR2012-00011) that will result in a 2,275 square-foot coffee shop with 62 seats (50 indoor and 12 outdoor), open seven days a week from 6 a.m. until 11 p.m., located at 1852 Arapahoe Ave. The expansion of the coffee shop results in the loss of the existing residential unit. The applicant also requested a 57 percent parking reduction.

On August 1, 2013, the Planning Board conducted a quasi-judicial hearing and found the proposed request to be consistent with the criteria for Use Review and Site Review and approved the applications (5-0)(A. Brockett and L. May absent). The staff memorandum to the Planning Board and other related background materials, including the Planning Board public hearing audio, are available on the city website at the following link:

August 1, 2013 Planning Board Meeting Audio Files

ANALYSIS

Applications for Use Review are reviewed for consistency with the criteria set forth in Subsection 9-2-15(e), "Criteria for Review," B.R.C. 1981. Applications for Site Review are reviewed for consistency with the criteria set forth in Subsection 9-2-14(h), "Criteria for Review," B.R.C. 1981. The following conclusion is staff's summary of Planning Board's application of the Use Review criteria and Site Review criteria and a summary of the Board's conclusions. The findings upon which the conclusion and approvals are based can be found in Attachment A.

CONCLUSION

The Planning Board found the proposed use and development to be consistent with the Use Review criteria and Site Review criteria. The Board found the project site to be an appropriate location for the proposed use and the use consistent with the character of the surrounding residential neighborhood. The Board also found the proposed use to serve a compelling social and recreational need of human interaction and socialization by creating a social meeting space that, currently, does not exist in this neighborhood thereby overcoming the presumption against the removal of the residential unit in this residential district. Finally, the Board found that the proposed development meets the Site Review criteria, including consistency with

the Boulder Valley Comprehensive Plan land use map, on balance, with the Boulder Valley Comprehensive Plan policies, and with the criteria applicable to the requested parking reduction.

Attachment A

PLANNING BOARD OF THE CITY OF BOULDER, COLORADO

IN THE MATTER OF THE APPLICATION FOR A USE REVIEW AND A SITE REVIEW FOR A 2,275 SQUARE-FOOT COFFEE SHOP WITH 62 SEATS TO BE LOCATED AT 1852 ARAPAHOE AVENUE, USE REVIEW #LUR2013-00020 AND SITE REVIEW #LUR2013-00037

FINDINGS OF FACT

On April 1, 2013, and in accordance with the requirements of Sections 9-2-14 and 9-2-15, B.R.C. 1981, the Boulder Planning Board, (the "Planning Board") held a public hearing after giving notice as required by law on the application for the above captioned use review and site review. This application involves a request to expand a previous Use Review approval (case no. LUR#2012-00011). The expansion would result in a 2,275 square-foot coffee shop that would be open seven days a week from 6 a.m. until 11 p.m. Applications for Use Review are reviewed for consistency with the criteria set forth in Subsection 9-2-15(e), "Criteria for Review," B.R.C. 1981. This application also involves a site review as the Applicant is seeking a 57 percent parking reduction. Applications for Site Review are reviewed for consistency with the criteria set forth in Subsection 9-2-14(h), "Criteria for Review," B.R.C. 1981. These findings of fact represent the Planning Board's findings applying the evidence in the record to the use review and site review criteria. The Planning Board makes the following findings of fact:

1. These findings are based upon a consideration of the entire evidentiary record, including the testimony of city staff at the hearing; the testimony of the Applicant and the Applicant's team members at the hearing, the staff memorandum dated August 1, 2013, including all attachments thereto and material that was linked by way of internet web links; all materials presented to the board and placed in the record at or before the public hearing.

2. James Trewitt, Arch 11, Inc., as the proponent (the "Applicant") of Use Review Application #LUR2013-00020 and Site Review Application LUR#2013-00037 for a coffee shop to be located at 1852 Arapahoe Avenue has the burden of proof to demonstrate that the application meets the requirements of Subsections 9-2-15(e) and 9-2-14(h), B.R.C. 1981.

3. The Applicant demonstrated, based upon a preponderance of the evidence, that the application meets the requirements of Subsections 9-2-15(e) and 9-2-14(h), B.R.C. 1981, including the requirements for a parking reduction under Subsection 9-2-14(h)(2)(K), B.R.C. 1981.

4. In evaluating the credibility and weight to be given to the evidence, the Planning Board considered the entire record, and weighed a number of specific factors. While the Planning Board did not rely exclusively on any of the following factors, their collective and corroborative weight were considered as follows:

a. Analysis of the Use Review criteria:

<u>Yes</u> (1) <u>Consistency with Zoning and Non-Conformity</u>: The use is consistent with the purpose of the zoning district as set forth in Section 9-5-21(c), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

The project is within the Residential High-1 (RH-1) zone district, which is defined as:

> *"High density residential areas primarily used for a variety of types of attached residential units, including, without limitation, apartment buildings, and where complementary uses may be allowed" (section 9-5-2(c)(1)(F), B.R.C. 1981).*

The proposed coffee shop is consistent with the definition of the RH-1 zone district as it will be a neighborhood scale service use that is complimentary to the existing and surrounding vibrant pedestrian oriented neighborhood.

<u>Y</u> (2) <u>Rationale</u>: The use either:

<u>Yes</u> (A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;

The proposed coffee shop will provide a direct service/convenience to the neighborhood. Currently, there are a limited number of neighborhood service retail uses in proximity to the existing high density residential development that provide convenience to pedestrians as well as a neighborhood scale gathering place.

As part of the applicant's development proposal, they have included a management plan that intends to mitigate adverse impacts, including limiting the hours of operation to 11 p.m., outdoor music to 9 p.m. and indoor acoustic performances to 9 p.m.

<u>N/A</u> (B) Provides a compatible transition between higher intensity and lower intensity uses;

<u>N/A</u> (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

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

<u>Yes</u> 3) <u>Compatibility</u>: 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 location, design, and operating characteristics of the proposed coffee shop use are compatible with the active, pedestrian oriented neighborhood. The applicant has proposed a management plan that will help mitigate adverse impacts to the surrounding neighborhood by limiting deliveries to the hours of 10 a.m. to 6 p.m., indoor performances, including poetry readings and small (one-person acoustic band) music venues to end at 9 p.m., and limiting outdoor music to end at 9 p.m. There will be no live outdoor music.

The project site, located along a major transit corridor and a highly traveled pedestrian corridor, 19th Street, that links the University Colorado main campus to the Goss Grove neighborhood and downtown as well as the adjacent multi-family residential development, is an appropriate location for the proposed coffee shop. Additionally, Boulder High School and the Naropa campuses also generate significant pedestrian activity in the area.

The coffee shop will maintain hours of operation (6 a.m. to 11 p.m., Monday through Sunday) that are compatible with other neighborhood uses in proximity to the site, including the Pita Pit (1509 Arapahoe Ave.) and Jalino's Pizza (1647 Arapahoe Ave.), both of which close after midnight. In addition, there are a number of more traditional neighborhood retail and service uses in the area such as Arapahoe Import Services (1722 Arapahoe Ave.), Rocky Mountain Anglers (1904 Arapahoe Ave.), Arapahoe Motors (1914 Arapahoe Ave.), and Boulder Stained Glass (1920 Arapahoe Ave.), all of which are generally open during daytime hours with early evening closing times.

Since the proposed coffee shop is not considered "a late night" use, it is not anticipated to generate safety concerns or contribute to quality of life impacts on the surrounding residential uses.

As part of the development proposal the applicant is requesting an increase in the parking reduction that was previously granted from 30 percent to 57

percent, which requires Site Review approval. Given the location of the project site along a major pedestrian corridor that links the Goss Grove neighborhood to the University of Colorado main campus, Boulder Valley High School, Naropa University and the adjacent high density residential uses, the proposed coffee shop will cater to a primarily pedestrian, neighborhood based clientele. On-site bicycle parking will be provided in excess of what is required (three spaces required where 14 are provided), in addition to providing bus passes to employees, which will encourage the use of alternative means of transportation.

Because the development proposal includes restoration of the existing building façade back to its circa 1930s retail façade, it will not only improve the existing deteriorating condition of the building, but also contribute to the historic (and somewhat eclectic) architecture already present along Arapahoe Avenue and within the Goss Grove neighborhood. In addition, the proposed façade changes will result in a building that once again addresses the street and that will enhance the pedestrian experience while contributing to a more engaging street life with a well-pronounced main building entrance at the corner. New street trees will be required and will contribute to the enhancing the streetscape as well.

N/A (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;

N/A. The infrastructure required to serve the proposed use is existing. No additional infrastructure is required as a result of this proposal.

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

The predominant character of the area can be identified as vibrant and pedestrian rich based on the mix of residential and educational uses in close proximity to the site, including three main campuses, Naropa, University of Colorado and Boulder Valley High. The site is also located on the outer edge of the Goss Grove neighborhood, where Arapahoe Avenue and 19th Street both serve as direct pedestrian links to the University of Colorado main campus, Naropa's main campus and Boulder High School.

Currently, the corner of Arapahoe Avenue and 19th Street is an inactive space in the Arapahoe streetscape as the current use as a private residence accessed from the alley does not address the street. The residential use does not engage the street as there are no building entries or transparent windows located along

the street facing side of the building. The nature of the proposed use being an active, public use will provide a much more vibrant and pedestrian oriented street frontage by providing a public nonresidential neighborhood amenity and gathering place.

In addition, the proposed façade restoration will create an active and enhanced streetscape with the addition of street trees as well as building entrances at the street along a highly traveled pedestrian route; and complement the historic architectural fabric of the Goss Grove neighborhood.

Yes (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**.

Based on the evidence presented in form of emails from members of the community and testimony at the quasi-judicial hearing, the Boards finds the human need to congregate and socialize and have human interactions to be a compelling social and recreational need of this and any community and that the proposed use serves that need thereby overcoming the presumption against the conversion of dwelling unit in a residential zoning district to a non-residential use. Testimony demonstrated that this neighborhood is currently lacking a social meeting space for friends, neighbors, colleagues, and citizens to congregate and have human interactions. Based on testimony presented, the Board finds that the initially approved smaller coffee shop was demonstrated to not be economically viable to reliably and consistently provide for this community need, but that this larger coffee shop with indoor and outdoor seating areas will reliably and consistently provide for this community need.

b. Analysis of the Site Review criteria:

(1) Boulder Valley Comprehensive Plan:

Yes (A) The proposed site plan is consistent with the land use map and the service area map and, on balance, the policies of the Boulder Valley Comprehensive Plan ("BVCP").

The property is located in Area I. Area I is within the city's service area. As indicated by the map in the staff memo, the property is designated as Residential High (HR) by the BVCP. As noted in the BVCP, areas designated as Residential High are defined as having densities of 14 or more dwelling units per acre. The BVCP further notes that within certain residential areas, there is a potential for limited small neighborhood shopping facilities, offices or services through special review.

The project is site is zoned Residential High -1 (RH-1) which is defined as:

> "High density residential areas primarily used for a variety of types of attached residential units, including, without limitation, apartment buildings, and where complementary uses may be allowed" (section 9-5-2(c)(1)(F), B.R.C. 1981).

The proposed coffee shop is consistent with the definition of the RH-1 zone district and BVCP land use map designation as it will be a neighborhood scale service use that is complimentary to the existing and surrounding vibrant pedestrian oriented neighborhood and meets the applicable use review criteria.

The proposed use is also, on balance, consistent with the BVCP policies by helping create a livable, walkable neighborhood where community interaction occurs, by improving the energy efficiency of an existing building, and by preserving and restoring a building of historic significance. In particular it is consistent with policies that speak to:

- The promotion of the development of a walkable and accessible city by designing neighborhoods and business areas to provide easy and safe access by foot to places such as neighborhood centers (BVCP 2.21 Commitment to a Walkable and Accessible City);
- The fostering of community interaction, community character, and the role of neighborhoods (Policy 2.09 Neighborhoods as Building Blocks);
- The encouragement of well-designed mixed use developments (BVCP 2.16 Mixed Use and Higher Density Development);
- The protection of buildings of historical or cultural significance (BVCP 2.24 Preservation of Historic and Cultural Resources); and
- The improvement of energy efficiency of existing buildings (BVCP 4.05 Energy-Efficient Building Design).

N/A (B) The proposed development shall not exceed the maximum density associated with the Boulder Valley Comprehensive Plan residential land use designation.

The development proposal is nonresidential only.

Yes (C) The proposed development's success in meeting the broad range of BVCP policies considers the economic feasibility of implementation techniques require to meet other site review criteria.

As a result of the development proposal, no public amenities are required that would render the development proposal economically infeasible.

(2) Site Design: Projects should preserve and enhance the community's unique sense of place through creative design that respects historic character, relationship to the natural environment, multi-modal transportation connectivity and its physical setting. Projects should utilize site design techniques which are consistent with the purpose of site review in subsection (a) of this section and enhance the quality of the project. In determining whether this subsection is met, the approving agency will consider the following factors:

Yes (A) Open Space: Open space, including, without limitation, parks, recreation areas,
and playgrounds:

> **Yes (i)** Useable open space is arranged to be accessible and functional and incorporates quality landscaping, a mixture of sun and shade and places to gather;
>
> Open space is provided in excess of what is required (10-20 percent of the roughly 7,000 square-foot lot) with 1,412 square feet. As part of the open space program, the development proposal provides open space areas in a variety of forms and sizes, including a deck providing an outdoor gathering space with covered seating and landscape yards providing screening and separation between uses.
>
> **N/A (ii) Private open space is provided for each detached residential unit;**
>
> The development proposal does not include residential uses.
>
> **N/A (iii) The project provides for the preservation of or mitigation of adverse impacts to natural features, including, without limitation, healthy long-lived trees, significant plant communities, ground and surface water, wetlands, riparian areas, drainage areas and species on the federal Endangered Species List, "Species of Special Concern in Boulder County" designated by Boulder County, or prairie dogs (Cynomys ludiovicianus), which is a species of local concern, and their habitat;**
>
> There are no natural features present on the project site.

<u>Yes</u> (iv) The open space provides a relief to the density, both within the project and from surrounding development;

Recognizing that the project site is limited in its open space opportunities given the existing building placement, the size of the lot as well as its location at the corner of 19th Street and Arapahoe Avenue, the development proposal does provide open space consistent with the requirements. Roughly 20 percent of the project site will be dedicated as open space, including at-grade yards as well as a deck (275 square feet) located behind the building that is accessible from a sidewalk from 19th Street as well as the parking area.

Overall, the majority of the open space provided on site will be comprised of landscape areas, including side yards which will provide a buffer for the multi-family residential development to the west. In addition, the location of the proposed deck, located behind the existing building, being closer to 19th Street will also limit noise impacts to the adjacent residential development to the west.

<u>Yes</u> (v) Open space designed for active recreational purposes is of a size that it will be functionally useable and located in a safe and convenient proximity to the uses to which it is meant to serve;

The open spaces provided on site provide for passive recreation opportunities, including a patio area. In addition, the open space amenities are all accessible spaces that encourage connectivity through the site.

<u>N/A</u> (vi) The open space provides a buffer to protect sensitive environmental features and natural areas; and

There are no natural features present on the project site.

<u>N/A</u> (vii) If possible, open space is linked to an area- or city-wide system.

<u>N/A</u> (B) Open Space in Mixed Use Developments (Developments that contain a mix of residential and non-residential uses)

<u>Yes</u> C) Landscaping

<u>Yes</u> (i) The project provides for aesthetic enhancement and a variety of plant and hard surface materials, and the selection of materials provides for a variety of colors and contrasts and the preservation or use of local native vegetation where appropriate;

Based on the information provided, the landscape proposed will provide an improvement of the dilapidated condition of the existing landscape materials on site, including street trees and landscape side yards.

Prior to building permit submittal the Applicant will have to provide a detailed landscape plan, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in City right of way must also receive prior approval of the City Forester.

N/A (ii) Landscape design attempts to avoid, minimize, or mitigate impacts to important native species, plant communities of special concern, threatened and endangered species and habitat by integrating the existing natural environment into the project;

Not applicable; there are not native species or plant communities of special concern associated with the project site.

Yes iii) The project provides significant amounts of plant material sized in excess of the landscaping requirements of sections 9-9-12, "Landscaping and Screening Standards" and 9-9-13, "Streetscape Design Standards," B.R.C. 1981; and

Based on the information provided, the landscape proposed will provide an improvement of the dilapidated condition of the existing landscape materials on site, including street trees and landscape side yards.

Prior to building permit submittal, the Applicant must submit a detailed landscape plan, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in City right of way must also receive prior approval of the City Forester.

Yes (iv) The setbacks, yards, and useable open space along public rights-of-way are landscaped to provide attractive streetscapes, to enhance architectural features, and to contribute to the development of an attractive site plan.

Based on the information provided the general landscape improvements are an improvement over the existing conditions, including street trees.

Prior to building permit submittal, the Applicant will be required to submit a detailed landscape plan, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in City right of way must also receive prior approval of the City Forester.

Yes (D) Circulation: Circulation, including, without limitation, the transportation system that serves the property, whether public or private and whether constructed by the developer or not:

N/A (i) High speeds are discouraged or a physical separation between streets and the project is provided;

The project site is comprised of one lot. No street connections are proposed.

Yes (ii) Potential conflicts with vehicles are minimized;

As part of the development proposal the applicant will be eliminating the curb cut along 19th Street and taking access from the alley, reducing the number of pedestrian vehicle conflicts.

N/A (iii) Safe and convenient connections are provided that support multi-modal mobility through and between properties, accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, pedestrianways and trails;

There are no connections through the project site.

Yes (iv) Alternatives to the automobile are promoted by incorporating site design techniques, land use patterns, and supporting infrastructure that supports and encourages walking, biking, and other alternatives to the single-occupant vehicle;

As part of the development proposal, the applicant is providing excess bike parking, both short and long term bike parking opportunities as well as EcoPasses for employees.

Yes (v) Where practical and beneficial, a significant shift away from single-occupant vehicle use to alternate modes is promoted through the use of travel demand management techniques;

Given the location of the proposed use along a highly trafficked pedestrian route as well as a major transit corridor with two bus stops within a block of the site, but also in close proximity to high density residential development, the majority of the patronage will likely be pedestrian or bicycle related traffic, significantly decreasing the number of vehicle trips to the site. Given the seven on-site parking spaces, availability of on-street parking as well as the Transportation Demand Management practices, including providing Ecopasses for employees as well as additional bike parking, alternate modes of transportation will be encouraged.

N/A (vi) On-site facilities for external linkage are provided with other modes of transportation, where applicable;

There are no connections through the project site.

N/A (vii) The amount of land devoted to the street system is minimized; and

The project site is comprised of one lot. No street connections are proposed.

N/A (viii) The project is designed for the types of traffic expected, including, without limitation, automobiles, bicycles, and pedestrians, and provides safety, separation from living areas, and control of noise and exhaust.

The project site is comprised of one lot. No street connections are proposed.

Yes (E) Parking

Yes (i) The project incorporates into the design of parking areas measures to provide safety, convenience, and separation of pedestrian movements from vehicular movements;

As part of the development proposal the applicant is eliminating a curb cut from 19th Street, which will result in reducing cut-through traffic as well as minimizing vehicle pedestrian conflicts in proximity to a busy intersection and along a highly trafficked pedestrian pathway.

Yes (ii) The design of parking areas makes efficient use of the land and uses the minimum amount of land necessary to meet the parking needs of the project;

As part of the development proposal, the applicant is requesting a parking reduction to minimize the area of land dedicated to parking. A total of 16 parking spaces are required where seven are being provided. Refer to the "Additional Criteria for Parking Reductions below in Subsection 9-2-14(h)(2)(K), B.R.C. 1981 for a complete analysis of the criteria.

N/A (iii) Parking areas and lighting are designed to reduce the visual impact on the project, adjacent properties, and adjacent streets; and

At this time, outdoor lighting is not proposed. Should outdoor lighting be proposed, a photometrical plan meeting the criteria pursuant to section 9-9-16, "Lighting, Outdoor," B.R.C. 1981 will be provided as part of the Technical Document Review.

Yes (iv) Parking areas utilize landscaping materials to provide shade in excess of the requirements in Subsection 9-9-6 (d), "Parking Area Design Standards," and Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981.

The surface parking lot will be screened from view utilizing fencing and landscape materials.

Prior to building permit submittal, the Applicant will be required to submit a detailed landscape plan, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in City right of way must also receive prior approval of the City Forester.

Yes (F) Building Design, Livability, and Relationship to the Existing or Proposed Surrounding Area

N/A (i) The building height, mass, scale, orientation, and configuration are compatible with the existing character of the area or the character established by an adopted plan for the area;

The building height, mass and scale are not being altered as part of the development proposal.

N/A (ii) The height of buildings is in general proportion to the height of existing buildings and the proposed or projected heights of approved buildings or approved plans for the immediate area;

The building height, mass and scale are not being altered as part of the development proposal.

N/A (iii) The orientation of buildings minimizes shadows on and blocking of views from adjacent properties;

The building height, mass and scale are not being altered as part of the development proposal.

Yes (iv) If the character of the area is identifiable, the project is made compatible by the appropriate use of color, materials, landscaping, signs, and lighting;

The predominant character of the area can be identified as vibrant and pedestrian rich based on the mix of residential and educational uses in close proximity to the site, including three main campuses, Naropa, University of Colorado and Boulder Valley High. The site is also located on the outer edge of the Goss Grove neighborhood, where Arapahoe Avenue and 19th Street both serve as direct pedestrian links to the University of Colorado main campus, Naropa's main campus and Boulder High School.

Currently, the corner of Arapahoe Avenue and 19th Street is an inactive space in the Arapahoe streetscape as the current use as a private residence accessed from the alley does not address the street. The residential use does not engage the street as there are no building entries or transparent windows located along the street facing side of the building. The nature of the proposed use being an active, public use will provide a much more vibrant and pedestrian oriented street frontage by providing a public nonresidential neighborhood amenity and gathering place.

In addition, the proposed façade restoration will create an active and enhanced streetscape with the addition of street trees as well as building entrances at the street along a highly traveled pedestrian route; and complement the historic architectural fabric of the Goss Grove neighborhood.

Yes (v) Projects are designed to a human scale and promote a safe and vibrant pedestrian experience through the location of building frontages along public streets, plazas, sidewalks and paths, and through the use of building elements, design details and landscape materials that include, without limitation, the location of entrances and windows, and the creation of transparency and activity at the pedestrian level;

The project site is located along a major transit corridor and highly trafficked pedestrian pathway. The development proposal will result in a building that is successfully oriented toward the street by relocating the building entry, and additional glazing along the street.

In addition, an active alley is provided with landscape and open space amenities, including a deck.

N/A (vi) To the extent practical, the project provides public amenities and planned public facilities;

The project site is comprised of one lot. No public amenities are proposed.

N/A (vii) For residential projects, the project assists the community in producing a variety of housing types, such as multifamily, townhouses and detached single family units, as well as mixed lot sizes, number of bedrooms and sizes of units;

N/A (viii) For residential projects, noise is minimized between units, between buildings, and from either on-site or off-site external sources through spacing, landscaping, and building materials;

N/A (ix) A lighting plan is provided which augments security, energy conservation, safety, and aesthetics;

At this time, outdoor lighting is not proposed. Should outdoor lighting be proposed, a photometrical plan meeting the criteria pursuant to section 9-9-16, "Lighting, Outdoor," B.R.C. 1981 will be provided as part of the Technical Document Review.

N/A (x) The project incorporates the natural environment into the design and avoids, minimizes, or mitigates impacts to natural systems;

Yes (xi) Buildings minimize or mitigate energy use; support on-site renewable energy generation and/or energy management systems; construction wastes are minimized; the project mitigates urban heat island effects; and the project reasonably mitigates or minimizes water use and impacts on water quality.

The approval is conditioned on significant improvement of the energy efficiency of the building.

Yes (xii) Exteriors or buildings present a sense of permanence through the use of authentic materials such as stone, brick, wood, metal or similar products and building material detailing;

Because the development proposal includes restoration of the existing building façade back to its circa 1930s retail façade, it will not only improve the existing deteriorating condition of the building, but also contribute to the historic (and somewhat eclectic) architecture already present along Arapahoe Avenue and within the Goss Grove neighborhood. In addition, the proposed façade changes will result in a building that once again addresses the street and that will enhance the pedestrian experience while contributing to a more engaging street life with a well-pronounced main building entrance at the corner. New street trees will be required and will contribute to the enhancing the streetscape as well.

As a result of the restoration the existing wood siding will be removed and replaced with additional glazing and a stucco finish that is consistent with the historic, authentic character of the building as a. The additional glazing will create a sense of permeability. In addition, the restoration of the building to its historic character, including the replacement of the existing wood siding with the original façade materials, including stucco and plaster, restores the buildings authenticity and value as a community and cultural resource as well as providing a sense of permanence and community identity.

N/A (xiii) Cut and fill are minimized on the site, the design of buildings conforms to the natural contours of the land, and the site design minimizes erosion, slope instability, landslide, mudflow or subsidence, and minimizes the potential threat to property caused by geological hazards;

N/A (xiv) In the urbanizing areas along the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the building and site design provide for a well-defined urban edge; and

N/A (xv) In the urbanizing areas located on the major streets shown on the map in Appendix A of this title near the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the buildings and site design establish a sense of entry and arrival to the City by creating a defined urban edge and a transition between rural and urban areas.

Yes (G) Solar Siting and Construction: For the purpose of ensuring the maximum potential for utilization of solar energy in the City, all applicants for residential site reviews shall place streets, lots, open spaces, and buildings so as to maximize the potential for the use of solar energy in accordance with the following solar siting criteria:

N/A (i) Placement of Open Space and Streets: Open space areas are located wherever practical to protect buildings from shading by other

buildings within the development or from buildings on adjacent properties. Topography and other natural features and constraints may justify deviations from this criterion.

The project site is comprised of one lot. No street or open space connections are proposed.

N/A (ii) Lot Layout and Building Siting: Lots are oriented and buildings are sited in a way which maximizes the solar potential of each principal building. Lots are designed to facilitate siting a structure which is unshaded by other nearby structures. Wherever practical, buildings are sited close to the north lot line to increase yard space to the south for better owner control of shading.

The building height, mass and scale are not being altered as part of the development proposal. In addition, the improvement proposed will not impact or limit future solar energy collection.

N/A (iii) Building Form: The shapes of buildings are designed to maximize utilization of solar energy. Buildings shall meet the solar access protection and solar siting requirements of section 9-9-17, "Solar Access," B.R.C. 1981.

The building height, mass and scale are not being altered as part of the development proposal. In addition, the improvement proposed will not impact or limit future solar energy collection.

Yes (iv) Landscaping: The shading effects of proposed landscaping on adjacent buildings are minimized.

Although there are landscaping improvements proposed, the impacts will be minimal to adjacent buildings given the location of the improvements mainly along street frontages.

N/A (H) Additional Criteria for Poles Above the Permitted Height

N/A (I) Land Use Intensity Modifications

N/A (J) Additional Criteria for Floor Area Ratio Increase for Buildings in the BR-1
District
Yes (K) Additional Criteria for Parking Reductions

(ii) **Criteria: Upon submission of documentation by the applicant of how the project meets the following criteria, the approving agency may approve proposed modifications to the parking requirements of**

section 9-9-6, "Parking Standards," B.R.C. 1981 (see tables 9-1, 9-2, 9-3 and 9-4), if it finds that:

N/A (a) For residential uses, the probable number of motor vehicles to be owned by occupants of and visitors to dwellings in the project will be adequately accommodated;

N/A. There are no residential uses associated with the project site.

Yes (b) The parking needs of any nonresidential uses will be adequately accommodated through on-street parking or off-street parking;

The proposed coffee shop with 62 seats (50 indoor and 12 outdoor) requires a total of 16 on-site parking spaces; seven of which will be provided on site. Given the location of the site adjacent to nearby residential neighborhoods and educational institutions, a majority of customers arriving at the coffee shop will be residents or students arriving either by foot or bicycle decreasing the need for 16 parking spaces. The coffee shop is located within a short walking distance of the bus stops on Arapahoe Ave which serve the RTD "Jump" route. The coffee shop is located at the corner of a signalized intersection which makes reaching the coffee shop from the other side of Arapahoe or 19th Street easier. On-street parking is also available along 19th Street with a 115 foot section of 19th Street directly adjacent to the coffee shop signed as twenty-minute parking with supports a majority of the "grab and go" customers.

As part of the development proposal the applicant has proposed Transportation Demand Management practices that will encourage alternative modes of transportation. The applicant is proposing bicycle parking in excess of what is required; only three bicycle parking spaces are required while 14 are provided. The applicant is also providing EcoPasses for employees. Both of which will reduce vehicle trips to the project site.

N/A (c) A mix of residential with either office or retail uses is proposed, and the parking needs of all uses will be accommodated through shared parking;

N/A. The development proposal is not a mixed use development.

N/A (d) If joint use of common parking areas is proposed, varying time periods of use will accommodate proposed parking needs; and

N/A. The development proposal includes one common parking area.

<u>N/A</u> (e) If the number of off-street parking spaces is reduced because of the nature of the occupancy, the applicant provides assurances that the nature of the occupancy will not change.

N/A. The proposed reduction is not being considered based on the proposed occupancy type. Instead the parking reduction support is justified through the pedestrian nature of the location of the project site, on-site and on-street parking provided, additional bicycle parking as well as the project site's location along a major transit corridor.

<u>N/A</u> (L) Additional Criteria for Off-Site Parking

5. Therefore, the Planning Board finds that the applications meet the requirements of the Boulder Revised Code, for the reasons set forth in these findings and approves the applications for Use Review, case no. LUR2013-00020, and Site Review, case no. LUR2013-00037 on a vote of 5-0 (A. Brockett and L. May absent).

The Planning Board adopts these finding of fact on the above referenced application this ___ day of _____, 2013.

_____
Planning Board Chair

MEMORANDUM

TO: Planning Board
FROM: Chandler Van Schaack, Case Manager
DATE: August 15, 2013
SUBJECT: **Call Up Item:** USE REVIEW (LUR2013-00041): Request to convert an 8-unit apartment building with 18 bedrooms at 2550 9th St. in the RMX-1 zone district to an 18-bedroom co-operative boarding house and two 2-bedroom apartments. The call-up period expires on **August 23, 2013.**

Background.

2550 9th St. is a roughly 11,335 square foot lot located in Central Boulder near the intersection of 9th and North St. The site is zoned RMX-1 (Residential – Mixed 1), which is defined per section 9-5-2(c)(1)(D), B.R.C. 1981, as "*Mixed density residential areas with a variety of single-family, detached, duplexes, and multi-family units that will be maintained; and where existing structures may be renovated or rehabilitated*." The character of the surrounding area can be described as predominantly mixed-density residential uses, with the area to the west and south of the subject site zoned RMX-1 and the area immediately to the north and east of the subject site zoned RH-5. There is a variety of attached housing nearby, including an apartment complex across North St. to the north as well as several duplexes and triplexes across 9th to the west. The North Boulder Community Plaza shopping center lies a few blocks east of the subject site on Broadway. Please refer to **Figure 1** for a Vicinity Map.

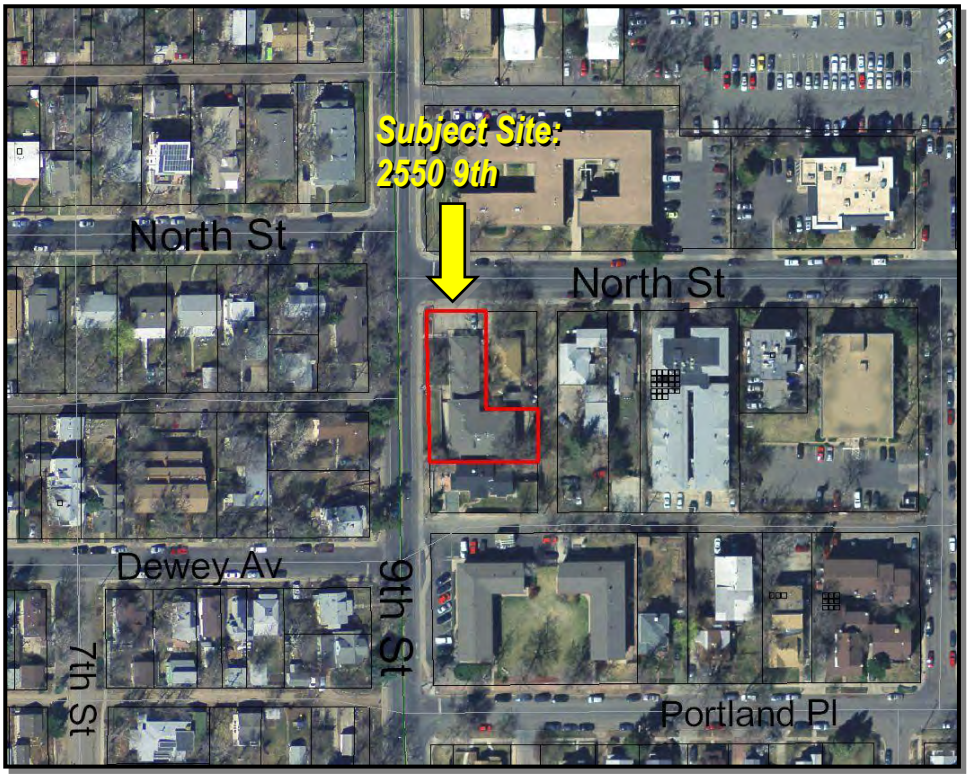


Figure 1: Vicinity Map

There is one existing two-story building on the subject site. The subject building was constructed in 1955, and has been used as an 8-unit rental apartment building with a total of 18 bedrooms. Earlier this year, staff approved an Administrative Substitution of a Non-Conforming Use to allow for Boulder Housing Coalition to convert the apartment building into a cooperative rental housing development containing 14 boarding house units and two 2-bedroom apartment units. The cooperative rental housing use approved through the administrative process maintained the same number of bedrooms (18) as the previous use while reducing the maximum occupancy from 32 to 22 and reducing the parking requirement from 13 spaces to 12 spaces. While the Applicant's intent has always been to increase the overall number of bedrooms from 18 to 22 (18 boarding house units with two 2-bedroom apartments), funding constraints required the Applicant to begin construction in the short-term, so staff worked with the Boulder Housing Coalition to create a two phase approach that

would allow the applicant to purchase the property, secure financing and begin renovations through an Administrative Substitution of a Non-Conforming Use with the understanding that a subsequent Nonconforming Use Review application would be submitted to add additional bedrooms as phase two of the project.

Project Proposal.
As discussed above, the Applicant is requesting approval of a Non-Conforming Use Review to increase the number of bedrooms at 2550 9th St. in the RMX-1 zone district from 8 apartment units with 18 bedrooms to an 18-room co-operative boarding house and two 2-bedroom apartments.The proposed boarding house would be operated by the Boulder Housing Coalition as a co-operative style rental housing facility providing 100% permanently affordable housing.

The applicant is proposing a number of site and building improvements, including repaving and reconfiguring the parking lot and adding bicycle parking facilities, adding an accessible parking space as well as an accessible ramp to the building, residing and re-roofing the existing building, and adding street trees along 9th and North Streets to bring the site into compliance with landscape regulations. No new floor area would be added through this proposal; the additional proposed bedrooms would be created by reconfiguring existing interior space. The operating characteristics of the proposed use would be similar in nature to the two existing co-operative rental housing facilities operated by the Boulder Housing Coalition in Boulder, *Masala* (744 Marine St.) and *Chrysalis* (2127 16th St.), wherein residents share kitchen, bath, laundry, and common-area facilities, and shared responsibilities include meal preparation, household cleaning, minor maintenance, and grocery shopping. The residents are subject to a Management Agreement (please refer to **Attachment C: Applicant's Management Agreement and Proposed Plans**) and house bylaws, have weekly house meetings, and use a consensus-based decision making process.

Review Process. The property is non-conforming as to density and parking. Pursuant to section 9-16, B.R.C. 1981, an "expansion of a nonconforming use" includes any change to such a use that increases occupancy or required parking or adds bedrooms and/or dwelling units. Because this proposal would add bedrooms and increase the required parking, it is considered an expansion of a non-conforming use. Pursuant to section 9-10-3 B.R.C, 1981, "*Changes to Nonstandard Buildings, Structures and Lots and Nonconforming Uses,*" B.R.C. 1981*, "any change of use that constitutes an expansion of a nonconforming use must be reviewed under procedures of section 9-2-15, "Use Review," B.R.C. 1981*." Per section 9-4-2, B.R.C. 1981, applications for Use Review are subject to call up by the Planning Board. No modifications from the development code have been requested, and the proposal does not trigger or require Site Review.

Analysis. Staff finds that the application satisfies the Use Review criteria pursuant to subsection 9-2-15(e), "*Criteria for Review*," B.R.C. 1981, and the Nonconforming Use Review criteria pursuant to subsection 9-2-15(f), "*Additional Criteria for Modifications to Nonconforming Uses*," B.R.C. 1981. Refer to **Attachment B** for the complete Use Review criteria analysis.

Public Comment. Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days. All notice requirements of section 9-4-3, "*Public Notice Requirements*," B.R.C. 1981 have been met. Staff answered questions from one concerned neighbor, who has since indicated that their concerns have been addressed.

Conclusion. Staff finds that the proposed project meets the relevant criteria of section 9-2-15, "Use Review," B.R.C. 1981 (refer to **Attachment B**). The proposal was **approved** by staff on **August 9, 2013** and the decision

may be called up before Planning Board on or before **August 23, 2013**. There is one Planning Board hearing scheduled during the required 14 day call-up period on **August 15, 2013.** Questions about the project or decision should be directed to the Case Manager, Chandler Van Schaack at (303) 441-3137 or at vanschaackc@bouldercolorado.gov

Attachments:

A. Signed Disposition
B. Analysis of Use Review Criteria
C. Applicant's Management Agreement and Proposed Plans

CITY OF BOULDER
Community Planning and Sustainability
1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • www.bouldercolorado.gov

CITY OF BOULDER PLANNING DEPARTMENT NOTICE OF DISPOSITION

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

DECISION:	**Approved with Conditions**
PROJECT NAME:	**North Haven Cooperative Rental Housing**
DESCRIPTION:	**NON-CONFORMING USE REVIEW for a change of use to two 2-bedroom apartments and a boarding house with 18 bedrooms, involving an increase in the number of bedrooms to a total of 22 bedrooms.**
LOCATION:	**2550 9th St.**
COOR:	**N04W07**
LEGAL DESCRIPTION:	**See attached "Exhibit A"**
APPLICANT:	**Lincoln Miller**
OWNER:	**Boulder House, Inc.**
APPLICATION:	**Non-conforming Use Review, LUR2013-00041**
ZONING:	**RMX-1**
CASE MANAGER:	**Chandler Van Schaack**
VESTED PROPERTY RIGHT:	**NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

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

Approved on: August 9, 2013
Date

By: David Driskell / by Susan Richards
David Driskell, Executive Director of Community Planning and Sustainability

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

Appeal to Planning Board expires: Aug. 23, 2013

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

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

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all approved plans** dated August 7, 2013 on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:

    a. The Applicant shall operate the business in accordance with the Management Agreement dated August 7, 2013 which is attached to this Notice of Disposition.

    b. Size of the approved use shall be limited to 6,544 square feet. The total number of residential units for the approved use shall not exceed eighteen (18) one-bedroom rooming units and two (2) two-bedroom apartment units. The total occupancy of the approved use shall not exceed 26 persons.

2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.

3. This approval shall be **limited to a cooperative affordable rental housing facility** operated consistent with the North Haven House Bylaws dated August 7, 2013, on file with the City of Boulder Planning Department.

4. The Applicant shall submit a Transportation Demand Management Plan (TDM), subject to review and approval by the City Manager, to reduce parking impacts on the neighborhood. The TDM shall include, but not be limited to, monitoring of parking and its impacts on the surrounding streets and other long-term measures to reduce any potential adverse parking impacts on the surrounding neighborhood that could include providing Eco-Passes for residents, offering eGo CarShare memberships to residents, and providing short and long-term bicycle parking and storage facilities. In the event that the City Manager determines that the use is generating adverse parking impacts on surrounding residential streets, the Applicant shall amend the TDM, subject to review and approval of the City Manager, to mitigate such adverse impacts through implementation of TDM strategies and/or property management.

