



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: February 17, 2015

AGENDA TITLE

Introduction, first reading, and consideration of a motion to order published by title only an emergency measure Ordinance No. 8030 amending Title 9, "Land Use Code," B.R.C. 1981, to limit residential uses within the University Hill General Improvement District in the BMS zoning district and correct BMS zone standards, and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager
David Driskell, Executive Director, Community Planning & Sustainability (CP&S)
Susan Richstone, Deputy Director, CP&S
Molly Winter, Director, Downtown and Hill Management Division/ Parking Services
Sarah Wiebenson, Hill Community Development Coordinator
Karl Guiler, Senior Planner/Code Amendment Specialist
Ted Harberg, Planning Intern
Hella Pannewig, Assistant City Attorney
Ruth McHeyser, University Hill Moratorium Project Manager

EXECUTIVE SUMMARY

The purpose of this agenda item is to introduce an ordinance that would limit new residential uses in the University Hill commercial district in the BMS zoning district. The ordinance is recommended to address the concern that the current economic environment strongly favors student rental housing in the Hill commercial district, making it difficult for other more diverse uses to compete in the market place—uses that are essential to carry out the long-term vision for the Hill. The vision, defined in the Boulder Valley Comprehensive Plan (BVCP), is that the Hill be "an activity center that serves a variety of commercial, entertainment, educational and civic functions," and "also serves as a neighborhood center for the surrounding area [and] draws people from the entire city as well as the region."

In August, 2014, Council passed a temporary moratorium on new residential uses in the Business Main Street (BMS) zoning district on the Hill to allow time to analyze and

study the issue and present options to address community concerns. The moratorium expires on March 18, 2015.

We are in the last phase of the project, which has included the following phases:

- Information gathering, issue identification, and analysis *Sept and Oct 2014*
- Public outreach on preliminary findings and possible strategies *Nov and Dec 2014*
- Refine findings and strategies and develop staff recommendations *Jan 2015*
- Planning Board & UHCAMC hearings and recommendations *Feb 2015*
- City Council public hearing(s) and decision *Feb and March 2015*

Among the **project findings** are that:

- There is already an over-concentration of housing in this small commercial district, and under current market trends, student rental housing will be the predominate use favored in new development or redevelopment projects.
- Adding more housing units will limit opportunities for non-residential uses that would attract more diverse users; and
- There are very few offices on the Hill, yet office uses could potentially play a crucial role in adding a year-round diversity of ages and professions, and benefit from the proximity to both CU and downtown.

Staff analyzed potential strategies to address these and other project findings. In addition to the ordinance in Attachment A, staff recommends implementation of strategies that would encourage the addition of diverse users to the Hill. In the near term, these include:

1. Having the city work with the university and private sector partners, including Hill property owners, to attract an anchor use on the Hill that could change current market dynamics and entice non-residential uses that would add diverse users to the Hill.
2. As part of the Uni Hill Reinvestment Strategy Work Plan and the city's Access Management and Parking Strategy (AMPS), moving forward on several fronts to improve multimodal access and address concerns about lack of public parking on the Hill, including exploring public/ private partnerships to redevelop existing surface parking lots with desired uses and add more parking in the district.
3. Developing a public education and outreach process to explore National Register and possible local historic district designation for the commercial district to celebrate the area's history and sense of place and provide financial incentives for rehabilitation. Explore a façade improvement program in conjunction with this process.
4. At second reading March 3, receiving council direction on whether to prepare options and return to Council at a later date with analysis of tax policies that would encourage and facilitate development of projects that address desired uses that are difficult to attract or that provide a public benefit and implement the Hill vision. This could include facilitating recommendations above regarding anchor uses, public/private partnerships; and other future strategies associated with the Hill Reinvestment Strategy.

More detail on these and additional recommended long-term strategies are described in The Analysis Section H at the end of this memo.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published by title only an emergency measure Ordinance #8030 amending Title 9, "Land Use Code," B.R.C. 1981, to limit residential uses within the University Hill General Improvement District in the BMS zoning district and correct BMS zone standards, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - The intent of the proposed ordinance is to refine the zoning in the area to support the long term diversity of land uses on the Hill that promote a diverse and sustainable economy
- Environmental – The zoning change may slightly increase the city’s overall jobs:housing imbalance over-time; however, the Hill is one of the most transit-rich locations in the region and staff is also recommending moving forward on several fronts to improve multimodal access here.
- Social – The proposed ordinance is intended to promote a diverse mix of uses on the Hill and would support a more diverse demographic mix of community members spending time on the Hill. Encouraging permanently affordable and senior housing units is consistent with city policies to add more of these types of housing in the community, and would contribute to diversifying the residential mix of the Uni Hill commercial district.

OTHER IMPACTS

- Fiscal – the proposed ordinance change is an anticipated part of the CP&S work plan, as it relates to updating and maintaining the land use regulations.
- Staff time – Implementing the BMS zoning code changes are part of the CP&S on-going work plan.

BOARD AND COMMISSION FEEDBACK

Landmarks Board

On February 4, the Landmarks Board discussed the staff recommendations to explore local and/ or National Register Historic District designation of the Hill. The board generally supported the recommendation. Several board members said that it would be appropriate to start with National Register designation and then later consider local designation if there was sufficient property owner support. Public education and outreach should be an important part of the process.

Planning Board

On February 5, 2015, Planning Board discussed the proposed ordinance, held a public hearing, and unanimously approved a motion to **recommend to City Council the adoption of the attached ordinance** revising the BMS zone district standards for the Uni Hill commercial area to limit new residential uses, except for permanently affordable units or housing for persons 62 years or old (moved by Putnam, seconded by Gray, approved 7-0).

The Board also generally supported the recommended strategies and provided the following comments:

- Support local and National Register Historic District designation (all board members agreed).
- Questioned whether local designation is required to take advantage of State income tax credits, or whether being on the National Register makes property owners eligible for both National and State income tax credits. (Staff clarified that properties on the National Register are automatically listed on the State Register and would therefore be eligible for the State income tax credits).
- Suggest moving façade improvement program to a short term action in conjunction with historic district designation. May help address appearance standards. Current property maintenance standards in the city code are minimal.
- If/ when the strategy to consider office uses in the RH-5 zone is developed, need to tie it to improvements or historic designation and need to define what area would be included- don't make it too broad. Staff clarified that this is not recommended in the near term. Would need significant outreach and analysis.
- Asked what type of anchor uses are feasible and whether the city knows what residents want. (Staff indicated that they are in the process of surveying the residents about this).
- Moving city offices to the Hill would be great investment and potential catalyst.
- CU Conference Center on Grandview and redevelopment of UHGID lot with a private partner would be an enormous catalyst, especially if with some amount of city office.
- What goes into the Harbeck House could also provide support for the Hill. Would the city consider it for non-profit office uses?
- Some ideas for anchor uses that would draw from larger city/ region: a movie theater, a place for non-alcohol activities- Swallow Hill in Denver is an example; that is, a place for concerts, music lessons and workshops.
- Support all the strategies, but it's important to think how all the pieces will fit together.
- Finding an appropriate anchor is key; for example, Conference Center at Grandview paired with redevelopment of UHGID lots, but more than just offices. The scale/ size will need to fit into historic district and design.
- Start thinking holistically with transportation systems, etc; the façade improvement program is a good opportunity; consider design competition using CU students;
- Start thinking how everything will fit together. Important to have art, but problem paying – could the city and CU chip in? Could there be a place for CU theatre space?
- Need creative partnerships.
- Like the “event street” idea with 2A funding – city of Golden has done something similar and may be a good example; they sponsor events (eg, clean-ups) that create community.

