



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 3, 2015

AGENDA TITLE

Council decision and direction on items related to the University Hill Commercial District Moratorium Project, including:

1. Second reading and consideration of a motion to adopt Emergency 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 (Business Main Street) zoning district and correct BMS zone standards, and setting forth related details.
2. Direction to staff about strategies to consider further as part of the on-going Hill Reinvestment Strategy and the Community Planning and Sustainability Work Plan.

PRESENTER/S

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

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

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Ruth McHeyser, University Hill Moratorium Project Manager

EXECUTIVE SUMMARY

The purpose of this agenda item is to review the final materials related to the University Hill Commercial District Moratorium Project and provide direction on:

- 1) A proposed ordinance to limit new residential uses in the University Hill commercial district in the BMS zoning district and correct BMS zone standards; and
- 2) Which recommended strategies to move forward on as part of the on-going University Hill Reinvestment Strategy and the Community Planning and Sustainability Work Plan outlined below.

The proposed ordinance and strategies were developed 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 implement 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.

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.
- Among the current barriers to attracting office and other diverse uses are: the current market that favors student rental housing over other uses; insufficient public parking; lack of anchor uses; and lack of office “comps” for financing.

Staff analyzed potential strategies to address these and other project findings (see **Attachment B**). In addition to the ordinance in **Attachment A**, staff recommends moving forward on strategies that would encourage the addition of diverse users to the Hill. In the near term, these could 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 continuing to explore 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 local and/ or National Register historic district designation for the commercial district to celebrate the area’s history and sense of place and provide financial incentives for rehabilitation. Exploration of a façade improvement program would be done in conjunction with this process.
4. Preparing options for Council consideration at a later date with analysis of tax policies and/or other public investment strategies that would encourage and facilitate implementation of the Hill vision. This could include facilitating recommendations 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 C at the end of this memo. If directed to move forward with these strategies, staff will provide an update and more information on the approaches to implementing them at the May 26, 2015, council study session on the Hill Reinvestment Strategy Work Plan.

STAFF RECOMMENDATION

Suggested Motion Language:

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

1. Motion to adopt Emergency 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.
2. Motion to direct staff to move forward on the following strategies as part of the Hill Reinvestment Strategy and the CP&S Work Plan:
 - a. Have the city take a lead role in working with the university and property owners to attract 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.
 - b. Address concerns about lack of public parking and improve multimodal access on the Hill by moving forward on several items as described in Analysis Section C, including continuing to explore public/ private partnerships to redevelop existing surface parking lots with desired uses and add more parking in the district.
 - c. 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 rehabilitation tax credits. In conjunction with this, explore creation of a façade improvement program.
 - d. Prepare options for later council direction regarding tax policies and other public investment strategies that encourage and facilitate implementation of the Hill vision.

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. Additional resources will be needed for the exploration and implementation of the some of the proposed strategies as outlined in Analysis Section B. If Council directs staff to move forward on the recommended strategies, specific cost estimates will be developed and discussed with Council in more detail at the May 26 Study Session on

the Hill Reinvestment Strategy Work Plan. Specific to local and/ or National Register historic district designation, staff anticipates that it would cost \$20,000 to hire a consultant to resurvey the properties and prepare the nomination.

- Staff time – Implementing the BMS zoning code changes is part of the CP&S on-going work plan. The proposed strategies (historic district designation, and exploration of anchor uses, public/private partnerships and tax policies or other public investments) would be integrated into the work plans of the appropriate city staff, both CP&S and DUHMD/PS.

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 and agreed that public education and outreach would be an important part of the process. 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.

Planning Board

On February 5, 2015, Planning Board discussed the proposed ordinance, held a public hearing, and unanimously approved the following motion:

Planning Board recommends to City Council the adoption of the proposed 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 J. Putnam, seconded by C. Gray, approved 7-0).

The Board expressed appreciation for correcting the BMS errors related to first floor retail and Site Review threshold. The Board had previously described these as issues that needed to be resolved.

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.

UHCAMC

On February 11, 2015, the University Hill Commercial Area Management Commission (UHCAMC) held a public hearing and discussed moratorium project. Although the commission supported the proposed strategies and general direction of the staff recommendations, they felt that the zoning change should restrict all new housing on the Hill.