EXHIBIT A

LEGAL DESCRIPTION:
Lots 6, 7, 8 and 9, Less the East 50 feet thereof,
And all of Lots 10 and 11,
Block 4,
Neikirk Stewart Addition
County of Boulder, State of Colorado

USE REVIEW CRITERIA

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

__X__ (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 subject property is located within the RMX-1 zone district, which is defined in section 9-5-2(c)(1)(D), B.R.C. 1981, as "*Mixed density residential areas with a variety of single-family, detached, duplexes, and multi-family units that will be maintained; and where existing structures may be renovated or rehabilitated.*" The property is non-conforming as to density and parking. Per section 9-10-3(c)(2), B.R.C. 1981, Non-conforming uses are allowed to be expanded under procedures of section 9-2-15, "Use Review," B.R.C. 1981.*

_____ (2) Rationale: The use either:

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

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

_____ (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

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

The existing building was constructed in 1955. City records indicate that the building was originally constructed as an 8-unit apartment building.

__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 subject building has been in the current location since 1955, and during that time city records indicate that no major expansion or modifications have occurred. There are also several other attached multi-family buildings and two-story apartment buildings in the immediate vicinity of the subject property that were constructed in the 1950's and 60's. Therefore, overall, the location, size and design of the existing building is compatible with the use of nearby properties. No changes to the size or design of the existing building are proposed as part of this application, so from a physical standpoint the building will remain compatible with the surrounding uses. In terms of the operating characteristics, the proposal to convert the 8-unit apartment building to an 18-unit cooperative boarding house with two 2-bedroom apartments will allow for better management of

the building and property. The co-operative style rental housing facility would provide 100% permanently affordable housing. The proposed living arrangements include three common kitchens that residents would share as well as several common gathering spaces. There are also six (6) existing parking spaces on-site where 13 are required per the RMX-1 zone district parking standards for attached dwelling units and boarding house uses. The proposed increase in the number of rooms to 18 boarding house units and two 2-bedroom apartments would increase the parking requirement from 13 to 15. While the existing number of parking spaces will not change, the applicant has committed to providing a robust TDM Plan to reduce the demand for parking on-site, so the impact to the surrounding uses will be minimized. Additionally, the fact that the use is moving from 8 independent units to a cooperative group living arrangements means that there will be more effective management and control over the parking.

The property had historically been an 8-unit apartment building with a total of 18 bedrooms and a maximum occupancy of 32. Under the current proposal, the maximum occupancy is 26, well below the historical occupancy for the property. In addition, the new proposed use will be a more predictable and well-managed use, as the Boulder Housing Coalition has strict operational guidelines for tenants.

__X__ (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;

Compared to the existing level of impact of the non-conforming use, the proposed changes will not significantly adversely affect the infrastructure of the surrounding area. There will be no increase in the total number of plumbing fixtures, and no new utilities. In addition, there will be no increase in impervious surface coverage, so storm drainage will not be affected.

__X__ (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 subject site is located in Central Boulder at the southeast corner of the intersection of 9th & North, in the RMX-1 zone district. The character of the surrounding area can be described as predominantly mixed-density residential uses, with the area to the west and south of the subject site zoned RMX-1 and the area immediately to the north and east of the subject site zoned RH-5. As discussed above, the existing building has been in the same location since 1955, and during that time has not increased in size or undergone any significant exterior changes. This proposal will not change the character of the surrounding area in that the proposed use will not alter the architecture or layout of the building and will essentially have an equal or lesser impact compared to the historical use of the property as an 8-unit apartment building.

__N/A__ (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.

Additional Criteria for a Use Review Involving a Non-Conforming Use.
Section 9-2-15, Use Review

(f) **Additional Criteria for Modifications to Non-Conforming Uses**: No application for a change to a non-conforming use shall be granted unless all of the following criteria are met in addition to the criteria set forth above:

(1) Reasonable Measures Required: The applicant has undertaken all reasonable measures to reduce or alleviate the effects of the non-conformity upon the surrounding area, including, without limitation, objectionable conditions, glare, visual pollution, noise pollution, air emissions, vehicular traffic, storage of equipment, materials, and refuse, and on-street parking, so that the change will not adversely affect the surrounding area;

The existing use is non-conforming as to density and parking. The applicant is proposing several significant measures to reduce the effects of the non-conformity upon the surrounding area, including improvements to the parking lot, landscaping and building exterior. The parking lot previously did not meet either access standards or parking stall standards. The applicant is proposing to repave the parking lot, move the access to meet driveway separation requirements, and reconfigure the 6 parking spaces so that they meet current stall size requirements. Further, the applicant is proposing to add an accessible parking space where before there was none, and is proposing to construct an accessible entrance from the parking lot to the building. In terms of landscaping, the applicant is proposing to preserve all of the existing trees on the property and add four new street trees, 3 along 9th St. and one along North St., to bring the site into compliance with current street tree standards. In terms of building improvements, the applicant is proposing to re-side the building and replace the existing roof, and add new ADA ramps and railings to the walkways on the west side of the building.

Additionally, to offset the potential impacts caused by the slight increase in occupancy, the applicant has agreed to submit a Transportation Demand Management Plan (TDM) for review and approval by staff to help provide residents with alternative modes of transportation and reduce single occupancy vehicle usage. Proposals for the TDM include providing Eco-Passes for residents, purchasing eGo CarShare memberships for residents, creating some form of "alternative transportation fund" that residents can draw from to pay for their alternative transportation mode of choice, and/or unbundling parking spaces. It should be noted that per a recent survey of the two other existing BCH co-op facilities in Boulder, the average rate of car ownership among co-op residents is 30%, meaning that at full occupancy the number of cars would not be likely to exceed 6 to 8 cars.

In addition to the measures above, the proposed facility would be subject to both a Management Agreement as well as House Bylaws, which are intended to assure a well-managed and properly maintained property as well as a pleasant relationship among Resident/Members, employees, and members of the surrounding community. These governing documents are similar to those already in place for BHC's other two cooperative housing facilities in Boulder, Masala and Chrysalis, both of which have been praised as providing excellent examples of the cooperative rental housing model in Boulder.

(2) Reduction in Non-Conformity/Improvement of Appearance: The proposed change or expansion will either reduce the degree of non-conformity of the use or improve the physical appearance of the structure or the site without increasing the degree of non-conformity;

The property is considered non-conforming due to density and parking.

With regards to density, per section 9-8-1, "Schedule of Intensity Standards," the minimum lot area per dwelling unit in the RMX-1 zone district is 6,000 square feet. The subject site is 11,335 square feet in area, so under the current density standards only one dwelling unit would be permitted on the site. Historically the building has been used as an 8-unit apartment building with a total of 18 bedrooms and a maximum occupancy of 32. The proposed conversion to a 18-room boarding house with an additional two 2-bedroom dwelling units would decrease the maximum occupancy from 32 to 26 (1 occupant per boarding house room and 4 occupants per 2-bedroom dwelling unit), and would also maintain the historic number of dwelling units per section 9-8-6, "Occupancy Equivalencies for Group Residences," which allows for one dwelling unit to be converted to accommodations for three occupants in any boarding or rooming house, fraternity, sorority, or dormitory (18 rooming units/ 3 occupants = 6 dwelling units + 2 additional dwelling units = 8 dwelling units total.

With regards to parking, there are currently 6 parking spaces where 12 are required per the parking requirements for boarding houses and attached residential units in the RMX-1 zoning district (Section 9-9-6(b), B.R.C. 1981 requires 2 parking spaces per 3 boarding house occupants, and 1.5 spaces per 2-bedroom dwelling unit). Historically, parking on the site has been provided in a gravel lot with 6 parking spaces that do not meet parking standards for stall size, backing distance or access. The proposed use would increase the parking requirement for the property by adding four boarding house units, bringing the total required parking to 15 spaces (18 boarding house units x 2 parking spaces per 3 occupants = 12 [+ 2 two-bedroom apartments x 1.5 spaces per dwelling unit] = 15 spaces); however, the applicant is undertaking several measures to reduce the overall degree of non-conformity as well as the parking impact that the use will have on the surrounding area. Additionally, the fact that the use is moving from 8 independent units to a cooperative group living arrangements means that there will be more effective management and control over the parking.

First, the applicant is proposing to repave and reconfigure the parking area to maintain the existing number of spaces but make it so that they meet current parking standards in terms of stall size and backing distance. The applicant is also proposing to realign the parking lot entry so that it is more compliant with access standards, and to bring the parking area into compliance with ADA requirements by adding an accessible parking space served by a ramp leading to the building.

In order to reduce the overall impact that the proposed increase in occupancy would have on the surrounding neighborhood with regards to parking, the applicant has agreed to submit a Transportation Demand Management (TDM) Plan for review and approval by staff that will include strategies for reducing the parking impacts of the proposed use on the neighborhood. Proposals for the TDM Plan include providing Eco-Passes for residents, purchasing eGo CarShare memberships for residents, creating some form of "alternative transportation fund" that residents can draw from to pay for their alternative transportation mode of choice, and/or unbundling parking spaces. Combined with the improvements to the parking lot which will improve safety in and around the parking area, this new TDM Plan will help reduce the degree of nonconformity of the use by reducing the impact that the use has on parking in the surrounding area compared to the previous affordable housing rental use.

Finally, the applicant has proposed several improvements to the site and building, including adding four new street trees to bring the site into compliance with landscaping standards and residing and re-roofing the existing building to improve the appearance.

(**3) <u>Compliance with this Title/Exceptions</u>: The proposed change in use complies with all of the requirements of this title:**

> **(A) Except for a change of a non-conforming use to another non-conforming use; and**

The previous use was considered non-conforming as to density and parking. In June 2013, staff approved an administrative substitution of a non-conforming use to allow for a 14-room boarding house with an additional two 2-bedroom apartments. This proposal is to expand the existing boarding house use to allow for 18 boarding house units with two 2-bedroom apartments.

(B) Unless a variance to the setback requirements has been granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or the setback has been varied through the application of the requirements of section 9-2-14, "Site Review," B.R.C. 1981.

Not applicable, as the existing building is nonstandard and no changes to the building footprint or floor area are proposed.

(4) Cannot Reasonably be Made Conforming: Cannot Reasonably Be Made Conforming: The existing building or lot cannot reasonably be utilized or made to conform to the requirements of chapter 9-6, "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or 9-9, "Development Standards," B.R.C. 1981.

As mentioned above, the property is nonconforming as to density and parking. While there are currently six parking spaces on-site, there is essentially no additional space on the site for additional parking, as the building encompasses the majority of the site. Given the small size of the site, the fact that there is an existing building and that the required number of parking spaces would be 15, it would be unreasonable to expect the applicant to be able to find a way to provide all of the required parking on the subject site. Similarly, in order to make the site conforming as to density, the applicant would either have to demolish the existing apartment building and construct a single family home or else convert the existing building to a single family home.

(5) No Increase in Floor Area over Ten Percent: The change or expansion will not result in a cumulative increase in floor area of more than ten percent of the existing floor area; and

There is no increase in floor area included in this proposal. The proposed increase in the number of bedrooms would be achieved by dividing existing bedrooms.

(6) Approving Authority May Grant Zoning Variances: The approving authority may grant the variances permitted by subsection 9-2-3(d), B.R.C. 1981, upon finding that the criteria set forth in subsection 9-2-3(h), B.R.C. 1981, have been met.

Not Applicable, as no variances are being requested as part of this proposal.

MANAGEMENT AGREEMENT
FOR
NORTH HAVEN COMMUNITY HOUSING

This is a self-management agreement (Agreement), executed this ____ day of_____,20___, in consideration of the following covenants, agreements, limitations and conditions along with statements of policy contained herein, between BOULDER HOUSING COALITION, INC., a Colorado non-profit Corporation, its successors, legal representatives and assigns, (hereinafter known as "BHC") and NORTH HAVEN COMMUNITY HOUSING, INC. , a Colorado non-profit Corporation, its successors, legal representatives and assigns, (hereinafter known as "NORTH HAVEN")

Owner: **BOULDER HOUSING COALITION, INC. (BHC)**

Local Housing Community: **NORTH HAVEN COMMUNITY HOUSING, (NORTH HAVEN)**

Property Location: **2550 9th Street Boulder, Colorado 80304 (The Property)**

Plan Prepared by: **Lincoln Miller, BHC Executive Director**

Date Prepared: **August 7th, 2013**

Term Of Agreement: This Agreement shall remain in effect for one year from the date of this Agreement, and shall be renewed for an additional period of one year each year thereafter, unless sooner terminated by BHC or by mutual agreement of the parties.

Statement of Management Policy:

Our mutual goal is to ensure Resident/Member satisfaction and the long-term financial and physical well-being of NORTH HAVEN through a program of Resident/Member responsibility for Cooperative housing self-management with professional support, when needed, for education or advice. Toward this end, this Agreement has been developed to set forth the relationship and agreement between NORTH HAVEN and BHC.

Specifically, the plan intends to outline a definite program of action to assure:

- A well-managed and properly maintained property.
- A pleasant, healthy, and secure living environment for Resident/Members.
- A pleasant relationship among Resident/Members, employees, and members of the surrounding community.

Unless otherwise stated, the term BHC will refer to Boulder Housing Coalition and its Board of Directors. The term Staff will refer to BHC's full-time professional Executive Director and her/his duly appointed agents. The term Property will refer to 2550 9th street, Boulder, Colorado 80304. The terms "Co-op," "Cooperative," or "NORTH HAVEN Community Housing" shall refer to the self-managed resident Cooperative and its Resident/Members occupying the Property.

Organizational requirements for resident Cooperative

NORTH HAVEN agrees to the following provisions:

- It shall be incorporated in the state of Colorado and shall remain a corporation in good standing for

the duration of this Agreement;

- NORTH HAVEN shall operate on a Cooperative, democratic basis, in accordance with the following documents:

1. The Leases for NORTH HAVEN Community Housing.
2. Articles of Incorporation for NORTH HAVEN Community Housing
3. NORTH HAVEN House Bylaws
4. Rules of NORTH HAVEN Community Housing
5. NORTH HAVEN House Labor System

Occupancy of the building shall be subject to all applicable federal, state and local laws and codes;

Occupancy shall be limited to residents who are members of the NORTH HAVEN Cooperative;(By signing a lease with BHC, the lessee/resident shall automatically become a member of NORTH HAVEN Cooperative)

Resident/Members shall be selected using Fair Housing Guidelines;

All Resident/Members shall sign a lease with the Boulder Housing Coalition, but shall first income qualify in accordance with the provisions contained in the lease.

NORTH HAVEN shall approve all Resident/Members, and there shall be no subleasing of any premises within the property without NORTH HAVEN and BHC approval;

Division of Management Responsibility

The NORTH HAVEN Cooperative shall be responsible for the day-to-day management of the Property, and for fulfilling its responsibilities as outlined in this Agreement between BHC and NORTH HAVEN. NORTH HAVEN agrees to (a) maintain adequate membership levels to insure adequate financial ability to maintain the property and pay operating expenses; (b) collect member charges, including rents payable to BHC, and make payments to BHC (c) conduct minor maintenance of the Property (d) provide an education program for their Resident/ Members.

Areas of Joint Responsibility:

BHC and the NORTH HAVEN shall have joint responsibility for maintenance, contracting for or hiring adequate business management services, and distributing surpluses.

Asset management responsibilities of the Boulder Housing Coalition

All responsibilities for asset management remain with BHC unless otherwise delegated through this Agreement. In order to insure payment, BHC has retained responsibility for property tax payment, property insurance and insurance payment, and payment of debt service. In addition, BHC shall collect and disburse money for all minor and major maintenance and capital improvements.

In addition to these direct responsibilities, BHC acts as an educator and advisor on all aspects of Cooperative self-management. BHC's Executive Director will visit the house periodically to review the condition of the property as well as to advise and assist as necessary with co-operative self-management .

BHC also retains an overall responsibility to monitor management by NORTH HAVEN and it retains the right to take action on its own account if in, it's sole discretion, it deems it necessary to correct problems.

Performance standards have been set forth in the management Agreement, and BHC may step in to act in place of NORTH HAVEN when these standards are not met.

Roles & Responsibilities of the NORTH HAVEN Cooperative

Under the terms of this Agreement, NORTH HAVEN has overall responsibility for the following:

- Recruitment of Resident/Members;
- Ensuring that Resident/Members responsibilities are carried out on a timely and efficient basis;
- Collection of rents and charges and payment of total monthly lease obligations for all NORTH HAVEN Resident/Members to BHC and to other vendors;
- Responsibility for performing all minor maintenance, in a workmanlike manner so as not to violate any building code or create any unsafe or hazardous condition and to work with BHC to contract for major maintenance projects;
- General upkeep of the property in accordance with standards of the City, US Bank (the lender), and BHC;
- Reporting to BHC of all contractual and financial activity of NORTH HAVEN which has a bearing on the Property, including (but not limited to), revenues and expenditures, minor maintenance, occupancy, and the status of membership agreements or leases;
- Ensuring that an annual meeting of NORTH HAVEN Community Housing is conducted to duly elect its Board of Directors, that an updated Board of Directors list is filed with the Secretary of State of Colorado on an annual basis, that NORTH HAVEN is maintained as a corporation in good standing with the State, and that it is capable of exercising its corporate purposes;
- Conduct and keep records of NORTH HAVEN's corporation meetings;
- Nomination of a Resident/Member, subject to approval by BHC, to serve on the Board of Directors of BHC;
- Timely filing of all local, state and federal tax returns, reports and other documents necessary to maintain the Co-op in good standing;
- Regular reports on receipts and disbursements of NORTH HAVEN as a backup to local record keeping;
- Assist the BHC in budget preparation by providing an annual Revenue and Expense report as well as a Balance Sheet;
- Other responsibilities as shall be agreed upon by NORTH HAVEN and BHC from time to time.

Performance standards and recourse

BHC ensures the payment of property taxes, insurance, mortgages and maintenance bills, but it cannot directly oversee all matters. Instead, it relies on the proven ability of Cooperatives to manage their own affairs, acting as an educator, guide, consultant and friend in assisting the co-op group.

All Cooperatives experience cycles of success and difficulty over time, however, and BHC will both assist groups to reverse serious declines and to deal with serious problems in the event that they are unable to do so.

This can best be done through the delineation of performance standards and quick action when the standards are not met. In particular, regular rent payments, physical upkeep of the property, and representation on BHC Board of Directors are requirements which cannot be ignored. Serious problems, such as failure to maintain adequate Resident/Membership levels, which threaten the financial viability of the group must also be dealt with promptly. Finally, maintaining legal standing and filing all governmental reports and tax returns are simple, straight-forward requirements.

BHC may, at its sole discretion, and without waiving any of its rights under this Agreement, take over any or all functions of NORTH HAVEN if the above standards are not being met. Such functions may include, but are not limited to direct collection of rents, charges for missed work or damage, evictions, etc.

Staffing Plan

The anticipated staffing plan will be as follows:

One full-time staff person, BHC Executive Director.

Resident/Member elected House Officers, as deemed necessary by the Co-op and by State law. These officers will be responsible for completing or delegating day-to-day management of NORTH HAVEN and the property. All Resident/Members of NORTH HAVEN may serve on the board of directors of NORTH HAVEN and all shall have one equal vote.

One on-call BHC maintenance staff person.

Contractors or part-time staff will be hired when necessary for additional maintenance of buildings and grounds.

- One Resident/Member, who shall act as the Membership Coordinator and on-site lease manager for BHC. The Membership Coordinator shall not have any authority to negotiate the lease terms as written on the lease form provided by BHC. The membership coordinator shall receive regular compensation from BHC in the form of a rent reduction, not to exceed $20.00 a month.

- Specific responsibilities of House Officers will be detailed in the House Constitution.

Initial organizational development and training

The way that a Cooperative system starts is critical to its character and functioning for decades after. Ensuring that the group has good support and advice at this early stage can prevent difficulties in operations later on.

Occupancy

BHC staff shall work with the group to ensure that plans and procedures for publicizing and achieving early and continued occupancy are developed.

Plans for enhancing internal effectiveness of NORTH HAVEN Community Housing

Effective management of the co-op is based on a policy of cooperation and communication. Resident/Members shall be encouraged to understand that their membership in NORTH HAVEN, and therefore their ideas, priorities, suggestions, and concerns are both sought and valued. BHC shall encourage active participation in BHC governance and operations, and shall enlist the support and participation of NORTH HAVEN in these programs:

- New Member Orientation (co-op level)
- Membership Meetings (co-op level)
- House Officer Training (co-op level)
- Cooperative Educational and Training Conference (NASCO Institute)
- Social Gatherings (co-op level)
- Work Holidays (co-op level)
- Board meetings (co-op level and the one membership on the board of BHC)

Reserve accounts

An Operating Reserve Account will be funded as specified in the Wells Fargo loan agreement. BHC will strive for an amount that equals or exceeds 3 months of debt service in this reserve account. Funds may be transferred from this account only to cover actual operating expenses in excess of the approved budget amount, or to compensate for vacancy and bad debt losses in the approved budget amount or for other uses approved by BHC Board. This fund will be held by BHC.

A capital improvements reserve account shall be maintained by BHC. The account shall function as a capital improvement pool for all BHC properties. Monies from the pool shall be allocated by permission of BHC board of directors. BHC shall maintain a repair and replacement reserve called a Minor Maintenance Fund for each property that it owns. Funds may be transferred from this Reserve only to cover actual repair or replacement expenses at each property.

BHC maintains a computerized General Ledger program which shall be continually updated to meet the accounting and reporting needs of the Property and to produce a quality audit trail. Accounting for internal operations shall be the responsibility of NORTH HAVEN, with advice and assistance when necessary from BHC. Staff shall work with NORTH HAVEN as a part of its organizational development to establish an accounting system, and regular reports to BHC shall be required.

Security Deposits

The Membership Coordinator will collect security deposits from each Resident/Member to be determined in accordance with room or unit rental amount. This amount will be held in an account at US Bank.

Other reports

BHC shall comply with all regulatory agencies, lender requirements and funders' requirements in providing additional reports deemed necessary to monitor the Property, as outlined in the regulatory agreements with those entities.

Provisions for periodic update of Management Agreement

Should it become necessary to revise or update this plan, proposed changes shall be developed by staff and NORTH HAVEN, working together to agree in good faith on mutually acceptable terms, to be submitted, in writing, to the board of BHC for approval all changes, subject to any applicable laws and/or requirements of lenders.

Insurance

The BHC ED shall arrange for the Property to be insured against loss by fire and such other hazards, casualties, liabilities, and contingencies, and in such amounts and for such periods as required by BHC, lenders and city regulatory agreements.

NORTH HAVEN shall notify BHC regarding any potential claim. Upon notification by NORTH HAVEN, staff will report, investigate, and pursue the resolution of all accidents or claims in connection with the operation of the Property. BHC shall have the sole responsibility and discretion to report, investigate and pursue the resolution of any potential claim pursuant to the policy.

Transportation Demand Management Plan

The BHC will be responsible for ensuring that all aspects of the agreed upon Transportation Demand Management (TDM) Plan are followed in perpetuity. The BHC agrees to enforce the Transit Pass Fee (see below), provide at least 22 bike parking spaces for residents, and cover all sign up/registration fees for North Haven residents who wish to participate in the eGO CarShare program.

Policies, Procedures and Payment

NORTH HAVEN will be responsible for developing organizational documents including policies acceptable to BHC, on the following:

- The house Treasurer shall collect and record receipt of all payments. Method, time, and place will be made clear to the Resident/Members and will specify that payment is to be made on-site either by check or money order. Late fees should be levied according to procedures in the house constitution.

- The monthly rent due from NORTH HAVEN to BHC shall be $12,132 on September 1st 2013 the rent shall be $12,132/mo and shall be due and payable on the 5th day of the month, but in no event later than five working days after due date. After this date, a late fee shall be levied of up to $10.00/day.

- In addition, North Haven Community Housing is required to pay Boulder Housing Coalition $1,870 per year for a Transit Pass Fee.

Each month North Haven is required to place 2% of its gross potential income, into an Operating Reserve account to be maintained by NORTH HAVEN. Funds may be transferred out of the Operating Reserve account only to cover or to compensate for vacancy and bad debt losses.

When the total reserve account balance is equal to North Haven's gross potential income for one month ($13,410 for 2013), NORTH HAVEN shall no longer be required to transfer any of the balance or overage to the operating reserve account and may then place such overages into the operating account of NORTH HAVEN to be used at the discretion of NORTH HAVEN.

- Rent increases shall be anticipated and implemented as the needs of the Property dictate, in conjunction with the preparation of the Annual Operating Budget. Staff, in consultation with the Resident/Members and BHC, shall begin preparing the Annual Operating Budget for the approval of BHC at least sixty days prior to the beginning of the fiscal year. Rent increases shall be implemented in conformance with the requirements of lenders and the City of Boulder.

- A service fee of up to $25.00 should be charged for returned checks. Following the occasion of two checks being returned by the bank, rent payment by cashiers check or money order should be required.

- Legal costs incurred in pursuing collections of rents and/or eviction procedures shall be borne by the NORTH HAVEN Cooperative and shall be paid for out of the General Operating Account. In the event such costs are recovered from a Resident/Member, then BHC shall credit NORTH HAVEN for such amounts as may be collected.

- A master rent roll shall be maintained and regularly updated, indicating number, name of occupants, rental amount, and current payment status for each of the units in the Property.

- Corporate level: If the co-op organization has accumulated debt to BHC during preceding fiscal years, the budget shall include a surcharge in the co-op's lease payment as required by BHC until the debt has been repaid in full.

- Staff shall enforce the terms of this Agreement, BHC Bylaws, and Board of Directors Policies with regards to occupancy, payment, and behavior. NORTH HAVEN shall enforce governing documents, with support from BHC as necessary.

Emergencies

An Emergency shall be defined as those situations posing immediate threat to the health and safety of the Resident/Members. If an Emergency occurs contact the appropriate emergency services personnel. Then as soon as it is safe to do so please contact the BHC ED. That person is currently Lincoln Miller and his contact number is (303) 883-2526. If that person is unavailable please contact the BHC Board President. That person is currently Sabrina Sideris and her contact number is (202)423-1161.

Plans for carrying out an effective maintenance and repair program

NORTH HAVEN shall assist the BHC in annually preparing a maintenance and repair plan acceptable to the BHC Board. The draft plan shall be presented to BHC on an annual basis. NORTH HAVEN shall assist the BHC in carrying out the plan as modified and approved by BHC. The plan shall be reviewed and modified with the agreement of BHC whenever necessary during the course of the year. Staff will consult with NORTH HAVEN and assist in identifying problems and solutions.

Work Holidays, during which all Resident/Members spend a day cleaning and seeing to minor repairs at the Property, shall take place twice a year.

Garbage removal will be effected through arrangements with a contractor services company.

Extermination services will be contracted for, if necessary, so as to provide a high level of sanitation and cleanliness.

Maintenance Emergency

A Maintenance Emergency shall be defined as a situation that poses an immediate threat to the integrity of the grounds, buildings, and equipment, including: the interruption of services, hot or cold running water, electricity, gas, adequate heat and plumbing, glass breakage which deprives Resident/Members of security or heat; or repairs that if not performed would expose Resident/Members to injury. NORTH HAVEN will be expected to assist BHC in resolving these emergencies. If an Emergency occurs the residents of NORTH HAVEN shall contact the BHC ED. That person is currently Lincoln Miller and his phone number is (303) 883-2526. Emergency repairs or replacements, regardless of the time of day they occur, shall be handled promptly.

Capital Improvements

Any major repair, project, replacement work, or any maintenance or repair work in excess of $500 shall be defined as a Capital Improvement and shall be the responsibility of the BHC. This work shall be integrated into a capital improvements schedule which will serve as a basis for computing and establishing the Capital Reserve account and adequate annual contributions from the BHC member co-ops. Capital Improvements shall be billed by the contractors directly to BHC.

Minor Maintenance

Any minor material repair cost, material replacement cost or routine maintenance cost associated with The Property that costs under $500 to perform or purchase shall be defined as Minor Maintenance. NORTH HAVEN may and should attempt any and all Minor Maintenance projects that they deem necessary. With the exception of potentially dangerous projects (including but not limited to) electrical repair work and high ladder work. These potentially dangerous projects shall only be attempted with the consent of BHC. If NORTH HAVEN is unable to perform a required Minor Maintenance task the residents should contact the BHC Maintenance Staff Person. If the Maintenance Staff person is unable to perform the required task then NORTH HAVEN should contact the appropriate professional services provider. All Minor Maintenance receipts must be retained by NORTH HAVEN and presented to BHC for reimbursement. NORTH HAVEN member labor will not be reimbursed and is not part of Minor Maintenance. Minor Maintenance expenses by NORTH HAVEN will be reimbursed promptly by BHC. An annual cleaning of all carpets is a strongly suggested Minor Maintenance item.

Procurement of Contract Services.

BHC shall be responsible for the procurement of all contract services that do not involve Minor Maintenance. BHC may delegate this responsibility to NORTH HAVEN. Staff shall prepare such bid specifications and supervise the bid proposals and acceptance procedures.

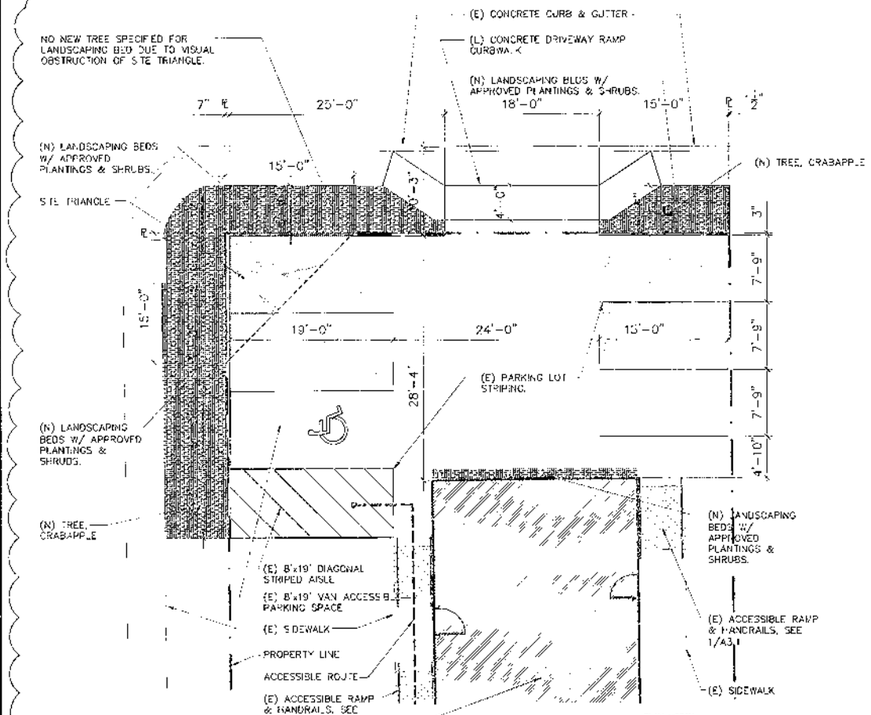
In order to ensure strict compliance with Generally Accepted Accounting Procedures for nonprofit tax-exempt organizations, an annual financial compilation, review, or audit (if necessary), shall prepared by a licensed CPA at an accounting agency employed by BHC, at BHC's expense.

Termination

This Management Agreement may be terminated by BHC, at any time upon 30 days' prior written notice, subject to the Resident/Members rights of possession under the leases in effect at the time of termination.

This Management Agreement is agreed to by both BHC and NORTH HAVEN Community Housing as signified below by their representatives:

For BHC:	For NORTH HAVEN:
_____	_____
Print name and title:	Print name and title:
_____	_____
Date:_____	Date:_____



PARKING PLAN DETAIL 2 A1.1

SCALE: 1/8" = 1'-0"

LANDSCAPE SUMMARY

TOTAL LOT SIZE:	11,409 s.f. (0.26 acre)
TOTAL PAVED AREA:	1,754 s.f. (0.04 acre)
TOTAL IMPERVIOUS SURFACES	4,309 s.f. (0.098 acre)

LANDSCAPE REQUIREMENTS

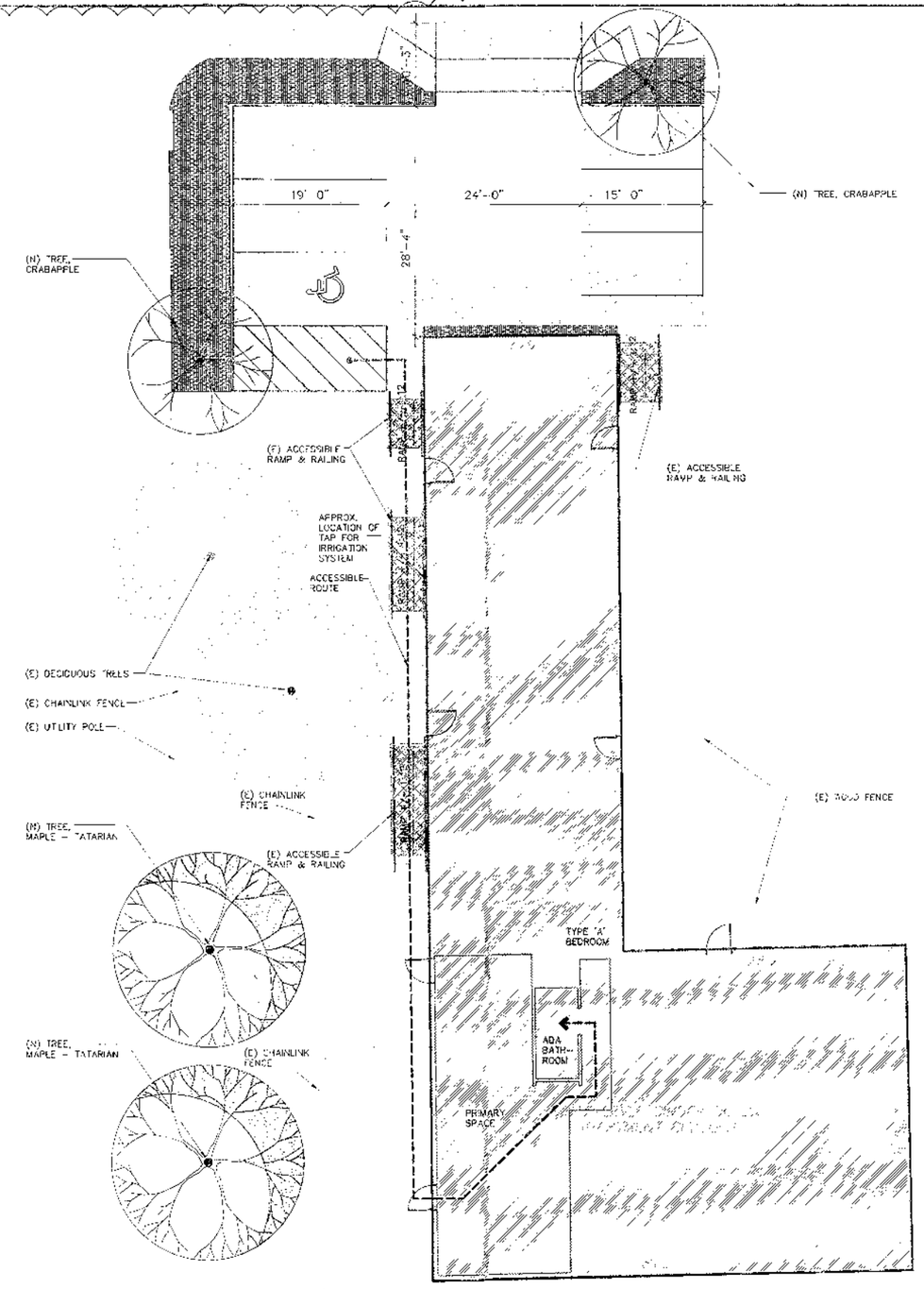
1. ALL LANDSCAPING MUST COMPLY WITH LANDSCAPING AND SCREENING STANDARDS, SECTION 9-9-12.

2. PLANTING BEDS (SCREENING PARKING LOTS AT PROPERTY EDGES, 9-9-14-c):
   PLANTINGS: 42" IN HEIGHT
   - TWO (2) NEW CRABAPPLE TREES ON EITHER SIDE OF PARKING LOT.

3. STREET TREES:

	REQUIRED	PROPOSED
- 60' R.O.W., 150'	7.5 @ 20' SPACING	4, SEE (E) TREES, POWERPOLE, AND SITE TRIANGLE

4. SHRUBS (IN PLANTING BEDS):
   - SAGE (RUSSIAN), SERVICEBERRY, SPIREA
   - 42" IN HEIGHT, 5 GAL. MIN.



RESIDENTIAL PARKING REQUIREMENTS

MIN # OF OFF-STREET PARKING SPACES FOR ATTACHED DWELLING UNITS (DU) PER SECTION 9-9-6, TABLE 9-1:

1 FOR 1 BEDROOM DU
1.5 FOR 2 BEDROOM DU
2 FOR 3 BEDROOM DU
3 FOR 4 OR MORE BEDROOM DU

NO ACCESSIBLE SPACE REQUIRED FOR FIRST 7 DU. 1 ACCESSIBLE SPACE REQUIRED THEREAFTER.