PUBLIC FEEDBACK

[The Phase Two Public Input Report](#) contains a compilation of all public comments received on the Hill Moratorium project, and a chart summarizing the outreach efforts in

each of the project phases. The report includes about 50 public comment forms that were submitted during an Open House and during drop-in “staff open hours” on the Hill November 19th and 20th and from a survey that was posted on the moratorium project website. The comments were in response to questions about the preliminary findings and potential strategies to address the findings that were presented at the Open House/ Open Hours and available on-line.

BACKGROUND

On July 29, 2014, City Council approved an emergency ordinance temporarily suspending the acceptance of building permits and site review applications that would result in adding any floor area to properties within the University Hill commercial district (specifically, properties within the BMS zoning district as shown in Attachment A, appendix 1). That ordinance expired at 8:00 a.m. August 20, 2014, and affected all proposed additions of floor area in the area. On August 19th, City Council approved a substitute ordinance that more narrowly suspends applications on the Hill for residential floor area, while also allowing submittal of applications for concept plan review (a non-binding process). That ordinance expires on March 18, 2015.

The temporary moratorium was necessary to address a current economic environment that strongly favors student rental housing in the University Hill commercial district, making it difficult for more diverse uses that could revitalize and meet the city’s adopted vision for the area to compete in the market place. The moratorium “hit the pause button,” providing time to analyze whether this trend is likely to continue and to consider whether it is appropriate for student rental housing to dominate the area. The purpose of the moratorium is not to create a new vision for the Hill or to change the allowed density (i.e., the maximum Floor Area Ratio of 1.85).

The larger vision for the area, as described in the 1996 University Hill Area Plan, is of a commercial area that is “a safe, comfortable, and attractive place to shop, work, visit, and live,” and its role in the community, as defined in the Boulder Valley Comprehensive Plan (BVCP), is as both a place to “entertain the daily activities of a large portion of Boulder’s population” and “a neighborhood center for the surrounding neighborhood.” (2010 BVCP, p 75-76). An over-concentration of student housing in this area would run counter to these community aspirations and could weaken the long-term economic health and vitality of the Hill commercial district.

The [Uni Hill Moratorium Project Phase One Report](#), summarizes the results of the first phase analysis of the Hill’s history, existing use composition, demographics, zoning and comprehensive plan designations, future growth potential, past parking and access studies, as well as recent market and economic analysis prepared by consultants hired by the city for this project.

ANALYSIS

A. Proposed Ordinance

Staff recommends the ordinance in Attachment A, as it 1) does not exacerbate the current over-concentration of student rental housing on the Hill; 2) could entice other more diverse land uses like offices to locate on the Hill; and 3) continues to allow for

permanently affordable or senior housing units, which address an identified housing need in Boulder.

Under the provisions of the ordinance, all attached dwelling units and efficiency living units within the Hill's BMS zone are 'conditional uses' requiring staff level review. Like other conditional use reviews, specific standards are proposed that would require new units to be permanently affordable or senior housing units. No additional market-rate housing would be permitted, thus—over time—shifting the current market dynamic that is driven by the economics of market rate student rentals. The new criteria are added to Chapter 9-6, "Use Standards," B.R.C. 1981.

Pursuant to Section 9-10, B.R.C., 1981, all existing residential units would be considered legal, non-conforming uses that would be allowed to remain in place, unless they were vacant for more than a year. They would also be allowed to expand a maximum of 10% of existing floor area.

The ordinance also corrects two errors uncovered during staff's analysis of the BMS zoning district standards, allowing for buildings over 15,000 square feet to be considered through the Site Review process and changing the residential use standards for areas outside the Uni Hill area back to being allowed only above or below the first floor, unless approved through Use Review. Further, because detached dwelling units, duplexes and townhomes are by definition, ground floor residential uses and are contrary to housing seen in "main street" contexts, staff is proposing to prohibit these uses in the BMS zone as part of this ordinance.

Finally, the ordinance corrects inconsistencies between the Inclusionary Housing definition for "permanently affordable unit" and the inclusionary housing regulations in Chapter 9-13. The proposed ordinance, therefore, includes revisions to the definition for "permanently affordable unit" to clean up these inconsistencies. Currently, some income limits described in Chapter 9-13 are more restrictive than described in the current definition for permanently affordable unit. To fix that, the reference to specific income limits is proposed to be deleted and replaced with a reference to the limits specified in Chapter 9-13. In addition, a few years ago state law was amended to clarify that rental restrictions pursuant to "voluntary agreements" are excluded from Colorado's prohibition of rent control. The language in 9-13 has already been revised to allow voluntary agreements as an option to meet inclusionary housing requirements, the proposed ordinance would add that option in the definition for permanently affordable units consistent with the inclusionary housing regulations.

B. Economics and Market conditions- EPS reports

The city hired Economic Planning Systems Inc. (EPS) to provide updated market information about the Hill and to analyze various development scenarios to understand the economic factors affecting recent development and current trends on the Hill. Their [two reports](#) are summarized below.

Demand and Perception (from EPS' Preliminary Market Assessment, Nov 18, 2014)

- Housing: Demand for multifamily housing is almost completely for student oriented housing. Units in the Market Area and near the University Hill area rent for higher rates on average than the city as a whole meaning renters pay a premium to be located on the Hill.

- Retail: The analysis for retail on the Hill found that students constitute the majority of demand for retail. The potential demand from area residents that are non-students is not sizeable enough to drive retail demand on the Hill. Parking is another barrier to non-student oriented retail, because the district is not well suited for a larger number of customers to come in cars. To increase demand for non-student oriented retail, the City can explore ways to grow the market potential from groups that are not students and address ways to make the area more accessible and attractive.
- Office: Several factors were cited as barriers to office users being attracted to the Hill including; lack of a professional environment, lack of parking, difficult and limited traffic access, the perception of the area as only a student area and a lack of interest from employers in the area. Despite current perceptions, some brokers identified the potential for niche office space for smaller businesses needing small or flexible spaces of less than 3,000 square feet. Creative, start-up, computer oriented, and technology firms may seek out the Hill if space is less expensive than the Pearl Street area and if their business had a nexus or benefited from locating next to campus. A market anchor or destination was cited as a way to potentially change the culture and dynamic of the Hill enough to attract some office spaces. A hotel was cited as a potential use that could be developed in concert with office space to help catalyze the market.

Development Feasibility (from EPS' Uni Hill Development Scenarios, Jan 19, 2015)

Under current market conditions, EPS analyzed the potential “feasibility” of several programs for new construction, assuming current trends and current land prices. The major findings from the feasibility analysis are that:

1. Student housing development produces a significant return and is highly profitable.

Student oriented rental housing on the Hill and particularly newer student oriented projects have been able to achieve higher rental rates than more conventional rental units. Typical, new student oriented housing projects include 3- to 4-bedroom units sharing a larger living space. Leases are per bedroom, not per unit, and command rents of \$1,000 per bedroom per month or higher. Within this structure, units rent for approximately \$2.50 per square foot per month. The overall average rent for apartments in the University Area is \$1.97 per square foot per month.

2. Building student housing units with multiple bedrooms per unit (i.e., three or four bedrooms per unit) reduces the required amount of parking by zoning (1 space per unit) of a project compared to a conventional apartment project with a mixture of (unit sizes).

This type of building program reduces parking required and therefore the cost of development. However, a developer/project owner may need to provide more spaces than required by zoning to make the units marketable. It may be helpful to modify the parking requirement to be based on a per bedroom factor instead of a per unit factor if there is a fear the projects are being under-parked and causing parking issues elsewhere on the Hill.

3. The residential redevelopment programs (student and market) tested were found to be feasible based on the assumptions made.