The Commission approved the following motions:

Given the current saturation of residential uses in the commercial area, and consistent with the goals and vision to add diverse uses on the Hill, UHCAMC recommends use Strategy A-1 [prohibiting any new residential uses in the BMS zoning district on the Hill]. Moved by D. Soifer, seconded by J. Raj, approved 4-0 (H. Griffith absent)

UHCAMC supports the other staff-recommended near-term and long-term strategies related to the Commercial district. Moved by C. Liguri, seconded by A. Rubino, approved 4-0 (H. Griffith absent).

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

Background on the Moratorium Project can be found in the February 17, 2015, 1st reading memo on Ordinance No. 8020 and at the [project website](#).

ANALYSIS

A. Responses to First Reading Questions

On February 17, 2015, City Council introduced the 1st reading ordinance as an emergency measure. Following are Council questions posed on HOTLINE and staff responses:

1. **Q:** The EPS economic analysis shows that *under current conditions including land and rent prices*, commercial redevelopment of the Hill is uneconomic. While UHGID provided parking would improve the feasibility somewhat, commercial redevelopment still is a losing proposition under current conditions, and so we cannot expect it to occur until conditions change.

This does not mean that commercial development will continue to be uneconomic in the future, correct?

A: *Correct. The purpose of the four strategies recommended in addition to the BMS zoning change is to counteract (or break down) the current “barriers” to office development under current conditions (see Finding # 4 in Attachment B). If the city is successful in implementing these strategies, it should change the economic conditions such that office development will be more economically feasible. In a recent email in response to this question, EPS stated that “an all of the above [staff-recommended strategies] approach is needed to improve the demand for market for office uses, but parking is a major component of that.” It should also be noted that there might be properties on the Hill for which office development is economically feasible today. EPS did not test all scenarios, but rather what they determined to be “typical” conditions, and they noted that conditions vary significantly on the Hill.*

2. **Q:** Certain tax credits or other incentives would be available to property owners if the Hill were designated as a Historic District. But such incentives were not mentioned in conjunction with EPS economic analysis. Would such tax credits and other incentives make commercial development financially feasible in the near term?

A: *Possibly. Although the preservation tax credits are significant (up to 50% of rehab costs, with Federal and State tax credits combined), it is difficult to say for certain, since each property and ownership situation is different. The EPS Jan 16, 2015 report states that, “the use of the income tax credits for rehabbing properties could be a tool used to reduce development feasibility gaps... [but are] difficult to include with a feasibility model because of the link to an individual state income tax return. However, EPS estimates that the use of the Federal tax credits for costs associated with the renovation of the existing building within the Building and Parcel Addition office scenario would reduce total project costs by 7.5 to 8.0 percent....” (page 21). As an example of how this might work, the scenario to which this quote refers is summarized in Table 6 on page 15 of the EPS Jan 16 report. It shows the difference between the development value and cost of the addition and renovation as -9%. Assuming EPS’ estimate of reducing total costs by 7.5 – 8% using Federal tax credits, it is possible that if a property owner were also able to use up to 30% in State tax credits, it might make enough of a difference to make that scenario feasible. It should be noted that starting this year, State income tax credits can be sold or transferred, which make them more valuable than they have ever been.*

3. **Q:** Whatever comes next on the hill seems to hinge critically on getting the parking element right. I understand that this is being worked on as part of the Access Management and Parking Strategy (AMPS). But, to make a decision on this ordinance, I would like to know:
- What is the current number of public parking spaces (University Hill General Improvement District (UHGID) lots + on-street and University lot)? *There are a total of 307 public parking spaces on the Hill (122 in the two UHGID lots, 33 in the CU owned lot, and 152 on-street metered spaces.*
 - What is estimated number to meet the current (or perceived) need given the current use pattern? *See range, depending on use mix, described below.*
 - How many underground spaces would be needed in addition to the current (or perceived) need if any of the housing and/or commercial strategies were to go forward? *The current thinking is that all spaces in the current UHGID lots will be placed into structured parking (including a portion underground) as part of a public/ private sector redevelopment partnership as described in more detail below.*
 - Are estimates of projected parking needs taking into consideration how the companies that might move to the hill would use their office space (i.e. the 250 sq ft/person standard is falling rapidly)? *See second paragraph description below.*
 - Is it physically, economically and socially feasible to provide all of the necessary parking spaces? *Once the potential future uses are determined,*

