



COUNCIL AGENDA ITEM ERRATA SHEET
MEETING DATE: December 1, 2015

TO: City Council
FROM: Planning, Housing & Sustainability
DATE: November 30, 2015

AGENDA
ITEM: 5A

Attached please find an amended memo for Agenda Item 5A the Second reading and consideration of a motion to adopt Ordinance No. 8093 rezoning a 0.8 acre portion of property located at 385 Broadway. We apologize for any inconvenience from this late submittal. The following changes are provided:

- 1) Pages 2 & 3 (Packet pages 196 & 197) – active hyperlinks inserted
- 2) Pages 143-145 (Packet pages 337-339) – Correspondence added



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 1, 2015

AGENDA TITLE

Consideration of the following items:

1. Second reading and consideration of a motion to adopt Ordinance No. 8093 rezoning a 0.8 acre portion of property located at 385 Broadway, from Residential - Low 1 to Business -Transitional 2, consistent with the Boulder Valley Comprehensive Plan land use designation of Transitional Business.
2. Second reading and consideration of a motion to adopt Ordinance No. 8094 amending Sections 9-2-14, "Site Review," and 9-9-2, "General Provisions," B.R.C. 1981, to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a low density residential district with neighboring land uses.

PRESENTER/S

Jane S. Brautigam, City Manager

David Driskell, Executive Director of Planning, Housing & Sustainability

Susan Richstone, Deputy Director of Planning, Housing & Sustainability

Charles Ferro, Development Review Manager

Elaine McLaughlin, Senior Planner

EXECUTIVE SUMMARY

The City Council is asked to consider Ordinance No. 8093 (**Attachment A**) for a request from the property owner to rezone a 0.80 acre portion of the property located at 385 South Broadway from Residential - Low 1 (RL-1) to Business – Transitional 2 (BT-2). The City Council is also asked to consider Ordinance No.8094 amending Sections 9-2-14, "Site Review," and 9-9-2, "General Provisions," B.R.C. 1981, to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a low density residential district with neighboring land uses. The code change is intended to clarify what can and cannot be built within the 25 foot buffer area that is the area proposed to remain as Low Density Residential on the west and north portion of the site. The code change also implements the intent behind the creation of parcels with more than one land use that are established for an appropriate transition between existing residential neighborhoods and future neighboring land uses that have a greater intensity of use. On Nov. 17, 2015, City Council approved the first reading of both

Ordinance No. 8093 and Ordinance No. 8094 by consent. There were two questions from City Council provided to staff at the time of the memo preparation. These issues are addressed under “Analysis.”

On Sept. 17, 2015, the Planning Board unanimously recommended that City Council deny the application to rezone and, therefore, not adopt the ordinance. Planning Board’s findings of fact recommending denial of the application can be found in **Attachment F**.

BACKGROUND

BVCP Land Use Map Change. The rezoning request follows a 2008 approval of a Land Use Map change from Low Density Residential to Transitional Business requested by the property owner during the BVCP Mid-term review. The property owner at the time indicated that because the site had been developed with a non-conforming medical office building since 1956, a Land Use Map change would bring the property into conformance. In 2008, the proposal was heard by the Planning Board but continued with direction to staff to develop alternative land use scenarios that would help to address concern raised by neighbors to the north and west. Staff subsequently met with neighbors on two occasions and had several phone and email conversations to review land use alternatives. The April 17, 2008 staff memo to Planning Board included a letter signed by 26 neighbors who indicated support for the Land Use Map change for the 0.80 acre portion of the site only to Transitional Business, with a 25-foot area on the north and west of the property retained on the map as Low Density Residential, to create a “buffer” to the neighborhood. According to the staff memo, the neighbors supported the change but with two concerns: preventing access from Bluebell Avenue and protection of the residence at 2290 Bluebell Ave., which is adjacent to the west side of the subject property.

City Council then adopted Ordinance 7662 for the Land Use Map change for just the 0.80 acre portion of the property to Transitional Business. A link to the Feb. 21, 2008 staff memo and minutes of the initial hearing are found [here](#). A link to the staff memo and minutes of the continuation hearing of March 3, 2008 is found [here](#) and the staff memo and minutes of a subsequent continuation hearing of April 17, 2008 is found [here](#).