EPS modeled two housing programs to test feasibility of redevelopment on the Hill. The student-oriented housing program (ground floor retail with two stories of student oriented units) was found to be a feasible development program with estimated value of the program exceeding project costs by more than 10 percent. A non-student oriented program (market), which includes ground floor retail with two stories of small, one and two bedroom units, was also found to be marginally feasible with average rental rates found in the area. Estimated project value for this program was approximately equal to project development costs.

4. The office development programs tested were found to be infeasible with or without on-site parking.

Two office development programs were tested with ground floor retail and two stories of office space above. One program had parking built on site and one with parking provided within UGHID lots. The office programs generated development values that are approximately 25 to 30 percent less than development value generated by the housing programs.

Parking was cited in the market study as a major requirement for attracting office space users to the Hill. Parking is also a major development costs that has large impact on development feasibility if it needs to be built on-site. Assuming parking spaces can be dedicated to office users within UGHID lots the development cost for building office space reduces greatly. The office program without parking was still found to be infeasible. Development value generated by the program was approximately 6 percent less than the cost of development. The gap under the program tested was approximately \$392,000. If parking is provided on site, the gap increased to \$818,000 and the development value was 11 percent less than development cost.

5. A hybrid residential and office development program was found to be financially feasible based on the assumptions used but is not deemed to be a marketable development project due to an incompatible mixture of uses.

A mixed office and residential program was tested which included ground floor retail, one story of office space and one story of student oriented residential units. This program was deemed to be feasible, as development value 5 percent more than estimated development costs. However, we expect that developers would not build this type of building due to the logistics and costs of maintaining three uses within a small building and the difficulty of renting office space within a building that also includes student housing.

6. The feasibility analysis for programs based on the Scenario 2 renovation of existing building space and the addition of new space generated similar results; the residential programs are feasible while the office programs are not feasible.

EPS found similar findings related to renovation and expansion of existing buildings on the Hill to the redevelopment scenario. Adding additional residential units was found to provide a return to building owners large enough to support costs associated with renovating their existing building and constructing additional space. Office uses were found to not generate enough project value to cover costs of renovation and expansion.

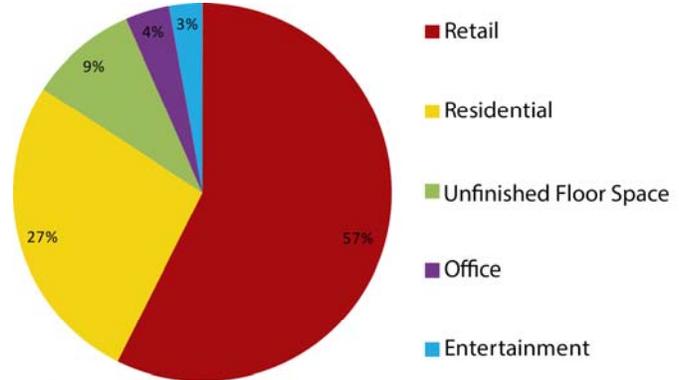
Given the gap between what the current market would attract on the Hill and the city's long term vision for more diverse uses, EPS also provided an analysis and description of potential approaches to achieve the vision that are incorporated into the

staff recommendation.

C. Existing Land Uses

Staff’s analysis in the [Phase One report](#) supports EPS’ assertion that the current uses on the Hill are very student-centric. As illustrated in Figure 1, retail uses occupy the largest amount of square feet, followed by residential at over 25% of occupied floor space. Office uses occupy less than 3% or less of occupied floor space. Retail in the district is student-centric – a reflection of market conditions created by the user groups who are present.

The total building square footage in the district is as follows: Retail -173,633 sq ft, 57%; Residential - 76,428 sq ft, 25%; Unfinished Floor Space - 36,131 sq ft, 12%; Office - 9,149 sq ft, 3%; Entertainment - 8,500 sq ft, 3%.



DRAFT: 12/18/2014

Figure 1: Existing land uses on the Hill by percent of total building square footage

Housing

University Hill has long been known as Boulder’s primary student housing neighborhood and today, just over 6,000 university students live within the west-of-Broadway market area of the Hill commercial district.

The university places significant demand on the Boulder rental housing market. CU requires that freshman live on campus and the university currently houses approximately 27 – 30% of its roughly 30,000 students. Although CU’s Flagship 2030 Plan establishes a goal of increasing the proportion of upperclassmen living on campus from 5 to 20% through the introduction of living-learning environments, the majority of students will continue to be housed in the private market off-campus. Today, approximately 67% of CU students live in Boulder, while 6,000 live outside the city limits. Some of these in-commuters do so by choice, while others are likely being priced out of town by the housing market.

Within the 11.5 acre commercial district alone, there are already more than 100 rental units, most if not all of which are for students. This compares to approximately 130 residences in the 100+ acre downtown commercial district.

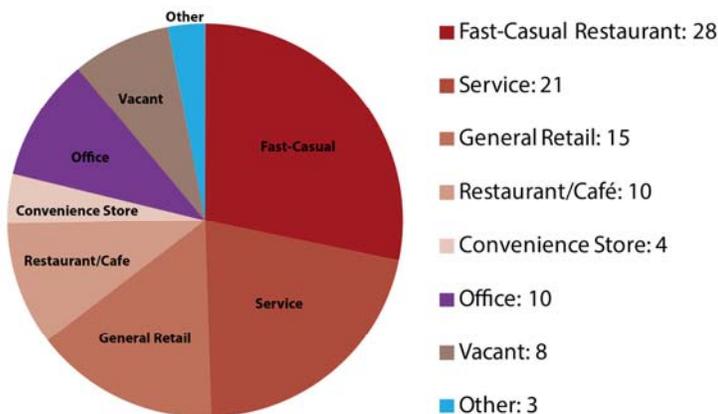


Figure 2: Commercial uses on the Hill by total number

Non residential uses

Student-centric retailers such as fast-casual restaurants and coffee shops dominate in the Hill commercial district due to the built-in customer base of students nearby; making them the most predictably profitable of potential uses. The larger income potential of these student-focused retailers has, over time,

increased their numbers relative to other retail uses.

There are a total of 91 businesses on the Hill, and 8 vacant retail units. As can be seen in Figure 2, the majority of these businesses are Fast-Casual Restaurants and Services such as tanning salons, dry cleaners, etc. There are a total of 10 office businesses on the Hill. This pie chart is based on a door-to-door survey of current retailers, with each business given a classification.

Potential Role of Office Uses

Office uses have the potential to create a year-round vitality to support business retention and attract new businesses. The nature of office uses is changing and there could be a strong synergy with the university. According to Prof Richard Florida¹, the “creative class” is a key driving force for economic development of post-industrial cities in the United States. Boulder, with its culture of innovation and track record of federal research labs and major technology firms like Ball Aerospace and Google, is a community that has already seen the benefits of just such a creative class. Uni Hill, with walkable proximity to campus and a vibrant mixed-use environment, could make a good home for the kind of startup companies that drive an innovation economy.

Although office uses are currently under-represented on the Hill, two relatively recent additions are examples of the types of uses that fit well in this location. Spark², a co-working space that caters to student entrepreneurs and others looking for inexpensive office space is located on 13th Street near the university. Here, workers join as “members” and have access to desk space and telecommunications technology 24 hours a day at a low price. Also on the Hill is Grenadier Advertising that, in contrast, is in the professional services industry and does not cater exclusively to younger workers. In spite of the perception of the Hill as being exclusively for students, Grenadier indicated in a recent letter to City Council that they are very happy with their location and would like to expand.

An additional idea, suggested at the last Planning Board discussion on the Hill, is that the city locate some of its own office space on the Hill. Staff has proposed that this idea be considered as part of the Civic Area office space planning and implementation. It should be noted that the city leases 814 square feet of office space on the Hill in the form of the Police Hill Annex.