a more fine-grained access analysis will be conducted for the hill commercial district. This analysis will explore multi-modal solutions – transit, biking, pedestrian and automobile access. This approach is in line with the guiding principles of the AMPS project underway which focus on access by all modes, customization of tools by area, supporting a diversity of people and cultivating partnerships. The end result will be a total package of solutions including all modes and a clearer understanding of the capacity of the area to physically absorb additional parking. Economically, the first approach will be cost-effective access solutions with the greatest impact, such as a hill employee Ecopass program. An Ecopass feasibility survey of the 92 Hill employers was completed in February 2015 that determined the 351 full-time non-student employees on the Hill was sufficient to pursue a master contract with RTD if desired. Also understanding the financial capacity of UHGID to provide additional parking will be analyzed. Socially, the goal would be to ensure access to a wider diversity of uses and users than currently exist to ensure the district's long term economic, social and economic sustainability.

A: *Staff is recommending that a public/private partnership that would result in the addition of public parking and appropriate above-ground uses be explored further in the next phase. The EPS analysis revealed that having sufficient parking is important if we want to attract office and non-student retail uses that are a critical component to adding diverse users to the Hill. As a next step, staff proposes a parking utilization study and updates to previous studies about future demand as described below.*

As a parking district the University Hill General Improvement District (UHGID) regularly anticipates the future district development to ensure it is prepared to address access demand in the coming decades. UHGID needs to project potential district uses (retail, office, residential, etc.) because each use has a different access/parking demand. In early 2013, DUHMD/PS hired RRC associates to estimate future development patterns based on the build out potential within the district by the year 2025. Since we could not be certain of these future development patterns, RRC created different scenarios – one in which there was a higher level of commercial use (Scenario A) and the other more residential uses (Scenario B). Based on those projections, Fox Tuttle developed future access demand including the number of parking spaces that would be needed based on current assumptions. These assumptions include: a 20% share of modes other than single occupant vehicles reducing parking demand; residential demand at 1.5 spaces per dwelling unit and 2 spaces per 1,000 square feet. Under current zoning, any residential development would be required to provide onsite parking; this demand is the not responsibility of UHGID.

Given these assumptions used in 2013 under the existing zoning, the scenario with the higher commercial focus, Scenario A, would have a new commercial parking demand, including a reduction of access demand through other modes of transportation, of 416 spaces; the scenario with the higher residential focus, Scenario B, would be 338 spaces. Scenario A with the higher commercial use does includes 168 dwelling units representing 150,000 square feet. Should the new zoning take effect on the Hill limiting future residential uses, the UHGID access demand projections would be higher and need to be re-calibrated to represent greater commercial use.

The options for addressing this access demand include increasing multi-modal options to reduce parking demand, redeveloping the two UHGID parking lots adding underground parking, and seeking partnerships with private and public entities, including CU's parking lot at Broadway and Pennsylvania, for additional managed parking. A feasibility study is currently being conducted to understand the potential for an employee Eco Pass program, similar to the one in downtown; the results will be available at the beginning of March 2015.

4. **Q:** I would like to better understand the facade improvement program.
- Could it go forward before a National Historic District designation
 - If yes, how quickly could we move forward?
 - Would it apply only to contributing buildings?
 - If it would apply to non-contributing buildings, what set of criteria would apply?
 - The memo mentioned low-interest loans and rebates, who would facilitate/provide these?

A: *If council direction is to work on this strategy further, staff will provide answers to these and other questions as part of the May 26, 2015 Study Session on the Hill Reinvestment Strategy. In the coming months, staff will look at what other communities around the country with these types of programs have done and what has worked and hasn't worked well for them.*

5. **Q:** The memo reads as though the senior housing would not fall under the affordable housing category. Is this correct?

A: *Yes, that is correct.*

6. **Q:** What is the thinking on moving forward with the Harbeck House?