PER TABLE 9-2: ROOMING HOUSING

2 PER 3 OCCUPANTS

*NOTE: SITE PLAN PROVIDED BY FLATIRONS SURVEYING, 3/21/13

SITE DEVELOPMENT PLAN 1 A1.1

SCALE: 1/8" = 1'-0"

PLAN NORTH

Boulder Housing Coalition
North Haven Renovation
bhc Project #1303.
2550 9th Street
Boulder 80304

bryan
1610 Zarlana Avenue #103
T: 303.440.0108
Boulder, CO 80302
F: 303.441.0019
www.bryanconstructionarch.com

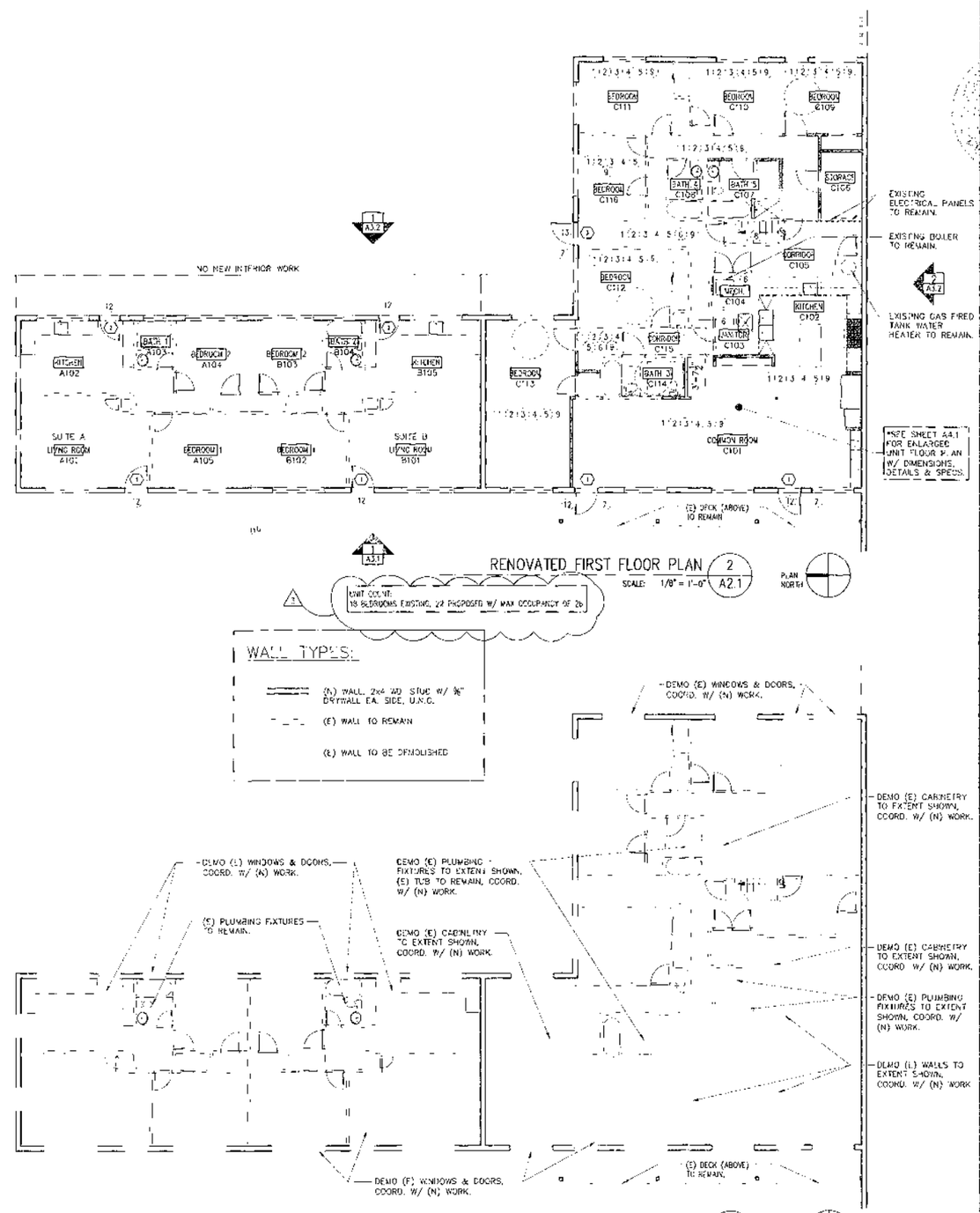
Date 4.24.13
Revisions
1 5.21.13
2 6.19.13
3 7.8.13

A1.1

PERMIT SET

PLAN KEY NOTES:

1. PREP & REPAIR SURFACES FOR NEW PAINT. PROVIDE NEW MEDIUM KNOCKDOWN DRYWALL FINISH IN AREAS OF NEW WORK, PATCHING, OR REPAIR.
2. REMOVE, PREP & REPAIR FLOOR SURFACES FOR NEW FLOORING. RE: SPEC.
3. REPAINT INTERIOR DOORS WITHIN UNITS.
4. UPGRADE LIGHTING FIXTURES, SEE SHEET A6.1, RE: SPEC. REPLACE SWITCH PLATES & OUTLET COVERS THROUGHOUT UNITS.
5. REPAINT EXISTING BASE/CASE TRIM, UNLESS NOTED OTHERWISE.
6. INSTALL LIGHTING OCCUPANCY SENSORS IN CORRIDORS, JANITOR CLOSETS, MECH ROOM, & STORAGE RM. LUTRON OR APPROVED EQUAL.
7. REPLACE ALL EXISTING EXTERIOR LIGHT FIXTURES W/ NEW WALL MOUNTED SCONCE BY COOPER INDUSTRIES, SHAPER, 682-AW-8"-NBZ-1CL, IN LIEU OF FIXTURE IN SPEC. VERIFY QUANTITY. PROVIDE EXT. LIGHT AT EXT. DOORS (AND WHERE NONE EXIST CURRENTLY). SEE SHEET A6.1 FOR LOCATIONS AND QUANTITIES.
8. NEW MUSHER FLOORING @ STAIR TREADS, BASIS OF DESIGN: HOPPE, RAISED DESIGN RUBBER TREAD, 292 LOW PROFILE RAISED CIRCULAR DESIGN RUBBER TREAD, COLOR 193 BLACK BROWN/VISCHELLE
9. PAINT WALLS, CEILING, & TRIM THROUGHOUT. SEMI-GLOSS FINISH AT BATHROOMS, KITCHEN, AND TRIM. EGGSHELL FINISH FOR WALLS. COLOR: BENJAMIN MOORE, DOVE WHITE.
10. COORD. (N) CLOTHES DRYER EXHAUST W/ (E) BUILDING CONDITIONS & MANUFACTURER'S SPECIFICATION. DRYER EXHAUST TO FULLY COMPLY WITH INTERNATIONAL MECHANICAL CODE (IMC) SECTION 504, CLOTHES DRYER EXHAUST.



WALL TYPES:

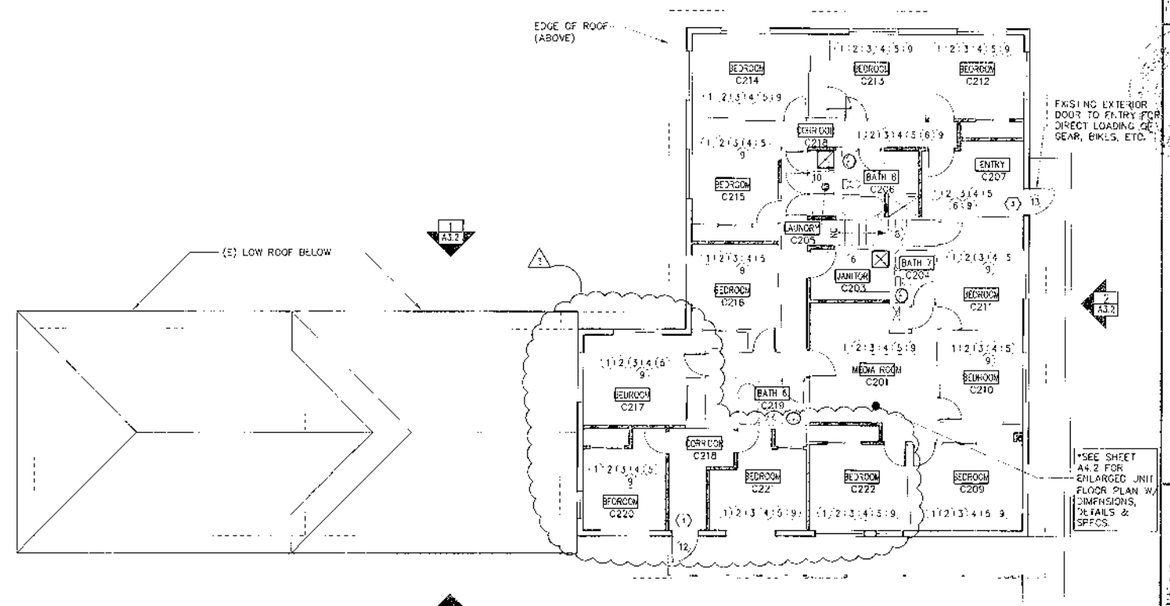
- (N) WALL, 2x4 WD. STUD W/ ⅝" DRYWALL EA. SIDE, U.N.O.
- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED

Boulder Housing Coalition
North Haven Renovation
Inca Project #13003
2550 9th Street
Boulder, 80304

bryan

A2.1

PERMIT SET



RENOVATED SECOND FLOOR PLAN (2 / A2.2)

SCALE: 1/8" = 1'-0"

PLAN NORTH

BEDROOM COUNT:
18 BEDROOMS EXISTING, 22 PROPOSED W/ MAX OCCUPANCY OF 26

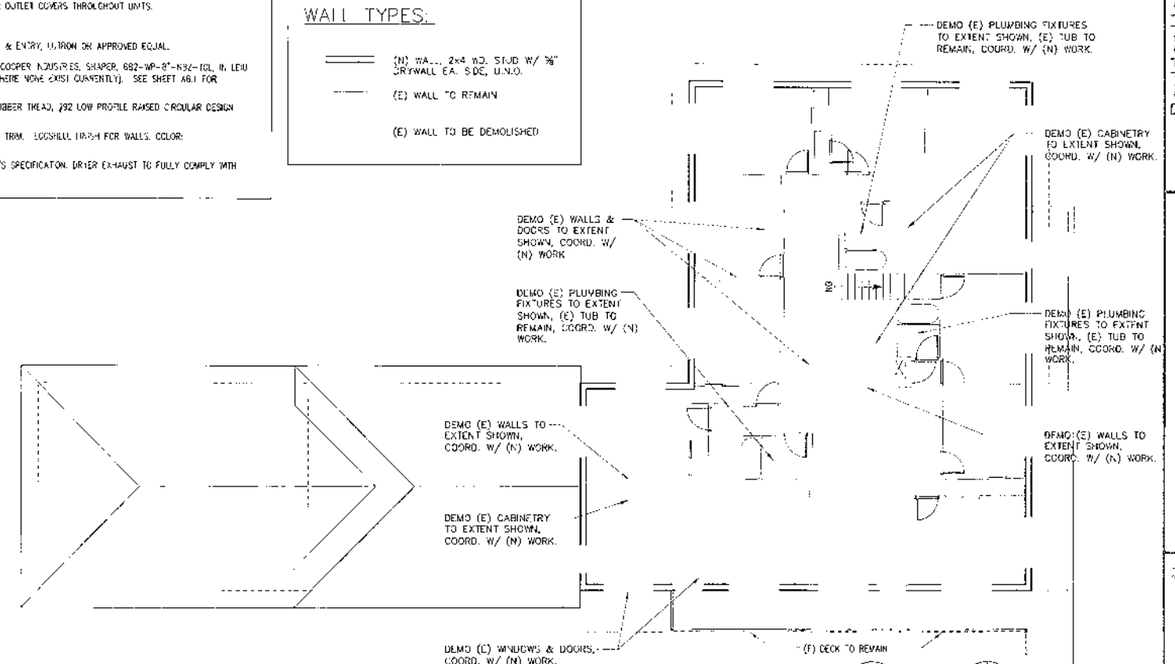
PLAN KEY NOTES

1. PREP & REPAIR SURFACES FOR NEW PAINT. PROVIDE NEW INTERIOR WALL & CEILING PAINT THROUGHOUT UNITS, RE: SPEC
2. REMOVE, PREP & REPAIR FLOOR SURFACES FOR NEW FLOORING. RE: SPEC.
3. REPAINT INTERIOR DOORS WITHIN UNITS.
4. UPGRADE LIGHTING FIXTURES, SEE SHEET A6.1, RE: SPEC. REPLACE SWITCH PLATES & OUTLET COVERS THROUGHOUT UNITS.
5. REPAINT EXISTING BASE/CASE TRIM, UNLESS NOTED OTHERWISE
6. INSTALL LIGHTING OCCUPANCY SENSORS IN CORRIDORS, JANITOR CLOSETS, MECH ROOM, & ENTRY, TO TRON OR APPROVED EQUAL.
7. REPLACE ALL EXISTING EXTERIOR LIGHT FIXTURES W/ NEW WALL MOUNTED SCONCE BY COOPER INDUSTRIES, SHAPER, 682-WP-8"-KBZ-TCL IN LIEU OF FIXTURE IN SPEC. VERIFY QUANTITY. PROVIDE EXT. LIGHT AT EXT. DOORS (AND WHERE NONE EXIST CURRENTLY). SEE SHEET A6.1 FOR LOCATIONS AND QUANTITIES.
8. NEW RUBBER FLOORING @ STAIR TREADS, BASIS OF DESIGN: ROPPE, RAISED DESIGN RUBBER TREAD, 792 LOW PROFILE RAISED CIRCULAR DESIGN RUBBER TREAD, COLOR 193 BLACK BROWN/VARIEGATED.
9. PAINT WALLS & TRIM THROUGHOUT. SEMI-GLOSS FINISH AT BATHROOMS, KITCHEN, AND TRIM. EGGSHELL FINISH FOR WALLS. COLOR: BENJAMIN MOORE, DOVE WHITE.

NOTE: COORD. (N) CLOTHES DRYER EXHAUST W/ (E) BUILDING CONDITIONS & MANUFACTURER'S SPECIFICATION. DRYER EXHAUST TO FULLY COMPLY WITH INTERNATIONAL MECHANICAL CODE (IMC) SECTION 504, CLOTHES DRYER EXHAUST.

WALL TYPES:

- (N) WALL, 2x4 W.O. STUD W/ ⅝" DRYWALL EA. SIDE, U.N.O.
- (E) WALL TO REMAIN
- (E) WALL TO BE DEMOLISHED



DEMOLITION SECOND FLOOR PLAN (1 / A2.2)

SCALE: 1/8" = 1'-0"

PLAN NORTH

UNIT COUNT:
18 BEDROOMS EXISTING, 22 PROPOSED W/ MAX OCCUPANCY OF 26

Boulder Housing Coalition
North Haven Renovation
hha Project # 303
2560 9th Street
Boulder, 80304

bryan architecture
1516 PEARL AVE, SUITE A100
BOULDER, CO 80302
T 303.443.3072
WWW.BRYANARCHITECTURE.COM

DATE 4.24.13
REVISIONS
1 5.23.13
2 6.6.13
3 7.8.13

A2.2

PERMIT SET

MEMORANDUM

TO: Planning Board
FROM: Jessica Vaughn, Case Manager
DATE: August 9, 2013
SUBJECT: **Call-Up Item**: Nonconforming Use Review request, case no. LUR2013-00029, for exterior restoration and interior remodel to an existing nonconforming fourplex on a nonstandard lot located at the southwest corner of Pleasant and 12th streets. The request includes a reduction in the number of units from four to three as well as an increase in floor area (359 square feet) and site improvements, including parking and trash/recycle storage area. Amendment to Nonconforming Use Review case no. NC-88-25.
The call-up period expires on August 23, 2013.

Background. The project site is located one block west of Broadway, on the southwest corner of Pleasant and 12th streets in the University Hill neighborhood. The project site is within roughly two blocks of Broadway and the University of Colorado campus as well as the University Hill Business District (shown in blue on the map at the right).

Figure 1: Vicinity Map

The project site is zoned Residential High-5 (RH-5), which is defined in the land use code as "*High density residential areas primarily used for a variety of types of attached residential units, including, without limitation, apartment buildings, and where complementary uses may be allowed" (section 9-5-2(c)(1)(F), B.R.C. 1981).*

The majority of properties surrounding the project site are also zoned RH-5 with the exception of those to the north and east, across 12th Street, which are zoned Business Main Street. The majority of the properties immediately adjacent to the project site, zoned RH-5,are developed as a variety of forms of multi-family residential housing, including apartments, duplexes and triplexes and fraternity/sorority uses; the majority of which serve as student rental housing. Located near the University of Colorado campus as well as the University Hill Business District, non-residential uses, including retail, restaurant and commercial uses as well as public surface parking lots are also located in proximity to the project site to the east.

Although the building was originally constructed in the early 1900s making the building more than 50 years in age, the proposed renovations do not meet the definition of "demolition" as it pertains to buildings of 50 years or older. Additional review is not required by the Landmarks Design Review Committee. In addition, although the building was found to potentially have historic significance given its architectural detailing and roofline, there is no regulatory authority to require the property owner to file an application for designation of the building as an individual landmark through the Nonconforming Use Review process.

In 1989, a Nonconforming Use Review approval, case no. NC-88-25, was granted to remodel the existing structure and to reduce the occupancy from one, two-bedroom apartment and nine rooming units to four

apartment-style dwelling units (one, three-bedroom unit and three, two-bedroom units). The four apartment units exist today.

Currently the property is nonconforming as to:

- Parking because the onsite parking requirement is not met, six spaces are required (1.5 spaces for a two-bedroom unit and two spaces for a three-bedroom unit) where only five are currently accommodated; and

- Density because the minimum required lot area per dwelling unit is not met; 1,600 square feet is required, which would allow for three units where four exist.

The existing building is also nonstandard because it does not meet the required setbacks, including the front yard (25 feet required where 20.5 feet exist); side yard interior (10 feet required where 6.3 feet exists); side yard combined (20 feet required where 9.5 feet exists), and side yard landscape setback from a street (12.5 feet required where 0 feet exists).

Figure 2: Front view, 1146 Pleasant St.

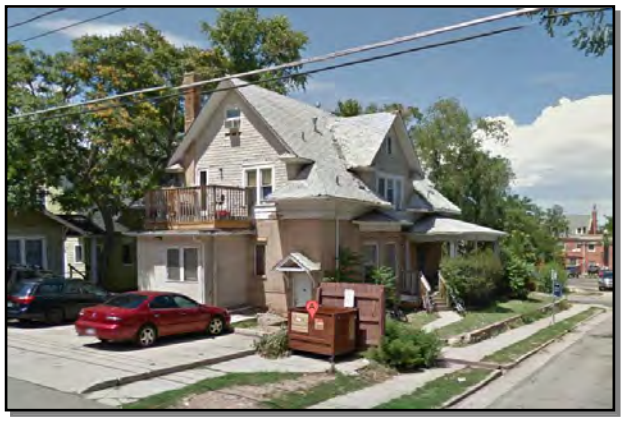


Figure 3: Alley view, 1146 Pleasant St.

Proposal. The applicant is proposing to remodel the existing fourplex to reduce the number of dwelling units from four units to three units. As part of the development proposal, the applicant is also proposing an expansion in the existing floor area, roughly 359 square feet. The new floor area is a result of a staircase addition that will provide access to each of the three units and will be located on the south elevation of the existing structure as well as in the construction of shed-style dormer located on the west elevation to provide additional living space in Unit C on the mezzanine level.

The development proposal also includes various site improvements, including:

- Updating the landscape to be consistent with the current code requirements pursuant to section 9-9-12, "*Landscaping and Screening Requirements*," and 9-9-13, "*Streetscape Design Standards*," B.R.C. 1981;
- Improving the parking area to meet the current code requirements pursuant to section 9-9-6, "*Parking Standards*," B.R.C. 1981;
- Renovating and remodeling the dilapidated building exterior façade elements, including windows, doors and materials, and current life safety requirements, including egress;
- Providing private open space for each unit; and

- Providing a trash enclosure that is consistent with the current code requirements pursuant to section 9-9-18, "*Trash Storage and Recycling Areas*," B.R.C. 1981.

Refer to **Attachment B** for the applicant's proposed plans.

Process. As noted above, the project site is considered a nonconforming use with respect to parking and open space. The development proposal is considered an expansion of a nonconforming use as defined in chapter 9-16, "*Use Standards,*" B.R.C. 1981, because the proposal creates dwelling units and floor area:

> *"Expansion of nonconforming use" means any change or modification to a nonconforming use that constitutes:*
>
> *(1) An increase in the occupancy, floor area, required parking, traffic generation, outdoor storage, or visual, noise, or air pollution;*
> *(2) Any change in the operational characteristics which may increase the impacts or create adverse impacts to the surrounding area including, without limitation, the hours of operation, noise, or the number of employees;*
> *(3) The addition of bedrooms to a dwelling unit, except a single-family detached dwelling unit; or*
> *(4) The addition of one or more dwelling units" (section 9-16, "Definitions," B.R.C.).*

Pursuant section 9-10-3(c)(2), "*Standards for Changes to Nonstandard Buildings, Structures and Lots, and Nonconforming Uses*," B.R.C. 1981, an expansion of a nonconforming use shall be reviewed for consistency with the Nonconforming Use Review Criteria found in section 9-2-15(e) and (f), B.R.C. 1981. Nonconforming Use Reviews are a staff level decision that is subject to a 14-day Planning Board call-up period.

Analysis. The applicant's proposal to reduce the number of units in the existing fourplex to three was evaluated for consistency with the Nonconforming Use review criteria, specifically with regard to improving the general appearance of the project site and decreasing the overall level of nonconformity. As a result of the reduction in the number of units and the parking improvements, the project site is no longer nonconforming as to density or parking.

Overall, the proposal was found to be consistent with the Nonconforming Use Review Criteria based on:

- The elimination of the nonconforming status in terms of density and parking;
- The general improvement to the appearance of the project site in terms of landscaping and exterior building façade; and
- Life safety improvements, including egress to the building.

Staff finds that the proposed Nonconforming Use Review meets the relevant criteria pursuant to section 9-2-15(e), "*Use Review*," and 9-2-15(f), "*Additional Criteria for Modifications to Nonconforming Uses,*" B.R.C. 1981 (please refer to **Attachment C**).

Public Comment. Required public notice was provided in the form of written notifications to property owners within 600 feet of the subject property. In addition, a public notice sign was posted on the property and therefore, all public notice requirements of section 9-4-3, "*Public Notice Requirements*," B.R.C. 1981 were met. No comments were received.

This proposal was approved by Planning and Development Services staff on August 9, 2013 and the decision may be called up before Planning Board on or before **August 23, 2013**. There is one Planning Board meeting within the 14-day call-up period on August 15, 2013. Questions about the project or decision should be directed to Jessica Vaughn at 303-441-4161 or via email vaughnj@bouldercolorado.gov.

Attachments.
Attachment A: Staff Disposition
Attachment B: Proposed Plan Set
Attachment C: Nonconforming Use Review Criteria

CITY OF BOULDER
Planning and Development Services
1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web boulderplandevelop.net

CITY OF BOULDER PLANNING DEPARTMENT NOTICE OF DISPOSITION

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

DECISION:	**APPROVED WITH CONDITIONS**
PROJECT NAME:	**1146 Pleasant St. Nonconforming Use Review Unit Reduction**
DESCRIPTION:	**NONCONFORMING USE REVIEW for exterior restoration and the interior remodel of an existing nonconforming fourplex on a nonstandard lot. This approves a reduction in the number of units from four to three, an increase in floor area (359 square feet), and site improvements, including improvements to parking and trash/recycle storage areas. This approval amends Nonconforming Use Review # NC-88-25.**
LOCATION:	**1146 Pleasant Street**
COOR:	**N02W06**
LEGAL DESCRIPTION:	**Lots 6, Block 6, Capitol Hill, County of Boulder, State of Colorado**
APPLICANT:	**Ken Highfill**
OWNER:	**Kenneth and Susan Highfill**
APPLICATION:	**Nonconforming Use Review, LUR2013-00029**
ZONING:	**Residential High-5 (RH-5)**
CASE MANAGER:	**Jessica Vaughn**
VESTED PROPERTY RIGHT:	**NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

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

Approved On: August 9, 2013
Date

By: David Driskell / by Susan Richards
David Driskell, Executive Director of Community Planning and Sustainability

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

Appeal to Planning Board expires: August 23, 2013

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT MUST BE SUBMITTED TO THE PLANNING DEPARTMENT, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

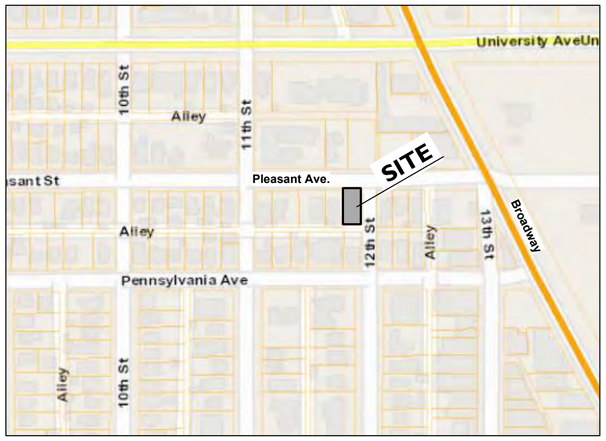
Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12) the development within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

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all approved plans** dated July 29, 2013 and August 8, 2013 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 **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, Nonconforming Use Review # NC-88-25.

3. The Applicant **shall not expand or modify the approved use**, except pursuant to Subsection 9-2-15(h), B.R.C. 1981.



VICINITY MAP

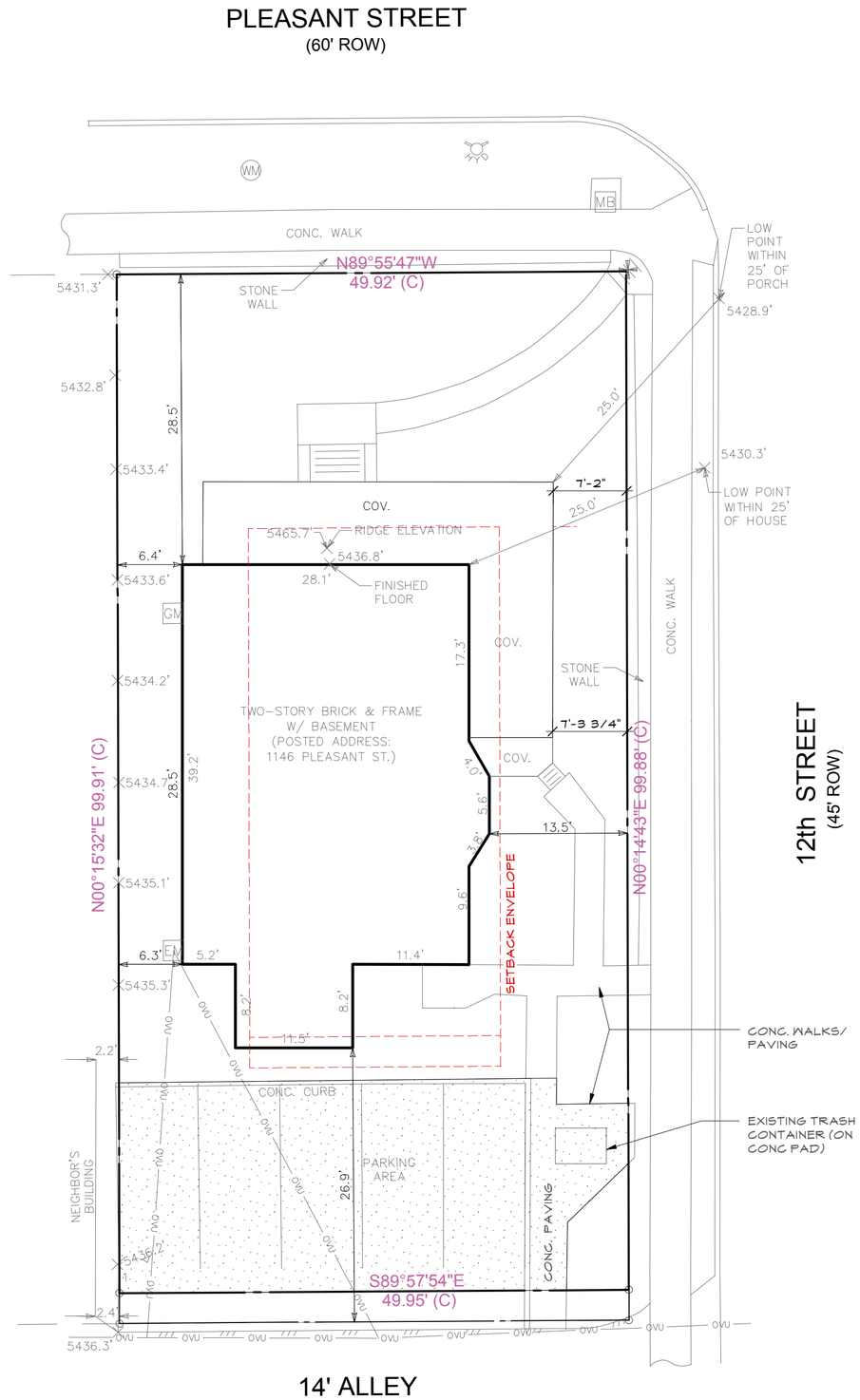
1" = 300'

NORTH

LAND USE REVIEW APPLICATION

Review Type:	Use Review - Non-Standard Lot City of Boulder Review # LUR2013-00029
Proposal:	Exterior restoration and interior remodel to change from "nonconforming use" to "conforming use" by reducing the number of dwelling units from 4 to 3. (Amendment to Non-Conforming Use Review: #NC-88-25)
Applicant/ Owner:	Hawkeye Properties Inc. 2120 Meadow Ave. Boulder, CO. 80304

SEE SHEET 2 FOR SITE DATA AND ZONING COMPARISON



EXISTING - SITE PLAN

1" = 10'-0"

NORTH

stewart ARCHITECTURE
1132 Jefferson Ave. Louisville, CO 80027
303.665.6868 (tel) 303.665.6702 (fax)

Sheet Issue:		
Date	Comments	Init.
MAY 28, 2013	Submittal	PS
JUNE 27, 2013	Resbmittal	PS
JULY 29, 2013	Resbmittal-2	PS

Prepared for:
Hawkeye Properties Inc.
2110 Meadow Ave.
Boulder, Colorado 80304
Contact: Ken Highfill 303-442-2003

1146 Pleasant Avenue, Boulder
Lot 6, Block 6, Capital Hill, City of Boulder, County of Boulder

USE REVIEW
for a nonstandard lot
Review #:
LUR2013-00029

Sheet Title

Sheet No.
1

ZONING ANALYSIS COMPARISON

	City Standard	Current	Proposed
Lot Area	6,000	4,988	4,988
Dweling Units		4	3
Area/ Unit	1,600	1,247	1,663
Max Coverage (Area in setbacks)		1,370	1,370
Building Coverage		1,589	1,589
Parking Coverage		960	1,082
Usable Open Space		2,658	2,952
Open Space/ unit	600	665	984
Units / Unit Type		(3) 2BR Units & (1) 3BR Unit	(2) 2BR Units & (1) 3BR Unit
Parking Required		6 Req'd	5 Req'd
Parking Provided		5	5

FLOOR AREA COMPARISON

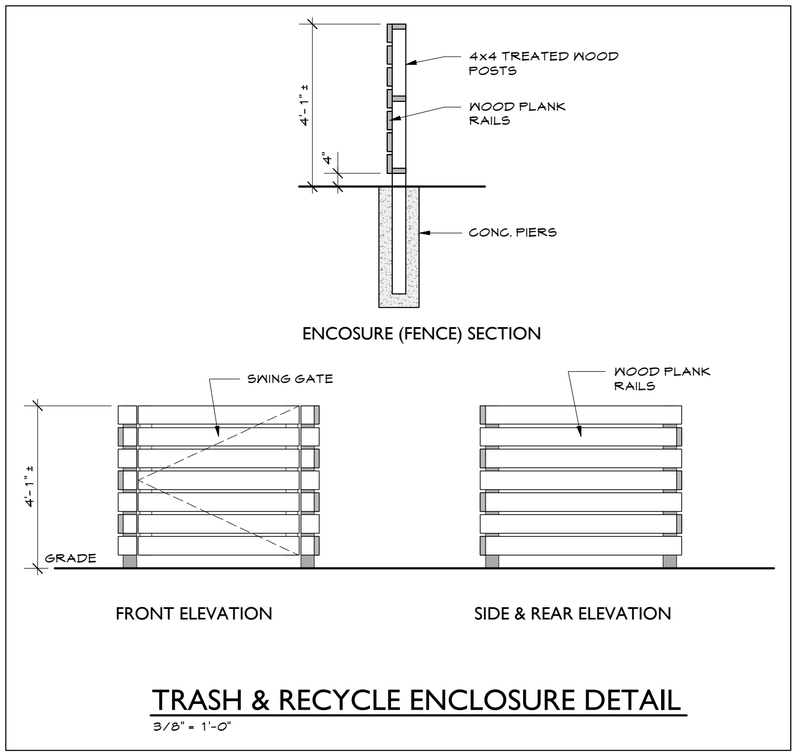
Location	Exist. SF	Proposed SF	Total
Basement	1,108		
Stairway		130	
New Area		55	
Mech Room		(70)	
Subtotal	1,108	115	1,223
1st Floor	1,202		
Remove south bay		(94)	
Stairway (south)		79	
Stair Opg (Unit A)		(52)	
Subtotal	1,202	(67)	1,135
2nd Floor	1,095		
Stairway		130	
Subtotal	1,095	130	1,225
Mezzanine	197		
Dormers		160	
Stairway		21	
Subtotal	197	181	378
Total Area	**3,602**	**359**	**3,961**
Max Allowed Increase @ +10%	360.2		

LOT COVERAGE

Location	Area (SF)
Maximum lot coverage per setbacks	1,370
Existing Building Coverage	1,589
Proposed	
Building footprint	1,235
Ft Porch	312
Rear Upper Deck	42
Total Proposed Coverage	**1,589**
	(No Change)

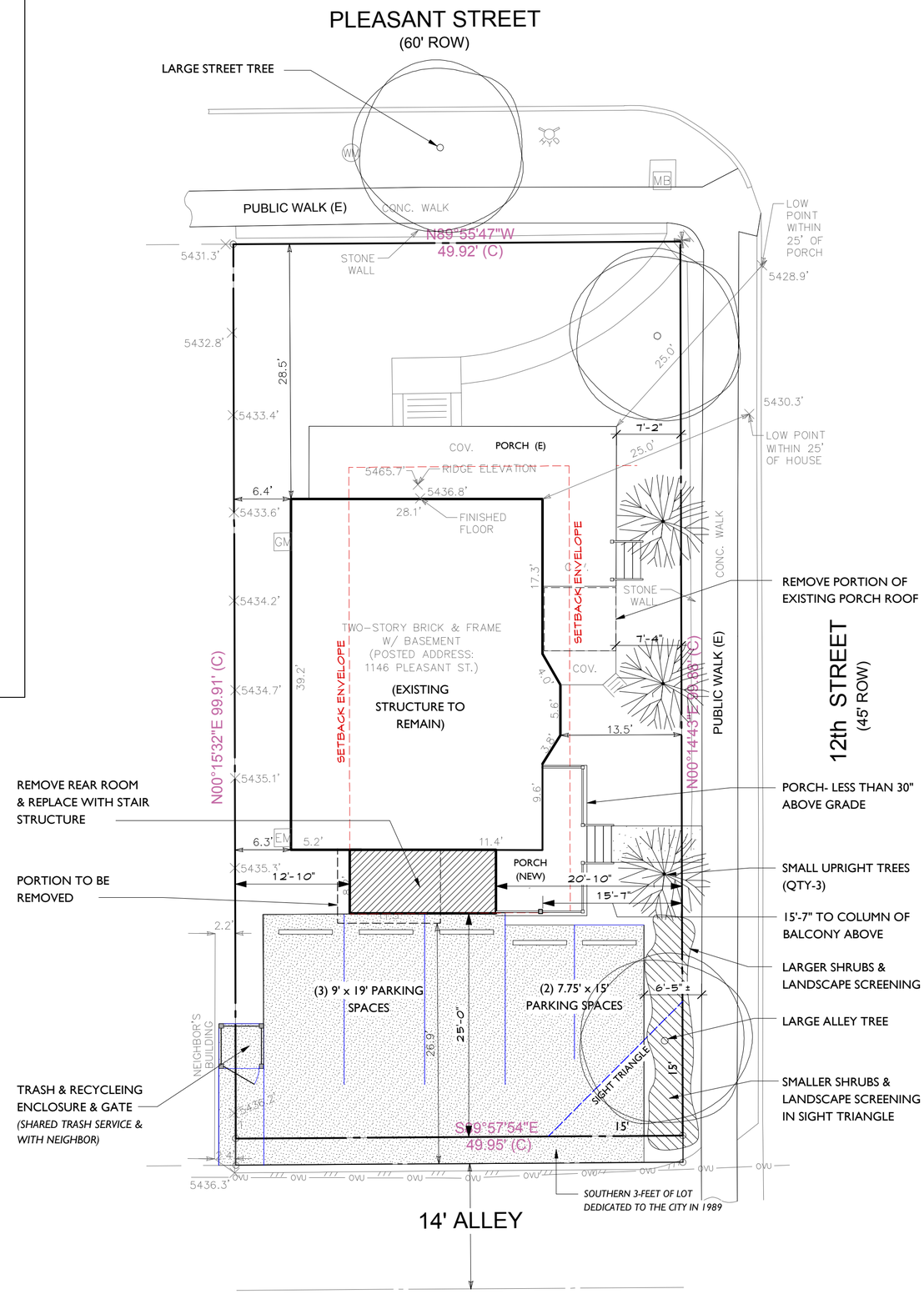
USABLE OPEN SPACE

Location	Area (SF)
Lot Area	4,988
Coverage	
Building footprint	(1,235)
Parking & drives	(1,082)
Landscape and porches (grade level)	2,671
Other Open space	
2nd Floor Deck- North	96
2nd Floor Deck- South	113
3rd Floor Deck	72
Total Lot Open Space	2,952
Open Space per Unit	**984**



TRASH & RECYCLE ENCLOSURE DETAIL

3/8" = 1'-0"



PROPOSED - SITE PLAN

1" = 10'-0"

NORTH

stewart ARCHITECTURE
1132 Jefferson Ave. Louisville, CO 80027
303 665 6868 (tel) 303 665 6702 (fax)

Sheet Issue:

Date	Comments	Init.
MAY 28, 2013	Submittal	PS
JUNE 27, 2013	Resbmittal	PS
JULY 29, 2013	Resbmittal-2	PS

Prepared for:

Hawkeye Properties Inc.
2110 Meadow Ave.
Boulder, Colorado 80304
Contact: Ken Highfill 303-442-2003

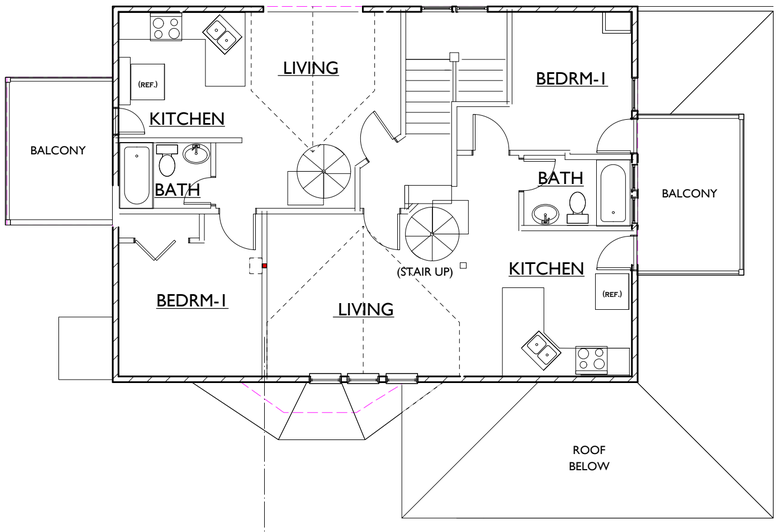
1146 Pleasant Avenue, Boulder

Lot 6, Block 6, Capital Hill, City of Boulder, County of Boulder

USE REVIEW
for a nonstandard lot
Review #:
LUR2013-00029

Sheet Title

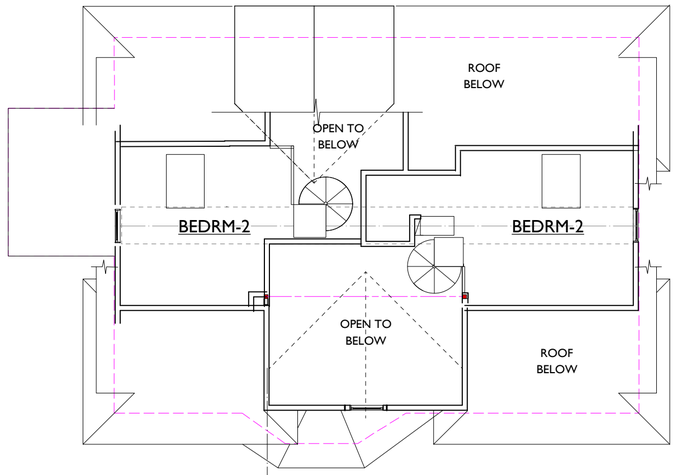
Sheet No. 2



UNIT - B UNIT - C

SECOND FLOOR PLAN

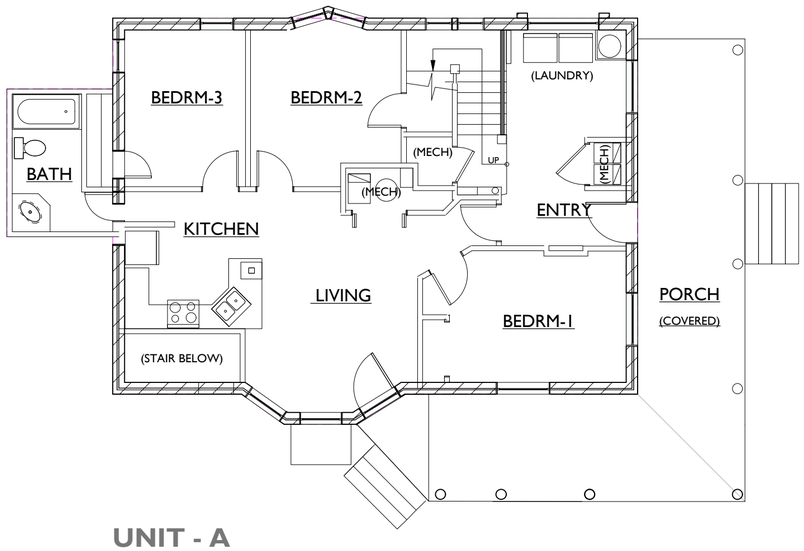
1/8" = 1'-0"