It has also been suggested that the city evaluate the extent to which city services and programs currently located across the Boulder community, including those on the city’s Municipal Campus, could be a potential fit for the current Boulder Community Health facility on Broadway. An update on Civic Area implementation is scheduled to be provided under Matters at the March 17 City Council meeting. A recent update on city office space was provided in the January 20 Information Packet: https://www-static.bouldercolorado.gov/docs/20150120_IP-1-201501151359.pdf

¹ *The Rise of the Creative Class* (2002), *Cities and the Creative Class* (2004), and *The Flight of the Creative Class* (2007), by Richard Florida

² Spark is located in the basement of the Hilltop Building at 1310 College. The Uni Hill moratorium project public open house and staff open hours were held at this location.

D. Potential Future Growth at “Build-out”

A recent build-out study of the BMS zone³ reveals that the district is only around 52% built out at total 304,238 square feet. An 80% buildout of the district would result in approximately 162,000 new square feet of usable floor space, not including basements. This is based on a theoretical buildout to the maximum 1.85 FAR of 582,742 square feet –278,504 more square feet than the present day. 80% of the maximum is approximately 466,200 total square feet, a difference of around 162,000 from the existing.

The following estimates are based on the above figures and extrapolated based on the building program of the recently constructed 1350 College – assumed to be the most likely building form under current zoning and economic conditions.

2nd and 3rd Floor Student Rentals (“current trends”)

Under these parameters, staff estimates that approximately 113,000 new square feet of development are possible on the 2nd and 3rd floors alone. If the current trend of residential dominating the 2nd and 3rd floors were to continue, there could ultimately be over 190,000 sf of residential space – potentially enough to rival even retail as the predominant land use in the district (today there is around 176,000 sf of retail, with a modest amount more possible in the future). Given the current trend for new residential construction of around four bedrooms per unit (or about 1,200 sf per unit), this could represent approximately 90 new three to four bedroom units, or around 300 new residents.

2nd and 3rd Story as Office Use

If residential uses were prohibited and the additional 113,000 developable square feet on the 2nd and 3rd floors were developed as office space, it would equate to approximately 300-400 new year-round workers on the Hill.

E. Boulder Valley Comprehensive Plan

The analysis above highlights that one of the gaps in achieving the BVCP vision for the Hill is the current lack of diverse commercial uses and dominance of housing. Although encouraging more diverse commercial uses and limiting future housing would conflict with BVCP Policy 1.19 of the Boulder Valley Comprehensive Plan to improve the city’s current jobs:housing imbalance, the Hill has always been identified as primarily a commercial center to serve the surrounding neighborhood and the city, and the area already has a higher percentage of housing than would be typical in a regional-serving commercial center. Therefore, limiting future housing and encouraging future commercial uses here is an essential component of achieving the appropriate balance and the larger vision for the Hill.

E. Existing Zoning

The Hill commercial district is zoned BMS (Business Main Street), a commercial mixed-use zoning district patterned after the character of historic Main Street business districts. BMS is designed as a mixed-use zone encouraging development in a pedestrian-oriented pattern, with buildings built up to the street, retail uses on the first floor, and residential and office uses above the first floor. It also allows complementary uses. It is applied to three areas of the city, including West Pearl, North Boulder and within the Boulder

³ 2013 UHGID Development Projections study by RRC Associates.

Junction area by Steel Yards. Zoning immediately adjacent to the Hill commercial district is RH-5 (Residential High – 5).

Recent Development on the Hill

All recent development on the Hill has occurred “by-right⁴” with the exception of some proposed changes of use that required Use Review. Some recent redevelopment examples are the Lofts on the Hill at 1143 and 1155 13th Street in 2009 and 1350 College in 2010, both of which include residential uses on the 2nd and 3rd floors above commercial uses within buildings up to the permitted 38-foot building height limit.

Bulk and Massing

City Council stipulated that the moratorium project would not change the vision for the Hill or the underlying maximum floor area ratio (FAR). BMS on the Hill is different from other areas zoned BMS, because it is within a general improvement district where parking for commercial uses do not rely on on-site parking, but rather managed on- and off-street parking. In the Hill BMS zone, the allowable FAR is 1.85. A representation of the total mass possible on a site within the Hill BMS zone considering the 1.85 FAR is shown in Figure 3.

This example shows the expected form and massing of a by-right building on a 6,250 square foot lot that meets that required setbacks of BMS. Notice the first two levels are built to the street while the upper story is set back 20 feet reducing its apparent mass and height.

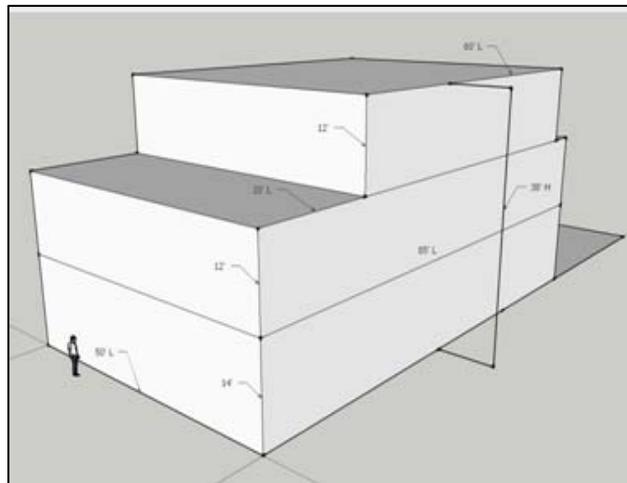


Figure 3 Typical building massing based on existing BMS zoning standards for Uni Hill

As many of the issues that prompted the moratorium are more “use” related, staff is not proposing any changes at this time that would impact the form and bulk standards within the BMS zoning district. Rather, possible changes that were analyzed as part of this project relate to uses allowed on the Hill.

Allowed Uses

Although current BMS zoning on the Hill allows a high diversity of uses, the dominate uses are student-serving retail and student rental housing, as discussed earlier. Further, residential units with multiple bedrooms within the Hill commercial district continue to be highly marketable on the Hill given its close proximity to the university and shifts in student demographics. These characteristics and the BMS zone’s relatively low on-site parking requirement of one parking space per dwelling unit effectively create an incentive for a concentration of bedrooms within units. The character of the Hill commercial district as a student-oriented district is also heavily influenced by the surrounding residential neighborhood where high density residential of 14 or more dwelling units per acre (i.e., RH-5) exists.

⁴ By-right means those projects that meet all the zoning district standards and can be approved by submitting a building permit application (i.e., they do not require a discretionary review process such as Site or Use Review).

Although the BMS zoning allows a high diversity of uses, it does not specifically mandate any one use. Considering the current over-concentration and strong market demand for residential on the Hill and the desire for more diverse commercial uses, staff identified a range of strategies that would limit, to varying degrees, additional housing on the Hill within the BMS zone. These and other strategies, discussed with City Council at the January 27, 2015, study session on the Hill Moratorium project, are described in Attachment B.