A: *The Harbeck House is located at 1206 Euclid, outside of the Uni Hill commercial district and therefore was not considered as part of the moratorium project. The suggestion from Planning Board to consider non-profit uses there was passed along to the Parks and Recreation Department staff, who provided background information about the restrictions and potential options for the property in Attachment C. In short, because the property was purchased with permanent parks funds, any proceeds from the disposition of the property must be returned to the same fund and expenditures can only be made upon the favorable recommendation of the PRAB for appropriation by City Council. Options regarding future use or disposition of the property will be discussed with PRAB during the March meeting of the Board.*

7. **Q:** Is there any work being done on the Arts District ideas as part of the Community Cultural Plan? If yes, what? Could we expedite ideas?

A: *The staff recommendation to is consider an innovation district as a longer term strategy once the four strategies listed in the staff recommendation are underway. However, staff has already begun discussions with the university on the important role that they could play in exploring the innovative district*

concept. It may be slightly different from an Arts District. Matt Chasansky, the city's Arts Coordinator is on the Hill staff planning team and is involved in the discussions surrounding the potential of an innovation/arts/creative district.

8. **Q:** The memo states: "The potential demand from area residents that are non-students is not sizeable enough to drive retail demand on the Hill." This statement raises the following question: Could we tap in to faculty and staff more aggressively with uses targeted at them?

A: *If successful, the four strategies recommended in addition to the BMS zoning change that are intended to counteract (or break down) the current "barriers" to attracting a diversity of uses will also provide the types of uses that would be attractive to faculty and staff.? At the request of the University Hill Commercial Area Management Commission, City staff collaborated with the University Hill Neighborhood Association to draft a retail preference study to identify the types of commercial uses that would encourage non-student residents on the Hill to frequent the Hill Commercial Area. The results of the survey will be distributed to Hill property owners and brokers as a reference in their tenant attraction efforts. The City also contracted in December 2014 with the consulting firm RRC Associates to establish baseline stakeholder perceptions of the Hill at the start of the Hill Reinvestment Strategy (HRS). The baseline measurements include satisfaction with the retail mix on the Hill and what, if any, improvements would encourage more frequent visits to the Hill Commercial Area. The same questions, among others, will be asked of the stakeholders periodically throughout the two-year duration of the HRS. The stakeholders will include representatives from CU.*

9. **Q:** On page 67 of the memo, Richard Florida's claims are driving policy. His claims have been credited with increasing inequality in the cities that have heeded to them. See <http://interventionseconomiques.revues.org/489> Would it be possible to cite more rigorous work to support his claims?

A: *The reference to Florida's description of Creative Class was meant to point out that quality of life plays an important role in where businesses choose to locate. This is relevant in this location because, although there is a perception that the Hill is not a good professional environment, there are in fact many positive aspects to being in a college-oriented area such as the Hill that could attract business to the area.*

10. **Q:** The memo makes reference to recommendations being contrary to Boulder Valley Comprehensive Plan (BVCP) Policy 1.19. Has staff considered a holistic view of commercial space in the city to balance this out?

A: *In past major updates to the BVCP, land use changes have been made to add housing in appropriate locations to address this issue in the type of holistic fashion you suggest. One such change just east of the CU campus, along the 28th Street frontage road, eventually resulted in the re-development of the area and added more than 500 housing units within walking distance of the campus, next to the underpass that connects to the university. This is 5 times the number of units that could theoretically be added to the Hill commercial district.*

As has been noted previously, because the subject area is a commercial district, the long term vision is an area that is primarily for commercial uses, with a small amount of housing included (especially given the small size of the district and the abundance of nearby housing). Because it is located in one of the most transit-rich locations in the region and is adjacent to a significant amount of housing, people who work here have a high potential to arrive by bus, bike, or foot.

B. Proposed Ordinance No. 8030

Staff recommends adoption of Ordinance No. 8030, as it:

- does not exacerbate the current over-concentration of student rental housing on the Hill;
- could remove an imbalance that discourages other more diverse land uses like offices to locate on the Hill; and
- 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.

The ordinance is being considered as an emergency measure in order to put the new regulations into effect prior to the expiration of the moratorium on March 18, 2015. Non-emergency ordinances do not go into full effect until 30 days after council adoption. Emergency ordinances go into effect upon a vote of council and can only be approved if two-third of the council vote for adoption.

It should also be noted that another ordinance on the March 3 agenda (i.e., Ordinance No. 8028 to limit height modifications) includes a proposal to amend the same land use code section 9-2-14(c), B.R.C. 1981 as this Ordinance No. 8030 relative to Site Review modifications. Passage of one ordinance before the other will slightly affect the final wording. Staff will update the ordinances accordingly to make sure that the adopted language will work for both amendments.