UNIT - B UNIT - C

MEZZANINE PLAN

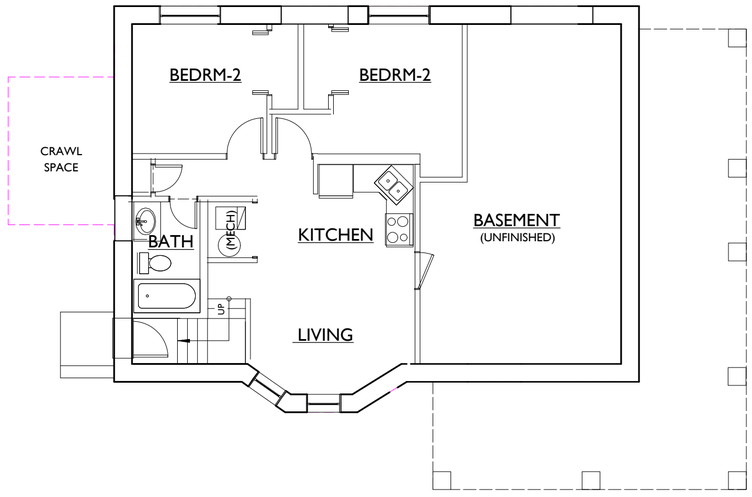
1/8" = 1'-0"



UNIT - A

FIRST FLOOR PLAN

1/8" = 1'-0"



UNIT - D

BASEMENT PLAN

1/8" = 1'-0"

EXISTING BUILDING PLANS

NORTH

stewart ARCHITECTURE
1132 Jefferson Ave. Louisville, CO 80027
303.665.6868 (tel) 303.665.6702 (fax)

Sheet Issue:

Date	Comments	Init.
MAY 28, 2013	Submittal	PS
JUNE 27, 2013	Resbmittal	PS
JULY 29, 2013	Resbmittal-2	PS

Prepared for:
Hawkeye Properties Inc.
2110 Meadow Ave.
Boulder, Colorado 80304
Contact: Ken Highfill 303-442-2003

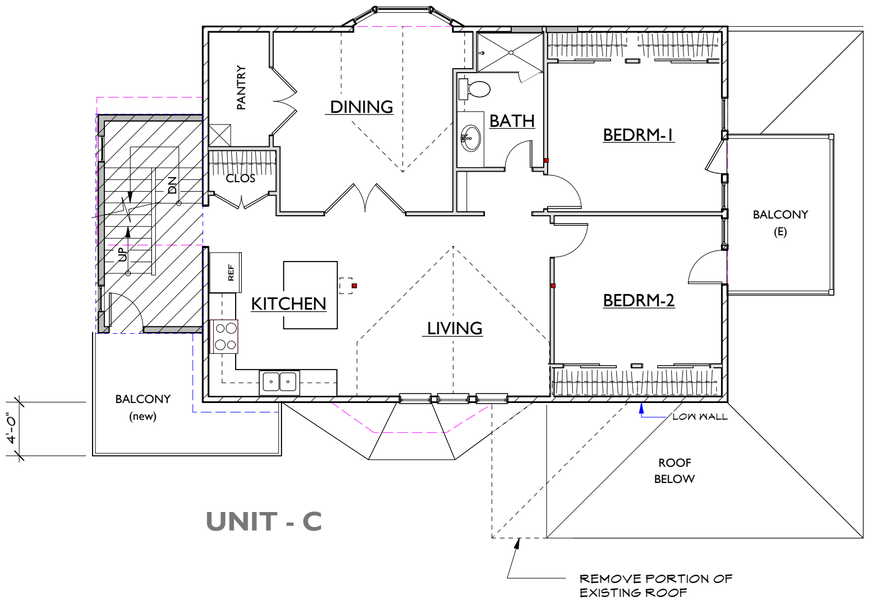
1146 Pleasant Avenue, Boulder

Lot 6, Block 6, Capital Hill, City of Boulder, County of Boulder

USE REVIEW
for a nonstandard lot
Review #:
LUR2013-00029

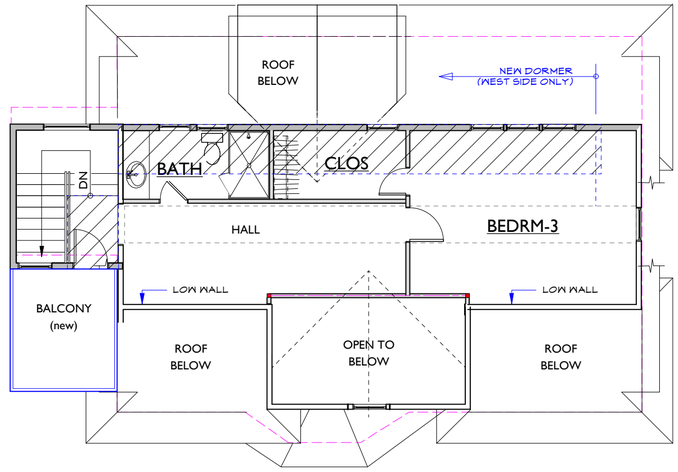
Sheet Title

Sheet No. 3



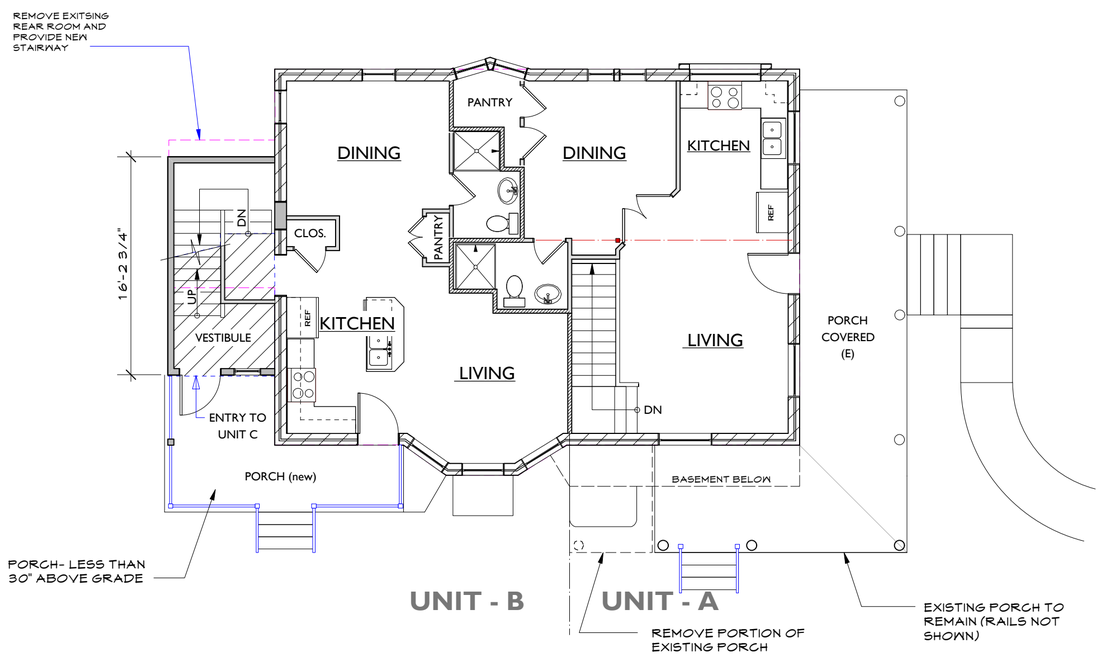
SECOND FLOOR PLAN

1/8" = 1'-0"



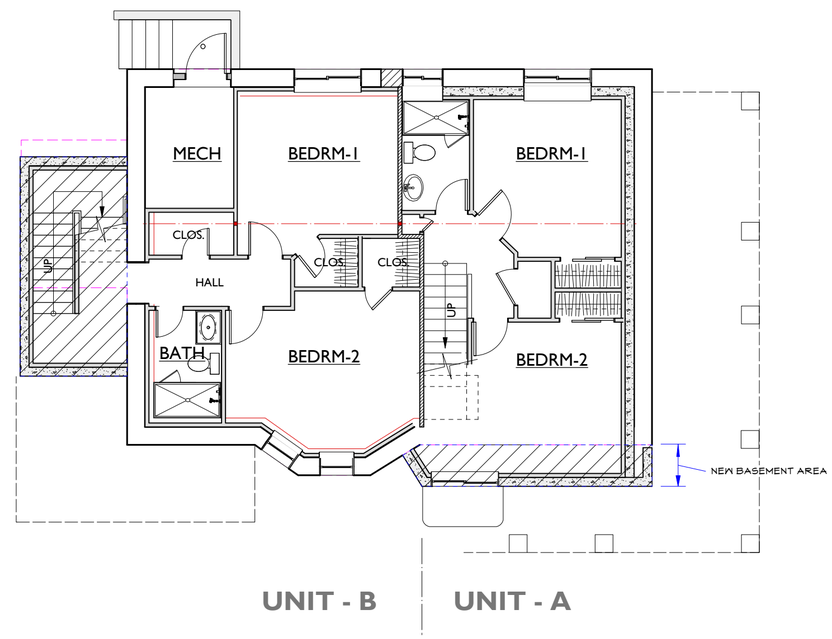
MEZZANINE PLAN

1/8" = 1'-0"



FIRST FLOOR PLAN

1/8" = 1'-0"



BASEMENT PLAN

1/8" = 1'-0"

INDICATES NEW
FLOOR AREA

PROPOSED BUILDING PLANS

NORTH

stewart ARCHITECTURE
1132 Jefferson Ave. Louisville, CO 80027
303.665.6868 (tel) 303.665.6702 (fax)

Sheet Issue:

Date	Comments	Init.
MAY 28, 2013	Submittal	PS
JUNE 27, 2013	Resbmittal	PS
JULY 29, 2013	Resbmittal-2	PS

Prepared for:
Hawkeye Properties Inc.
2110 Meadow Ave.
Boulder, Colorado 80304
Contact: Ken Highfill 303-442-2003

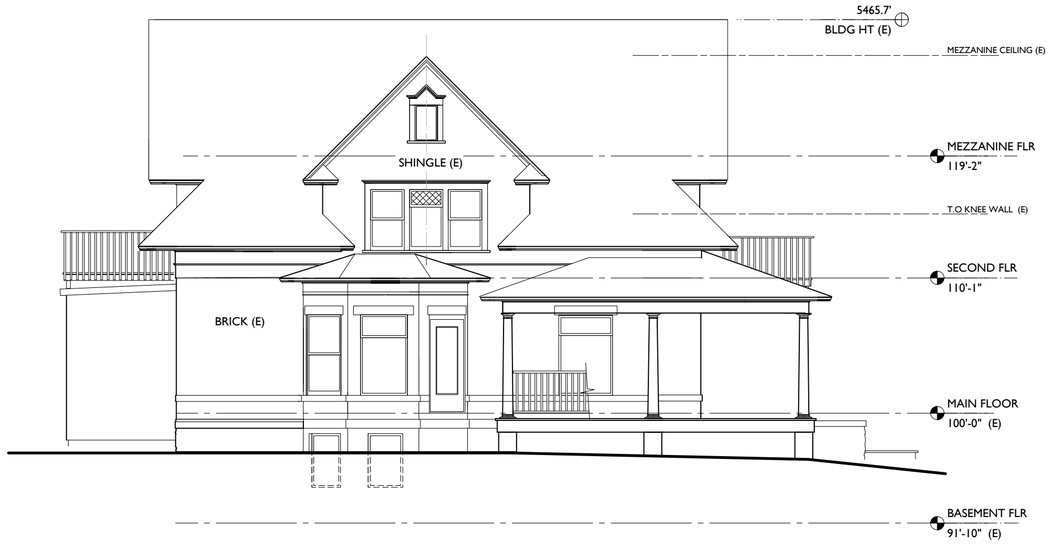
1146 Pleasant Avenue, Boulder

Lot 6, Block 6, Capital Hill, City of Boulder, County of Boulder

USE REVIEW
for a nonstandard lot
Review #:
LUR2013-00029

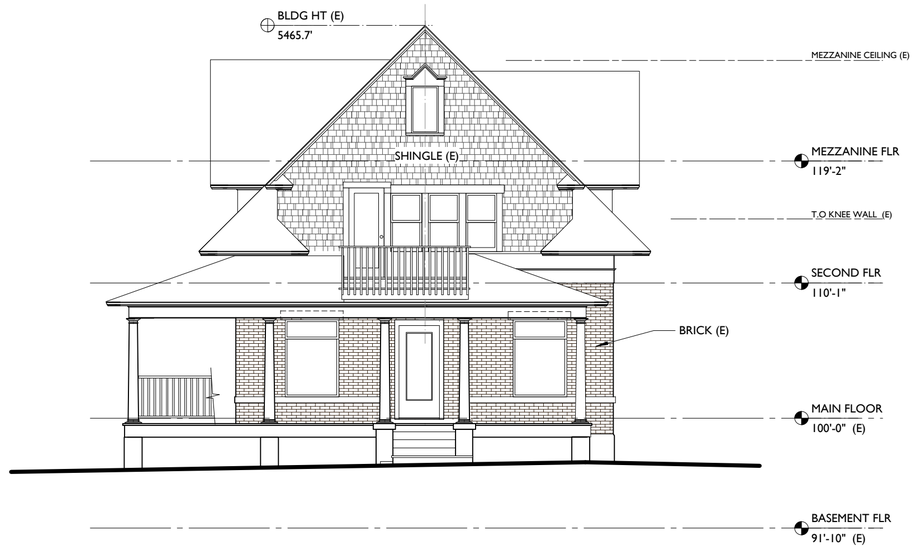
Sheet Title

Sheet No. 4



EAST ELEVATION

1/8" = 1'-0"

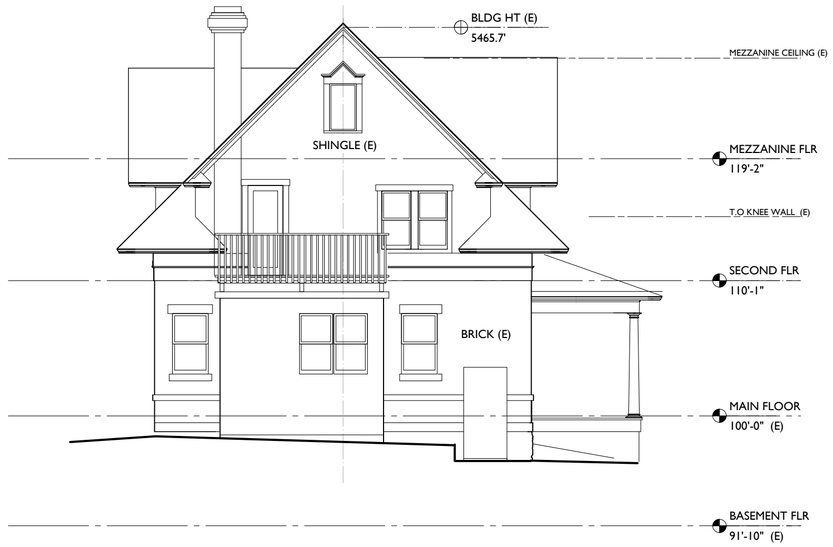


NORTH ELEVATION

1/8" = 1'-0"

WEST ELEVATION

1/8" = 1'-0"



SOUTH ELEVATION

1/8" = 1'-0"

EXISTING BUILDING ELEVATIONS

stewart ARCHITECTURE
1132 Jefferson Ave. Louisville, CO 80027
303 665 6868 (tel) 303 665 6702 (fax)

Sheet Issue:

Date	Comments	Init.
MAY 28, 2013	Submittal	PS
JUNE 27, 2013	Resubmittal	PS
JULY 29, 2013	Resubmittal-2	PS

Prepared for:
Hawkeye Properties Inc.
2110 Meadow Ave.
Boulder, Colorado 80304
Contact: Ken Highfill 303-442-2003

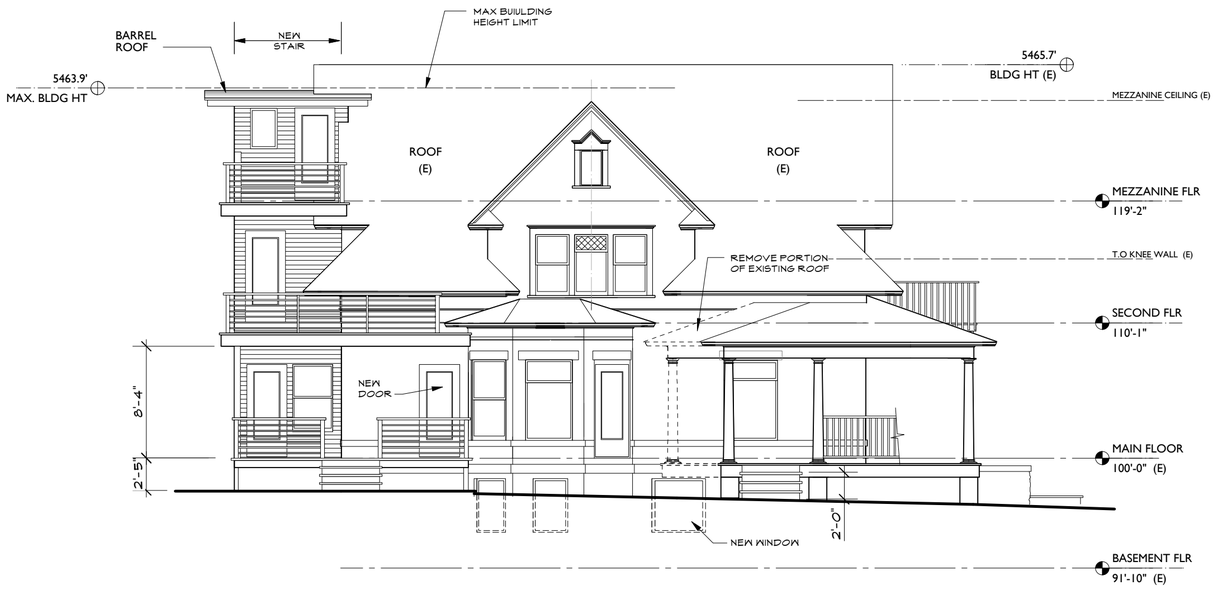
1146 Pleasant Avenue, Boulder

Lot 6, Block 6, Capital Hill, City of Boulder, County of Boulder

USE REVIEW
for a nonstandard lot
Review #:
LUR2013-00029

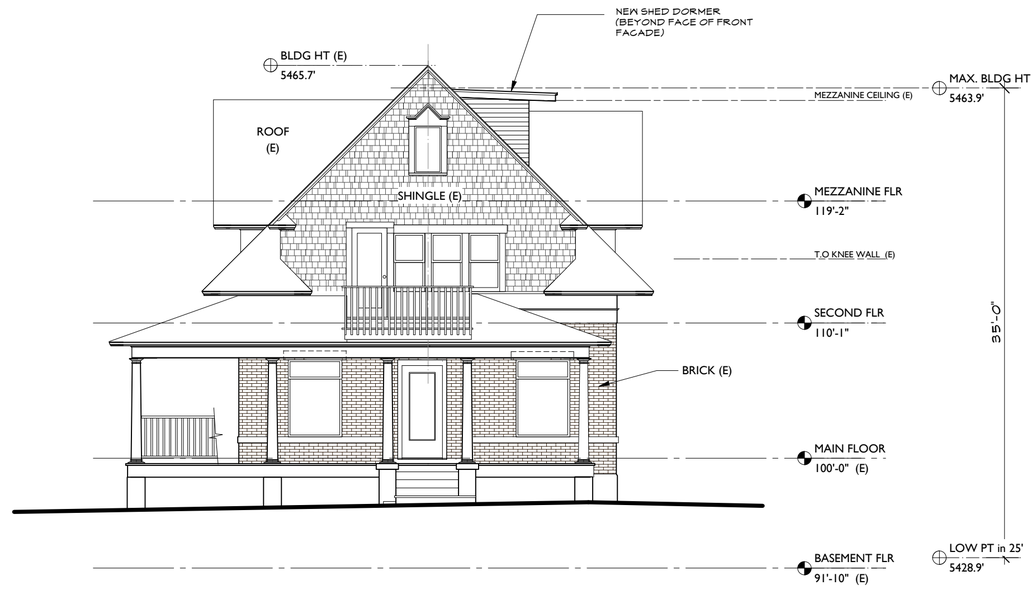
Sheet Title

Sheet No. 5



EAST ELEVATION

1/8" = 1'-0"

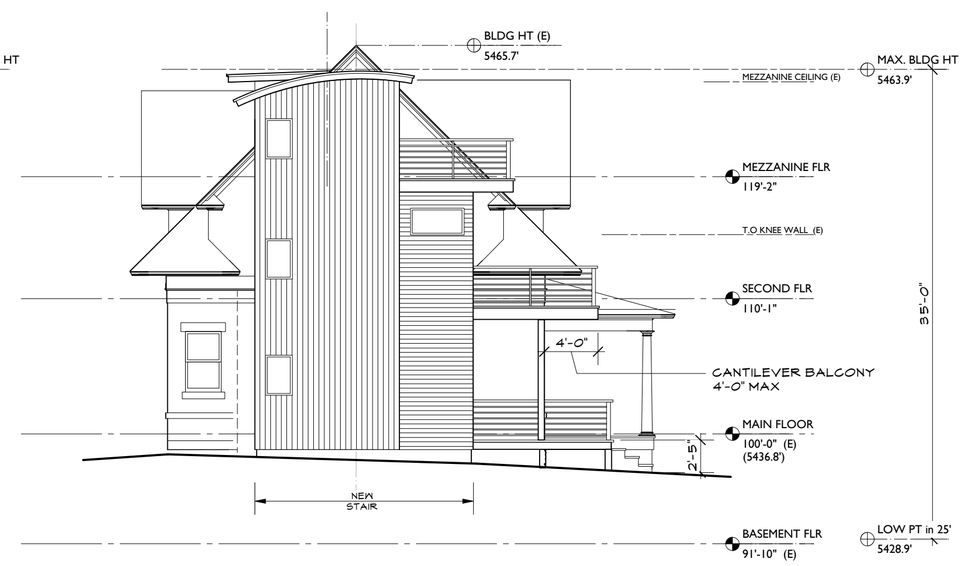


NORTH ELEVATION

1/8" = 1'-0"

WEST ELEVATION

1/8" = 1'-0"



SOUTH ELEVATION

1/8" = 1'-0"

PROPOSED BUILDING ELEVATIONS

stewart ARCHITECTURE
1132 Jefferson Ave. Louisville, CO 80027
303 665 6868 (tel) 303 665 6702 (fax)

Sheet Issue:

Date	Comments	Init.
MAY 28, 2013	Submittal	PS
JUNE 27, 2013	Resbmittal	PS
JULY 29, 2013	Resbmittal-2	PS
AUG. 08, 2013	Resbmittal-3	PS

Prepared for:

Hawkeye Properties Inc.
2110 Meadow Ave.
Boulder, Colorado 80304
Contact: Ken Highfill 303-442-2003

1146 Pleasant Avenue, Boulder

Lot 6, Block 6, Capital Hill, City of Boulder, County of Boulder

USE REVIEW
for a nonstandard lot
Review #:
LUR2013-00029

Sheet Title

Sheet No. 6

Case #: LUR2013-00029

Project Name: 1146 Pleasant Reduction in Units

Date: June 19, 2013

USE REVIEW CRITERIA

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

Y_____ (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 High-5 (RH-5), which is defined as:

> *"High density residential areas primarily used for a variety of types of attached residential units, including, without limitation, apartment buildings, and where complementary uses may be allowed" (section 9-5-2(c)(1)(F), B.R.C. 1981).*

The RH-5 zone district requires a minimum lot area per dwelling unit of 1,600 square feet, minimum open space per dwelling unit of 600 square feet and a minimum lot area of 6,000 square feet.

Today, the project site is nonconforming because it does not meet the density requirements or the required off-street parking. Based on the existing use a total of six parking spaces are required where five parking spaces are provided and based on the existing lot area a total of three units would be permitted where four exist.

Pursuant to section 9-16, "Definitions," B.R.C. 1981:

> *"Nonconforming use means any use of a building or use of a lot that is not permitted by section 9-6-1, "Schedule Of Permitted Land Uses," B.R.C. 1981, but excludes a conforming use in a nonstandard building or on a nonstandard lot; a legal existing use that has not been approved as a conditional use or a use review use, or a use approved pursuant to a valid special review or use review approval. A nonconforming use also includes an otherwise conforming use, except a single dwelling unit on a lot, <u>that does not meet the parking and residential density requirements</u>, including, without limitation, the requirements for minimum lot area per dwelling unit; useable open space per dwelling unit, or required off-street parking requirements of section 9-7-1, "Schedule Of Form And Bulk Standards," B.R.C. 1981."*

The development proposal includes the reduction in the overall number of dwelling units from four units to three as well as an increase in the overall floor area to accommodate stair access to each unit and additional living space on the mezzanine level (Unit C). In addition, as a result of the decrease in the number of units, the parking requirement will also be reduced and the off-street parking requirements met.

Overall, the development proposal will result in the project site becoming more consistent with the underlying zone district's development standards especially with regard to density and parking. The proposal was found to be generally consistent with the general intent of the zone district because attached residential units are permitted by-right in the zone district.

Y_____ (2) Rationale: The use either:

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

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

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

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

In 1989 a Nonconforming Use Review approval (NC-88-25) was granted for four apartment-style dwelling units (one-three bedroom and three-two bedroom units). The four apartment-style units are existing on the project site today.

Pursuant to section 9-10, "Nonconforming Use," B.R.C. 1981,

> "*The city manager will grant a request for a change of use, which is the replacement of one nonconforming use with another, if the modified or new use does not constitute an expansion of a nonconforming use. Any other change of use that constitutes expansion of a nonconforming use must be reviewed under procedures of section 9-2-15, "Use Review," B.R.C. 1981."*

The development proposal to add additional floor area to the existing structure is considered an expansion pursuant to section 9-16, "Definitions," B.R.C. 1981:

> *"Expansion of nonconforming use" means any change or modification to a nonconforming use that constitutes:*
>
> *(1) An increase in the occupancy, floor area, required parking, traffic generation, outdoor storage, or visual, noise, or air pollution;*
>
> *(2) Any change in the operational characteristics which may increase the impacts or create adverse impacts to the surrounding area including,*

without limitation, the hours of operation, noise, or the number of employees;

(3) The addition of bedrooms to a dwelling unit, except a single-family detached dwelling unit; or

(4) The addition of one or more dwelling units."

Y_____ 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;

Currently, the project site is comprised of a 63-occupant fraternity (22 units based on the group occupancy equivalency ratio of three occupants is equivalent to one dwelling unit pursuant to section 9-8-6, B.R.C. 1981). The development proposal includes the conversion of the existing fraternity to 18 residential apartment units as well as site improvements, including landscaping, parking lot and trash enclosure and an addition on the third story to enclose the existing rooftop patio. The addition is comprised of roughly 1,600 square feet.

The properties immediately adjacent to the project site include various multi-family residential developments, including apartments, duplexes and triplexes and fraternity/sorority uses. The project site is within two blocks of Broadway and the University of Colorado campus as well as in proximity to downtown and the University Hill Business District.

The purpose of Nonconforming Use review is to permit nonconforming uses to continue, as well as to mitigate adverse impacts of nonconforming uses on adjacent properties by bringing them closer to conformity with the underlying zone district standards. As part of the development proposal, the applicant is improving the general appearance of the project site with regard to parking, including paving and screening as well as meeting the required ratio between compact and standard spaces, providing landscape and a trash and recycling area. In addition, the development proposal will result in a density (three units) that is permitted by-right and the required parking to be provided on-site (five spaces). Not only is the applicant's development proposal improving the general appearance of the project site, but also eliminating the nonconforming status of the project site as it relates to density and parking.

Y_____ (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 infrastructure required to serve the proposed development presently exist.

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

Given the project site's location in close proximity to the University of Colorado Campus, the character of the immediately surrounding area is that of student rental housing.

Overall, the development proposal will not change the predominant character of the area, which is adjacent to multi-family residential uses, including student rentals in the form of duplexes and triplexes, fraternities and sororities and single family residences.

N/A ___ (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.

The development proposal involves a change of one residential use to another.

NONCONFORMING USE REVIEW CRITERIA

No application for a change to a nonconforming use shall be granted unless all of the following criteria are met in addition to the criteria set forth above:

Y (1) Reasonable Measures Required: The applicant has undertaken all reasonable measures to reduce or alleviate the effects of the nonconformity upon the surrounding area, including, without limitation, objectionable conditions, glare, adverse visual impacts, noise pollution, air emissions, vehicular traffic, storage of equipment, materials, and refuse, and on-street parking, so that the change will not adversely affect the surrounding area.

The applicant will be implementing a number of reasonable measures to reduce or alleviate the effects of the nonconforming use upon the surrounding area, including:

- *Reduction in the number of units from four to three, which will render the property conforming as to density;*
- *Providing the required number parking spaces on site as well as updating the parking area to be consistent with the screening, paving and striping requirements;*
- *Improving site landscaping;*
- *Improving the exterior building elevations;*
- *Bringing the building in to compliance with the current life safety requirements, including egress; and*
- *Providing a screened trash/recycling enclosure.*

Y (2) Reduction in Nonconformity/Improvement of Appearance: The proposed change or expansion will either reduce the degree of nonconformity of the use or improve the physical appearance of the structure or the site without increasing the degree of nonconformity.

The project site is currently nonconforming as to density and parking. The maximum number of dwelling units that would be permitted on the project site is three units. Four units are existing today.

The project site is also nonconforming as to parking. The existing use requires six parking spaces while only five are provided on site. Additionally, the parking area is not paved, striped or screened.

The applicant's proposal to decrease the number of units from four to three will not only result in an overall decrease in the number of occupants and site intensity, but also in a density that is permitted by-right. The project site will no longer be nonconforming as to density.

In addition, the applicant is also proposing to improve the general appearance of the project site with regard to parking, including paving and screening as well as meeting the required ratio between compact and standard spaces, providing landscape and a trash and recycling area. As a result of the decrease in the number of units, the parking requirement will also be decreased from six to five spaces. All of the required off-street parking will be provided on

site and in a fashion that is consistent with the current code requirements. The project site will no longer be nonconforming as to parking.

Y (3) Compliance With This Title/Exceptions: The proposed change in use complies with all of the requirements of this title:

(A) Except for a change of a nonconforming use to another nonconforming use; and

The development proposal consists of replacing one nonconforming use with another.

(B) Unless a variance to the setback requirements has been granted pursuant to section 9-2-3, "*Variances and Interpretations*," B.R.C. 1981, or the setback has been varied through the application of the requirements of section 9-2-14, "*Site Review*," B.R.C. 1981.

Although no setback modifications are requested as part of the development proposal, the existing building is nonstandard as it does not meet the required rear yard setback from the alley and the required combined side yards setback. Per the survey provided the setbacks are as follows:

Table 1: Setback Table			
	Required	**Existing**	**Proposed**
Front Yard	25 feet	28.5 feet house/20.5 feet porch	No change
Rear Yard	**25 feet**	**23.9 feet**	**25 feet**
Side Interior Yard	10 feet	6.3 feet	No change
Combined Side Yards	20 feet	**6.3 feet**	**12.8 feet**
Side Yard Landscape from a Street	12.5 feet	0 feet	**6.5 feet**

It is important to note that while the building is nonstandard today, the development proposal results in increased setbacks as they relate to the side yard landscape setback from a street and the rear yard setback. The rear yard setback will be compliant with the code requirements and will no longer be nonstandard.

Y (4) Cannot Reasonably Be Made Conforming: The existing building or lot cannot reasonably be utilized or made to conform to the requirements of chapter 9-6, "*Use Standards*," 9-7, "*Form and Bulk Standards*," 9-8, "*Intensity Standards*," or 9-9, "*Development Standards*," B.R.C. 1981.

While the proposal will not eliminate the nonstandard condition of the existing building as it relates to setbacks, it will eliminate the nonconforming status of the project site as it relates to density and parking.

Y (5) No Increase in Floor Area Over Ten Percent: The change or expansion will not result in a cumulative increase in floor area of more than ten percent of the existing floor area.

The development proposal will result in an increase in floor area, approximately 359 square feet for a rear addition to accommodate stairs which will not in excess of the 10 percent permitted through Nonconforming Use review (360 sq. ft.).

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

MEETING DATE: August 15, 2013

AGENDA TITLE: Public hearing to consider a recommendation to City Council on an ordinance amending Chapter 6-3, "Trash, Recyclables, and Compostables," and Title 9, "Land Use Code," B.R.C. 1981, to update trash removal standards and zoning standards to reduce impacts of hospitality establishments on neighboring 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, Planner II/Code Amendment Specialist
David Gehr, Deputy City Attorney
Hella Pannewig, Assistant City Attorney
Linda P. Cooke, Municipal Court Judge
Mark Beckner, Police Chief
Greg Testa, Deputy Police Chief
Jennifer Riley, Code Enforcement Supervisor
Molly Winter, Director of Downtown/University Hill Management Division/ Parking Services
Maureen Rait, Executive Director of Public Works
Joanna Crean, Public Works Project Coordinator
Mishawn Cook, Licensing and Collections Manager
Jennifer Korbelik, Community Coordinator

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

EXECUTIVE SUMMARY
The proposed Land Use Code changes are found within the attached draft ordinance (Attachment A) and are intended to better distinguish between low-impact and high-impact hospitality establishments and their respective compatibility with neighboring land uses. The new and updated land use definitions and standards are focused on operating characteristics of the different types of hospitality establishments over the impacts of such establishments. The proposed zoning changes are one factor in a broader community effort to reduce the effects of overconsumption of alcohol on the community. As such, the proposed changes are one component of a comprehensive action plan that was approved by City Council in February 2013. The background of the larger project is found within Attachment B, and a detailed description of the proposed changes is found within this memorandum as well as the executive summary in Attachment C. Planning Board is required to provide a recommendation on the changes before the proposed ordinance is brought to City Council, which is tentatively scheduled for first reading (no public hearing) on Oct. 1, 2013 and second reading (public hearing) Oct. 15, 2013.

STAFF RECOMMENDATION

Staff recommends the proposed new and updated Land Use Code definitions and supplementary standards in order to:

1. Better distinguish between the different types of hospitality establishments and establish appropriate processes for review.
2. Avoid the conversion of restaurants into taverns or night clubs in late hours.
3. Place a higher level of scrutiny on establishments that are in close proximity to residential areas, with conditional use or use review requirements, and prohibit the highest intensity uses (taverns, late night restaurants, and establishments over 1,500 square feet) in or adjacent to residential zone districts.
4. Avoid shifting the problem to other locations by not focusing specifically on one area (e.g., University Hill) but instead regulating areas based on similarity of context (e.g., proximity to residential areas, all BMS zones).
5. In areas adjacent to residential neighborhoods, incentivize establishments (i.e., neighborhood pubs or bistros) that serve food and do not serve hard alcohol as congenial places for people to socialize.
6. Continue to support Boulder's economic vitality by permitting higher intensity uses in the core of downtown and within the Boulder Valley Regional Center (BVRC), thereby protecting residential areas while implementing the "Concentration model" where police and transportation services and attention can be focused to reduce impacts instead of spreading the impacts community wide.
7. Provide more clarity and predictability to residents and business owners about where different types of alcohol establishments are allowed and what rules will apply.
8. Provide review processes that are appropriate to the potential level of impact.
9. Improve existing tools instead of drafting an expanse of new regulations that may or may not be effective at addressing the problem and risk negatively impacting economic vitality.

Staff finds that the proposed changes are consistent with City Council's direction on the matter and therefore recommends that Planning Board recommend approval of an ordinance that amends chapter 6-3, "Trash, Recyclables, and Compostables," and chapters 9-2, "Review Processes," 9-6, "Use Standards," and 9-16, "Definitions," of Title 9, "Land Use Code" B.R.C. 1981 to reduce impacts of hospitality establishments on neighboring land uses.

PUBLIC COMMENT AND OUTREACH

Staff has presented the potential land use code change options to several boards and met with the community working group composed of different community stakeholders. Simultaneously, as directed by City Council, staff has presented the potential reconsideration of the state's "500 foot rule," which prohibits issuance of liquor licenses within 500-feet of the University of Colorado or other like public institutions. In 1987, the City Council granted a waiver to this requirement consistent with state law, which permits the issuance of Hotel and Restaurant liquor licenses in the areas proximate to University Hill. This is discussed further on page 9. A report from the community working group, which broadly discussed the potential changes to the Land Use and Licensing Codes, is included as Attachment D. Conversations with the Beverage Licensing Authority (BLA) are included in the public outreach summary in Attachment E.

To better understand the community's perspective on the location and specific characteristics of different hospitality establishments and their impacts on the community, staff met with concerned neighborhood residents. Staff also sent out an online survey to the community at-large via press release and social media in November 2012 (see link for survey results: www.bouldercolorado.gov/alcohol).

The comments collected from each of these groups are summarized in Attachment E. Through this outreach, it became clear that many in the community believe that Land Use Code changes may not solve the problem. If there was any consensus among the various groups, it was that the city would benefit from more effective use of existing laws, rather than enacting new ones. Respondents also raised questions related to the potential of new land use rules to shift the problem to other areas, impair economic vitality and/or create other unintended consequences.

City Council had requested that the proposed changes be advanced to its attention quickly. Staff has sent out the attached executive summary and associated attachments to members of the community working group and review boards such as BLA and University Hill Commercial Area Management Commission (UHCAMC). BLA preliminarily commented on the proposed definitions. The discussion can be found at the following web link:

BLA meeting- July 17, 2013

UHCAMC provided the following motion for City Council consideration:

The University Hill Commercial Area Management Commission does not support the proposed changes to the 500 foot Rule; additionally, we recommend the solutions proposed include more consideration from the working groups and the individuals who presented testimony to us today, addressing education, prevention and enforcement. The proposed changes in the land use code do not appear to us to adequately address the problem given the public testimony we received at our meeting today. Consideration of public input from the working groups and effected parties should be included. Further targeted analysis is needed in the following areas: economic impact to the hill, feedback from the students, impacts on public health, similar university's solutions and proven results, before there are any new definitions created. UHCAMC requests that City Council more carefully define the problem so that tailored solutions can be implemented.

The motion was four in favor and Raj abstaining.

Staff will forward this memorandum and the attached ordinance out to the community working group and applicable boards and expects that the public hearings before Planning Board and City Council will likely be important forums for the stakeholders to express their perspectives on the proposed changes.

ANALYSIS

The proposed Land Use Code changes are found in Attachment A (the proposed ordinance). Attachment C contains an executive summary that was developed to provide a concise overview to city boards and the public.

New land use definitions for hospitality establishments

Presently, the City of Boulder Land Use Code does not differentiate between restaurants, bars, or taverns and regulates them uniformly. This has resulted in establishments being classified as restaurants when the operation of those establishments function like and have impacts more similar to those of taverns. One particular problem that has been identified are restaurants that operate as restaurants during the day but evolve into tavern-like establishments in evening hours with negative impacts on neighboring residential areas.

Adding new zoning definitions to differentiate establishments by level of potential impact was an option discussed by the community working group. In staff's research of different peer communities, other

surveyed municipalities were found to have more prescriptive definitions (e.g., restaurant, late night restaurants, bar or tavern, night club, etc.) as compared to Boulder. As stated above, while the city has separate definitions for restaurants, taverns and brewpubs, they are all generally regulated under the same standards as opposed to distinct standards for each. Additional definitions can help differentiate "high-impact" establishments from "low-impact" establishments and enable a more effective review of potential impacts. Typically, higher impact establishments are those that serve a greater amount of alcohol, including hard alcohol, generally operate late hours (after 11pm), and/or have outdoor seating in close proximity to residential zones.

To address this issue and make the code more effective in regulating land uses with differing impacts, staff proposes the following new definitions:

- Bar area
- Dining area
- Food
- Hospitality establishment
- Neighborhood pub or bistro
- Late night restaurant
- Retail liquor store

Updates to the following existing definitions are also proposed:

- Brewpub
- Indoor amusement establishment
- Restaurant
- Tavern

The definition for 'hospitality establishment' references all hospitality establishments when necessary to pair them with other regulations, whereas the other definitions for alcohol-serving establishments are written to differentiate between them by using more descriptive terms, including hours of operation (see Attachment A).