F. Findings

From the analysis summarized above, staff reached the following conclusions:

1. **The proximity of the University provides significant economic, intellectual and cultural benefits** and has influenced the Hill's unique, student-centric and bohemian character. While it is neither desired nor necessary to change the student-focus of the Hill, **diversifying the users and uses will make it more lively year-round and attractive to the community at large--** a more comfortable and attractive place to shop, work, visit and live.
2. **There is already an over-concentration of housing in this small commercial district and adding more units will limit opportunities for non-residential uses that would attract more diverse users to the Hill.** There are 103 dwelling units within the Hill Commercial District. This compares with approximately 130 units Downtown, yet the Hill is only 11.5 acres in size whereas the Downtown encompasses approximately 108 acres. While the presence of housing close to or within any commercial district adds vitality and built-in shoppers, the Hill commercial area has an abundance of high density residences on three sides already and residences account for a higher share of square footage than is traditionally expected in a commercial district. Furthermore, the recent economic analysis done by EPS concludes that the demand for residences located in the hill commercial area "is almost completely for student oriented housing." More student rentals clustered in this small area could create a party-like atmosphere that conflicts with the Hill vision as *an attractive place to shop, work, visit, and live*. Moreover, unlike commercial spaces that adapt easily to a variety of uses over time, once residential spaces are built, they are unlikely to convert to other uses, thus reducing options for diversifying uses and attracting other users to the Hill.
3. **There are very few offices on the Hill, yet office uses could potentially play a crucial role in adding a year-round diversity of ages and professions, and benefit from the proximity to the University.** There are only 10 office uses housed in only 3% of the total building square footage on the hill, and few more in the immediate neighborhood. Although the EPS report indicates a strong market for office uses in the core area of the city, few offices have located on the Hill in recent years, despite its proximity to CU and Downtown and its location in one of the most transit-rich locations in the region.
4. **Among the barriers to expanding the diversity of uses and users on the Hill are:**
 - a. **The current market favors student rental housing over all other uses allowed, making it difficult for other uses to compete.** Student housing outperforms other uses from a cash flow perspective, with current rates at more than \$1000/month per bedroom. Multi-bedroom units are the most attractive investments,

- because of the cost-savings of shared spaces such as kitchens and living rooms and because the zoning district requires one parking space per unit, irrespective of number of bedrooms.
- b. **Insufficient public parking (or the perception of a lack of parking)**, particularly for professional office uses and city-wide-serving retail uses;
 - c. **Lack of another attraction or anchor** that could change the current market perception of being just for students and change the market demand to attract a broader visitor mix;
 - d. **Lack of other office uses and office “comps” needed for financing**, making it difficult to attract other office uses; and
 - e. **The built in student-centric market, which has resulted in a low retail vacancy rate and a somewhat run-down aesthetic in portions of the Hill**, because property upkeep is not essential to stay competitive and many properties have no debt, such that the buildings are sources of steady profit.

G. Potential Strategies to Address the Findings

Staff analyzed a variety of possible strategies that could address the findings above. These strategies were discussed at the January 27, 2015, Council study session packet and are included in Attachment B. Some of the strategies involve city regulations; others would be new programs or financial incentives. Some can be combined with other strategies, or components of other strategies. Staff’s recommended strategies are summarized below.

H. Recommended Strategies

As outlined in the attached ordinance, staff recommends BMS zoning change to restrict new housing, except permanently affordable and senior housing.

Staff also recommends additional strategies below, to be incorporated into the Hill Revitalization Strategy and Community Planning and Sustainability Work Plan. **At second reading of the ordinance, staff will seek Council’s direction on whether to move forward on the following recommended strategies:**

Near Term Actions:

1. Have the city work with the university and private sector partners, including Hill property owners, to attract an anchor use on the Hill that could change current market dynamics and entice non-residential uses that would add diverse users to the Hill.
2. As part of the Uni Hill Reinvestment Strategy Work Plan and the city’s Access Management and Parking Strategy (AMPS), move forward on several fronts to improve multimodal access and address concerns about lack of public parking on the Hill
 - a. Study the utilization of existing public parking to determine whether there is an insufficient supply of parking to meet the needs of existing demand on the Hill, and the extent to which the two UHGID lots are under-utilized due to their locations and/or lack of visibility.
 - b. Continue to explore public/ private partnerships to redevelop existing surface parking lots with desired uses and add more parking in the district.
 - c. Continue efforts to shift Single Occupant Vehicle travel to other modes.
3. Develop a public education and outreach process to explore local and/ or National Register Historic District designation for the commercial district to highlight the

- area's history and allow property owners to receive Federal and State rehabilitation tax credits (for up to 50% of rehabilitation costs).
4. In conjunction with exploration of historic district designation, explore creation of a façade improvement program.
 5. Staff is seeking council direction on whether to prepare options and analysis that explores tax policies to encourage and facilitate development of projects that address desired uses that are difficult to attract or that provide a public benefit and implement the Hill vision. This could include a catalytic anchor use, office uses, public infrastructure and balanced multi-modal options including parking. The tax policies could include allocation of some portion of taxes (sales, construction use, or property) from Hill projects to cover a "gap" in project financing or to invest in Hill public infrastructure; adding a Public Improvement Fee to Hill sales tax revenues; creating other redevelopment or revitalization district concepts such as Downtown Development Authority, Community Development Corporation or business improvement district. Consideration of these policies would need to be integrated into the Hill Reinvestment Strategy priority to explore sustainable, long term governance and funding for the Hill. A pilot approach could be incorporated into some of the policies, or they could be time-limited.

Longer Term Actions

1. Depending on the success of the above actions in attracting office uses, determine whether to consider revisions to portions of the RH-5 zoning district adjacent to the Hill commercial district to encourage office uses in existing residential structures. If so, design an appropriate public outreach and analysis process before moving forward.
2. Consider other strategies as part of the on-going Uni Hill Reinvestment Strategy, including:
 - o Creation of Innovation/ Creative/ Arts District.
 - o Creation of a Façade Improvement Program (if not implemented as part of the near-term actions).

ATTACHMENTS

| | |
|--------------|---|
| Attachment A | Ordinance No. 8030 |
| Attachment B | Potential Strategies that were analyzed to address the project findings |

ORDINANCE NO. 8030

AN EMERGENCY MEASURE ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO LIMIT RESIDENTIAL USES WITHIN THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT WITHIN THE BMS ZONING DISTRICT AND CORRECT BMS ZONE STANDARDS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Table 2-1 of Section 9-2-1, "Types of Review," B.R.C. 1981, shall be amended as follows:

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>I. ADMINISTRATIVE REVIEWS</i> | <i>II. ADMINISTRATIVE REVIEWS - CONDITIONAL USES</i> | <i>III. DEVELOPMENT REVIEW AND BOARD ACTION</i> |
|---|--|---|
| <ul style="list-style-type: none"> • Building permits • Change of address • Change of street name • Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9- | <ul style="list-style-type: none"> • Accessory Units (Dwelling, Owners, Limited) • Antennas for Wireless Telecommunications Services • <u>Attached Dwelling</u> | <ul style="list-style-type: none"> • Annexation/initial zoning • BOZA variances • Concept plans • Demolition, moving, and removal of buildings with potential historic or |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

| | | |
|--|---|---|
| <p>11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981</p> <ul style="list-style-type: none"> • 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, change of use (inc. parking)) • Parking deferral per Subsection 9-9-6(e), B.R.C. 1981 • Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), 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 | <p><u>Units and Efficiency Living Units in the University Hill General Improvement District</u></p> <ul style="list-style-type: none"> • 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 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, | <p>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</p> <ul style="list-style-type: none"> • 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 • Rezoning • Site review • Subdivisions • Use review • Vacations of street, alley, or access easement |
|--|---|---|

| | | |
|--|--|--|
| | <p>Brewpubs, and Taverns</p> <ul style="list-style-type: none"> • Sales or Rental of Vehicles on Lots Located 500 Feet or Less from a Residential Zoning District • Service Stations • Shelters (Day, Emergency, Overnight, temporary) • Temporary Sales • Transitional Housing | |
|--|--|--|

Section 2. Section 9-2-14, B.R.C. 1981, is amended to read:

9-2-14 Site Review.

...

(c) Modifications to Development Standards: The following development standards of B.R.C. 1981 may be modified under the site review process set forth in this section:

- (1) 9-7-1, "Schedule of Form and Bulk Standards," and standards referred to in that section except for the floor area requirements that the standards referred to as "FAR Requirements" may not be modified under this paragraph and are subject to Section 9-8-2, B.R.C. 1981.