C. Recommended Strategies

In order to address the project findings described in the 1st reading memo and included in **Attachment B**, in addition to the BMS zoning changes, staff is seeking Council's direction on whether to move forward on the recommended strategies below. If so directed, these items would be incorporated into the Hill Revitalization Strategy and Community Planning and Sustainability Work Plans, and staff would return to Council at the May 26, 2015, study session on the Hill Reinvestment Strategy with more information.

Near Term Actions

1. **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.
2. **Move forward on several fronts to improve multimodal access and address concerns about lack of public parking on the Hill** as part of the Uni Hill Reinvestment Strategy Work Plan and the city's Access Management and Parking Strategy (AMPS).
 - 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. An Eco Pass study for the commercial district is underway.
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). In conjunction with this, explore creation of a façade improvement program.

4. **Prepare options and analysis for later Council consideration related to tax policies and public investment strategies to encourage and facilitate implementation of 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. Several of these concepts have already been used within the city. For example, tax increment financing for Crossroads Mall and the public parking garage portion of the St. Julien Hotel redevelopment, and the downtown 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.

Preliminary Suggested Approaches to Implementing Near Term Strategies

At the May 26 Study Session on the Hill Reinvestment Strategy Work Plan, staff will outline the suggested approaches for implementing the above recommended strategies. Preliminarily, staff has identified approaches as outlined below.

Strategies # 1-3:

For the first three strategies above, staff recommends a coordinated approach since the strategies are interrelated: anchor uses, public private partnerships and potential use of tax policies and other investment strategies. Staff is in discussion with CU about convening a professionally facilitated year-long Hill stakeholder task force to explore the feasibility and opportunities to diversify uses and engage partnerships with the longer term view of implementing these and other revitalization strategies on the Hill. Staff envisions the stakeholder group would include CU representatives, city staff, Hill businesses and property owners and representatives from the technology, creative, business and redevelopment/real estate sectors.

Resources required would include funding for the facilitator, the economic consultant and eventually a contract with the redevelopment and/or tenant recruitment professional. Staff will provide more information and detail about this concept at the May 26 Study Session on the Hill Reinvestment Strategy work program.

Strategy # 4:

Exploration of National Register and local historic district designation will include working with stakeholders, including property owners, business owners, neighbors and university students to share information about the area’s history, explain the difference between local and national designation, including the benefits and responsibilities of each. The intent at this time is to explore both levels of designation through input with

stakeholders while simultaneously confirming the area's National Register eligibility through the Colorado Office of Archaeology and Historic Preservation.

Staff has established an internal working group consisting of staff from historic preservation and the Hill Reinvestment Strategy team to coordinate and design a process for exploring historic district designation and other possible related incentives such as a façade improvement program. Staff considers that the logical path would be to proceed with exploration of National Register of Historic Places district designation and, if appropriate, discussion of local historic district designation in the University Hill commercial area. This would include, at a minimum, the steps outlined below. Staff estimates that this exploration process would take approximately a year to complete.

National Register Historic District Designation

National Register Historic District nominations are submitted to the State Office of Archeology and Historic Preservation (OAHP) for review by the State Review Committee and ultimately approved or denied by the Keeper of the National Register of Historic Places in Washington, DC. An important first step is to get an official determination of eligibility from the OAHP. If the proposed district is found to be eligible, staff would organize at least one neighborhood meeting to discuss the benefits and responsibilities of designation, including state and federal tax credits, explain the difference between local and national listing, and answer questions. If there is support from property owners to pursue National Register designation, the city would hire a consultant to resurvey the area and prepare the nomination. During this process, staff would organize public meetings to share information about the history and answer questions. The city would submit the nomination to OAHP at the end of 2015. OAHP sends notification to all owners and certified local officials and includes instructions to express support or objection to the nomination. A majority of owners must object for the nomination to not go forward.