To avoid situations where restaurants morph into bars in later hours, staff updated the definition of "restaurant" to require closure at 11 pm using the assumption that most customers at an establishment during late hours are rarely there for food and more likely for alcohol service. ("Close" in the Land Use Code means "the time at which a business ceases to accept additional patrons for service.") This would apply largely to restaurants in close proximity to residential areas. In instances where there may be late operating restaurants for customers more interested in food, staff drafted a definition for 'Late Night Restaurants'' which are permitted to be open after 11 pm and are generally found in the most intense business districts, including the core of downtown (e.g., Pearl Street mall) and the Boulder Valley Regional Center (BVRC, e.g., Twenty Ninth Street, 28th Street corridor, etc.). If the proposed code changes are adopted, Late Night Restaurants would not be permitted in close proximity to residential zones, but would be permitted as conditional uses (i.e., staff level review with no call up required) in the DT-4 and DT-5 (Downtown) and BR (Business Regional) and BC (Business Commercial) zoning districts.

Also, City Council noted at the April 14, 2009 study session that the city should "*allow for congenial places for people to socialize that add vitality to existing and planned centers in the community*." With this in mind, the proposed Land Use Code changes include a definition for 'Neighborhood pub or bistro', which permits pubs in close proximity to residential areas and incentivizes them by allowing them to be open until 12am without special approval (e.g., Use Review). The difference between this establishment and a bar; however, is that the 'Neighborhood pub or bistro' would only be permitted to operate with a Beer and Wine Only liquor license. Concerns in the community from the impact of alcohol serving establishments have stemmed from the availability of hard alcohol, which allows for quicker intoxication and is served in many restaurants under a standard Hotel and Restaurant liquor license. A Hotel and Restaurant license permits sales of hard alcohol with a minimum requirement for 25 percent of proceeds from food sales.

Uses that do not fit into these categories would then most likely fall into the tavern or brewpub land use definitions, which may or may not require Use Review approval depending on which zoning district an establishment is located. Taverns (the definition of which includes bars and night clubs) could operate with a Tavern liquor license, which has no limitation on the types of alcohol sold. Staff has also created a definition for 'Retail liquor store,' which does not exist in the code today. Under the current code, liquor stores fall under regular "Retail sales." This change would require Use Review for retail liquor stores in the MU-4 zoning district (i.e., Boulder Junction area), BMS zone (e.g., the Hill, Uptown Broadway) and the DT-1, DT-2, and DT-3 (e.g., downtown areas adjacent to residential zones), all of which are close to residential zones. A liquor store could still operate as an allowed use in other permitted zones.

<u>Implementation through the use standards</u>
Implementation of the new and updated definitions is carried out by integrating them into the use standards table in section 9-7, "Use Standards," B.R.C. 1981 of the land use code. Today's use standards table regulates restaurants, brewpubs and taverns uniformly despite a relatively complex system of categorization:

Restaurants, brewpubs and taverns no larger than 1,000 square feet in floor area, which may have meal service on an outside patio not more than ⅓ the floor area, and which close no later than 11:00 p.m.
Restaurants, brewpubs and taverns no larger than 1,500 square feet in floor area, which may have meal service on an outside patio not more than ⅓ the floor area, and which close no later than 11:00 p.m.
Restaurants, brewpubs and taverns over 1,000 square feet in floor area, or which close after 11:00 p.m., or with an outdoor seating area of 300 square feet or more
Restaurants, brewpubs and taverns that are: over 1,500 square feet in floor area, outside of the University Hill general improvement district; over 4,000 square feet within the University Hill general improvement district; or which close after 11:00 p.m.
Restaurants, brewpubs and taverns in the University Hill general improvement district that are greater than 1,500 square feet and do not exceed 4,000 square feet in floor area, and which close no later than 11:00 p.m.
Restaurants, brewpubs and taverns with an outdoor seating area of 300 square feet or more within 500 feet of a residential zoning district

As detailed above, hospitality establishments are currently categorized based on:

- Size of establishment

- Size of outdoor patio
- Patio proximity to residential zones
- Hours of operation
- Location within or outside of a general improvement district

While all of these categories continue to be valid in assessing impacts and will be preserved in the proposed changes, they are somewhat complicated and not necessarily easy to administer when added to the use standards table. Adding new land use definitions to these categories would make the table even more difficult to read and administer. As an alternative, staff created separate conditional use standards in section 9-6, "Use Standards", B.R.C. 1981 similar to other uses in the code. The proposed changes would complement the new definitions but would specify standards regarding bar size limitations, closure times, food service requirements, food to drink sale ratios, and permitted liquor license types per establishment type.

The proposed changes would also result in a significant simplification of the use table, which would be achieved through the following:

- Moving of closure times out of the use table into the conditional use standards (see Attachment A);
- Modification of the maximum by-right allowable floor area to a uniform 1,500 square feet as opposed to the variety of floor areas that exist in the code today (i.e., 1,000 square feet, 1,500 square feet, and 4,000 square feet). This greatly simplifies the table and includes a reasonable size threshold differentiating those that require Conditional Use Review (a staff level review with no call up requirement) from those that require Use Review (generally a staff level review with potential for Planning Board or public call up).
- Moving the patio size limitations out of the use standards table and adding it to the conditional use standards of section 9-6-5(b), B.R.C. 1981. The requirement for Use Review for any patio over 300 square feet within 500 feet of a residential zone would remain for all zoning districts.

In summary, the proposed new use definitions would be regulated in the following manner:

- Restaurants, generally low intensity uses, would not be permitted to operate after 11pm. New restaurants would not be permitted to function like taverns, as some currently do, particularly after 11pm. Restaurants would be permitted through Use Review in high density residential districts similar to the current regulations, with the exception that additional high density residential zones added for the Boulder Junction area have been revised to permit restaurants through Use Review if no larger than 1,500 square feet where under the current code they are prohibited. In areas where restaurants are close to residential zones, they would require review through a conditional use review process as indicated by "C" in the use standards table or through Use Review (i.e., "U") if larger than 1,500 square feet which would be similar to current code requirements. These areas are the mixed use (MU) zoning districts, the business main street (BMS) zones, transitional business (BT) zones and the DT-1, DT-2 and DT-3 zones in the downtown. Management Plans would be required in these areas.
- A separate use definition has been created for restaurants that are to be open late into the night, Late Night Restaurants. Late Night Restaurants would not be allowed in locations where they may have negative impact to nearby residential uses. Late Night Restaurants would be permitted in the core of downtown (DT-4 and DT-5) and in the business regional and commercial business zones (e.g., BR, BC). These zonings districts are Boulder's most intense zoning districts upon

which police and transportation services are already focused and the areas where the majority of these types of establishments are currently located.

- Restaurants in industrial zones would continue to be regulated by the specific standards within use standards as a conditional use.
- As stated earlier in this memorandum, City Council noted that the city should "*allow for congenial places for people to socialize that add vitality to existing and planned centers in the community*." This informed the definition for Neighborhood Pub or Bistro, which permits pubs in close proximity to residential areas and incentivizes them by allowing them to be open until 12am without Use Review based on the emphasis on food service and disallowing hard alcohol service. Neighborhood pubs and bistros would generally be permitted as a conditional use in mixed use, business main street, the DT-1, DT-2 and DT-3 zones and with Use Review in some residential and transitional business zones. They would be conditional uses in the other business and downtown districts.
- Lastly, Brewpubs and Taverns, generally higher impact uses, would be permitted in a similar fashion to current regulations for any hospitality establishment that operates after 11pm (e.g., either with Use Review in areas near residential uses or as a conditional use in the core of downtown, the BVRC and in suburban shopping centers that are buffered from surrounding residential). More specifically, the core of downtown is zoned DT-4 and DT-5, the BVRC is zoned BR and BC zoning district is generally found in some larger suburban shopping centers. Other districts like BMS or MU (Mixed Use) would require Use Review based on their closer proximity to residential. However, <u>where the current code could permit brewpubs and taverns in some high density residential districts with Use Review approval, the proposed changes would not permit any new brewpubs and taverns in these areas.</u>

<u>New standards for hospitality establishments</u>

City Council did not find that new regulations beyond land use definitions were necessary based on concerns that additional distance/spacing standards or outright prohibitions may or may not be effective at reducing the community impacts from hospitality establishments, could be detrimental to the city's economic vitality, and/or could shift the problem to other locations. As stated above some new code changes are proposed, but are meant to complement the proposed definitions and better differentiate between the different use types and their impacts, as well as improving upon the existing process to review applications. These are described as follows:

Good Neighbor Meetings and Management Plans:

Currently, applicants for hospitality establishments close to residential areas, particularly in the BMS and DT-1, DT-2 and DT-3 zonings districts, are required to conduct a meeting with neighborhood members to learn about and address potential impacts on the neighborhood. Such potential impacts must be addressed in a management plan, which, if approved, becomes part of the approval conditions. This process would not change and will remain a part of the code. However, the effectiveness and accessibility of management plans has been a challenge raised by the community and the proposed changes (listed below) are meant to make the plans more useful and accessible:

- Section 9-2-4(c)(1), B.R.C. 1981 is proposed to be revised to include more descriptive elements to the management plans to understand how a business intends to operate and how they intend to mitigate impacts. The proposed changes are as follows in underline:

  (1) Elements of a Management Plan: The management plan shall contain the following components that address the mitigation of potential adverse impacts the facility may have on the surrounding neighborhood, to the extent necessary:

(i) premise square footage and seating plan

(ii) a copy of the menu and description of the specific type of hospitality establishment;

(iii) proposed hours of operation;

(iv) client and visitor arrival and departure times;

(v) coordinated times for deliveries and trash collection;

(vi) description of the type of entertainment, if any, that the applicant intends to offer on the premises;

(vii) size, location and number of speakers;

(viii) specific methods of how ~~mitigation of~~ noise impacts will be mitigated;

(ix) description of how the applicant will maintain the orderly appearance and operation of the premises and surroundings with respect to litter

(x) a security plan that describes security features, including personnel and equipment, that the applicant intends to employ and how it will be utilized;

(xi) the facility's drug and alcohol policy;

(xii) methods to avoid loitering;

(xiii) employee education, including but not limited to participation in an alcohol serve awareness program;

(xvi) the facility's responsibilities as good neighbors;

(xv) neighborhood outreach and methods for future communication; and

(xvi) dispute resolution with the surrounding neighborhood.

- Section 9-2-4(c)(4), B.R.C. 1981 is proposed to be revised to require that management plans be accessible on the premises of an establishment, in the city's offices and posted online. Accessibility of management plans has been criticized by neighbors.

- The requirement of neighborhood meetings and management plans has been broadened to require them for the applicable DT zones (where they are currently voluntary and encouraged) and the MU zones, as these districts are close to residential zones, similar to the BMS districts.

Please, see Attachment C for an executive summary of the proposed changes.

New Land Use Code definitions and the 500-foot waiver (state law) around the University of Colorado
Lastly, staff will discuss the implications of adding new land use definitions in the Land Use Code in light of City Council's request to consider changes to the 500-foot waiver around the University of Colorado relative to liquor licenses. Staff is not requesting a recommendation from Planning Board relative to the 500-foot waiver as it is a change to Title 4 (Licensing), but as the board will be recommending changes to the Land

Use Code and as new definitions include links to state liquor licenses, the issue is relevant. Background on the 500-foot waiver is enumerated below:

In 1987, state liquor laws changed the minimum drinking age for 3.2 percent beer from 18 to 21. In response, existing businesses licensed to serve 3.2 percent beer on University Hill became concerned that their liquor licenses would no longer be valid since most were within 500 feet of the University of Colorado and state law generally prohibits the sale of alcohol within 500 feet of a school or university unless an authorized local authority has eliminated or reduced this distance restriction in accordance with state law requirements.

In response, in September of 1987, City Council utilized the authority provided under state law to modify the 500 foot distance requirement by adopting Ordinance 5069, which waived the 500-foot requirement for the principal campus of the University of Colorado, making establishments located within 500 feet of the university eligible for Hotel & Restaurant Licenses (HR). The HR license type was chosen because of a requirement that 25 percent of revenues be in food sales. Nevertheless, the HR license allows for service of a full range of liquor types (i.e., wine, beer, hard alcohol).

Based on incidents on and around University Hill and approvals of new Use Review applications for late operating restaurants on the Hill, some members of the community have expressed concern about the number of liquor licenses and high availability of hard alcohol on the Hill. The following options have been discussed by the community working group and City Council to address these concerns:

A. No action relative to the 500-foot waiver. OR

B. Revoke the 500-foot waiver around the University of Colorado. This would remove the waiver of state law and permit no additional liquor licenses around the university and on the Hill. Existing establishments, however; would be permitted to continue operation and transfer their license to new owners. OR

C. Modify the 500-foot waiver to replace the HR licenses with Beer and Wine License Only. This option would mandate that no new license holders could serve hard alcohol.

As the proposed land use definitions are linked to liquor license types, City Council's decision relative to the 500-foot waiver and the definitions will have an impact on University Hill. A summary of the potential outcomes is shown below:

Different Scenarios assuming proposed Land Use Definitions are adopted	Licensing Implications (Title 4)	Land Use Implications (Title 9)
Scenario A (No action on 500-foot rule,)	Hotel and Restaurant Licenses could continue to be issued on the Hill.	• The option for applicants to request Use Review approval to operate after 11pm for restaurants would not exist as restaurants are required to close at 11pm and Late Night Restaurants are not permitted in the BMS zoning district. • Taverns would not be permitted as the new

		tavern definition would require a Tavern liquor license which are currently not permitted within 500-foot of the university. • The proposed Neighborhood Pub or Bistro use would not be permitted as Beer and Wine licenses are currently not permitted within the 500-foot waiver area.
Scenario B (Revoke waiver)	Revoking the waiver would not permit any additional liquor licenses on the Hill. Existing license holders would be grandfathered.	• Existing hospitality establishments would be grandfathered. • The option for applicants to request Use Review approval to operate after 11pm for restaurants would not exist as restaurants are required to close at 11pm and Late Night Restaurants are not permitted in the BMS zoning district. • No establishment could be established with a new liquor license.
Scenario C (Modify waiver to allow beer and wine licenses only)	Would limit liquor licenses within the 500-foot of the University to Beer and Wine Licenses only. Existing license holders would be grandfathered.	• Existing hospitality establishments would be grandfathered. • Restaurants with no or with a Beer and Wine License only and Neighborhood Pub or Bistros would be permitted as conditional uses.

STAFF RECOMMENDATION (MOTION LANGUAGE)

Staff recommends that Planning Board recommend approval to the City Council on an ordinance amending Chapter 6-3, "Trash, Recyclables, and Compostables," and Chapters 9-2, "Review Processes," 9-6, "Use Standards," and 9-16, "Definitions," of Title 9, "Land Use Code" B.R.C. 1981, to address impacts of hospitality establishments on neighboring properties.

Approved By:

David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS

A. Draft ordinance
B. Background
C. Executive summary and descriptions of proposed land use code changes
D. Statement from the community working group
E. Public outreach summary
F. Resolution No. 960

ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 6-3, "TRASH, RECYCLABLES AND COMPOSTABLES" AND TITLE 9, "LAND USE CODE," B.R.C. 1981, REGARDING TRASH REMOVAL AND ZONING STANDARDS FOR HOSPITALITY ESTABLISHMENTS, AND SETTING FORTH RELATED DETAILS.

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

Section __. Section 6-3-2, B.R.C. 1981, is amended to read:

6-3-2 Definitions.

The definitions in chapter 1-2, "Definitions," B.R.C. 1981, shall apply to this chapter, including, without limitation, the definitions of *compostables*, *hauler*, *recyclable material*s, *trash*, *trash container*, *visible to the public* and *wildlife-resistant container*.

The following terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

Person shall have the meaning set forth in chapter 1-2, "Definitions," B.R.C., and shall also include, without limitation, owner of any property or vacant land; occupant, owner, operator or manager of any single unit dwelling, multi unit dwelling, mobile home, mobile home park, private club or other similar property; or owner, operator, manager or employee of any business or business property.

Hospitality establishment shall have the meaning set forth in Section 9-16-1, "Definitions," B.R.C. 1981.

Section __. Section 6-3-3, B.R.C. 1981, is amended to read:

6-3-3 Accumulation of Trash, Recyclables and Compostables Prohibited.

(a) No owner of any vacant land or property; occupant, owner or manager of any single family dwelling or similar property; owner, manager or operator of any multiple family dwelling, private club or similar property; or owner, operator, manager or employee of any commercial or industrial establishment or similar property shall fail to:

(1) Prevent the accumulation of trash, recyclables and compostables that are visible to the public on such property and on the public right of way adjacent to the property;

(2) Remove trash, recyclables and compostables located on such property and on the public right of way adjacent to the property;

(3) Remove trash frequently enough so that it does not cause putrid odors on the property.

(4) Remove or repair broken or damaged windows located on such property. However, it shall be an affirmative defense to a violation of this provision that a person is a tenant who, under the terms of the tenancy, is not responsible for the maintenance of that property and who failed to address a particular maintenance issue for that reason;

(5) Remove accumulated newspapers or other periodical publications from such property when such accumulated newspapers or publications are visible to the public and remain so for a period of more than twenty-four hours. It shall be an affirmative defense to any alleged violation of this provision that no more than three such newspapers or periodicals were accumulated for each residential unit or each business entity located on the property and that no newspaper or periodical more than three days old is located on the property; and

(6) Sufficiently bundle or contain recyclable materials so that those materials are not scattered onto the public right of way or onto other properties.

(b) No owner of any property containing one or more rental dwelling units shall fail to maintain in effect a current and valid contract with a hauler providing for the removal of accumulated trash from the property, which contract shall provide for sufficient trash hauling to accommodate the regular accumulation of trash from the property no less frequently than on a biweekly basis.

(c) No property owner or contractor in charge of any construction site or responsible for any construction activity shall fail to:

(1) Prevent trash from being scattered onto the public right of way or onto other properties; and

(2) Ensure that all trash generated by construction and related activities or located on the site of construction projects is picked up at the end of each workday and placed in containers sufficient to prevent such trash from being scattered onto the public right of way or onto other properties.

(d) <u>No owner, operator or manager of any hospitality establishment or any other business shall fail to:</u>

<u>(1) Prevent trash from being scattered from the business property onto the public right of way or onto other properties; and</u>

<u>(2) Remove or cause to remove immediately after closing all trash located on an outdoor seating area of the establishment and on the public right of way adjacent to the establishment.</u>

(e) The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of $500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.

Section __. Section 9-2-1, B.R.C. 1981, is amended to read:

Section 9-2-1 Types of Reviews.

(a) Purpose: This section identifies the numerous types of administrative and development review processes and procedures. The review process for each of the major review types is summarized in table 2-1 of this section.

(b) Summary Chart:

TABLE 2-1: REVIEW PROCESSES SUMMARY CHART

I. ADMINISTRATIVE REVIEWS	***II. ADMINISTRATIVE REVIEWS - CONDITIONAL USES***	***III. DEVELOPMENT REVIEW AND BOARD ACTION***
• Building permits • Change of address • Change of street name • Demolition, moving and removal of buildings with no historic or architectural significance, per section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981 • Easement vacation • Extension of development approval/staff level • Landmark alteration certificates (staff review per section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981) • Landscape standards variance • Minor modification • Nonconforming use (extension,	• Accessory Units (Dwelling, Owners, Limited) • Antennas for Wireless Telecommunications Services • Bed and Breakfasts • Cooperative Housing Units • Daycare Centers • Detached Dwelling Units with Two Kitchens • Drive-Thru Uses • Group Home Facilities • Home Occupations • Manufacturing Uses with Off-Site Impacts • Neighborhood Service Centers • Offices, Computer Design and Development, Data	• Annexation/initial zoning • BOZA variances • Concept plans • Demolition, moving, and removal of buildings with potential historic or architectural significance, per section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981 • Landmark alteration certificates other than those that may be approved by staff per section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981 • Lot line adjustments • Lot line elimination • Minor Subdivisions • Out of City utility permit

change of use (inc. parking)) • Parking deferral per subsection 9-9-6(e), B.R.C. 1981 • Parking reduction of up to fifty percent per subsection 9-9-6(f), B.R.C. 1981 • Parking stall variances • Public utility • Rescission of development approval • Revocable permit • Right of way lease • Setback variance • Site access variance • Solar exception • Zoning verification	Processing, Telecommunications, Medical or Dental Clinics and Offices, or Addiction Recovery Facilities in the Service Commercial Zoning Districts • Recycling Facilities • Religious Assemblies • Residential Care, Custodial Care, and Congregate Care Facilities • Residential Development in Industrial Zoning Districts • ~~Restaurants and Taverns~~ Hospitality Establishments • Sales or Rental of Vehicles on Lots Located Five Hundred Feet or Less from a Residential Zoning District • Service Stations • Shelters (Day, Emergency, Overnight, temporary) • Temporary Sales • Transitional Housing	• Rezoning • Site review • Subdivisions • Use review • Vacations of street, alley or access easement

Section __. Section 9-2-4, B.R.C. 1981, is amended to read:

9-2-4 Good Neighbor Meetings and Management Plans.

(a) Purpose and Applicability: Good neighbor meetings and management plans are required for some uses, such as shelters and some restaurants and taverns, in order to ensure that applicants, owners and operators of specific uses are informed of the effects of their use upon neighboring properties, and are educated about ways to mitigate, reduce, or eliminate potential impacts upon neighboring properties. The specific use standards of chapter 9-6, "Use Standards," B.R.C. 1981, identify those uses that must complete these procedures.

(b) Good Neighbor Meeting: When required, owners and operators shall conduct a good neighbor meeting that meets the following standards:

(1) Meeting With Surrounding Property Owners Required: Prior to submitting an application, the owner or operator shall be required to organize, host, and participate in a meeting with the surrounding property owners. The time and place of the meeting shall be approved by the city manager. Nothing in this section shall relieve the owner or operator of the responsibility to otherwise comply with all other laws applicable to the property or business.

(2) Purpose of Meeting: The purpose of the meeting described in subsection (a) of this section is to provide interested persons in the surrounding neighborhood an opportunity to inform the facility owner or operator of the concerns of the neighborhood. The facility owner or operator shall also provide interested persons in the surrounding neighborhood an opportunity to comment on its proposed management plan. The issues to be addressed at this meeting may include, without limitation, hours of operation; client and visitor arrival and departure times; coordinated times for deliveries and trash collection; mitigation of noise impacts; security; the facility's drug and alcohol policy; loitering; employee education; the facility's responsibilities as good neighbors; neighborhood outreach and methods for future communication; and dispute resolution with the surrounding neighborhood.

(3) Notice for the Meeting: Notice of the meeting shall be provided as set forth in section 9-4-3, "Public Notice Requirements," B.R.C. 1981.

(4) Waiver of Requirement: The city manager may waive the requirement that the applicant organize, host, and participate in a good neighbor meeting upon finding that the applicant will not require a use review, and that the needs of the facility's clients for anonymity and a safe and secure environment will be compromised by such a meeting.

(c) Management Plan: When required, owners and operators shall develop a management plan that addresses how the applicant will mitigate the potential adverse impacts that a facility may have on the surrounding neighborhood. The approving authority will not approve a management plan unless it adequately addressees such impacts. The following standards apply to the preparation, submission, and approval of a management plan:

(1) Elements of a Management Plan: The management plan shall contain the following components that describe the business operation and address the mitigation of potential adverse impacts the facility may have on the surrounding neighborhood, to the extent necessary, including without limitation:

(A) A description of the food service offered;
(B) ~~h~~Hours of operation;
(C) ~~c~~Client and visitor arrival and departure times;
(D) ~~c~~Coordinated times for deliveries and trash collection;
(E) A description of the type of entertainment provided;
(F) Size, location, and number of loud speakers;
(G) Techniques and strategies to mitigate~~ion of~~ noise impacts;

(H) A description of how the applicant will prevent littering and maintain an orderly appearance of the premises and any adjacent right of way;

(I) A security plan describing security features, including without limitation personnel and equipment;

(J) ~~t~~The facility's drug and alcohol policy;

(K) Strategies to avoid loitering;

(L) ~~e~~Employee education;

(M) ~~t~~The facility's responsibilities as good neighbors;

(N) ~~n~~Neighborhood outreach and methods for future communication; and

(O) ~~d~~Dispute resolution strategies for any conflicts with the surrounding neighborhood.

(2) Preparation and Distribution of a Proposed Management Plan: The owner or operator shall prepare a proposed management plan and present it to the surrounding property owners at the good neighbor meeting required by subsection (a) of this section.

(3) Submission of a Management Plan: After the good neighbor meeting, the applicant shall submit a revised management plan with its application.

(4) Approved Management Plan: An approved management plan shall be used to define the operating characteristics of a facility and shall be retained by the applicant and the city manager and readily available to any member of the public at all times during business hours. No person shall operate a facility in violation of an approved management plan.

(5) Amendment of a Management Plan: When the owner or operator changes the operating characteristics in a manner that does not comply with the approved management plan, the owner or operator shall resubmit a management plan. No owner or operator shall fail to resubmit a management plan that meets the requirements of this section. The city manager is authorized to require an owner or operator to organize, host, and participate in a good neighbor meeting if the city manager determines that such a meeting will be of assistance in identifying additional adverse impacts that may have been created by the facility. The amended management plan shall address how the facility will address any additional adverse impacts that have been identified by the city manager. The city manager will approve the amended management plan upon finding that any such additional adverse impacts will be mitigated by amendments to the management plan.

(6) Management Plan as a Condition of a Use Review Approval: A management plan shall be incorporated into the conditions of approval if the applicant is required to complete a use review pursuant to section 9-2-15, "Use Review," B.R.C. 1981.

Section __. Section 9-6-1(d), B.R.C. 1981, is amended to read:

. . .

(d) Use Table:

TABLE 6-1: USE TABLE

Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Specific Use Standard
Residential Uses																												
Detached dwelling units	A	A	A	A	C	A	A	*	*	A	U	U	A	A	A	A	*	A	A	A	A	*	U	U	*	U	U	9-8-4
Detached dwelling unit with two kitchens	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(c)
Duplexes	*	A	A	A	C	A	A	*	*	A	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4
Attached dwellings	*	A	A	A	C	A	A	C	*	A	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4
Mobile home parks	*	U	U	*	U	U	*	*	A	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Townhouses	*	A	A	A	C	A	A	A	*	A	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4
Live-work	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	*	*	*	*	*	U	U	U	A	*	*	
Cooperative housing units	C	C	C	C	C	C	C	*	*	C	C	C	*	*	*	*	*	*	*	*	*	*	U	U	*	*	*	9-6-3(b)
Efficiency living units:																												
A. If <20% of total units	*	*	*	*	U	A	A	*	*	M	A	A	A	A	G	A	*	A	A	A	A	G	U	U	N	U	*	
B. If ≥20% of	*	*	*	*	*	U	A	*	*	U	A	A	U	U	U	U	*	U	U	U	U	U	U	U	U	U	*	

total units																												
Accessory units:																												
A. Accessory dwelling unit	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(a)
B. Owner's accessory unit	C	*	*	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)
C. Limited accessory unit	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)
Caretaker dwelling unit	*	*	*	*	*	*	*	*	*	**	*	*	*	*	*	*	*	*	*	*	A	A	A	A	A	A		
Group quarters:																												
A. Congregate care facilities	*	*	A	A	A	A	A	A	*	A	A	A	C	A	C	A	*	A	C	C	C	*	U	U	*	U	*	9-6-3(f)
B. Custodial care	*	*	U	U	U	U	U	U	*	U	U	U	*	U	*	U	*	U	*	U	U	*	U	U	*	*	*	
C. Group homes	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	C	*	C	C	C	C	*	*	*	*	*	*	9-6-3(d)
D. Residential care facilities	*	*	C	C	C	C	C	C	*	C	C	C	C	C	C	C	*	C	C	C	C	*	U	U	*	*	*	9-6-3(f)
E. Fraternities, sororities, and dormitories	*	*	*	*	*	A	A	*	*	U	*	*	*	A	G	A	*	A	*	*	A	*	U	U	*	*	*	
F. Boarding houses	*	*	U	U	A	A	A	*	*	U	A	A	G	A	G	A	*	A	*	*	A	*	U	U	*	*	*	
Home occupation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	C	C	C	C	9-6-3(e)
Transitional housing	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-6-3(h)
Dining and Entertainment																												
Art or craft studio space ≤2,000 square feet	*	U	U	U	U	U	U	U	*	A	A	A	A	A	A	A	A	A	A	A	A	A	A	*	A	U	*	
Art or craft studio space >2,001	*	U	U	U	U	U	U	*	*	M	U	U	A	A	A	A	A	A	A	A	A	A	A	*	A	*	*	

square feet 001 square feet FREE																													
Breweries, distilleries or wineries <15,000 square feet and with a restaurant	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	*	*	9-6-5(b)(3.5)
Breweries, distilleries or wineries <15,000 square feet and without a restaurant	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*	9-6-5(b)(3.5)
Breweries, distilleries or wineries with or without a restaurant >15,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	C	C	*	*	*	9-6-5(b)(3.5)
Brewpubs	*	*	*	*	*	*	*	*	*	U	U	U	U	U	U	C	C	C	C	C	U	*	*	*	*	*	*	9-6-5(b)
Commercial kitchens and catering	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	U	U	U	U	U	A	A	A	A	*	*	
Indoor amusement establishment	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	U	A	U	U	U	*	*	*	*	*	*	
Mobile Food Vehicle on Private Property	*	*	*	*	*	*	*	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-6-5(d)
Mobile Food Vehicle on Public Right of Way	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	C	*	9-6-5(d)

Museums	*	*	*	*	*	*	*	*	*	*	*	*	A	U	A	A	A	A	A	A	A	U	U	U	U	*	*	
Neighborhood Pub or Bistro <1,500 square feet	*	*	*	*	*	U	U	U	*	C	C	C	C	U	C	C	C	C	C	C	C	n/a	n/a	n/a	n/a	*	*	9-6-5(b)
Neighborhood Pub or Bistro > 1,500 square feet	*	*	*	*	*	U	U	U	*	U	U	U	U	U	U	C	C	C	C	C	U	n/a	n/a	n/a	n/a	*	*	9-6-5(b)
Restaurants <1,500 square feet	*	*	*	*	*	U	U	U	*	C	C	C	C	U	C	C	C	C	C	C	C	n/a	n/a	n/a	n/a	*	*	9-6-5(b)
Restaurants > 1,500 square feet	*	*	*	*	*	*	*	*	*	U	U	U	U	U	U	C	C	C	C	C	U	n/a	n/a	n/a	n/a	*	*	9-6-5(b)
Restaurant, late night	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	C	*	*	*	*	*	*	*	9-6-5(b)
~~Restaurants (general)~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~C~~	~~C~~	~~C~~	~~C~~	~~n/a~~	~~n/a~~	~~9-6-5(b)~~
~~Restaurants, brewpubs and taverns no larger than 1,000 square feet in floor area, which may have meal service on an outside patio not more than ⅓ the floor area, and which close no later than 11:00 p.m.~~	~~*~~	~~*~~	~~*~~	~~*~~	~~*~~	~~U~~	~~A~~	~~*~~	~~*~~	~~A~~	~~A~~	~~A~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	-
~~Restaurants, brewpubs and taverns no larger than 1,500 square feet in floor area, which may have meal service on an outside patio~~	~~*~~	~~*~~	~~*~~	~~*~~	~~*~~	~~n/a~~	~~*~~	~~*~~	~~*~~	~~*~~	~~A~~	~~*~~	~~A~~	~~U~~	~~A~~	~~A~~	~~A~~	~~A~~	~~A~~	~~A~~	~~C~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~9-6-5(b)~~

~~not morethan ⅓ the floor area, and which close no later than 11:00 p.m.~~																												
~~Restaurants, brewpubs and taverns over 1,000 square feet in floor area, or which close after 11:00 p.m., or with an outdoor seating area of 300 square feet or more~~	~~*~~	~~*~~	~~*~~	~~*~~	~~*~~	~~U~~	~~*~~	~~*~~	~~*~~	~~U~~	~~A~~	~~U~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	-
~~Restaurants, brewpubs and taverns that are: over 1,500 square feet in floor area, outside of the University Hill general improvement district; over 4,000 square feet within the University Hill general improvement district; or which close after 11:00 p.m.~~	~~*~~	~~*~~	~~*~~	~~*~~	~~*~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~U~~	~~U~~	~~U~~	~~A~~	~~A~~	~~A~~	~~A~~	~~A~~	~~U~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	-
~~Restaurants, brewpubs and taverns in the University Hill~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~C~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~9-6-5(b)~~

~~general improvement district that are greater than 1,500 square feet and do not exceed 4,000 square feet in floor area, and which close no later than 11:00 p.m.~~																												
~~Restaurants, brewpubs and taverns~~Hospitality establishments with an outdoor seating area of 300 square feet or more within 500 feet of a residential zoning district	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	U	U	U	U	U	U	U	U	U	n/a	n/a	n/a	n/a	n/a	n/a	
Small theater or rehearsal space	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	U	A	U	U	U	A	A	U	A	*	*	
Taverns ~~(general)~~	~~n/a~~ *	~~n/a~~ *	~~n/a~~ *	~~n/a~~ *	~~n/a~~ *	~~n/a~~ *	~~n/a~~ *	~~n/a~~ *	~~n/a~~ *	~~n/a~~ U	~~n/a~~ U	~~n/a~~ U	~~n/a~~ U	~~n/a~~ U	~~n/a~~ U	~~n/a~~ C	~~n/a~~ C	~~n/a~~ C	~~n/a~~ C	~~n/a~~ C	~~n/a~~ U	* n/a	~~*~~n/a	~~*~~n/a	~~*~~n/a	n/a	n/a	9-6-5(b)
Temporary outdoor entertainment	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-6-5(c)
Lodging uses:																												
Hostels	*	*	*	*	*	U	U	*	*	U	A	U	G	U	G	A	*	A	G	G	U	*	U	U	*	*	*	
Bed and breakfasts	*	*	*	*	*	U	A	*	*	U	A	A	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-5(a)
Motels and hotels	*	*	*	*	*	*	*	*	*	*	*	*	A	U	A	A	*	A	A	A	U	*	*	*	*	*	*	

Public and Institutional Uses																												
Airports and heliports	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	
Cemeteries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	
Daycare, home	A	A	A	A	A	A	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Daycare center with ≤50 children	U	U	C	U	U	C	C	U	U	A	U	U	U	A	U	A	A	A	U	A	A	U	U	U	U	U	U	9-6-6(a)
Daycare center with >50 children	U	U	U	U	U	U	U	*	*	U	U	U	U	A	U	A	A	A	U	A	A	U	U	U	U	U	U	9-6-6(a)
Day shelter	*	*	U	*	U	C	C	*	*	U	C	U	C	C	C	C	C	C	C	C	C	C	C	C	C	U	*	9-6-6(b)
Emergency shelter	U	U	U	U	U	C	C	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	U	*	9-6-6(b)
Essential municipal and public utility services	U	U	U	U	U	U	U	U	U	U	U	U	A	A	A	A	A	A	A	A	A	A	A	A	A	U	U	
Governmental facilities	U	U	U	U	U	U	U	U	U	U	U	U	A	A	A	A	A	A	A	A	A	A	A	A	A	U	*	
Mortuaries and funeral chapels	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	U	U	U	*	*	U	*	*	*	*	*	*	
Nonprofit membership clubs	*	*	*	*	*	*	*	*	*	*	*	*	A	U	G	A	A	A	A	A	A	*	*	*	*	U	*	
Overnight shelter	*	*	U	*	U	C	C	*	*	U	C	U	C	C	C	C	C	C	C	C	C	C	C	C	C	U	*	9-6-6(b)
Private elementary, junior, and senior high schools	U	U	U	U	U	A	U	*	*	U	U	U	A	A	G	A	A	A	U	A	U	*	*	*	*	*	*	
Public elementary, junior, and senior high schools	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	*	
Public colleges	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	*	

and universities																												
Private colleges and universities	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	A	*	A	*	U	U	*	U	U	*	A	*	
Public and private office uses providing social services	*	*	*	*	*	*	*	*	*	U	U	U	C	A	G	A	A	A	G	A	A	*	U	*	U	U	*	
Religious assemblies	A	A	A	A	U	A	A	*	*	A	U	U	A	A	A	A	A	A	A	A	A	*	*	*	*	*	*	
Adult educational facility with <20,000 square feet of floor area	U	U	U	U	U	U	U	*	*	U	U	U	A	A	G	A	A	A	U	A	U	A	A	A	A	A	*	
Adult educational facilities with ≥20,000 square feet or more of floor area	U	U	U	U	U	U	U	*	*	U	U	U	*	A	G	A	A	A	U	A	U	U	U	U	U	A	*	
Vocational and trade schools	*	*	*	*	*	*	*	*	*	*	*	*	A	U	G	A	U	A	U	U	U	A	A	A	A	A	U	
Office, Medical and Financial Uses																												
Data processing facilities	*	*	*	*	*	*	*	*	*	*	*	*	C	A	G	A	C	A	G	A	A	*	A	A	A	*	*	9-6-7
Financial institutions	*	*	*	*	*	*	M	*	*	M	M	M	C	U	A	A	A	A	A	A	A	*	*	*	*	*	*	
Hospitals	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	*	
Medical or dental clinics or offices or addiction recovery facilities	*	U	U	U	*	U	U	*	*	M	U	U	C	A	A	A	C	A	G	A	A	*	*	*	*	U	*	9-6-7
Medical and dental laboratories	*	*	*	*	*	*	M	*	*	M	M	M	C	A	A	A	A	A	*	*	*	U	A	*	U	*	*	
Offices,	*	*	*	*	*	*	*	*	*	*	*	*	C	A	A	A	C	A	G	A	A	*	A	A	*	*	*	9-6-7

administrative																												
Offices, professional	*	U	U	U	U	U	M	*	*	M	M	M	C	A	A	A	C	A	G	A	A	*	*	*	*	*	*	9-6-7
Offices, technical; with <5,000 square feet of floor area	*	U	U	U	U	U	M	*	*	M	M	M	A	A	A	A	C	A	G	A	A	A	A	A	A	*	*	9-6-7
Offices, technical; with >5,000 square feet of floor area	*	U	U	U	U	U	M	*	*	M	M	M	U	A	U	A	C	A	G	A	A	*	A	A	A	*	*	9-6-7
Offices - other	*	U	U	U	U	U	M	*	*	M	M	M	C	A	A	A	C	A	G	A	A	*	*	*	*	*	*	9-6-7
Parks and Recreation Uses																												
Campgrounds	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	*	U	
Outdoor entertainment	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	U	U	U	U	*	*	*	*	U	*	
Park and recreation uses	A	A	A	A	A	A	A	*	A	A	A	A	*	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Indoor recreational or athletic facilities	*	*	*	*	*	U	U	*	*	U	U	A	A	A	A	A	A	A	A	A	A	A	U	U	A	*	*	
Commercial, Retail and Industrial Uses																												
Service Uses:																												
Animal hospital or veterinary clinic	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	A	U	A	*	*	U	A	A	A	U	*	*	
Animal kennel	*	*	*	*	*	*	*	*	*	*	*	*	C	*	U	U	A	U	*	*	*	A	A	U	A	*	*	
Antennas for wireless telecommunications services	*	*	*	C	C	C	C	*	*	C	C	C	A	C	C	C	C	C	C	C	C	C	C	C	C	C	C	9-6-9(a)
Broadcasting and	*	U	U	U	U	U	U	*	*	M	M	M	A	A	G	A	A	A	A	A	A	A	A	A	A	*	*	

recording facilities																												
Business support services <10,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	A	*	A	A	A	A	A	A	A	A	U	U	A	*	*	
Business support services ≥10,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	A	A	A	A	A	A	U	U	U	U	*	*	
Industrial service center	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	*	*	*	*	*	*	*	*	*	
Non-vehicular repair and rental services without outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	U	U	U	U	A	U	*	A	*	*	
Neighborhood business center	*	U	U	*	*	U	U	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-9(f)
Personal service uses	*	U	U	U	*	U	A	U	U	A	A	A	A	A	A	A	A	A	A	A	A	*	*	*	*	*	*	
Retail Sales Uses:																												
Accessory sales	*	*	*	*	*	A	A	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-16
Convenience retail sales ≤2,000 square feet	*	U	U	U	*	U	A	*	*	A	*	A	A	U	A	A	U	U	*	A	A	C	C	*	C	*	*	
Convenience retail sales >2,000 square feet	*	*	*	*	*	U	U	*	*	M	M	*	A	U	A	A	A	U	A	A	A	*	C	*	C	*	*	
Retail fuel sales (not including service stations)	*	U	U	U	*	U	U	*	*	U	U	U	C	U	C	C	U	C	*	U	U	C	C	*	U	*	*	9-6-9(d)
Retail liquor store	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	A	A	A	A	A	U	*	*	*	*	*	*	
Retail sales ≤5,000 square feet	*	*	*	*	*	*	*	*	*	U	*	U	A	*	A	A	A	A	A	A	A	*	*	*	*	*	*	
Retail sales	*	*	*	*	*	*	*	*	*	*	*	*	A	*	A	A	A	A	A	A	A	*	*	*	*	*	*	

>5,000 square feet but ≤20,000 square feet																												
Retail sales >20,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	A	A	A	A	U	*	*	*	*	*	*	
Building material sales ≤15,000 square feet of floor area	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	A	A	A	A	*	*	
Building material sales >15,000 square feet of floor area	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	*	*	*	U	U	U	U	*	*	
Temporary sales	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	*	*	9-6-5(c)
Vehicle-Related Uses:																												
Automobile parking lots, garages, or car pool lots as a principal use	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	A	U	U	*	U	U	A	A	A	U	U	*	9-6-9(b)
Car washes	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	U	U	U	U	*	*	*	*	*	*	
Drive-thru uses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	U	U	*	*	*	*	*	*	9-6-9(c)
Fuel service stations or retail fuel sales	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	C	C	C	*	U	C	C	C	*	U	*	*	9-6-9(d)
Sales and rental of vehicles	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	U	*	*	*	A	A	*	*	*	*	
Sales and rental of vehicles within 500 feet of a residential use module	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	C	C	*	*	*	C	C	*	*	*	*	9-6-9(i)
Service of	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	A	U	*	*	*	A	A	A	A	*	*	

vehicles with no outdoor storage																												
Service of vehicles with limited outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	*	*	A	A	*	A	*	*	
Industrial Uses:																												
Building and landscaping contractors	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	*	A	A	A	A	*	*	
Cleaning and laundry plants	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*	
Cold storage lockers	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	U	U	A	A	A	A	*	*	
Computer design and development facilities	*	*	*	*	*	*	*	*	*	*	*	*	A	A	G	A	C	A	G	A	A	*	A	A	A	*	*	9-6-7(a)
Equipment repair and rental with outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	U	U	U	U	A	A	A	A	*	*	
Lumber yards	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	*	*	*	*	
Manufacturing uses ≤15,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	A	*	*	*	*	A	A	A	A	*	*	
Manufacturing uses >15,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	A	A	*	*	
Manufacturing uses with potential off-site impacts	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	*	*	*	9-6-9(e)
Outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	U	A	*	*	*	
Outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	*	C	*	*	*	C	C	C	C	*	*	9-6-9(g)

of merchandise																													
Printers and binders	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*		
Recycling centers	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	U	*	*		
Recycling collection facilities - large	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	*	*	U	U	U	U	U	*	9-6-9(h)	
Recycling collection facilities - small	*	*	*	*	*	*	*	*	*	*	*	*	C	*	C	C	C	U	U	U	U	C	C	C	C	C	*	9-6-9(h)	
Recycling processing facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	U	*	9-6-9(h)	
Self-service storage facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	U	*	*	*	*		
Telecommunications use	*	*	*	*	*	*	*	*	*	*	*	*	G	A	G	A	U	A	G	A	A	*	A	A	A	*	*		
Warehouse or distributions facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*		
Wholesale business	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	*	*	*	*	*	A	A	A	A	*	*		
Agriculture and Natural Resource Uses																													
Open space, grazing and pastures	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A		
Community gardens	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	9-6-4(a)	
Crop production	A	A	A	A	A	A	A	A	A	A	A	A	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A		
Mining industries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	U		
Firewood operations	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	*	*	*		

Greenhouse and plant nurseries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	A	A	
Accessory																												
Accessory buildings and uses	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	9-16

A: Allowed use.
C: Conditional use. See Section 9-2-2 for administrative review procedures.
*****: Use prohibited.
U: Use review. See Section 9-2-15 for use review procedures.
G: Allowed use provided that it is located above or below the ground floor.
M: Allowed use provided at least 50% of the floor area is for residential use and the nonresidential use is less than 7,000 square feet per building, otherwise use review.
N: Allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use review.
n/a: Not applicable; more specific use applications apply.