...

Section 3. Section 9-6-1, B.R.C. 1981, is amended to read:

9-6-1 Schedule of Permitted Land Uses.

The schedule shows the uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review pursuant to Section 9-2-15, "Use Review," B.R.C. 1981.

(a) Explanation of Table Abbreviations: The abbreviations used in Table 6-1 of this section have the following meanings:

- 1 (1) Allowed Uses: An "A" in a cell indicates that the use type is permitted by right in the
2 respective zoning district. Permitted uses are subject to all other applicable regulations
of this title.
- 3 (2) Conditional Uses: A "C" in a cell indicates that the use type will be reviewed in
4 accordance with the procedures established in Section 9-2-2, "Administrative Review
5 Procedures," B.R.C. 1981. Conditional use applications shall also meet the additional
standards set forth in Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use
Standards," or other sections of this title.
- 6 (3) Use Review Uses: A "U" in a cell indicates that the use type will be reviewed in
7 accordance with the procedures established in Section 9-2-15, "Use Review," B.R.C.
1981. Use review applications shall also meet the additional standards set forth in
Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards."
- 8 (4) Ground Floor Restricted Uses: A "G" in a cell indicates that the use type is permitted by
9 right in the respective zoning district, so long as it is not located on the ground floor
10 facing a street, with the exception of minimum necessary ground level access, it is
located above or below the ground floor, otherwise by use review only.
- 11 (5) Residential Restricted Uses - M: An "M" in a cell indicates the use is permitted,
12 provided at least fifty percent of the floor area is for residential use and the
nonresidential use is less than seven thousand square feet per building, otherwise by use
review only.
- 13 (6) Residential Restricted Uses - N: An "N" in a cell indicates the use is permitted,
14 provided at least fifty percent of the floor area is for nonresidential use, otherwise by
use review only.
- 15 (7) Prohibited Uses: An asterisk symbol ("*") in a cell indicates that the use type is
prohibited in the zoning district.
- 16 (8) Additional Regulations: There may be additional regulations that are applicable to a
17 specific use type. The existence of these specific use regulations is noted through a
reference in the last column of the use table entitled "Specific Use." References refer to
18 subsections of Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards,"
or other sections of this title. Such standards apply to all districts unless otherwise
19 specified.
- 20 (9) n/a: Not applicable; more specific use applications apply.
- 21 (b) Interpretation: The city manager may decide questions of interpretation as to which category
22 uses not specifically listed are properly assigned to, based on precedents, similar situations,
and relative impacts. Upon written application, the BOZA may determine whether a specific
23 use not listed in Table 6-1 of this section is included in a specific use category. Any use not
specifically listed in Table 6-1 of this section is not allowed unless it is determined to be
included in a use category as provided by this section.
- 24 (c) Multiple Uses of Land Permitted: Permitted uses, conditional uses, and uses permitted by
use review may be located in the same building or upon the same lot.
- 25 (d) Use Table:

TABLE 6-1: USE TABLE

| Zoning District | RR-1, RR-2, RE, RL-1 | RL-2, RM-2 | RM-1, RM-3 | RMX-1 | RMX-2 | RH-1, RH-2, RH-4, RH-5 | RH-3, RH-7 | RH-6 | MH | MU-3 | MU-1 | MU-2 | MU-4 | BT-1, BT-2 | BMS | BC-1, BC-2 | BCS | BR-1, BR-2 | DT-4 | DT-5 | DT-1, DT-2, DT-3 | IS-1, IS-2 | IG | IM | IMS | P | A | | |
|--|----------------------|------------|------------|-------|-------|------------------------|------------|------|----|------|------|------|------|------------|-------------|------------|-----|------------|------|------|------------------|------------|----|----|-----|---|---|-----------------------|----------|
| 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 | <u>A*</u> | 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 | <u>A*</u> | 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 | <u>An/a</u> | 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 | <u>A*</u> | A | * | A | A | A | A | G | U | U | N | U | * | 9-8-4 | |
| Live-work | * | * | * | * | * | * | * | * | * | * | * | * | A | * | * | * | * | * | * | * | * | U | U | U | A | * | * | | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|----|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-----------------|-----------------|
| 1 | Cooperative housing units | C | C | C | C | C | C | C | * | * | C | C | C | * | * | * | * | * | * | * | * | * | U | U | * | * | * | 9-6-3(b) | |
| 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | <u>Attached dwelling units outside of the University Hill general improvement district</u> | <u>n/a</u> | <u>G</u> | <u>n/a</u> | | |
| 4 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | <u>Attached dwelling units and efficiency living units in the University Hill general improvement district</u> | <u>n/a</u> | <u>C</u> | <u>n/a</u> | <u>9-6-3(i)</u> | |
| 7 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | Efficiency living units <u>outside of the University Hill general improvement district</u> : | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11 | 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 | * | |
| 12 | B. If ≥20% of total units | * | * | * | * | * | U | A | * | * | U | A | A | U | U | U | U | * | U | U | U | U | U | U | U | U | U | * | <u>9-6-3(j)</u> |
| 13 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 14 | Accessory units: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15 | A. Accessory dwelling unit | C | C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | C | 9-6-3(a) |
| 16 | B. Owner's accessory unit | C | * | * | C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | 9-6-3(a) |
| 17 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 18 | C. Limited | C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | 9-6-3(a) |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|----|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|---|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|----------|
| 1 | <u>Fraternities, sororities, dormitories, and boarding houses in the University Hill general improvement district</u> | <u>n/a</u> | * | <u>n/a</u> | |
| 2 | | 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) |
| 3 | | 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) |
| 4 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | 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 | 9-6-3(e) |
| 6 | 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 | * | 9-6-3(h) | |
| 7 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | ... | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | A: Allowed use. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11 | C: Conditional use. See Section 9-2-2 for administrative review procedures. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 12 | U: Use review. See Section 9-2-15 for use review procedures. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 13 | G: Allowed use provided that it is <u>not located on the ground floor facing a street above or below the ground floor, with the exception of minimum necessary ground level access, otherwise by use review only.</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 14 | 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. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15 | N: Allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use review. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 16 | n/a: Not applicable; more specific use applications apply. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 17 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 18 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 19 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 20 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 21 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Section 4. Section 9-6-3, B.R.C. 1981, is amended to add a new subsection (j):

9-6-3 Specific Use Standards - Residential Uses.

...

(d) Group Home Facilities: The following criteria apply to any group home facility:

(1) For purposes of density limits in section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, and occupancy limits, eight occupants, not including staff, in any group home facility constitute one dwelling unit, but the city manager may increase the occupancy of a group home facility to ten occupants, not including staff, if:

(A) The floor area ratio for the facility complies with standards of the Colorado State Departments of Public Health and Environment and Social Services and chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and

(B) Off-street parking is appropriate to the use and needs of the facility and the number of vehicles used by its occupants, regardless of whether it complies with other off-street parking requirements of this chapter.

(2) In order to prevent the potential creation of an institutional setting by concentration of group homes in a neighborhood, no group home facility may locate within three hundred feet of another group home facility, but the city manager may permit two such facilities to be located closer than three hundred feet apart if they are separated by a physical barrier, including, without limitation, an arterial collector, a commercial district, or a topographic feature that avoids the need for dispersal. The planning department will maintain a map showing the locations of all group home facilities in the City.

(3) No person shall make a group home facility available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. A determination that a person poses a direct threat to the health or safety of others or a risk of substantial physical damage to property must be based on a history of overt acts or current conduct of that individual and must not be based on general assumptions or fears about a class of disabled persons.