Depending on when a National Register nomination was submitted the OAHP staff, the consultants and interested property owners would attend one of the twice yearly State Review Board meetings. If exploration of a district was to commence in March 2015, we anticipate that a nomination could be submitted for review by the State Review Board in June of 2016. Properties recommended for listing by the Review Board are forwarded to the Keeper of the National Register for its consideration. If the district is listed in the National Register, the OAHP sends notification of the designation including a letter, official listing, certificate, plaque information and press release information. A community event would be organized to celebrate the new designation and the district would be recognized during Historic Preservation Month.

Local Historic District Designation

Section 9-11-3 B.R.C., 1981 describes the detailed process for local historic district designation. An application must be submitted by the city, a recognized historic preservation organization, or more than 25% of the affected property

owners. Following verification of a local district application, staff would organize a preliminary meeting with the property owners to share information about the benefits and responsibilities of designation and answer questions. Subsequently, the Landmarks Board would hold an initiation hearing (within 45 days of the application date). If the Landmarks Board finds that the application meets the designation criteria in Section 9-11-3(d), the board would vote to proceed with the application by adopting a resolution and staff would organize neighborhood meetings to meet with property owners to further explain the implications of local district designation. Such discussions would include whether design guidelines are appropriate to address unique or special conditions in the proposed district. If so, they would be developed with input from stakeholders and be reviewed by the Landmarks Board and City Council as part of the designation process. At least 28 days prior to the designation hearing, a questionnaire and the proposed design guidelines would be mailed to property owners. The questionnaire would be anonymous and allow a property owner to indicate support, objection, or no opinion on the proposed district. Results of the questionnaire would be included in the public record, but would not necessarily dictate whether the district designation would be recommended. Based upon information presented at the Landmarks Board hearing, the board would determine whether the proposed district conforms with the applicable criteria and forward the application to Planning Board and City Council with a recommendation to designate the area, or not. The Planning Board would provide input on the designation's potential land use implications. Within 100 days of the Landmarks Board hearing, the City Council would be required to hold a designation hearing to approve, approve with modification, or deny an ordinance designating the district. Final notification is mailed to property owners, including a copy of the design guidelines (if applicable). A community event would be organized to celebrate the new designation and the district would be recognized during Historic Preservation Month.

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	Moratorium Project Findings
Attachment C	Harbeck House background and next steps

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

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<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
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	<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 	
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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
3 of this title.
- 4 (2) Conditional Uses: A "C" in a cell indicates that the use type will be reviewed in
5 accordance with the procedures established in Section 9-2-2, "Administrative Review
6 Procedures," B.R.C. 1981. Conditional use applications shall also meet the additional
7 standards set forth in Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use
8 Standards," or other sections of this title.
- 9 (3) Use Review Uses: A "U" in a cell indicates that the use type will be reviewed in
10 accordance with the procedures established in Section 9-2-15, "Use Review," B.R.C.
11 1981. Use review applications shall also meet the additional standards set forth in
12 Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards."
- 13 (4) Ground Floor Restricted Uses: A "G" in a cell indicates that the use type is permitted by
14 right in the respective zoning district, so long as it is not located on the ground floor
15 facing a street, with the exception of minimum necessary ground level access, it is
16 located above or below the ground floor, otherwise by use review only.
- 17 (5) Residential Restricted Uses - M: An "M" in a cell indicates the use is permitted,
18 provided at least fifty percent of the floor area is for residential use and the
19 nonresidential use is less than seven thousand square feet per building, otherwise by use
20 review only.
- 21 (6) Residential Restricted Uses - N: An "N" in a cell indicates the use is permitted,
22 provided at least fifty percent of the floor area is for nonresidential use, otherwise by
23 use review only.
- 24 (7) Prohibited Uses: An asterisk symbol ("*") in a cell indicates that the use type is
25 prohibited in the zoning district.
- (8) Additional Regulations: There may be additional regulations that are applicable to a
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
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
specified.
- (9) n/a: Not applicable; more specific use applications apply.
- (b) Interpretation: The city manager may decide questions of interpretation as to which category
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
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.
- (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.
- (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>	n/a	G	n/a																								
4																												
5																												
6	<u>Attached dwelling units and efficiency living units in the University Hill general improvement district</u>	n/a	C	n/a	9-6-3(j)																							
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	*
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	C	*	9-6-3(h)
7																												
8																												
9	...																											

- 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 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.
- 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.

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

2 **9-6-3 Specific Use Standards - Residential Uses.**

3 . . .