Section __. Section 9-6-5, B.R.C. 1981, is amended to read:

9-6-5 Temporary Lodging, Dining, Entertainment, and Cultural Uses.

. . .

(b) ~~Restaurants and Taverns~~Hospitality Establishments: The intent of this subsection is to ensure that ~~restaurant and tavern~~hospitality establishment owners and operators in close proximity to residential districts operate their establishments so as ~~are informed of the effects upon neighboring residential properties of operating a business, and are educated about ways~~ to mitigate, reduce or eliminate potential impacts of ~~a restaurant or tavern operation~~their establishment upon neighboring properties.

The applicant shall include all areas inside the restaurant measured to the inside surface of the outside walls, except for floor area that is used exclusively for storage that is located on another floor of the building, when determining whether the floor area thresholds under section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, necessitate review under this subsection.

(1) General Operating Requirements and Review Processes for Specific Hospitality Establishments:

(A) Brewpubs: The following criteria apply to brewpubs:

(i) Snacks shall be provided for consumption on the premises during all operating hours of a brewpub;
(ii) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.; and
(iii) The approving authority of a brewpub use for which a use review is required under Table 6-1 of Subsection 9-6-1(d), “Use Table,” B.R.C. 1981, may impose as a condition of the use review approval a time the use has to close and a limitation on the size of the establishment; no such closing time or size limitation may be imposed on a brewpub permitted as a conditional use.

(B) Neighborhood Pub or Bistro: The following criteria apply to neighborhood pubs and bistros:

(i) The bar area shall not exceed 35% of the dining area in size;
(ii) A neighborhood pub or bistro shall close no later than 12 a.m.;
(iii) Solid food shall be offered and available for consumption on the premises during all business hours;
(iv) Not less than forty percent of the gross income from the sales of food and drink of the establishment over any 30-day period of time must be from sales of food; receipts of all sources of income showing the name of the

establishment, the date of sale, a description of each item sold, and the price paid for each item sold shall be retained for one year and must be provided to the city manager within seven days of request; and

(v) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.

(C) Restaurant: The following criteria apply to restaurants:

(i) A restaurant shall close no later than 11 p.m.;

(ii) Solid food shall be offered and available for consumption on the premises during all business hours;

(iii) Not less than fifty percent of the gross income from sales of food and drink of the establishment over any 30-day period of time must be from sales of food; receipts of all sources of income showing the name of the establishment, the date of sale, a description of each item sold, and the price paid for each item sold shall be retained for one year and must be provided to the city manager within seven days of request: and

(iv) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.

(D) Restaurant, Late night: The following criteria apply to restaurants, late night:

(i) Solid food shall be offered and available for consumption on the premises during all business hours;

(ii) Not less than fifty percent of the gross income from sales of food and drink of the establishment over any 30-day period of time must be from sales of food; receipts of all sources of income showing the name of the establishment, the date of sale, a description of each item sold, and the price paid for each item sold shall be retained for one year and must be provided to the city manager within seven days of request; and

(iii) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.

(E) Tavern: The following criteria apply to taverns:

(i) Snacks shall be offered and available for consumption on the premises during all operating hours;

(ii) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.; and

(iii) The approving authority of a tavern use for which a use review is required under Table 6-1 of Subsection 9-6-1(d), “Use Table,” B.R.C. 1981, may impose as a condition of the use review approval a time the use has to close;

no such closing time may be imposed on a tavern permitted as a conditional use.

(2) ~~Restaurants and Taverns~~Hospitality Establishments in the DT-1, DT-2, ~~and~~ DT-3, BMS, and MU Zoning Districts ~~and Portions of the BMS Zoning District~~: The following criteria apply hospitality establishments~~Owners and operators of restaurant and tavern uses~~ permitted as a conditional use or pursuant to a use review in the DT-1, DT-2, ~~and~~ DT-3, BMS, and MU zoning districts ~~and those portions of the BMS zoning district that are outside of the University Hill General Improvement District are required to organize and participate in a meeting with the surrounding property owners pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.~~

~~(2) Restaurants and Taverns in the University Hill General Improvement District Within the BMS Zoning District: The following criteria apply to restaurants and tavern uses permitted as a conditional use or pursuant to a use review in the BMS zoning district that is also located within the University Hill General Improvement District~~:

(A) Meeting With Surrounding Property Owners Required: ~~Restaurant and tavern o~~Owners and operators of hospitality establishments shall ~~be required to~~ organize and participate in a good neighbor meeting with the surrounding property owners pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.

(B) Preparation and Distribution of a Proposed Management Plan: The owner or operator shall prepare a proposed management plan, pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981, and present it to the surrounding property owners at the neighbor meeting.

(3) Restaurants in the Industrial Districts: The following criteria will apply to restaurant uses located in an ~~Industrial~~ industrial district except as provided in paragraph (b)(3.5) of this section:

(A) The use is intended generally to serve the industrial area in which it is located;

(B) The use is not located along a major street or higher classification street as shown in appendix A, "Major Streets," of this title;

(C) In the IMS district only, the use shall be limited to a maximum size of two thousand square feet of floor area;

(D) Parking for restaurants in industrial districts shall meet the minimum number of off-street parking spaces per square foot of floor area for nonresidential uses. The indoor and outdoor seating requirements of Section 9-9-6(b), "Off-Street Parking Requirements," B.R.C. 1981, shall not be applied to industrial service centers;

(E) The use may operate daily between the hours of 5:00 a.m. and 11:00 p.m.; and

(F) No person shall operate the use between the hours of 11:00 p.m. and 5:00 a.m., unless the use is:

(i) Approved through a use review process; and

(ii) Located more than five hundred feet from an adjacent residential use or zone.

(3.5) Restaurants in Breweries, Distilleries and Wineries: The following criteria will apply to any restaurant use located in a brewery, distillery or winery in an industrial district:

(A) The restaurant shall be limited to a maximum size of thirty percent of the total floor area of the facility, or one thousand square feet, whichever is greater, including any outdoor seating or accessory sales areas;

(B) Parking for the restaurant shall meet the parking requirements for ~~restaurants or taverns~~hospitality establishments in section 9-9-6, "Parking Standards," B.R.C. 1981;

(C) The use may operate daily between the hours of 5:00 a.m. and 11:00 p.m.; unless the extended hours are approved through a use review process; and

(D) If the restaurant requires a use review, the applicant shall demonstrate that it meets use review criteria in paragraphs 9-2-15(e)(1), (3), (4) and (5) "Use Review," B.R.C. 1981, as well as the use standards in paragraph (b)(4) for outdoor seating areas within five hundred feet of a residential ~~use module~~zoning district.

(4) ~~Restaurants and Taverns~~Hospitality Establishments With Outdoor Seating Within ~~Five Hundred~~500 Feet of a Residential ~~Use Module~~Zoning District: The following criteria apply to any outdoor seating area that is within ~~five hundred~~500 feet (measured from the perimeter of the subject property) of a residential ~~use module~~zoning district. Outdoor dining areas that are within the BMS, DT and I zoning districts are also subject to the provisions of subparagraph (b)(4)(A), (b)(4)(B) or (b)(4)(C) of this subsection (b)(4), when applicable.

(A) Size Limitations: Outdoor seating areas shall not exceed the indoor seating area or seating capacity of the ~~restaurant or tavern~~hospitality establishment.

(B) Parking Required: Parking in compliance with section 9-9-6, "Parking Standards," B.R.C. 1981, shall be provided for all outdoor seating areas except those located in general improvement districts.

(C) ~~Music~~Outdoor Entertainment: No outdoor music or other outdoor entertainment shall be provided after 11:00 p.m.

(D) Sound Levels: The outdoor seating area shall not generate noise exceeding the levels permitted in ~~chapter~~ Chapter 5-9, "Noise," B.R.C. 1981.

(E) Trash: All trash located within the outdoor dining area, on the ~~restaurant or tavern~~hospitality establishment property, and adjacent streets, sidewalks

and properties shall be picked up and properly disposed of immediately after closing.

(F) Food service: Any food required to be offered and available for consumption on the premises of the use, shall also be offered and available for consumption on the patio during all operating hours of the establishment.

(5) No owner or operator of any hospitality establishment shall fail to operate the establishment in compliance with the requirements of this Subsection 9-6-5(b), "Hospitality Establishments," B.R.C. 1981, and any approval granted under this title.

. . .

Section __. Section 9-9-6, B.R.C. 1981, is amended to read:

9-9-6 Parking Standards.

. . .

(b) Off-Street Parking Requirements: The number of required off-street parking spaces shall be provided in tables 9-1, 9-2, 9-3, and 9-4 of this section:

(2) Supplemental Requirements for Nonresidential Uses:

TABLE 9-4: SUPPLEMENTAL PARKING REQUIREMENTS FOR NONRESIDENTIAL USES IN ALL ZONES

Use	***Parking Requirement***
Large daycare (less than 50 children)	Determined through review
Nonresidential uses in General Improvement Parking Districts	No parking required
~~Restaurant or tavern~~Hospitality establishment – interior seating	Greater of 1 per 3 seats, or the ratio for the use module
~~Restaurant or tavern~~Hospitality establishment – outdoor seating:	
a. Outside seats for ~~restaurant or tavern~~hospitality establishment with up to and including =50 interior seats if outside seats do not exceed the greater of 6 seats or 25 percent of interior seats or b. Outside seats for ~~restaurant or tavern~~hospitality establishment with more than =50 interior seats if outside seats do not exceed the greater of 12 seats or 20 percent of indoor seats	No additional parking spaces required

c. Outside seats for ~~restaurant or tavern~~hospitality establishment in excess of requirements of subsection a or b of this use	1 space per 3 outdoor seats in excess of exempted outdoor seats
d. Outside seats for ~~restaurants~~ hospitality establishment that do not meet the parking requirement for their indoor seats	The maximum number of outdoor seats shall be calculated in accordance with the following formula: (the number of parking spaces provided on site) x 3 x (the percentage of seats permitted in subsection a or b of this use) = the maximum number of outdoor seats that may be provided without providing additional parking
Motels, hotels and bed and breakfasts	1 space per guest room or unit, plus required spaces for nonresidential uses at 1 space per 300 square feet of floor area
Theater	Greater of 1 parking space per 3 seats, or the parking ratio for the zone district
Gasoline service station	General ratio for the use zone plus storage of 2 vehicles per service bay
Religious assembly:	(See paragraph (f)(8) of this section for permitted parking reductions)
a. Religious assemblies created prior to 9/2/1993	1:300
b. Religious assemblies created after 9/2/1993	1 space per 4 seats, or 1 per 50 square feet of assembly area if there are no fixed seats - assembly area includes the largest room plus any adjacent rooms that could be used as part of the assembly area
c. Uses accessory to a religious assembly and created after 9/2/1993	Uses accessory to the religious assembly shall meet the standards applicable to the use as if the use is a principal use
d. Total parking of a religious assembly and accessory uses created after 9/2/1993	Parking for the religious assembly use and any accessory use shall be for the use which has the greatest parking requirement
Small recycling collection facility	1 space for attendant if needed
Large recycling collection facility	General parking ratio for the zone plus 1 space for each commercial vehicle operated by the facility
Recycling processing facility	Sufficient parking spaces for a minimum of 10 customers, or the peak load, whichever is greater, plus 1 space for each commercial vehicle operated by the facility

Section ___ Subsection 9-16-1(c), B.R.C. 1981, is amended to read:

9-16-1 General Definitions.

. . .

(c) The following terms as used in this title have the following meanings unless the context clearly indicates otherwise:

…

“Bar area” means the cumulative total of indoor and outdoor areas of a hospitality establishment where food or beverages are offered to and consumed by customers seated or standing at a counter rather than tables.

…

“Brewery" means a use with a manufacturer or wholesaler license issued under § 12-47-401, et seq., C.R.S., and does not include any retail type liquor license under § 12-47-309, et seq., C.R.S., on the lot or parcel, that is primarily a manufacturing facility, where malt liquors are manufactured on the premises, that may include a tap room that is less than or equal to thirty percent of the total floor area of the facility or one thousand square feet, whichever is greater.

"Brewpub" means an establishment with a brew pub license under § 12-47-415 C.R.S.~~that is primarily a restaurant~~ where malt liquor is manufactured on the premises and food is offered and available for consumption on the premises ~~as an accessory use~~. A brewpub may include some off-site distribution of its malt liquor consistent with state law.

…

“Dining area” means the cumulative total of indoor and outdoor areas of the hospitality establishment where food or beverages are offered to and consumed by customers seated at tables and not including bar, kitchen, service areas, offices, storage, or restrooms.

"Distillery" means a use with a manufacturer or wholesaler license issued under § 12-47-401, et seq., C.R.S., and does not include any retail type liquor license under § 12-47-309, et seq., C.R.S., on the lot or parcel, that is primarily a manufacturing facility, where spirituous liquors are manufactured that may include a tasting room that is less than or equal to thirty percent of the total floor area of the facility or one thousand square feet, whichever is greater.

…

“Food” means nourishment in solid form consumed for the purpose of sustenance, but also includes soup, coffee and tea drinks, soft drinks, water, fruit juice and smoothies, milk, and milk and yoghurt products. (Hospitality Establishments)

“Hospitality establishment” means the following: a brewpub, neighborhood pub or bistro, restaurant, late night restaurant, and tavern,

…

"Indoor amusement establishment" means a commercial operation open to the public without membership requirements, including, without limitation, bowling alleys, indoor arcades, theaters, pool halls, skating rinks, dance halls, and reception/banquet facilities.

…

“Neighborhood pub or bistro” means an establishment with no liquor license or with a beer and wine license issued under § 12-47-409, C.R.S., with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that closes no later than 12 a.m.

…

"Restaurant" means an establishment with no liquor license or with a beer and wine license issued under § 12-47-409, C.R.S., or hotel and restaurant license issued under § 12-47-411, C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that closes no later than 11 p.m. and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens.

“Restaurant, late night” means an establishment with no liquor license or with a beer and wine license issued under § 12-47-409, C.R.S., or hotel and restaurant license issued under § 12-47-411, C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that may operates after 11 p.m.

“Retail liquor store” means an establishment with a retail liquor store license issued under § 12-47-407, C.R.S., engaged primarily in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption off the premises and otherwise consistent with the definition of retail liquor store under § 12-47-103, C.R.S.

…

"Small theater or rehearsal space" means an establishment for live dramatic, operatic, or dance performances open to the public, without membership requirements, whose seating capacity does not exceed three hundred seats and seating area does not exceed three thousand square feet, or any area for the rehearsal of such live performances.

…

"Tavern" means an establishment with a tavern license issued under § 12-47-412, C.R.S., serving malt, vinous, and spirituous liquors in which the principal business is the sale of such beverages at retail for consumption on the premises and where snacks are available for consumption on the premises, including, but not limited to bars, cabarets, cocktail lounges, dance halls, discotheques, and night clubs.

…

"Winery" means a use with a manufacturer or wholesaler license issued under § 12-47-401, et seq., C.R.S., and does not include any retail type liquor license under § 12-47-309, et seq., C.R.S., on the lot or parcel, that is primarily a manufacturing facility, where vinous liquors are

manufactured that may include a tasting room that is less than or equal to thirty percent of the total floor area of the facility or one thousand square feet, whichever is greater.

Section__. 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 __ 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 ___day of _____, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ___day of _____, 2013.

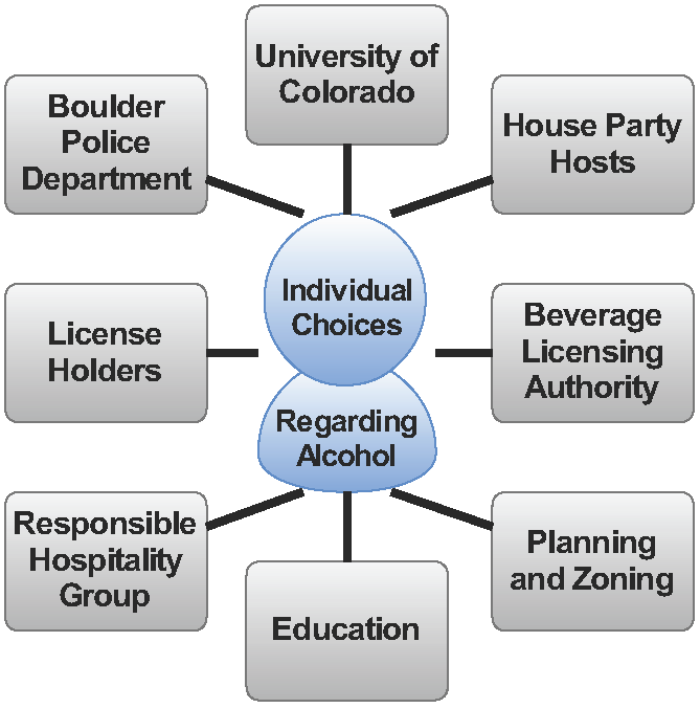
_____
Mayor

Attest:

_____
City Clerk

BACKGROUND

The land use alcohol project has been an ongoing effort to reduce overconsumption of alcohol and its effects on the community and has involved a variety of different agencies and organizations – public and private. Endeavors range from police and zoning enforcement to implementation of liquor law by the Beverage Licensing Authority (BLA) to University of Colorado programs aimed at educating students about the ill effects and consequences of overconsumption of alcohol. The changes discussed within this memorandum focus on the zoning component of the project, without which the other aspects of the endeavor would not be as effective as a singular solution. The holistic approach is reflected in the diagram below:



Resolution No. 960 and 2009 study session

Following adoption of Resolution No. 960 (Attachment F) on Oct. 19, 2004, the city convened the Land Use Alcohol Advisory Group (LUAAG) to discuss the issue of overconsumption of alcohol in the community from a zoning perspective. City Council provided the following goal/direction on the issue:

> *Modify city policies and regulations in order to reduce the impacts of overconsumption of alcohol on the community, allow for congenial places for people to socialize, keep people safe, and minimize impacts to adjacent uses.*

On April 14, 2009, City Council held a study session regarding alcohol abuse prevention. The purpose of the study session was to obtain council's feedback on goals and objectives related to the role of land use regulations and beverage licensing in alcohol abuse prevention; to identify which land use and beverage licensing options to analyze further; and to ask if council would support initiation of a larger alcohol abuse prevention strategy with other partners in the community. The goals and objectives as expressed at the study session are listed below:

- Recognize distinctions between high-risk and low-risk types of licensed alcohol establishments;
- Avoid locating high risk types of licensed establishments near residential neighborhoods, the university and within mixed use developments;
- Minimize external impacts of high-risk type licensed establishments; restrict high-risk uses to defined areas where their impacts can be contained, and education, enforcement and policing efforts can be coordinated (i.e., the "Concentration" policy model);
- Allow for congenial places for people to socialize that add vitality to existing and planned centers in the community;
- Support the city's long-standing policies and city structure that promote a variety of regional, subcommunity and neighborhood activity centers distributed throughout the community in focused nodes of concentrated activities and with efficient delivery of services (e.g., police and transportation);
- Provide clarity and predictability for residents and business owners about where different types of alcohol establishments are allowed and what rules will apply, and
- Provide review processes that address all the issues while minimizing conflicts between business owners and residents.

At the study session, council directed staff to:

- Declare the work of LUAAG complete. The LUAAG project was dissolved following the outcome of the *Thunderbird Burgers, LLC v. City of Boulder, et. al.* case where it was found that the city had no authority to regulate the specific hours that alcohol could be served. As much of the preliminary work focused on alcohol service, no regulatory changes resulted.

- Develop a work program to create policy and code changes to implement a "Concentration Model" for location of high-risk licensed establishments, and new use definitions and standards for high-risk licensed establishments.

- Establish a new community working group to assist staff in developing the specific regulatory changes.

<u>August 21, 2012 City Council discussion about next steps</u>
As part of the Aug. 21st matters discussion, staff presented to the City Council for comment an overview of the land use alcohol process to date, on-going initiatives to address overconsumption of alcohol, an analysis of other peer communities, comments from the community working group (stakeholder) meetings that occurred in 2010, along with several optiosn for changes to the land use code (Title 9) and beverage license code (Title 4), which are listed below:

Land use code (Title 9):	Beverage licensing (Title 4):
• New use definitions (i.e., high-intensity vs. low-intensity use) • Additional regulations to minimize impacts • Use Review renewals • Spacing requirements to increase distance from residential and/or avoid overconcentration • Prohibition of high impact uses in certain areas	• Modify 500-foot rule to be Beer and Wine only • Revoke 500-foot rule to not permit any new licenses • Late night business licenses

The City Council felt that all of the options above should remain on the table for consideration; however, there were concerns and questions relative to what the implications of each option would be on the community if implemented. There was agreement that new use definitions would be appropriate to better anticipate and identify the operating characteristics of proposed businesses (high-impact vs. low-impact use), but hesitation as to how new regulations may impact the economic vitality of city business districts and potentially penalize or discourage good operating establishments. Specifically, there were comments that the rules should not be used as a "blunt instrument." There was clear interest in encouraging responsible drinking establishments and bona fide restaurants as opposed to establishments that create environments that encourage overconsumption of alcohol by accentuating hard alcohol service and drink specials or turn a blind eye to violations.

There was also concern about inadvertently moving the problem to other locations and/or exacerbating the less supervised residential drinking settings (e.g., house parties). Further, there was hesitation and disagreement about applying regulations specific to University Hill. While some council members focused on University Hill as the hub of overconsumption of alcohol in the community, other council members stated a growing awareness of incidents of over-service and police responses in downtown Boulder as well.

Following the Aug. 21st discussion, council asked for additional information including more public outreach. After numerous conversations with community members through the community working group composed of a variety of stakeholders, and a review of research, it is not only clear that no single solution will effectively change the culture related to alcohol, but also that there is general agreement on a core set of guiding principles that could be used to develop an action plan to help manage and reduce the community impacts that occur from the overconsumption of alcohol:

- Focus on "bad actors."
- Do not shift the impacts and redistribute the "problem." (e.g., over-service in bars versus house parties; problems Downtown versus on the Hill versus Martin Acres).
- Improve use of existing tools and leverage existing resources.
- Evaluate regulatory changes based on minimizing adverse impacts to economic vitality and improving quality of life for residential neighborhoods.

February 19, 2013 City Council discussion about proposed action plan

On February 19, 2013, the City Council considered an action plan that was greatly informed by the community working group. A copy of the memorandum for the February 19 council meeting can be found at the following link: www.bouldercolorado.gov/alcohol. A copy of the community working group statement is found within Attachment D.

At the Feb. 19, 2013 public hearing, City Council received public input, evaluated the proposed action plan, and authorized city staff to move forward with the plan with the following key elements:

- Enhance data sharing across city departments;
- Focus enforcement resources on "problem" liquor-licensed establishments and "problem" residential rental properties;
- Pilot joint inspection teams for review of licensees;
- Increase support to Beverage Licensing Authority (BLA) and change the structure for suspension/ revocation proceedings;
- Draft new land use definitions to differentiate between low- and high-intensity uses;

- Draft language on the 500-foot rule;
- Explore late-night business licenses; and
- Evaluate impacts of policy changes.

Each of these elements is progressing on divergent timelines and some require more holistic consideration, feedback and research before moving forward. The subject of this memorandum is the proposed new and updated land use definitions and associated land use code changes requested as part of the action plan.

EXECUTIVE SUMMARY OF PROPOSED CODE CHANGES THAT IMPACT HOSPITALITY ESTABLISHMENTS

Introduction

At a public hearing on Feb. 19, 2013, City Council directed city staff to move forward with the proposed action plan to reduce community impacts from the overconsumption of alcohol (details at www.bouldercolorado.gov/city-manager/alcohol). Two elements of the action plan include drafting new land use code definitions for hospitality establishments to differentiate between lower and higher intensity uses, and drafting changes to amend the city's 500-foot rule, which governs liquor sales near the University of Colorado. At the June 11, 2013 Study Session on the city work plan, there was City Council consensus to address the definitions, bring options pertaining to the 500-foot rule forward for consideration through an ordinance process, and schedule council business meetings, including public hearings, for the proposed changes.

Below is a summary of the proposed code changes that will impact hospitality establishments. These code changes are considered draft and will continue to be refined up until the public hearings for the Planning Board and City Council meetings. The community is encouraged to participate directly in the consideration of these changes through the public hearings at the following meetings:

- ***Aug. 15, 2013 – Planning Board*** *public hearing on land use code definition changes.*
- ***Oct. 1, 2013 – City Council*** *first reading on land use code definition changes and the 500-foot rule (no public hearing).*
- ***Oct. 15, 2013 – City Council*** *second reading and public hearing.*

Land Use Code Changes

The city is proposing land use code changes to better distinguish between lower intensity and higher intensity[1] hospitality establishments which would enable more effective control over potential impacts of these establishments upon neighboring properties. Currently, the land use code does not differentiate between restaurants, bars or taverns and regulates them uniformly. This is problematic as over time, some establishments have functioned more like taverns than restaurants, especially in the evening hours. Proposed changes will create new use categories and update use standards and definitions to help protect residential neighborhoods through appropriate review processes.[2] For specific definitions and information related to where such uses are proposed to be permitted, please refer to **Appendix A** and **B**.

To avoid situations where restaurants function as taverns in later hours, the proposed changes include updating the definition for restaurants and creating a new 'Late Night Restaurants' definition.

- **Restaurants** – Required closing by 11 p.m.
- **Late Night Restaurants** – Permitted through the Conditional Use Review process to stay open past 11 p.m. in more intense business districts, such as areas of downtown including Pearl

[1] Typically, higher intensity establishments create higher impacts to the community and are those that serve a greater amount of alcohol than food, including hard alcohol, generally operate late hours (after 11 pm) and/or have outdoor seating in close proximity to residential zones.

[2] Establishments go through one of the following approval or review processes in order to operate: (1) By-Right – can begin operation without any discretionary approvals and only with a building permit, if necessary; (2) Conditional Use Review – staff level review to demonstrate meeting specific code criteria with no public call-up requirement; or (3) Use Review – generally a staff level review to demonstrate meeting specific code criteria with potential for Planning Board or public call-up.

Street mall, Twenty Ninth Street, and the 28th Street Corridor. New late night restaurants would not be permitted on University Hill or in the East or West Pearl Street neighborhoods.

To allow for congenial places for people to socialize that add vitality to existing and planned centers in the community, a definition for 'Neighborhood Pub or Bistro' was created.

- **Neighborhood Pub or Bistro** – Permits pubs in residential interface areas and allows operation until 12 a.m. Also, the use definition is tied to establishments with a Beer and Wine liquor license. The rationale is that hard alcohol allows for quicker intoxication and potentially more impacts on a surrounding area.

Currently, taverns or brewpubs are permitted on a limited basis in some residential zones with special approval (i.e., Use Review). The proposed changes would prohibit tavern or brewpub land uses in residential zones.

- **Taverns** and **Brewpubs** – Includes bars and night clubs. May require Use Review approval depending on location and zoning district. The use definition of "Tavern" includes establishments that have a Tavern liquor license, which has no limitation on types of alcohol sold. The use definition of "Brewpub" is primarily a restaurant where malt liquor is manufactured on the premises as an accessory use. A brewpub may include some off-site distribution of its malt liquor consistent with state law.

The proposed code changes include a new definition for 'Retail Liquor Store.' Currently, liquor stores fall under regular 'Retail sales.'

- **Retail Liquor Store** –Require Use Review for retail liquor stores in mixed use and residential interface zones. Operate as an allowable use by right in other business zones.

Another part of the proposed changes is related to management plans. The effectiveness and accessibility of management plans has been an issue raised by the community. For hospitality establishments that are considered residential interface areas, applicants are required to conduct a meeting with neighborhood members to solicit comment and address potential impacts, which is accomplished through a management plan. This process will continue but the plans will be more accessible, apply to all establishments near residential areas and require more descriptive information.

- **Management Plans** – Require that management plans be accessible on premises of an establishment and easily accessible at the city offices (on-line). Broaden the requirement for management plans to all establishments located close to residential zones (before it was voluntary and encouraged for some). Revise the management plan requirement to include more descriptive elements to better understand how a business intends to operate and how they intend to mitigate impacts.

New standards to complement the land use definitions are also proposed and include without limitation, trash and recycling pick up times, bar area limitations and food sale requirements.

<u>500-Foot Rule Changes</u>

In 1987, state liquor laws changed the minimum drinking age from 18 to 21 for 3.2 percent beer (up until that time persons between 18 to 21 years old could lawfully drink 3.2 percent beer) and prohibited the sale of alcohol within 500-feet (ft) of a school or principal campus of a university unless a local ordinance allowed for elimination or reduction of the 500-ft rule.

In response to concerns from the businesses on the University Hill (Hill), City Council approved Ordinance 5069 on September 1, 1987, which waived the state requirement, thereby allowing establishments located within 500-ft of the principal campus of the University of Colorado to obtain "Hotel-Restaurant" liquor license only. Hotel-Restaurant liquor licenses permit the sale of beer, wine, and hard liquor.

At the direction of City Council, the city is now considering changes to the 500-ft liquor license rule around the University of Colorado (CU). Proposed changes to the 500-ft rule are intended to address concerns about the overconcentration of liquor establishments on the Hill and the service of hard alcohol which has the potential to exacerbate the problem of overconsumption as it enables quick intoxication as compared to beer and wine.

The method for measuring the 500-ft distance restriction is set out in the state regulations. In 1991, the principal campus was further defined to exclude other CU properties. The "principal campus" of CU is now defined as the area generally bordered by Broadway Street on the west; Baseline Road on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder Creek, 17th Street and University Avenue on the north (see map in **Appendix C**). The 500-ft area includes most of the Hill along with a majority of the Basemar Shopping Center at the corner of Broadway and Baseline, a variety of commercial properties on the south frontage of Baseline Road and a limited number of commercial businesses on the 28th Street frontage road.

The two options for changing the existing 500-ft rule along with potential impacts are listed below. Any changes to the 500-ft rule would only apply to new businesses. Existing businesses would be grandfathered in and their liquor licenses would not change.

(1) **Revoke the 500-foot liquor license waiver around CU**: Removing the 500-ft liquor license waiver would result in no additional liquor licenses being issued within 500-ft of CU. Existing establishments would be grandfathered and could transfer their liquor licenses to future owners or tenants. If this option were undertaken, existing establishments (i.e., license owners) would likely see an increase in value by virtue of the diminished likelihood of new competition. Similarly, there could be an economic impact to the Hill as it would turn away some businesses that could support revitalization efforts (e.g., new restaurants, such as Café Aion, could not obtain a liquor license and would likely locate elsewhere).
   - ***Impacts to new businesses within 500-feet of CU*** – Would not be permitted to sell any liquor including wine, beer or hard alcohol.
   - ***Impacts based on existing land use code definitions*** – Use Reviews for late operating establishments could continue to be requested; however, these and any new hospitality establishments would not be permitted to serve alcohol.
   - ***Impacts based on new land use code definitions*** – Neighborhood Pubs or Bistros would not be permitted within 500-ft of CU. Restaurants would be permitted under the zoning code but could not serve alcohol and they would be required to close by 11 p.m. New taverns would be prohibited, as Tavern liquor licenses (no limitation on types of alcohol sold) would not be permitted in the 500-ft area.

(2) **Modify the 500-foot liquor license waiver to allow beer and wine licenses only**: The 500-ft waiver could be changed to permit alternative license types, such as Beer and Wine Licenses only. Existing establishments that have Hotel-Restaurant licenses would be grandfathered and could transfer their liquor licenses to future owners or tenants. This approach would permit

additional establishments that wish to serve alcohol, but would prohibit the sale of hard alcohol. This approach would likely be less impactful to the economic vitality of the Hill.

- ***Impacts to new businesses within 500-feet of CU*** – Permitted to sell beer and wine but would not be permitted to sell hard alcohol.
- ***Impacts based on existing land use code definitions*** – Use Reviews for late operating establishments could continue to be requested; however, these and any new hospitality establishments could only serve alcohol under a Beer and Wine license if within 500-ft of CU's principal campus.
- ***Impacts based on new land use code definitions –*** New Neighborhood Pubs or Bistros would be permitted within 500-ft of CU (and could be open to new customers until 12 a.m.) and could sell beer and wine. New restaurants would close by 11 p.m. and late night restaurants would be prohibited in a majority of the 500-ft buffer area. (A very small area within the 500-ft buffer is zoned to support late night restaurants). New taverns would not be permitted, as Tavern liquor licenses (no limitation on types of alcohol sold) would be prohibited in the 500-ft area.

If the current 500-ft waiver for hotel-restaurant liquor licenses remains in effect, then existing and new businesses located within 500-ft of CU's principal campus could continue to apply for licenses to sell and serve any liquor, including wine, beer or hard alcohol. If the new land use code definitions were approved then:

- Neighborhood Pubs or Bistros would be prohibited on the Hill because per the new definition, they can only operate with a Beer and Wine license. The current 500-ft waiver only provides for a full service hotel-restaurant liquor license.
- Restaurants could operate with the hotel-restaurant liquor license but would be required to close by 11 p.m.
- Late night restaurants would not be permitted in the zoning district that affects the University Hill business district (BMS).