(4) Group home uses allowed in the BMS district shall not be located on the ground floor facing a street, with the exception of minimum necessary ground level access, otherwise by use review only.

...

1 (f) Residential Care, Custodial Care, and Congregate Care Facilities: The following criteria
2 apply to any residential care facility, custodial care facility, or congregate care facility:

3 (1) For purposes of density limits in section 9-7-1, "Schedule of Form and Bulk Standards,"
4 B.R.C. 1981, and occupancy limits, six occupants, including staff, in any custodial,
5 residential or congregate care facility constitute one dwelling unit, but the city manager
6 may increase the occupancy of a residential care facility to eight occupants, including
7 staff, if:

8 (A) The floor area ratio for the facility complies with standards of the Colorado State
9 Departments of Health and Social Services and chapter 10-2, "Property Maintenance
10 Code," B.R.C. 1981; and

11 (B) Off-street parking is appropriate to the use and needs of the facility and the number of
12 vehicles used by its occupants, regardless of whether it complies with other off-street
13 parking requirements of this chapter.

14 (2) In order to prevent the potential creation of an institutional setting by concentration of
15 custodial, residential or congregate care facilities in a neighborhood, no custodial,
16 residential or congregate care facility may locate within seven hundred fifty feet of
17 another custodial, residential or congregate care facility, but the approving agency may
18 permit two such facilities to be located closer than seven hundred fifty feet apart if they
19 are separated by a physical barrier, including, without limitation, an arterial collector, a
20 commercial district, or a topographic feature that avoids the need for dispersal. The
21 planning department will maintain a map showing the locations of all custodial,
22 residential or congregate care facilities in the City.

23 (3) Uses allowed in the BMS district shall not be located on the ground floor facing a street,
24 with the exception of minimum necessary ground level access~~must be located above or~~
25 ~~below the ground floor~~; otherwise by use review only.

26 ...
27 (j) Residential Development within the University Hill General Improvement District in the
28 BMS Zoning District: The following standards and criteria apply to any attached dwelling
29 units and efficiency living units within the University Hill General Improvement District in
30 the BMS zoning district:

31 (1) The units meet the requirements for permanently affordable units set forth in Chapter
32 9-13, "Inclusionary Housing," B.R.C. 1981, or

33 (2) All occupants of the units are 62 years of age or older and all requirements of the
34 federal Fair Housing Act, 42 U.S.C. §3601, et seq., as amended, and the Colorado

Housing Practices Act, §24-34-501, et seq., C.R.S., as amended, with respect to housing for older persons are complied with, and

(3) With the exception of minimum necessary ground level access, the use shall not be located on the ground floor facing a street, otherwise by use review only.

(4) Requirement for Efficiency Living Units: Where efficiency living units comprise twenty percent or more of the total number of units in the development, the use may only be approved pursuant to Section 9-2-15, "Use Review," B.R.C. 1981.

Section 5. Section 9-16-1, B.R.C. 1981, is amended to read:

9-16-1 General Definitions.

(a) The definitions contained in Chapter 1-2, "Definitions," B.R.C. 1981, apply to this title unless a term is defined differently in this chapter.

(b) Terms identified with the references shown below after the definition are limited to those specific sections or chapters of this title:

- (1) Airport influence zone (AIZ).
- (2) Floodplain regulations (Floodplain).
- (3) Historic preservation (Historic).
- (4) Inclusionary housing (Inclusionary Housing).
- (5) Residential growth management system (RGMS).
- (6) Solar access (Solar).
- (7) Wetlands Protection (Wetlands).
- (8) Signs (Signs).

(c) The following terms as used in this title have the following meanings unless the context clearly indicates otherwise:

...

Permanently affordable unit means a dwelling unit that is pledged to remain affordable forever to households earning no more than the income limits specified in this Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, ~~HUD low income limit for the Boulder Primary Metropolitan Statistical Area, or, for a development with two or more permanently affordable units, the average cost of such units to be at such low income limit, with no single unit exceeding ten percentage points more than the HUD low income limit, and the unit:~~

- (1) ~~The unit is~~ owner occupied;
- (2) Is owned or managed by the Housing Authority of the City of Boulder or its agents; or

1 (3) Is a rental unit in which the city has an interest through the Housing Authority of the
2 City of Boulder or a similar agency that is consistent with § 38-12-301, C.R.S., or that
3 is otherwise legally bound by rent restrictions consistent with §38-12-301, C.R.S., or
4 successor statutes.

5 Permanently affordable units shall be attained and secured through contractual arrangements,
6 restrictive covenants, resale and rental restrictions, subject to reasonable exceptions, including,
7 without limitation, subordination of such arrangements, covenants and restrictions to a
8 mortgagee, for both owner-occupied and rental units. No unit shall be considered a permanently
9 affordable unit until the location, construction methods, floor plan, fixtures, finish and the
10 cabinetry of the dwelling unit have been approved by the city manager. (Inclusionary Housing)

11 . . .

12 **Section 6.** This ordinance replaces Ordinance No. 7990 which temporarily suspended
13 accepting building permit and site review applications that would result in adding residential
14 floor area to those areas zoned BMS that are located in the general area described as the
15 University Hill Business District until March 18, 2015 at 8:00 a.m.

16 **Section 7.** The immediate passage of this ordinance is necessary for the preservation of
17 the public peace, health, or property. The council declares this to be an emergency measure due
18 to the need to prevent inappropriate development and to adopt zoning regulations prior to the
19 expiration of Ordinance No. 7990 that ensure implementation of and development consistent
20 with the Boulder Valley Comprehensive Plan and other polices of the City. Therefore, this
21 ordinance is hereby declared to be an emergency measure, and as such shall be in full force and
22 effect upon its passage.

23 **Section 8.** This ordinance is necessary to protect the public health, safety, and welfare of
24 the residents of the city, and covers matters of local concern.
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Section 9. 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 17th day of February, 2015.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, AND ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCIL MEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____, 2015.

Mayor

Attest:

City Clerk

Potential Strategies Analyzed

This section includes all the potential strategies that staff identified and analyzed to address the project findings. Some of the strategies involve city regulations; others would be new programs or financial incentives. Some can be combined with other strategies, or components of other strategies.

Use-Related Strategies

A. Residential Uses (Zoning Strategies)

A-1 Prohibit all new residential uses

This strategy addresses findings 1, 2 and 4a regarding the over-concentration of housing and current market dynamics. It would revise the BMS zoning district standards to list all residential uses as “prohibited” for the Uni Hill commercial district only. It would mean that all existing residential uses in the BMS zone in Uni Hill would become non-conforming uses. As described on page 13, existing residences would be subject to the city’s fairly flexible non-conforming use standards that allow expansion up to 10% of existing floor area. This strategy would likely change the current market condition and make office uses more attractive; however, it is also likely to affect property values in the short-term, which are currently based largely on the cash-flow assumptions related to the student rental market. If the market for office uses on the Hill changes over time, however, particularly for Class A office uses, property values might improve. Over time, future 2nd and 3rd story uses would add year-round diverse users on the Hill, such as office workers (an estimated 300-400 workers at “buildout”).

A-2 Prohibit new residential uses, except Permanently Affordable or Senior Housing

This strategy also addresses findings 1, 2, and 4a, and has similar benefits and impacts to Strategy A-1 above, but would allow permanently affordable or deed-restricted senior units within the BMS zone. Encouraging permanently affordable and senior housing units would be consistent with city policies to add more of these types of housing in the community, and would contribute to diversifying the residential mix of the Uni Hill commercial district. The strategy would similarly shift the current market dynamic that is driven by the economics of market-rate student rentals, but not prohibit housing all together as a use. This strategy would be accomplished by making residential uses conditional uses on the Hill, requiring staff level review to determine compliance with specific criteria, which would include deed restrictions on the units to ensure permanent affordability and/or occupancy by residents who are 62 years of age or older. While it may be unlikely that a senior-oriented housing development would occur in the near term, there have been recent trends in many university communities of housing that is marketed specifically to alumni who wish to live in close proximity to campus and its many cultural offerings. Development of permanently affordable housing, particularly if it is targeted to groups such as CU faculty and staff, may be more likely, but may require the active participation of the city and/or university in addition to private or nonprofit development partners.