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

5 (1) For purposes of density limits in section 9-8-1, "Schedule of Intensity Standards," B.R.C.
6 1981, and occupancy limits, eight occupants, not including staff, in any group home
7 facility constitute one dwelling unit, but the city manager may increase the occupancy of
8 a group home facility to ten occupants, not including staff, if:

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

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

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

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

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

24 . . .

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

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

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

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

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

9 **9-16-1 General Definitions.**

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

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

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

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

24 . . .

25 *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 policies 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.
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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 3rd day of March, 2015.

Mayor

Attest:

City Clerk

The findings of the University Hill Commercial District Moratorium Project are that:

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.

To: Ruth McHeyser, Planning Department

From: Jeff Dillon, Interim Director, Parks and Recreation
Yvette Bowden, Deputy Director, Parks and Recreation

Date: February 20, 2015

Subject: **Harbeck-Bergheim Property (1206 Euclid Avenue – Lots 1- 7, Block 13)**

The following is a summary of the information that was prepared in January 2014 for a proposed City Council Information Item on this topic. We will be discussing the future of the Harbeck-Bergheim House with the Parks and Recreation Advisory Board at the March 23, 2015 business meeting.

Purchase Intent and Property Description

- The Harbeck-Bergheim property was purchased in 1989 for \$82,500 using *Permanent Parks Funds*.
- The house was purchased to, "...provide a cultural center for encouragement of nature study and interpretation, conservation, gardening and related activities...: as well as "various recreation classes."
- A January 2005 appraisal valued the property at between \$3-3.2M. An updated appraisal was completed in 2013 valuing the house at \$2.6M. Approximately \$500,000 in maintenance and upkeep expenses for the property has been completed by the City of Boulder over the last several years.

Zoning and Landmark Designation

- In 1980, the Harbeck-Bergheim House was awarded a local landmark designation (Boulder Historic Places, State ID# 5BL620).
- The Harbeck-Bergheim property is zoned Residential – Low 1(RL-1), the current designation of the former Low Density Residential- Established (LR-E) zoning district. This zoning designation is primarily used for established detached residential development at low residential densities. As such, permitted uses in RL-1 zoning districts include:
 - Detached dwelling units;
 - Daycare, home;
 - Public elementary, junior, and senior high schools;
 - Public colleges and universities;
 - Religious assemblies;
 - Parks and recreation uses;
 - Crop production; and
 - Accessory buildings and uses.

Current Use

- In 1985, the Boulder Historical Society (the Society) entered into a five year \$0 annual lease with three extensions) agreement for the use of the site for the Boulder Museum (MOB). In December 2004, a lease renewal was approved.
- The lease required the Society to provide a classroom/meeting space to the department and also to provide some historically oriented recreation classes as a sub contractor to the department.
- The city has been contacted by local non-profit agencies regarding opportunities to lease the property when it is vacated by the Society.
- The current use of the Harbeck-Bergheim House as a museum is nonconforming. This status will expire if discontinued for a year without first receiving approval to extend the status (any extension required prior to the one year period).
 - Per Planning Department analysis, nonconforming uses are allowed to continue and may be substituted with other nonconforming uses subject to the provisions of 9-10-2 B.R.C. 1981(http://www.colocode.com/boulder2/chapter9-10.htm#section9_10_2). Changes or expansions to existing nonconforming uses may be possible through the Nonconforming Use Review process of 9-2-15 B.R.C. 1981(http://www.colocode.com/boulder2/chapter9-2.htm#section9_2_15).

Considerations and Next Steps

- Based on the City Charter (B.R.C. 161), any proceeds from the disposition of the property must be returned to the same fund and expenditures can only be made upon the favorable recommendation of the PRAB for appropriation by City Council.
- Per Permanent Parks Fund restrictions, potential sale of the Harbeck-Bergheim House (required at market value), could generate onetime revenue potentially used to partially fund capital project(s) consistent with the department's master plan such as, but not limited to:
 - implementation of Phase 2 of Valmont City Park,
 - development of undeveloped neighborhood parks,
 - making upgrades to aging park infrastructure at existing parks,
 - making improvements to existing athletic fields and implementing multiple ADA compliance upgrades throughout the city.
- Options regarding future use or disposition of the property will be discussed with PRAB during the March meeting of the Board.