Appendices

Appendix A – Summary Table of Proposed Land Use Code Definitions
Appendix B – Map of City of Boulder Zoning Districts
Appendix C – Map of 500-ft Buffer

New Land Use Definitions	Review Process & Allowed Zoning District	Liquor License Types
Restaurants < 1500 sf "Restaurant" means an establishment with no liquor license or with a beer and wine license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that must close no later than 11 p.m. and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens.	USE REVIEW*: RH-1, RH-2, RH-4, RH-5, RH-3, RH-7, RH-6, BT-1, BT-2 CONDITIONAL USE**: MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3, DT-4, DT-5	Beer and Wine License or Hotel Restaurant License (full service)
Restaurants > 1500 sf "Restaurant" means an establishment with no liquor license or with a beer and wine license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that must close no later than 11 p.m. and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens.	USE REVIEW: MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3 CONDITIONAL USE: BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5	Beer and Wine License or Hotel Restaurant License (full service)
Restaurants, Late Night "Restaurant, late night" means an establishment with no liquor license or with a beer and wine license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that may operate after 11 p.m .	CONDITIONAL USE: BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5	Beer and Wine License or Hotel Restaurant License (full service)
Neighborhood Pub or Bistro < 1500 sf "Neighborhood pub or bistro" means an establishment with a beer and wine license issued under § 12-47-401, et seq., C.R.S., with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests where a full food menu is offered and available for consumption on the premises during all business hours. that must close no later than 12 a.m.	USE REVIEW: RH-1, RH-2, RH-3, RH-7, RH-6, BT-1, BT-2 CONDITIONAL USE: MU-1, MU-2, MU-3, MU-4, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3, DT-4, DT-5	Beer and Wine Licenses Only
Neighborhood Pub or Bistro > 1500 sf "Neighborhood pub or bistro" means an establishment with a beer and wine license issued under § 12-47-401, et seq., C.R.S., with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests where a full food menu is offered and available for consumption on the premises during all business hours. that must close no later than 12 a.m.	USE REVIEW: RH-1, RH-2, RH-4, RH-5, RH-3, RH-7, RH-6, MU-1, MU-2. MU-3, MU-4BT-1, BT-2, BMS, DT-1, DT-2, DT-3 CONDITIONAL USE: BC-1, BC-2, BCS, DT-4, DT-5	Beer and Wine Licenses Only
Tavern "Tavern" means an establishment with a tavern license issued under § 12-47-401, et seq., C.R.S., serving fermented malt beverages and/or malt, vinous, and/or spirituous liquors in which the principal business is the sale of such beverages at retail for consumption on the premises and where snacks are available for consumption on the premises, including, but not limited to bars, cabarets, cocktail lounges, dance halls, discotheques, and night clubs.	USE REVIEW: MU-1, MU-2, MU-3, MU-4, BT-2, DT-1, DT-2, DT-3 CONDITIONAL USE: BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5	Tavern License
Brewpub "Brewpub" means an establishment with a brew pub license issued under § 12-47-401, et seq., C.R.S., that is primarily a restaurant where malt liquor is manufactured on the premises as an accessory use. A brewpub may include some off-site distribution of its malt liquor consistent with state law.	USE REVIEW: MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, DT-1, DT-2, DT-3 CONDITIONAL USE: BC-1, BC-2, BCS, BR-1, BR-2 , DT-4, DT-5	Brew Pub License
Retail Liquor Store "Retail liquor store" means an establishment with a retail liquor store license issued under § 12-47-401, et seq., C.R.S., engaged primarily in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption of the premises and otherwise consistent with the definition of retail liquor store under § 12-47-103, C.R.S.	USE REVIEW: MU-4, BMS, DT-1, DT-2, DT-3 APPROVED USE BY-RIGHT: BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5	Retail Liquor License

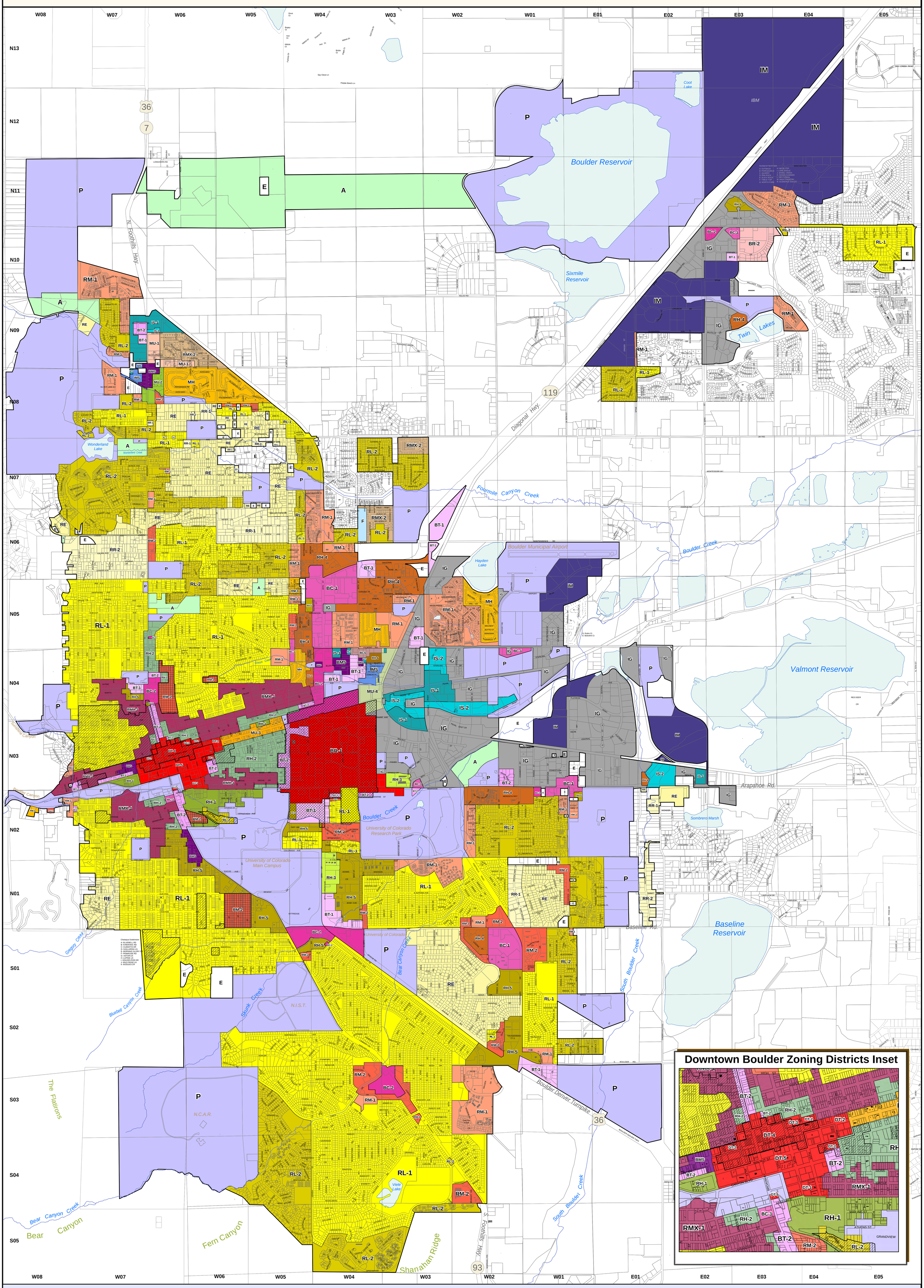
**Use Review applications are discretionary and may be called-up by neighbors or the Planning Board. Use Review applications can also be referred to the Planning Board for decision by staff.*

***Conditional Use applications are reviewed administratively by staff and are not subject to call-up by neighbors or the Planning Board.*

DRAFT

Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)*



Zoning Districts

(Previous Zoning District Name in Parentheses)

Residential

- MH Mobile Home *(MH-E)*
- RE Residential - Estate *(ER-E)*
- RH-1 Residential - High 1 *(HR-X)*
- RH-2 Residential - High 2 *(HZ-E)*
- RH-3 Residential - High 3 *(HR1-X)*
- RH-4 Residential - High 4 *(HR-D)*
- RH-5 Residential - High 5 *(HR-E)*
- RH-6 Residential - High 6
- RL-1 Residential - Low 1 *(LR-E)*
- RL-2 Residential - Low 2 *(LR-D)*
- RM-1 Residential - Medium 1 *(MR-D)*
- RM-2 Residential - Medium 2 *(MR-E)*
- RM-3 Residential - Medium 3 *(MR-X)*
- RMX-1 Residential - Mixed 1 *(MXR-E)*
- RMX-2 Residential - Mixed 2 *(MXR-D)*
- RR-1 Residential - Rural 1 *(RR-E)*
- RR-2 Residential - Rural 2 *(RR1-E)*

Commercial & Business

- BC-1 Business - Community 1 *(CB-D)*
- BC-2 Business - Community 2 *(CB-E)*
- BCS Business - Commercial *(CS-E)*
- BMS Business - Main Street *(BMS-X)*
- BR-1 Business - Regional 1 *(RB-E)*
- BR-2 Business - Regional 2 *(RB-D)*
- BT-1 Business - Transitional 1 *(TB-D)*
- BT-2 Business - Transitional 2 *(TB-E)*
- DT-1 Downtown 1 *(RB3-X/E)*
- DT-2 Downtown 2 *(RB2-X)*
- DT-3 Downtown 3 *(RB2-E)*
- DT-4 Downtown 4 *(RB1-E)*
- DT-5 Downtown 5 *(RB1-X)*

Agricultural and Public

- A Agricultural *(A-E)*
- P Public *(P-E)*

Mixed Use

- MU-1 Mixed Use 1 *(MU-D)*
- MU-2 Mixed Use 2 *(RMS-X)*
- MU-3 Mixed Use 3 *(MU-X)*
- MU-4 Mixed Use 4

Industrial

- IG Industrial - General *(IG-E/D)*
- IM Industrial - Manufacturing *(IM-E/D)*
- IMS Industrial - Mixed Services *(IMS-X)*
- IS-1 Industrial - Service 1 *(IS-E)*
- IS-2 Industrial - Service 2 *(IS-D)*

Other

- E Enclave *(E)*
- Flex (F)
- Medium Density District Overlay Zone
- Designated Local Historic Districts
- Boulder Valley Regional Center

*Zoning Map Amendments:

Ordinance #	Date	Ordinance #	Date	Ordinance #	Date
7363	4/20/2004	7665	6/4/2009	7835	3/7/2012
7369	7/20/2004	7689	10/6/2009	7849	8/7/2012
7374	8/17/2004	7705	12/15/2009	7882	1/22/2013
7407	12/21/2004	7739	8/17/2010	7894	5/7/2013
7425	7/5/2005	7740	8/17/2010		
7429	9/20/2005	7741	8/17/2010		
7431	10/18/2005	7742	8/17/2010		
7446	1/17/2006	7745	8/6/2010		
7455	3/20/2006	7746	8/6/2010		
7476	7/12/2006	7749	9/24/2010		
7490	11/17/2006	7774	1/18/2011		
7533	8/21/2007	7775	1/18/2011		
7586	5/20/2008	7776	1/18/2011		
7587	5/23/2008	7806	10/18/2011		
7609	9/2/2008	7810	10/18/2011		
7637	1/20/2009	7811	10/18/2011		
7655	5/5/2009	7812	10/18/2011		

N

W E

S

1" = 1000'

0 1,000 2,000 4,000 Feet

Map produced by the City of Boulder, Planning and Development Services GIS

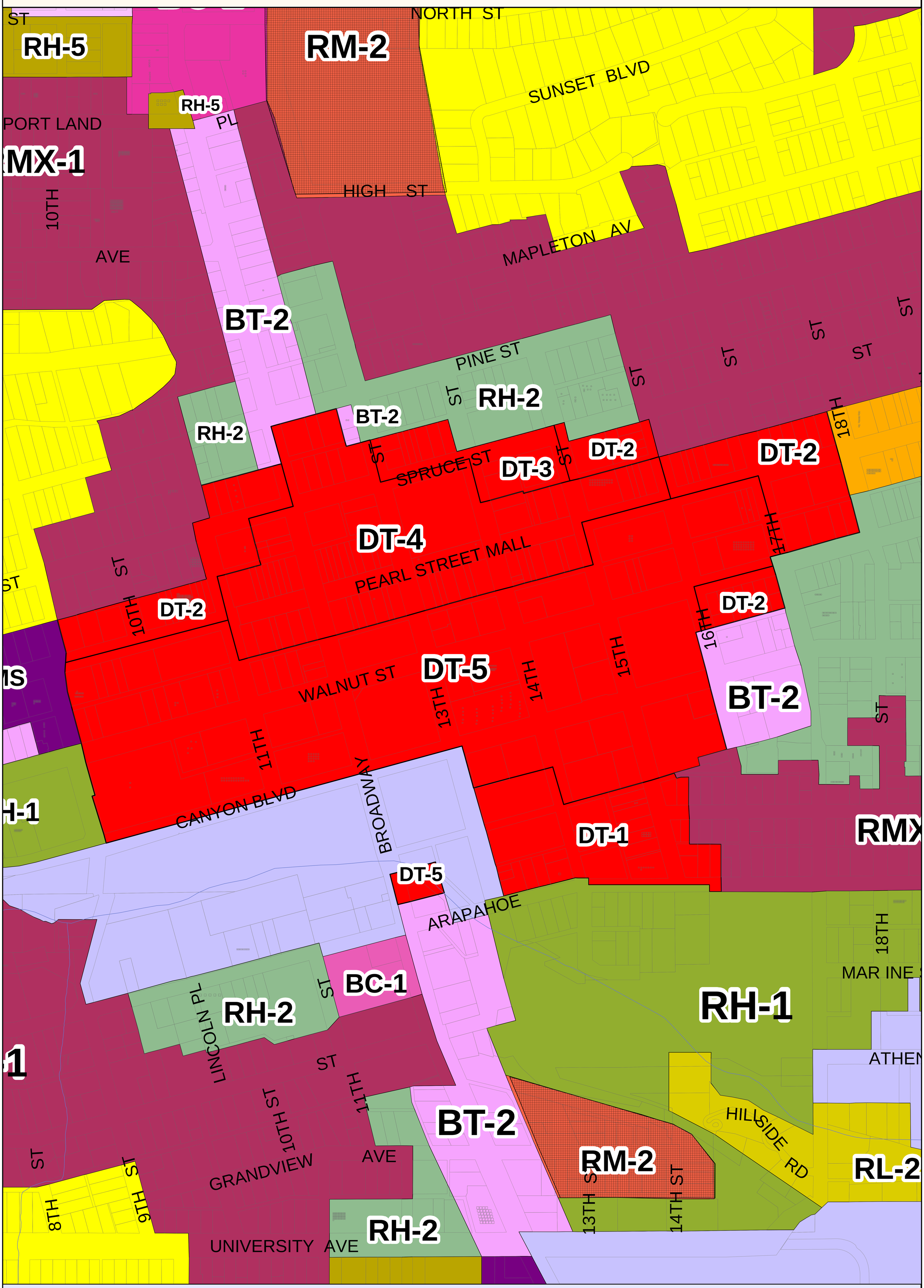
For information call (303)441-1880 or visit us on the web at www.boulderplandevelop.net

All rights reserved. The map information contained hereon is intended for the sole use of the purchaser and may not be copied, duplicated or redistributed in any way, in whole or in part, without the expressed written consent of the City of Boulder. The information depicted is provided as a graphical representation only. While source documents were developed in compliance with National Map Accuracy Standards, the City of Boulder provides no guarantee, express or implied, as to the accuracy and/or completeness of the information contained hereon. *Printed on Wednesday, March 19, 2008*

© 2008 City of Boulder, Co S U B J E C T TO R E V I S I O N

Downtown Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)*



Zoning Districts

(Previous Zoning District Name in Parentheses)

Residential

- MH Mobile Home *(MH-E)*
- RE Residential - Estate *(ER-E)*
- RH-1 Residential - High 1 *(HR-X)*
- RH-2 Residential - High 2 *(HZ-E)*
- RH-3 Residential - High 3 *(HR1-X)*
- RH-4 Residential - High 4 *(HR-D)*
- RH-5 Residential - High 5 *(HR-E)*
- RH-6 Residential - High 6
- RL-1 Residential - Low 1 *(LR-E)*
- RL-2 Residential - Low 2 *(LR-D)*
- RM-1 Residential - Medium 1 *(MR-D)*
- RM-2 Residential - Medium 2 *(MR-E)*
- RM-3 Residential - Medium 3 *(MR-X)*
- RMX-1 Residential - Mixed 1 *(MXR-E)*
- RMX-2 Residential - Mixed 2 *(MXR-D)*
- RR-1 Residential - Rural 1 *(RR-E)*
- RR-2 Residential - Rural 2 *(RR1-E)*

Commercial & Business

- BC-1 Business - Community 1 *(CB-D)*
- BC-2 Business - Community 2 *(CB-E)*
- BCS Business - Commercial *(CS-E)*
- BMS Business - Main Street *(BMS-X)*
- BR-1 Business - Regional 1 *(RB-E)*
- BR-2 Business - Regional 2 *(RB-D)*
- BT-1 Business - Transitional 1 *(TB-D)*
- BT-2 Business - Transitional 2 *(TB-E)*
- DT-1 Downtown 1 *(RB3-X/E)*
- DT-2 Downtown 2 *(RB2-X)*
- DT-3 Downtown 3 *(RB2-E)*
- DT-4 Downtown 4 *(RB1-E)*
- DT-5 Downtown 5 *(RB1-X)*

Agricultural and Public

- A Agricultural *(A-E)*
- P Public *(P-E)*

Mixed Use

- MU-1 Mixed Use 1 *(MU-D)*
- MU-2 Mixed Use 2 *(RMS-X)*
- MU-3 Mixed Use 3 *(MU-X)*
- MU-4 Mixed Use 4

Industrial

- IG Industrial - General *(IG-E/D)*
- IM Industrial - Manufacturing *(IM-E/D)*
- IMS Industrial - Mixed Services *(IMS-X)*
- IS-1 Industrial - Service 1 *(IS-E)*
- IS-2 Industrial - Service 2 *(IS-D)*

Other

- E Enclave *(E)*
- Flex (F)
- Medium Density District Overlay Zone
- Designated Local Historic Districts
- Boulder Valley Regional Center

*Zoning Map Amendments:

Ordinance #	Date	Ordinance #	Date	Ordinance #	Date
7363	4/20/2004	7665	6/4/2009	7835	3/7/2012
7369	7/20/2004	7689	10/6/2009	7849	8/7/2012
7374	8/17/2004	7705	12/15/2009	7882	1/22/2013
7407	12/21/2004	7739	8/17/2010	7894	5/7/2013
7425	7/5/2005	7740	8/17/2010		
7429	9/20/2005	7741	8/17/2010		
7431	10/18/2005	7742	8/17/2010		
7446	1/17/2006	7745	8/6/2010		
7455	3/20/2006	7746	8/6/2010		
7476	7/12/2006	7749	9/24/2010		
7490	11/17/2006	7774	1/18/2011		
7533	8/21/2007	7775	1/18/2011		
7586	5/20/2008	7776	1/18/2011		
7587	5/23/2008	7806	10/18/2011		
7609	9/2/2008	7810	10/18/2011		
7637	1/20/2009	7811	10/18/2011		
7655	5/5/2009	7812	10/18/2011		

N W E S

1" = 1000'

0 100 200 400 Feet

Map produced by the City of Boulder, Planning and Development Services GIS

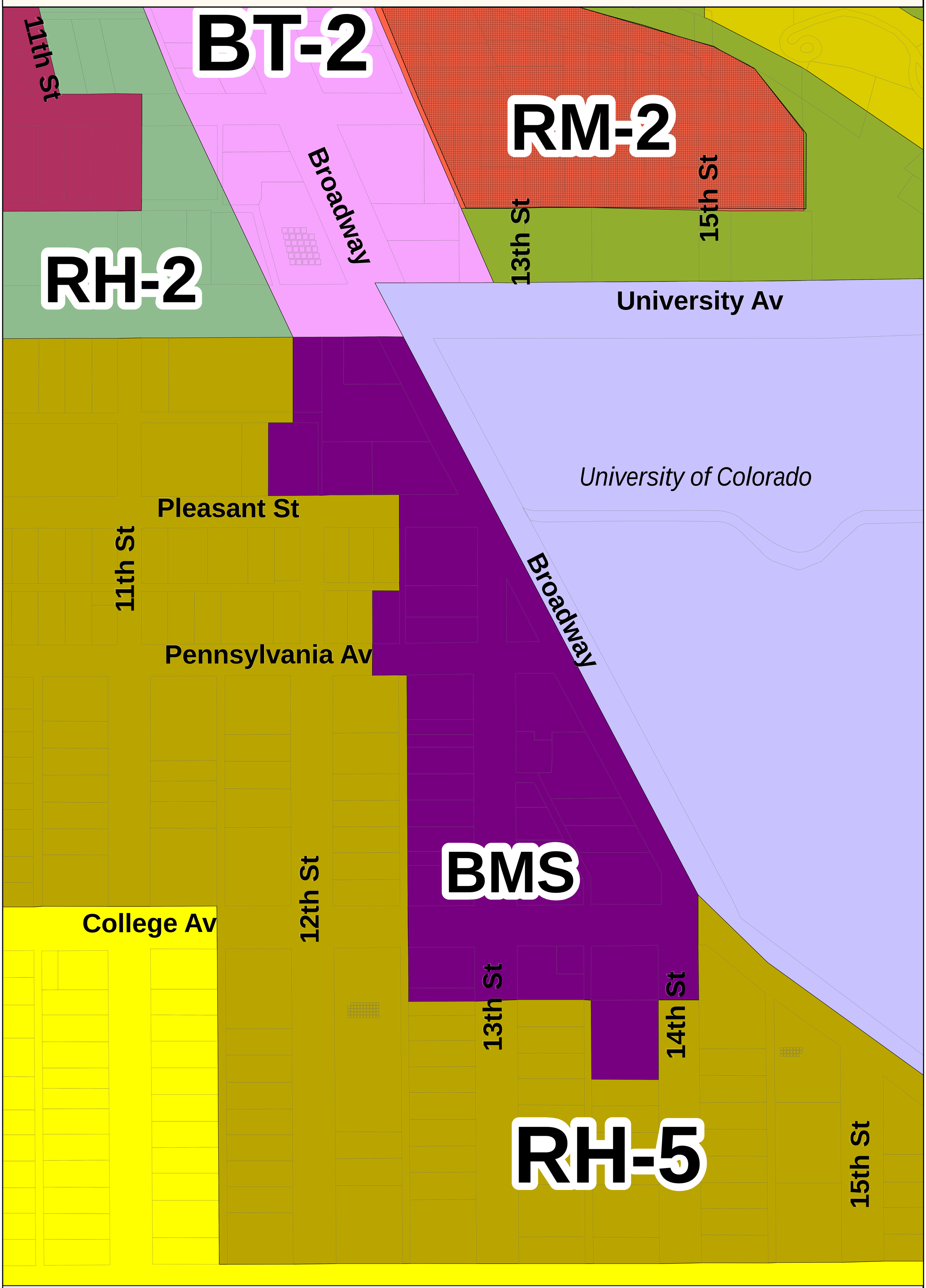
For information call (303)441-1880 or visit us on the web at www.boulderplandevelop.net

All rights reserved. The map information contained hereon is intended for the sole use of the purchaser and may not be copied, duplicated or redistributed in any way, in whole or in part, without the expressed written consent of the City of Boulder. The information depicted is provided as a graphical representation only. While source documents were developed in compliance with National Map Accuracy Standards, the City of Boulder provides no guarantee, express or implied, as to the accuracy and/or completeness of the information contained hereon. *Printed on Wednesday, March 19, 2008*

© 2008 City of Boulder, Co S U B J E C T TO R E V I S I O N

Uni Hill Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)*



Zoning Districts

(Previous Zoning District Name in Parentheses)

Residential

- MH Mobile Home *(MH-E)*
- RE Residential - Estate *(ER-E)*
- RH-1 Residential - High 1 *(HR-X)*
- RH-2 Residential - High 2 *(HZ-E)*
- RH-3 Residential - High 3 *(HR1-X)*
- RH-4 Residential - High 4 *(HR-D)*
- RH-5 Residential - High 5 *(HR-E)*
- RH-6 Residential - High 6
- RL-1 Residential - Low 1 *(LR-E)*
- RL-2 Residential - Low 2 *(LR-D)*
- RM-1 Residential - Medium 1 *(MR-D)*
- RM-2 Residential - Medium 2 *(MR-E)*
- RM-3 Residential - Medium 3 *(MR-X)*
- RMX-1 Residential - Mixed 1 *(MXR-E)*
- RMX-2 Residential - Mixed 2 *(MXR-D)*
- RR-1 Residential - Rural 1 *(RR-E)*
- RR-2 Residential - Rural 2 *(RR1-E)*

Commercial & Business

- BC-1 Business - Community 1 *(CB-D)*
- BC-2 Business - Community 2 *(CB-E)*
- BCS Business - Commercial *(CS-E)*
- BMS Business - Main Street *(BMS-X)*
- BR-1 Business - Regional 1 *(RB-E)*
- BR-2 Business - Regional 2 *(RB-D)*
- BT-1 Business - Transitional 1 *(TB-D)*
- BT-2 Business - Transitional 2 *(TB-E)*
- DT-1 Downtown 1 *(RB3-X/E)*
- DT-2 Downtown 2 *(RB2-X)*
- DT-3 Downtown 3 *(RB2-E)*
- DT-4 Downtown 4 *(RB1-E)*
- DT-5 Downtown 5 *(RB1-X)*

Agricultural and Public

- A Agricultural *(A-E)*
- P Public *(P-E)*

Mixed Use

- MU-1 Mixed Use 1 *(MU-D)*
- MU-2 Mixed Use 2 *(RMS-X)*
- MU-3 Mixed Use 3 *(MU-X)*
- MU-4 Mixed Use 4

Industrial

- IG Industrial - General *(IG-E/D)*
- IM Industrial - Manufacturing *(IM-E/D)*
- IMS Industrial - Mixed Services *(IMS-X)*
- IS-1 Industrial - Service 1 *(IS-E)*
- IS-2 Industrial - Service 2 *(IS-D)*

Other

- E Enclave *(E)*
- Flex (F)
- Medium Density District Overlay Zone
- Designated Local Historic Districts
- Boulder Valley Regional Center

*Zoning Map Amendments:

Ordinance #	Date	Ordinance #	Date	Ordinance #	Date
7363	4/20/2004	7665	6/4/2009	7835	3/7/2012
7369	7/20/2004	7689	10/6/2009	7849	8/7/2012
7374	8/17/2004	7705	12/15/2009	7882	1/22/2013
7407	12/21/2004	7739	8/17/2010	7894	5/7/2013
7425	7/5/2005	7740	8/17/2010		
7429	9/20/2005	7741	8/17/2010		
7431	10/18/2005	7742	8/17/2010		
7446	1/17/2006	7745	8/6/2010		
7455	3/20/2006	7746	8/6/2010		
7476	7/12/2006	7749	9/24/2010		
7490	11/17/2006	7774	1/18/2011		
7533	8/21/2007	7775	1/18/2011		
7586	5/20/2008	7776	1/18/2011		
7587	5/23/2008	7806	10/18/2011		
7609	9/2/2008	7810	10/18/2011		
7637	1/20/2009	7811	10/18/2011		
7655	5/5/2009	7812	10/18/2011		

N W E S

1" = 1000'

0 45 90 180 Feet

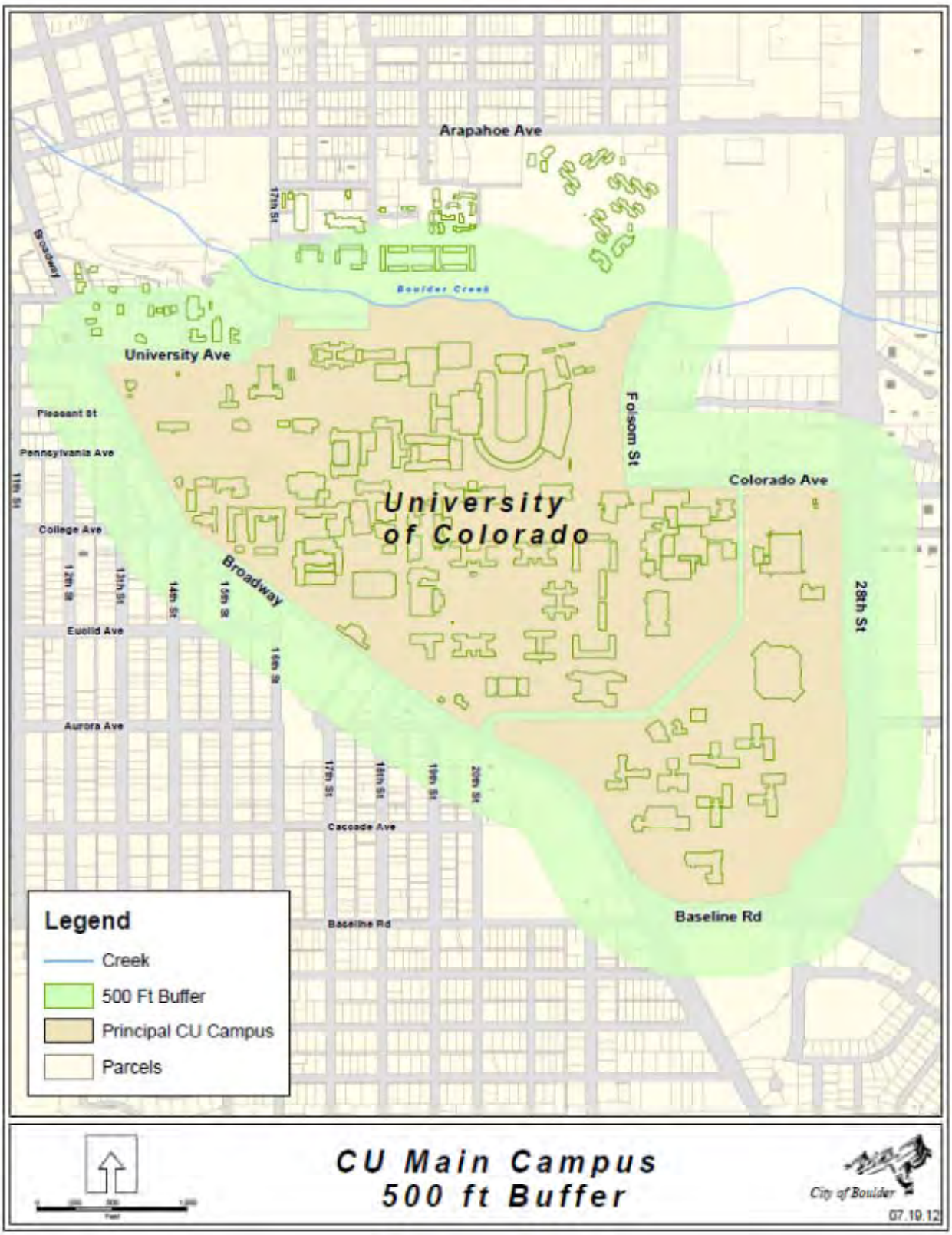
Map produced by the City of Boulder, Planning and Development Services GIS

For information call (303)441-1880 or visit us on the web at www.boulderplandevelop.net

All rights reserved. The map information contained hereon is intended for the sole use of the purchaser and may not be copied, duplicated or redistributed in any way, in whole or in part, without the expressed written consent of the City of Boulder. The information depicted is provided as a graphical representation only. While source documents were developed in compliance with National Map Accuracy Standards, the City of Boulder provides no guarantee, express or implied, as to the accuracy and/or completeness of the information contained hereon. *Printed on Wednesday, March 19, 2008*

© 2008 City of Boulder, Co S U B J E C T TO R E V I S I O N

Attachment C – 500-ft Buffer



ATTACHMENT D:
STATEMENT FROM THE CITY OF BOULDER COMMUNITY WORKING GROUP IN REGARD TO THE ISSUE OF OVER-CONSUMPTION OF ALCOHOL IN THE COMMUNITY

SENTIMENTS:

We, the Community Working Group, agree that:

- Data suggests that over-consumption of alcohol is an issue in Boulder, and that steps must be taken to address the issue.

- The goals of the group, which represents a range of stakeholder interests including city of Boulder officials, CU-Boulder representatives, Public Health officials, students, neighborhood residents, and the hospitality industry, are to:

    - *Reduce over-consumption of alcohol*
    - *Promote responsible drinking*
    - *Decrease impacts on neighborhoods and students from behaviors, including violence, attributed to alcohol abuse*
    - *Focus on "bad actor" establishments/properties*
    - *Avoid penalizing "good actor" establishments/properties*
    - *Ensure that City regulations and processes are clear and intuitive for both applicants and residents*

- Effectively addressing these goals will require a comprehensive scheme implemented by multiple entities; no one action or solution will be effective unless it is part of a multi-faceted approach. Stakeholders across the nation are adopting the "Environmental Management" model – a best practices approach – with substantial success. In particular, proposed solutions must go beyond new zoning regulation alone and in a vacuum, instead recognizing the necessity for numerous, interrelated interventions at multiple levels by various stakeholders.

CONTEXT:

Over-consumption of alcohol occurs within and affects all demographic and age groups. High school and university students, while often viewed as the sole source of the problem, are frequently the most negatively impacted. Further, irresponsible drinking behaviors by adults, including residents of and visitors to Boulder, contribute to a culture which permits over-consumption of alcohol with impunity, and must also be addressed.

Local data demonstrates that Boulder's high-school students binge drink at rates higher than both the state of Colorado and the national averages. Data collected by CU Boulder reveals that CU Boulder students are also binge drinking at higher than average rates. Data concerning over-consumption of alcohol by adults locally is not readily available, but there is anecdotal information to suggest that it occurs within this demographic as well.

GUIDING PRINCIPLES:

"**Environmental Management**" is the best practices approach to addressing alcohol issues in college communities. This approach recognizes that environmental influences, as well as individual student characteristics, impact alcohol consumption. Consequently, effective strategies will extend beyond the campus itself to encompass the surrounding community. The focus of Environmental Management is on changing the *culture* of drinking on campuses and the surrounding communities. To achieve a change in culture, interventions must be directed at three levels: at the individual-student level, at the level of the entire student body, and at the community level. Within this overarching structure, the city of Boulder, often acting in conjunction with CU Boulder and other community stakeholders, has opportunities to implement or support initiatives that are tailored to address our community's specific alcohol-related problems.

The environmental management paradigm includes four overarching strategic goals: (1) Create a Health Normative Environment (which includes providing alcohol-free activities), (2) Limit Alcohol Availability, (3) Restrict the Marketing and Promotion of Alcohol, and (4) Policy Development and Enforcement. Environmental management contemplates that individual strategies will be developed to further these goals. Suggested strategies within each of these areas are defined in the literature, however, communities are encouraged to identify strategies that will address their unique dynamics.

CURRENT PERCEPTIONS/OBSERVATIONS:

Enforcement

- Enforcement of existing ordinances (e.g., false IDs, noise, littering, nuisance) has not been used to its full potential in the community, particularly in the University Hill neighborhood. Resources for enforcement should be reallocated to more effectively and consistently address over-consumption of alcohol in Boulder.

- To deter the actions of liquor license holders (taverns, restaurants, liquor stores) who routinely violate liquor laws and noise codes (e.g., "bad actor" establishments), and who promote excessive alcohol consumption by their practices, penalties must be swift, certain, and consequential to be effective. Such penalties can deter poor business practices and send a message that behavior or operational characteristics that encourage over-consumption will not be tolerated by the community. Currently, enforcement in this regard is not robust enough to have the desired deterrent effect.

- With respect to residential drinking (house parties, pre-gaming, frat parties), which is a large contributor to the problem, more effective communication efforts to inform tenants of the laws and their consequences must be explored. Currently, these communications frequently occur only after there has been a violation. Further, while there are existing laws for holding landlords accountable for the behavior of their tenants (who are somewhat transient), it appears that little effort is being made to identify properties with an ongoing history of violations and to use existing tools, such as law violations and nuisance abatement, to incentivize landlords to pro-actively address these behaviors.

Zoning/Land Use

- For the most part, current management plans for liquor license holders have not been useful. They are not readily accessible to the public or police, making it difficult to know when the provisions have been violated, and they are difficult to enforce. Oftentimes, the plans do not or cannot address over-consumption or over-service, as zoning is more specifically applied to operating characteristics (noise, patio size and locations, trash pickup etc.) rather than patron behavior. Current management plans are also ineffective at minimizing behavior impacts and incidents that occur outside of establishments.

- Existing regulations and tools could be used more effectively There needs to be more clarity in the existing rules and processes so that: liquor license applicants understand community expectations; neighbors understand what role they can play in approval of licenses and enforcement of management plans; and violations can be more easily recognized and effectively subjected to enforcement.

  New zoning definitions for establishments that sell alcohol may be necessary to better differentiate lower impact uses and higher impact uses. However, new zoning regulations should not be so draconian as to disrupt the general vitality of Boulder's business districts.

- Any new regulations aimed at liquor license holders should avoid encouraging or exacerbating the residential drinking problem (displacement).

RECOMMENDED STRATEGIES/SOLUTIONS:

Based on these points, the Community Working Group recommends the following specific actions to the City Council:

Prevention and Education

- More funding should be allocated to preventative efforts that educate people about the adverse personal and community effects of alcohol over-consumption as well as to provide a clear message about the legal and health consequences.
- Increased coordination between city police and university police should be implemented on preventative and proactive efforts to decrease alcohol over-consumption and related impacts.

More Effective Enforcement

- <u>Against Licensees</u>:
- Free up and devote Boulder police and planning resources to more effectively address the problem with greater precision and efficiency. Make Boulder Police's alcohol officer a specialist position with a long-term dedicated officer who can serve the city as an experienced expert on liquor code enforcement. A more dedicated resource as an expert in the following could be more proactive by:
    - monitoring calls for police service,
    - reviewing police reports, liquor licenses, and

- analyzing data on “bad actor” establishments to advise on how police resources could be efficiently applied.

Further, a special zoning enforcement officer specializing in enforcing zoning regulations (e.g., noise, management plans) could be created to process applications, coordinate with police and the Beverage Licensing Authority (BLA), and monitor establishments at times of increased activity.

- Encourage businesses and the city to explore the use of new technologies like ID scanners which have been implemented in nearby communities to increase communication between alcohol establishments so as to monitor patrons that may be overly intoxicated or potentially disruptive or dangerous.

➢ Against Residential Drinking:

- Indentify and implement effective strategies to deter nuisance parties, including but not limited to educating tenants about consequences (e.g., restorative justice, community living class, move-in orientation).

- Explore new tools, like a Response Costs Recovery Ordinance, that holds social hosts (including tenants) and landlords/property owners civilly responsible for the costs of police and fire response services to private residential drinking locations.

Use existing tools more effectively:

➢ Against Licensees:

- Educate and support the BLA, and/or consider changing its structure, so that it becomes more accountable and effective at using existing authority to suspend and revoke licenses for problem establishments.

- Explore whether replacement of the BLA with a paid municipal judge or hearing officer, as is done in other communities, may be a more effective model for enforcing liquor laws.

- Enhance coordination among Planning, the BLA, and the Police.

- Promote a more coordinated review process by having applicants for Use Reviews fill out a city checklists that combines the current City questionnaire for business licenses and Use Reviews, including a fill-in-the-blank questions and answers template to provoke thought and awareness of the common problems and business risks of holding a liquor license, and also solicit problem-solving by prospective new businesses. This process could better communicate the expectations and promotion of best practices for establishments in the community.
- To make Management Plans more effective and accessible, create an online library accessible to residents, applicants, planning officials and the police so that

they can be referenced to determine whether businesses are following the Management Plans underlgying their liquor license approvals.

- Approved management plans should be included with Liquor License applications.

➢ Against Residential Drinking:

- Revocation of rental licenses could be used in a more robust way than currently as an effective deterrent to unruly house parties.

Updates to the Land Use Code and Municipal Liquor License Code:

The Community Working Group advises City Council that there was no consensus on the issue of whether or not new regulatory changes should be implemented to address overconsumption of alcohol. Therefore, it was decided that the most appropriate approach to communicating the differing opinions would be to indicate the pros and cons of each proposed code change option to express the divergent perspectives of the group:

New use definitions (e.g., better differentiation between bona fide restaurants from taverns, night clubs, and liquor stores from other retail stores etc.)	
Pros	*Cons*
• Would address the "bait and switch" issue whereby establishments gain a liquor license by characterizing themselves as restaurants but subsequently evolve into more intense drinking venues after 11pm. • Would make it more clear what type of use is proposed for a location and what process it may have to go through to be approved.	• Unclear whether new definitions will solve the problems associated with "bad actor" establishments. • Establishments that sell more alcohol may not necessarily be high impact establishments. • Could "sweep up the guilty with the innocent." • Impact on existing businesses is unclear.
Additional zoning requirements (e.g., security guards, security cameras, special signage and lighting etc.)	
Pros	*Cons*
• Could create safer late night licensed establishments and more secure public streets. • Could increase efficacy of existing	• Too ambiguous. No guarantee that new regulations will solve the problem. • If enforcement resources are already limited, new regulations would

enforcement and facilitate investigations.	complicate enforcement efforts. May require additional resources from business operators.
Use Review renewals (check in on approved Use Review every three years)	
Pros	*Cons*
• Restaurants with Use Reviews with clear violations of conditions of approval or management plan would be specifically targeted, rather than every business having to go through city process every few years. • Encourages good business practices as the establishments would have increased monitoring.	• Existing Use Review process is already ambiguous, needs further definition, lacks resources for enforcement, and thus lacks consequences. • Repercussions to prospective business investment expected. • Would require additional city resources to identify which establishments to target for Use Review. • Puts burden on neighbors to identify establishments in need of use review, creating the potential for dissension among them. • Contentious items will likely be referred to Planning Board- a board that may not have experience in closing down businesses following Use Review. • Potential for ambiguity between role of BLA and Planning Board.
Late night business licenses (would apply to any establishment operating after 11pm)	
Pros	*Cons*
• Would have cost recovery component to pay for additional resources. • Better tool for enforcement and ability to shut down “bad actor” establishments. • Encourages good business practices as incentive to keep license. • Viable alternative to other zoning	• Would require amendment to city code to implement. • Cost of licenses may dissuade businesses from setting up with negative financial impact to city. • Legal question whether additional licensing fees could be earmarked to pay for additional resources.

options.	• Unclear what authority and under what grounds a license might be revoked.
Spacing requirements (from establishment to residential zones)	
Pros	*Cons*
• Would decrease impacts on residential neighborhoods. • Could reduce alcohol impacts on the Hill. • Would give businesses a clear idea of where they can or cannot locate. • Could impact the number of liquor licenses by virtue of there being fewer qualifying locations for businesses. • Would encompass the commercial properties on University Hill that fall outside the 500-foot rule.	• With mixed use and infill residential growing in Boulder, the number of possible locations decreases. • Doesn't address current bad actors because would apply only to new licensees. • Could affect new businesses that may not contribute to the problem. • Could impacts property owners who may have difficulty attracting commercial tenants. • Could impact redevelopment on the Hill. • May impact Boulder's reputation as a dining destination. • Might cause displacement to private residences.
Spacing requirements (from one establishment to another)	
Pros	*Cons*
• Would prevent an overconcentration of late night liquor establishments on the Hill (e.g., Bourbon Street). • Would reduce alcohol density and the associated alcohol culture and crime across the city. • Encourages diversity of businesses. • Would prevent rent inflation on the Hill by limiting the lucrative alcohol	• Could damage the economic viability of downtown. • May exacerbate private residential drinking. • Could disperses police resources. • May increase instances of DUI with increased distances between alcohol serving establishments. • May impact Boulder's reputation as a

business model. • May reduce DUIs by virtue of there being fewer bars for patrons to go. • By spacing only post 11pm establishments, Boulder's regional reputation as a cheap, late night drinking destination may fade. • Would give the city a tool to implement a "controlled" concentration model.	dining destination. • Existing areas of concentration would remain in place from the time being.
Revoke 500 foot waiver around University of Colorado (would permit no additional liquor licenses within 500 feet of CU)	
Pros	*Cons*
• Would increase city's credibility with the state as the city would be fully using all available tools to address alcohol issues. • Would send a message that Boulder is not an alcohol culture. • Would provide clarity for businesses. • Would change the perception that the Hill is the place for cheap drinks.	• Too drastic and blunt. • The 500' measurement is arbitrary. • Would not address current problems. • Could impact Hill redevelopment. • May increase private residential drinking. • Adds a premium to existing liquor license holders.
Modify 500 foot waiver around CU to be Beer and Wine Licenses only	
Pros	*Cons*
• May encourage development of more responsible drinking establishments. • Would have less of a negative impact on reinvestment on the Hill. • Is a strategy targeted speicifically at the Hill where most of the problems are. • Demonstrates that we are using the tools the State gave us, albeit in	• May prevent new business investment on the Hill and/or reinforce that the Hill is for young adults only. • There is currently no minimum food percentage requirement with Beer and Wine licenses so would have to be done in conjunction with land use code changes related to definitions of establishments.

modified form.	• May result in fast casual establishments rather than fine dining.
Add Beer and Wine licenses to Hotel and Restaurant Licenses within the 500 foot waiver zone	
Pros	*Cons*
• Allows restaurants to open with the option of not serving hard alcohol. • Would allow more diversity of businesses on the Hill.	• No impact to downtown. • Singles out the Hill. • Business likely to get Hotel and Restaurant licenses anyway as they have the ability to make more money with hard alcohol.
Expand the 500 foot rule to include other Universities like Naropa, and expand definition of "principal campus" for CU.	
Pros	*Cons*
• Would prevent the overconcentration of liquor licenses seen on the Hill from spreading to other parts of the city as campuses and student housing expands.	• Could impact redevelopment city wide.