A-3 Prohibit new residential uses, except on the 3rd floor if in conjunction with a use or “public benefit” that helps implement the Hill vision.

This strategy addresses findings 1, 2 and 4a, but to a lesser extent than Strategies A-1 and A-2. It would allow some market rate units on the third story which would have less financial impact on property owners than Strategies A-1 and A-2 by allowing some space for market-rate units. It could also incentivize more upkeep of buildings on the Hill if requirements to “improve the appearance” of buildings is added as a criterion of approval. While this strategy may afford property owners more flexibility, it conflicts somewhat with finding 2 as it would likely result in a high number of additional housing units – units which would likely be developed as student rental housing given the market demand. As EPS notes in their Development Scenarios analysis in Attachment B, it is “unlikely that a developer would build a program like this considering the high maintenance costs related with three different uses, the risk associated with having to lease three different uses within one small building, and the difficulty with attracting office users to a building with student housing within it.”

B. Office Uses

B-1 Create a density bonus for office uses.

City Council direction at the outset was that the moratorium project will not increase the allowed floor area ratio (FAR) above the current cap of 1.85 FAR within the Hill commercial district. Therefore, if a “bonus” for offices uses were created, a new lower base would need to be established, so that 1.85 FAR would remain as the maximum. This strategy addresses finding no. 1, as reducing the base FAR would limit the amount of future housing; however, it would more likely result in more student rental housing. Strategy A-3 would have about the same result, but would be regulated in a more straightforward manner without reducing the by-right FAR.

B-2 Create an overlay zone in the adjacent RH-5 residential zone to encourage office uses in existing residential structures.

Currently, office uses within the RH-5 zone require Planning Board approval of a use review application and are subject to a specific review criterion that discourages residential to non-residential conversions. Changing these requirements by, for instance, not requiring Planning Board review and creating an exception to allow conversions to office in the areas immediately adjacent to the commercial district may help encourage office uses in these locations. This strategy, if successful, would meet findings 2 and 3 to increase the potential for more offices near the Hill and increase use diversity as intended by the BVCP vision for the area. It is expected, however, that market conditions strongly favoring student residential would continue and the likelihood of such conversions would be low. Further, such a change would require significant public outreach and analysis to determine the boundaries; how to address impacts such as parking; and criteria for review and approval. The time invested may outweigh the results, and it may be a strategy to reserve for future consideration.

C. Parking

C-1 Promote public/private redevelopment of existing surface parking lots into projects that support the city's vision to achieve a greater diversity of uses and additional parking to make the Hill Commercial Area more attractive.

This strategy addresses multiple findings from the Phase One Report: 4a insufficient parking, 2 lack of office uses, and 4b lack of an anchor use. There are three surface parking lots in the Hill commercial district: two owned by UHGID and one owned by the University of Colorado. The redevelopment potential of the lots provide excellent opportunities either as a stand-alone parcel or in combination with adjacent properties create excellent opportunities for achieving desired uses and placing parking underground. The sites can also accommodate infrastructure that support other modes of transportation such as car and bike share. The urban design character of the Hill is improved by adding active ground floor uses and a critical mass of commercial activity. The large site areas provide an opportunity to include office and/ or other anchor uses that achieve the Hill vision. A challenge of such projects is the cost of underground parking. UHGID lacks the fiscal capacity to finance underground parking on its own. The small size of the district limits its revenue generation and bonding capacity. Partnerships with other entities and/or other strategies would be needed to financially implement this approach.

Financial Incentives

D. Explore tax policies to encourage and facilitate development of projects that address desired uses that are difficult to attract or that provide a public benefit and implement the Hill vision.

This could include a catalytic anchor use, office uses, public infrastructure and balanced multi-modal options including parking. The tax policies could include allocation of some portion of taxes (sales, construction use, or property) from Hill projects to cover a "gap" in project financing or to invest in Hill public infrastructure; instituting a Public Improvement Fee to Hill sales tax; creating other redevelopment or revitalization district concepts such as Downtown Development Authority, Community Development Corporation and/or business improvement district.

This strategy could address findings 1, 3, and 4, by seeking to attract desired uses, including potentially office uses, and breaking down various barriers to expanding the diversity of uses on the Hill. Consideration of these policies would need to be integrated into the Hill Reinvestment Strategy priority to explore sustainable, long term governance and funding for the Hill. A pilot approach could be incorporated into some of the policies, or they could be time-limited.

E. Consider National Register Historic District designation, for portions of the Hill that are potentially eligible, allowing eligible properties to take advantage of up to 50% income tax credits.

This strategy addresses finding 4 e, federal and state income tax credits for rehabilitation can be used for everything from routine maintenance to major interior and/or exterior rehabilitation, and could provide the needed financial incentive for property owners to rehabilitate their buildings and improve the appearance of the area. Additionally, it could be a way to highlight and celebrate the rich history of the Hill, which could make the area more meaningful to new students and residents. It could promote heritage tourism. In conjunction with other strategies, it could also address finding 4c. It would require significant public outreach and education about the benefits and responsibilities associated with historic district designation, but National Register designation can be particularly attractive to property owners given its largely honorary and does not restrict property changes unless they are in association with the tax credits.

Programs

F. Have the city take a lead role in working with the university and property owners in attracting one or more ‘anchor’ uses to the Hill Commercial District with the potential in turn to attract a greater diversity of uses and customers to the area.

This strategy directly addresses three out of the four findings. Pursuing an anchor office, retail or hotel use has the potential to attract additional and more diverse users to the district to help achieve the vision for vibrant, year-round commercial activity. It would address the EPS finding that one or more anchors (and parking) are needed to attract the desired mix of uses and users to the district. A revitalized district would benefit the existing businesses and property owners. The fiscal impact to the city would depend on what strategy is used to attract the anchor uses. If an anchor retail use is attracted, it could reduce trips traveled by neighboring residents to meet their shopping, dining and entertainment uses. Positive social impacts would include a greater diversity of customers and visitors to the district.

G. Continue to explore the creation of Innovation/Creative District. Build on the essential, innate qualities of the Hill including creativity, youthfulness, and energy, and expand it to foster creativity in the broadest sense for a diversity of users.

This strategy addresses findings 3 and 4 e. An innovation or creative district could stimulate the office market and bring in new users, re-define the district’s image and ties to CU as being rooted in innovation, or potentially revitalize interest in the history and function of the Hill as an entertainment district. Depending on the district’s focus, it could also help to address findings 1, 2, and 4c. Bringing in new uses, be they cultural or economic in focus, would help balance out the high concentration of student housing that already exists and could help attract additional office space. Additionally, an innovation district could directly address the finding that the area lacks a strong anchor attraction and is limited by the market perception of being just for students.

H. Explore the creation of a Façade Improvement Program.

A façade improvement program could achieve numerous goals for the Hill such as enhancing tenant attraction capabilities, addressing the run-down appearance of numerous buildings and supporting historic district designation. The program could be of the foundation for a Hill district development authority, Main Street program, or community development corporation to promote long term Hill revitalization and investment. The program could include incentives such as low interest loans, rebates, funding for design assistance or other subsidies to encourage property investment and enhance the historic character of the Hill. Tying the façade improvement program to National Register Historic District designation could provide an added incentive to property owners to support the creation of an historic district.