Monitoring/Ongoing communication of stakeholders:

Lastly, the Community Working Group finds that reconvening periodically to review and monitor progress on addressing over-consumption of alcohol in Boulder would be beneficial. This is because the group dynamic has been an effective forum of stakeholders to share divergent opinions in an environment of trust and congeniality, with a clear intent on the part of all stakeholders to improve the community.

Community Working Group members:

- Mike Boyers, *Property Owner*
- Mishawn Cook, *City of Boulder*
- Linda Cooke, *Municipal Court*
- Chris Cornelius, *Downtown Management Commission (DMC)*
- Charles Ferro, *City of Boulder*
- Karl Guiler, *City of Boulder*
- Mark Heinritz, *Restaurant Owner*
- Carlene Hoffmann, *Boulder Police*
- Nick Hoover, *Colorado Restaurant Association*
- Jen Korbelik, *City of Boulder*
- Sean Maher, *Downtown Boulder Inc. (DBI)*
- Marry Anne Mahoney, *Boulder Convention and Visitors Bureau*
- Donald Misch, *University of Colorado (CU)*
- Bill Marine, *University Hill Community member*
- Katie McGee, *Boulder Public Health*
- James Pribyl, *University Hill Community Member*
- Coby Royer, *Martin Acres Neighborhood Association*
- Glen Segrue, *Boulder Valley School District (BVSD)*
- Chris Schaufbauer, *CU Student Government*
- Bill Shrum, *University Hill Commercial Area Management Commission (UHCAMC)*
- Lisa Spalding, *Neighborhood representative*
- Iva Townsend, *Responsible Hospitality Group (RHG)*
- Kim Voorhees, *University Hill Neighborhood Association (UHNA)*
- Lexi Winer, *CU Student Government*
- Molly Winter, *City of Boulder*

ATTACHMENT E:
COMMUNITY OUTREACH

Since the Aug. 21st meeting with City Council, staff has presented the potential land use and licensing code change options to several boards and has reconvened the Community Working Group composed of different stakeholders throughout the community. The comments of each of these groups are summarized below along with the results of a community survey.

Beverage Licensing Authority (BLA)

Staff discussed the proposed code change options with the BLA on Sept. 19th and Oct. 17th of 2012. As the City Council is aware, the BLA plays a significant role in addressing the impacts of overconsumption in the community. With the decision related to K's China last year, BLA has taken a larger step in asserting its authority to address problem establishments. That said, the BLA expressed that it feels constrained by state law in addressing the problem and feels reliant on zoning authority to fill the gaps. BLA also felt that more resources could be applied to enforcement to reduce overconsumption of alcohol and its impacts. BLA has provided City Council in the past with a list of actions its feels should be considered.

In regard to the proposed land use code changes, the BLA expressed that new use definitions should be created. Boulder, while having a more intensive zoning process for hospitality establishments vis-à-vis many other researched peer communities, has one of the least comprehensive list of definitions with little difference in the definition of restaurant and taverns. Like other communities, the BLA felt that the definition of restaurant should mandate a minimum percentage of food that must be provided at an establishment- 60 percent food was cited. Staff has researched other communities and this percentage generally ranges from 40 to 60 percent for food sales. There was hesitation about tying definitions to Colorado liquor license types, because the only food percentage within the state law is within the Hotel and Restaurant Liquor License at 25 percent, which is considered quite low. The BLA also felt that liquor stores should be included in any new use definitions as liquor stores are presently regulated as retail stores.

The BLA supported the general concept of Use Review renewals by keeping establishments accountable, but did not like that the process would put more burden on the neighborhoods to complain about problem establishments. Alternatively, the BLA was interested in the idea of "Late Night Business Licenses." This concept would require special licenses and fees to support staff resources to administer and would keep establishments that operate after 11pm more accountable for infringements that could lead to their license being revoked. For instance, late night business licenses could be revoked for establishments that have frequent violations related to noise complaints, over-service etc. Staff has researched this idea and found several communities that have a similar process. Minneapolis, for instance, has this process and it is found within their local liquor licensing code. The BLA felt that Late Night Business Licenses, if implemented, should be administered by planning/zoning officials.

In regard to new zoning regulations, there was some interest in requiring security and cameras (as required by other municipalities like Santa Cruz, CA), but felt it would need to learn more about the benefits of such requirements and whether they would be necessary in Boulder. The

BLA found that spacing requirements (i.e., specified distances) between high intensity establishments with each other and with residential areas would be a good idea.

Lastly and specific to Title 4, Beverage Licensing code changes, the BLA expressed support of modifying the 500-foot rule around the University of Colorado to permit Beer and Wine Licenses only to curb the reliance of consuming hard alcohol in student populated areas.

Downtown Management Commission (DMC)
Staff presented to the DMC on Sept. 10, 2012. The DMC appreciated being made aware of the options being considered, but otherwise did not have specific comments on the proposed changes.

University Hill Commercial Area Management Commission (UHCAMC)
Staff presented to the UHCAMC on Sept. 19, 2012. The sentiments of UHCAMC were more mixed on the topic of new zoning regulations. One board member felt that Use Review renewals would be a good idea and action should be taken sooner than later, whereas other board members felt that new zoning regulations would hurt local businesses and drive the problem underground. One board member expressed while there may be a few problem establishments, the problem is more concentrated in private establishments rather than at bars and that there should not be "knee-jerk" reactions that attack all hospitality businesses. It was also expressed that if new regulations were created, they should be applied citywide and not to specific areas.

Responsible Hospitality Group (RHG)
City staff and Dr. Donald Misch from the University of Colorado presented to the RHG on Oct. 3, 2012. No specific comments or questions were received from the group.

Community Working Group
In 2010, staff convened a community working group representing stakeholders within Boulder including:

- Neighborhood representatives (e.g., University Hill, Downtown, Whittier, Martin Acres etc)
- Hospitality industry representatives (e.g., Responsible Hospitality Group, The Sink)
- Developers/Property owners
- University officials
- City officials (Planning, Licensing, DMC)
- A Boulder Valley School District (BVSD) representative
- Representatives from University Hill Neighborhood Association (UNHA)
- Representatives from BLA and UHCAMC

The group met twice in 2010 and a summary of the group's discussion is found in the Aug. 21st staff memorandum. Staff reconvened the group in September 2012 and the group has met on five occasions.

The group is composed the representatives listed above as well as the new additions of students from the University of Colorado student government and a representative from Boulder County

Public Health. The group discussions have been very productive and while the initial meetings saw varying perspectives on the issue, the theme of the group has been that the group agrees on the vast majority of the issues related to overconsumption of alcohol. Most importantly, the group agrees that there is a problem of overconsumption of alcohol in the community and that actions should be taken to address the problem. Most of the points of consensus relate to the city and university increasing efforts for more targeted and effective enforcement to address the problem. The areas where the group tends to disagree are those related specific to whether new code changes should be enacted to address the problem.

In summary, the group recommends that:

- Increased preventive and education efforts should be implemented by the city and university to educate people about the adverse personal and community impacts and consequences of alcohol overconsumption.
- More targeted enforcement of "bad actor" establishments and unruly house parties should be done. The city has not used enforcement to its potential and should therefore; explore reallocation of existing resources and/or the creation of new police and/or zoning positions as experts in administering state liquor law and local codes for a more proactive approach at allocating enforcement. New technologies like ID scanners should be looked into as well as new methods to deter house parties, such as holding social hosts and landlords responsible for the costs of police and fire responses.
- Existing tools be used more effectively, including but not limited to better coordination between zoning, licensing and police as well as exploring ways to support the BLA or look at alternatives to the BLA like municipal judges or attorney-lead court of appeals, which may be more effective at enforcing liquor laws.

As stated above, most of disagreement on the group relate to what regulatory changes, zoning and/or licensing, should be implemented to address overconsumption of alcohol. On the regulatory issue, the discussion represents a pros and cons approach to each regulatory option and this approach has been helpful in informing the staff analysis of the potential implications of each zoning and licensing option.

Additional Public Input

To better understand the community's thoughts on overconsumption of alcohol, staff has met with neighborhood residents concerned about the impacts of alcohol serving and late operating establishments. Staff also sent out a survey via press release community wide in November 2012 to obtain a broader read from the residents and others about the issue. The input received from these methods is discussed below:

- Neighborhood concerns: The neighborhood residents, generally representing University Hill, indicated there is a culture of over-service in the area and present zoning processes were ineffective at curbing the problem. They noted that management plans are generally unenforceable as they cannot address over-service and behaviors that may spill onto streets as opposed to within establishments. Neighborhood access to management plans was also cited as a problem. There were concerns that there is an overconcentration of liquor license establishments on University Hill and that the liquor license waiver around the University of Colorado should be

changed to Beer and Wine Licenses only. This sentiment stems from the perception that students are drinking more hard alcohol to get drunk faster. Further, a change to Beer and Wine licenses could change the culture on University Hill to establishments that would not necessarily encourage the quick path to intoxication.

The residents felt that current state liquor laws are largely ineffective and therefore, linking use definitions to liquor license types would not work. They did support putting minimum food percentages into definitions and potentially not permitting new establishments after 11pm. If establishments were to operate past 11pm, they expressed support for Late Night Business Licenses that could be revoked more readily than Use Reviews for establishments that are problematic.

- Community wide survey: The results of the community wide survey reflect somewhat of a divergence from the sentiments of the neighborhood residents discussed above. The release was sent out to regional media outlets including the Daily Camera and was posted on the city web site on News from City Hall. The survey was also sent out to stakeholders within the Community Working Group to send to other constituencies. At over 2,000 respondents, the response rate from the survey is most successful survey that Boulder has conducted.

The results also included a significant number of written responses, which can be accessed at the following link www.bouldercolorado.gov/alcohol.

The survey included questions related to the problem of overconsumption along with requests for feedback on potential solutions. To understand the framework and perspective of many of the responses, the city also asked basic demographic questions. The survey reflected the following:

- Over 50 percent of the respondents were between the age of 21 and 30.
- Almost 60 percent of the respondents were male.
- Nearly 75 percent were residents of Boulder.
- Over 50 percent of the respondents identified themselves as being residents of Boulder.
- Nearly 40 percent identified themselves as people that work in Boulder.
- Over 40 percent identified themselves as students living in Boulder.

Interestingly, over 75 percent of the respondents indicated that overconsumption was not a problem in Boulder. To that end, almost half of the respondents found that there are certainly negative impacts from alcohol abuse, “but they aren’t very significant and are often exaggerated.” Fourteen percent of respondents found that disorderly or unlawful conduct was the principal impact from alcohol with 5 percent reporting noise.

Question no. 7 asks, “In your opinion, what is typically the primary location of overconsumption of alcohol in Boulder?” The top three answers for the question were private residences (nearly 55 percent), none of the above (22 percent), and all of the above (7.5 percent). Six percent found bars, restaurants and liquor stores as the primary location for overconsumption.

Question no. 8 asks, “Do you think that the impacts related to over consumption of alcohol are concentrated in a specific area?” To that question, 45 percent responded that overconsumption was not a problem. Twenty five percent found that the problems are concentrated around University Hill and roughly 13 percent cited downtown. Eleven percent found the problem to be citywide.

With regard to potential solutions, an overwhelming majority of the respondents (86 percent) did not support new zoning regulations for businesses that sell alcohol or operate after 11pm. Question no. 10 asks about solutions other than new zoning regulations. Again, over 50 percent found that overconsumption of alcohol is not a problem. Twenty five percent found that police enforcement should be increased in residential neighborhoods and another 25 percent found that problem business should be targeted for their violations of operating agreements and/or conditions of approval. Sixteen percent found that existing zoning regulations should be used more effectively with twelve percent saying that police enforcement of business areas should be increased. Lastly, only roughly 4 percent supported restricting the sale of hard alcohol through restricting Hotel and Restaurant license to Beer and Wine licenses only.

RESOLUTION NO. __960____

A RESOLUTION CONCERNING ALCOHOL ABUSE IN OUR COMMUNITY

WHEREAS, the Boulder City Council has a responsibility to lead in addressing the critical issues of health, safety, and well being stemming from alcohol abuse within the city; and

WHEREAS, alcohol abuse is a multi-faceted social problem with many causes, requiring the efforts of the entire community to address; and

WHEREAS, Boulder is not alone in experiencing the impacts of alcohol abuse, as indicated by recent alcohol-related incidents in other communities; and

WHEREAS, leaders of the University of Colorado have re-committed to changing the prominence of alcohol in the culture of student life, and University officials have asked for support from the City in this effort; and

WHEREAS, the City of Boulder participates with the University of Colorado and community members on a University-City Oversight Committee to address issues of mutual concern, including alcohol abuse; and

WHEREAS, the University of Colorado Student Union and the City already cooperate in promoting personal responsibility among students through joint funding of the University Liaison, a position that provides education and outreach to support the quality of life of students who live off campus; and

WHEREAS, the City's ability to influence beverage licensing policies, code enforcement and zoning and land use regulations are other areas where changes in City codes, programs or practices might compliment the efforts of the University of Colorado; and

WHEREAS, ways the City can address alcohol abuse should not focus simply on legal options but also on the City's human service and community education programs as well as partnerships with the University of Colorado, University of Colorado Student Union, Boulder County, the Boulder Valley School District, the Human Services Coordinating Council and others;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOULDER:

The City of Boulder recognizes and encourages the University of Colorado's commitment to changing a culture among CU students in which high-risk use of alcohol is tragically too common, and the City of Boulder will cooperate with the University of Colorado's efforts.

The City of Boulder will address, to the extent it is capable, the health and safety issues associated with alcohol abuse in the greater community.

The City of Boulder will participate in community-wide efforts, involving both private and public sector leaders from throughout Boulder County and the region, to better understand the causes of alcohol abuse and consider appropriate, collaborative solutions.

The City of Boulder, as part of this community-wide effort, will undertake a review of City beverage licensing policies, code enforcement and zoning and land use regulations in order to identify the existing and relevant authorities available to the City. Staff shall propose policy and ordinance changes, if appropriate, to address identified concerns.

The City of Boulder will review the impacts of past efforts to address alcohol abuse and underage alcohol use, including an analysis of the unintended consequences of past efforts.

Approved this 19th day of October , 2004.

Mayor

ATTEST:

City Clerk on behalf of the
Director of Finance and Record

MEMORANDUM

TO: Planning Board
FROM: Sloane Walbert, Case Manager
DATE: August 8, 2013
SUBJECT: Informational Item:
ACCESS EASEMENT VACATION: Vacation of a portion of a twenty-foot emergency access and utility easement in association with an approved use review request to locate 68 attached multi-family residential units in an industrial zoning district at 6655 Lookout Road (Boulder Views Apartments). The project site is zoned Industrial General (IG). Case number LUR2013-00026.

This memorandum constitutes official notice as required by Section 79 of the City of Boulder Charter of a request to vacate public access easement on the property located at 6655 Lookout Road.

The applicant is requesting the vacation of a 5,071 square foot portion of an existing twenty-foot emergency access and utility easement (see Figure 1). A Use Review request to locate a residential use in an industrial zoning district was approved by the city manager on March 28, 2013. The request was scheduled as a call-up item for Planning Board on April 4, 2013 (see LUR2012-00093). The approved multi-family residential development on the site includes three buildings served by an internal access drive accessed from Lookout Road (please refer to Attachment B, Site Plan). The proposed vacation was a requirement of the approval and helps to implement the recently proposed development plan. There are currently water and underground electrical mains located within the existing easement and a utility easement interest will be reserved in the ordinance for utility purposes. There is no public need for the portion of easement to be vacated because a separate emergency access easement has been dedicated to accommodate access to the new buildings. The area of vacation will be converted to usable open space and drainage for the new multi-family development. Please refer to the attachments for more information.

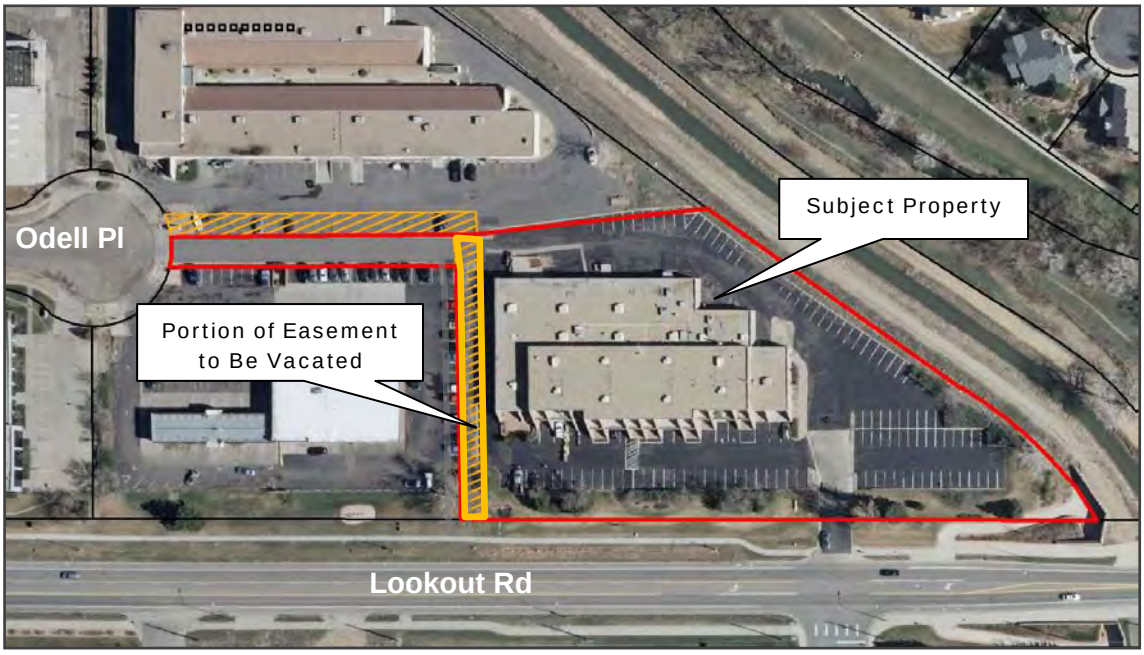


Figure 1.

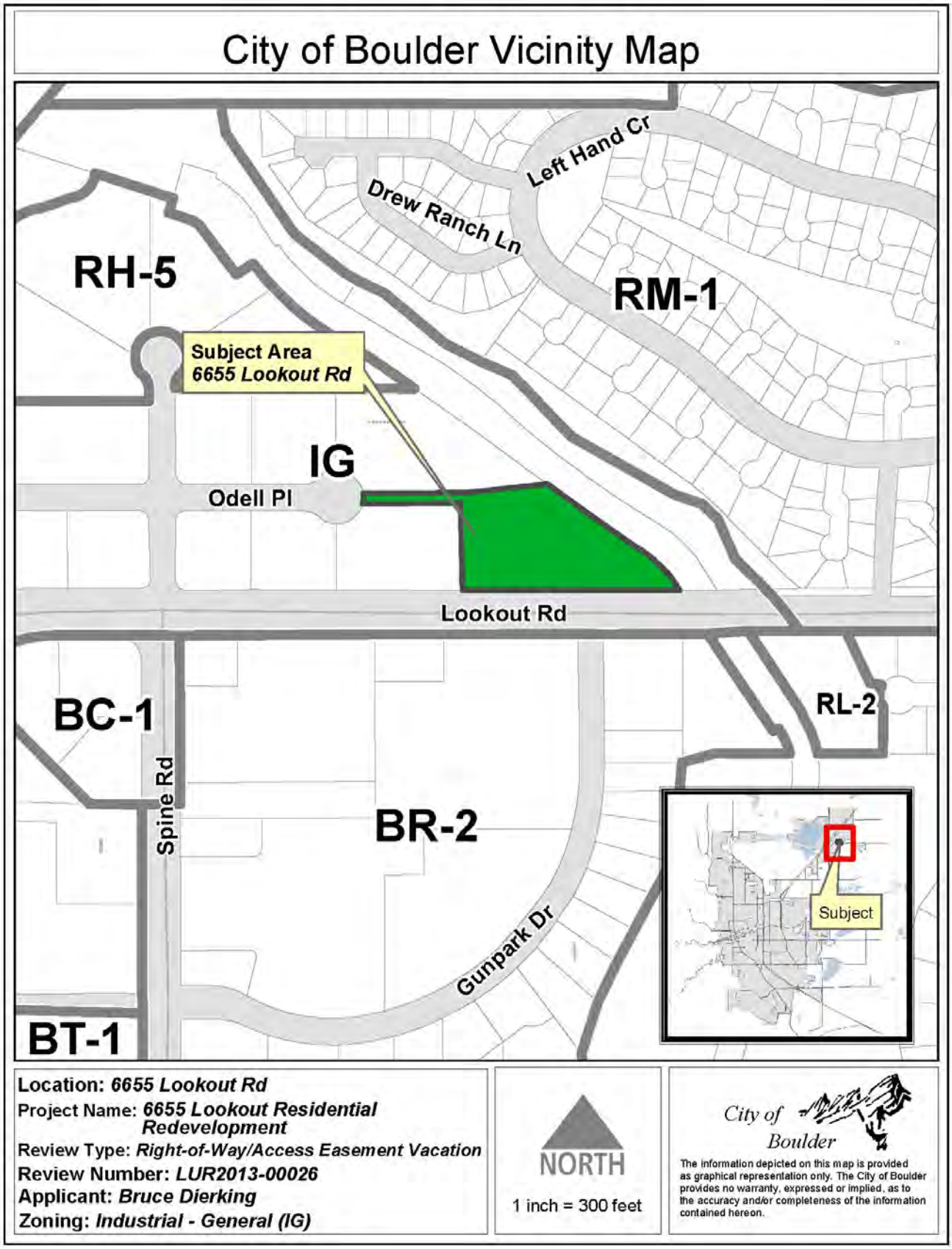
Address: 6655 LOOKOUT RD

Questions about the vacation or decision should be directed to Sloane Walbert at (303) 441-4231 or walberts@bouldercolorado.gov.

Attachments:

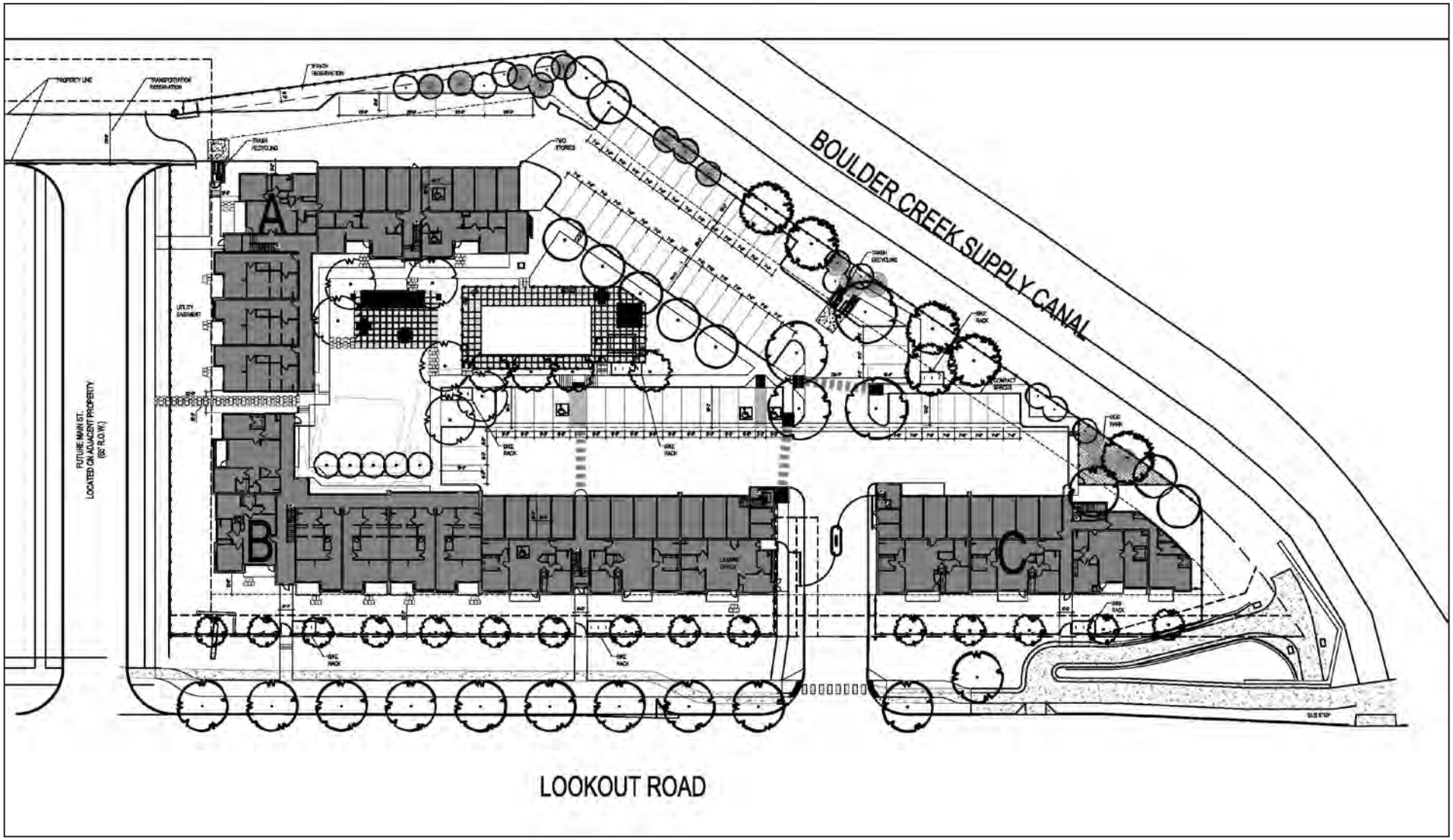
Attachment A:	Vicinity Map
Attachment B:	Site Plan
Attachment C:	Draft Ordinance
Attachment D:	Draft Deed of Vacation

ATTACHMENT A



Address: 6655 LOOKOUT RD

ATTACHMENT B



Address: 6655 LOOKOUT RD

ATTACHMENT C

DRAFT ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION FOR A PORTION OF A 20' EMERGENCY ACCESS AND UTILITY EASEMENT GENERALLY LOCATED AT 6655 LOOKOUT ROAD, CITY OF BOULDER, COUNTY OF BOULDER, COLORADO, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER FINDS AND RECITES THAT:

A. 6655 Lookout Road, Ltd., a Colorado limited partnership, the owner of the property located at 6655 Lookout Road, Boulder, CO ("Property"), has requested that the city vacate a portion of a 20' emergency access and utility easement located within The Greens Industrial Park Subdivision; and

B. The City Council is of the opinion that the requested vacation is in the public interest and that said 20' emergency access and utility easement is not necessary for the public use.

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

Section 1. The City Council vacates and authorizes the city manager to execute a deed of vacation a portion of a 20' emergency access and utility easement as dedicated to the City of Boulder on The Greens Industrial Park Subdivision plat recorded in the records of the Boulder County Clerk and Recorder at Film No. 1076, Reception No. 352392, on the 7th day of August, 1979 and as more particularly described in **Exhibit A**, reserving an easement interest for any and all utility purposes.

Section 2. 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 3. 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 August, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of September, 2013.

_____
Mayor

Attest:

_____
City Clerk

EXHIBIT A TO ORDINANCE

EXHIBIT A

(PAGE 1 OF 2)

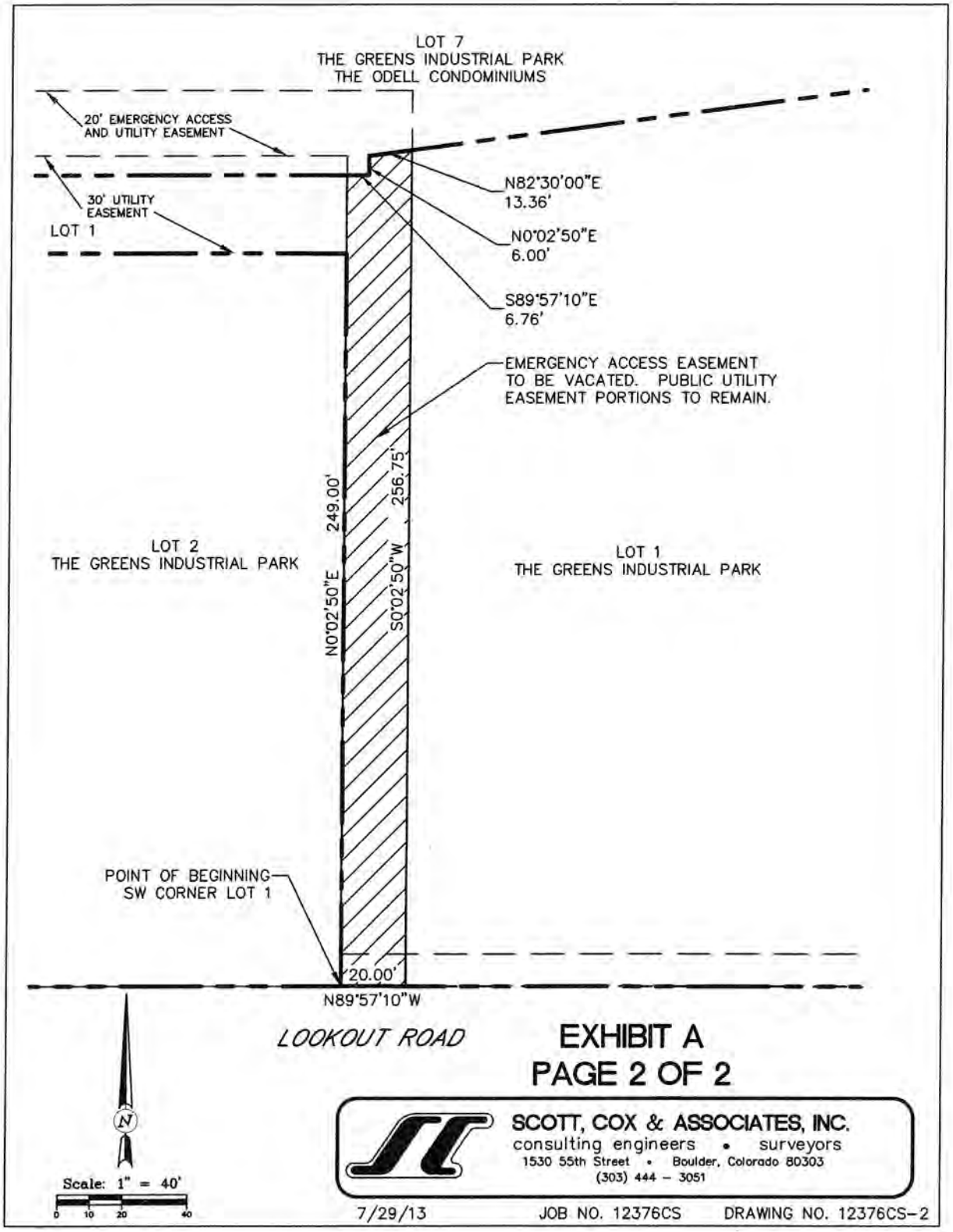
LEGAL DESCRIPTION – EMERGENCY ACCESS EASEMENT

THAT PORTION OF AN EMERGENCY ACCESS EASEMENT LOCATED IN LOT 1, THE GREENS INDUSTRIAL PARK, LOCATED IN THE S 1/2 OF SECTION 2, T1N, R70W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1, THENCE N00°02'50"E ALONG THE WEST LINE OF SAID LOT 1, 249.00 FEET; THENCE ALONG A LINE 6.00' SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1, S89°57'10"E, 6.76 FEET; THENCE N00°02'50"E, 6.00 FEET; THENCE ALONG THE NORTH LINE OF SAID LOT 1 N82°30'00"E, 13.36 FEET; THENCE S00°02'50"W, 256.75 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE ALONG SAID SOUTH LINE N89°57'10"W, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

SAID PARCEL CONTAINS 5071 SQUARE FEET OR 0.116 ACRES.

A. JOHN BURI P.L.S. #24302
FOR AND ON BEHALF OF
SCOTT, COX & ASSOCIATES, INC.
1530 55TH STREET
BOULDER, COLORADO 80303
303.444.3051
07/29/13
PROJECT NO. 12376CS



Address: 6655 LOOKOUT RD

ATTACHMENT D

DRAFT DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the land, in the manner prescribed by Section 43-2-302, C.R.S., a portion of the 20' emergency access and utility easement previously dedicated to the City of Boulder on The Greens Industrial Park subdivision plat recorded in the records of the Boulder County Clerk and Recorder at Film 1076, Reception No. 352392, on the 7th day of August, 1979 located at 6655 Lookout Road and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference

Reserving unto the City an easement for the installation, construction, repair, maintenance and reconstruction of utilities and appurtenances thereto, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, and under and across the real property described on Exhibit A.

The above easement vacation and release of said easement at 6655 Lookout Road shall extend only to the portion and the type of easements specifically vacated. The within vacation is not to be construed as vacating any rights-of-way, easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 2013, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado, pursuant to Ordinance No. _____, adopted by the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

EXHIBIT A TO DEED OF VACATION

EXHIBIT A

(PAGE 1 OF 2)

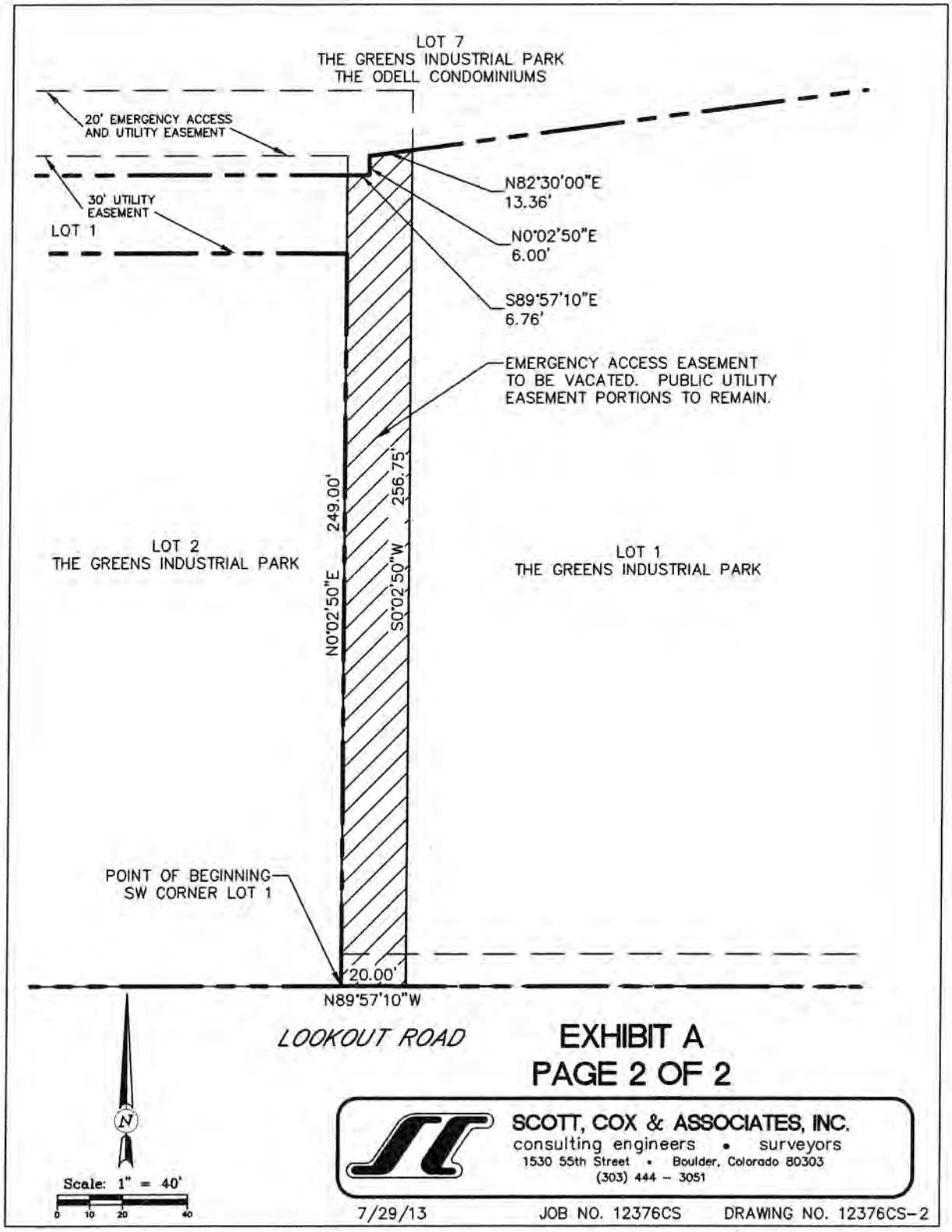
LEGAL DESCRIPTION – EMERGENCY ACCESS EASEMENT

THAT PORTION OF AN EMERGENCY ACCESS EASEMENT LOCATED IN LOT 1, THE GREENS INDUSTRIAL PARK, LOCATED IN THE S 1/2 OF SECTION 2, T1N, R70W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1, THENCE N00°02'50"E ALONG THE WEST LINE OF SAID LOT 1, 249.00 FEET; THENCE ALONG A LINE 6.00' SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1, S89°57'10"E, 6.76 FEET; THENCE N00°02'50"E, 6.00 FEET; THENCE ALONG THE NORTH LINE OF SAID LOT 1 N82°30'00"E, 13.36 FEET; THENCE S00°02'50"W, 256.75 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE ALONG SAID SOUTH LINE N89°57'10"W, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

SAID PARCEL CONTAINS 5071 SQUARE FEET OR 0.116 ACRES.

A. JOHN BURI P.L.S. #24302
FOR AND ON BEHALF OF
SCOTT, COX & ASSOCIATES, INC.
1530 55TH STREET
BOULDER, COLORADO 80303
303.444.3051
07/29/13
PROJECT NO. 12376CS



Address: 6655 LOOKOUT RD