Planning Board Consideration of Rezoning. On Aug. 27, 2015, the Planning Board considered a rezoning to be inconsistent with the BVCP Land Use Map, and the related ordinance to amend the Land Use Code. A link to the staff memo of the Aug. 27, 2015 Planning Board hearing is found at the following link: [PB 8.27.2015](#). The draft ordinance to rezone is found in **Attachment A** and the draft ordinance to amend sections of the Boulder Revised Code is found in **Attachment B**. In the rezoning application, the applicant indicated a desire to redevelop the property as 16 townhomes although no plans were submitted nor required to be submitted for the rezoning. After public notification, staff received a number of letters from neighbors including a representative for the National Institutes of Standards (NIST) who indicated concerns about increased density and the viability of the existing access through the NIST property. While there was no indication a plan to extinguish the access easement from NIST, subsequent letters from residential neighbors indicated concerns about the potential for access to the property through the neighborhood.

Staff recommended approval of the rezoning to the Planning Board indicating the application met the criteria for a rezoning of Land Use Code section 9-2-18(e), B.R.C. 1981. At the Aug. 27, 2015 hearing, the Planning Board did not agree with staff's findings and instead voted unanimously (7-0) to direct staff to prepare findings for denial of the request to rezone the property and voted to deny amendments to portions of the Land Use Code that would address the 25-foot buffer area.

Subsequently, on Sept. 17, 2015 the Planning Board voted unanimously (7-0) that the applicant failed to demonstrate that application no. LUR2015-00047 meets the requirements of the Boulder Revised Code and recommended that City Council deny the application. The board recommended City Council adopt the Sept. 17, 2015 Planning Board staff memorandum and its Attachment A as findings of fact and conclusions of law. The Planning Board memo of Sept. 17, 2015 with findings for denial is found at the following link: [PB 9.17.2015](#). Planning Board's findings of fact recommending denial of the proposed rezoning application can be found in **Attachment F**.

Key Issue Identification

1. Rezoning: Is the request to rezone a 0.80 acre portion of the property at 385 South Broadway consistent with review criteria for rezoning?
2. Code Change: Does the proposed code change implement the Boulder Valley Comprehensive Plan?

STAFF RECOMMENDATION

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

Motion to:

1. Second reading and consideration of a motion to adopt Ordinance No. 8093 rezoning a 0.8 acre portion of property located at 385 Broadway, from Residential - Low 1 to Business - Transitional 2, consistent with the Boulder Valley Comprehensive Plan land use designation of Transitional Business.
2. Second reading and consideration of a motion to adopt Ordinance No. 8094 amending Sections 9-2-14, "Site Review," and 9-9-2, "General Provisions," B.R.C. 1981, to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a low density residential district with neighboring land uses.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Economic - Implementation of the BVCP Land Use Map will permit business transitional uses that have occurred on the site since the late 1950s. The proposed rezoning would allow for on-going sales tax generating land uses on the site.
- Environmental: Consistent with the BVCP, the rezoning will allow for the potential for uses that can serve, or be compatible with, the surrounding residential uses located west of the site in walkable distance, as has occurred on the site since the late 1950s.

- Social: The rezoning would permit the potential continued use of the site for business transition uses and/or permit redevelopment of the site for by-right residential uses adjacent to existing residential uses.

OTHER IMPACTS

- Fiscal: City services are existing and available to this site.
- Staff time: The applicant has submitted the required rezoning application fee to cover staff review time of this application for a rezoning.

BOARD AND COMMISSION FEEDBACK

Rezoning actions are subject to county referral and city Planning Board recommendation prior to City Council action. The Planning Board hearing was held on Aug. 27, 2015 and concluded with a motion by **L. May** that was seconded by **C. Gray** to recommend to City Council to deny (7-0) the request for a zoning change (pending staff to draft findings for consideration at a later date and to continue this discussion at a future Planning Board meeting). Further, on a motion by **L. May**, seconded by **J. Putnam** the Planning Board voted (7-0) to continue the Planning Board hearing to September 17, 2015 for staff to develop the findings for denial toward the prior motion. Further, at the continuation of the public hearing at the Planning Board of Sept. 17, 2015, the Planning Board voted unanimously on a motion by **J. Putnam**, seconded by **C. Gray**, that the applicant failed to demonstrate that application no. LUR2015-00047 meets the requirements of the Boulder Revised Code, and recommended that City Council deny the application, and adopt the findings dated Sept. 17, 2015 with the Attachment A as findings of fact and conclusions of law.

Regarding the draft ordinance to amend sections of the Boulder Revised Code, the Planning Board voted unanimously (**L. May** moved, seconded by **C. Gray**) to recommend to City Council to not adopt the ordinance amending sections 9-2-14, "Site Review," and 9-9-2, "General Provisions," B.R.C. 1981 attached herein, to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a low density residential district with neighboring land uses, and setting forth related details; and incorporating this staff memorandum as findings of fact.

PUBLIC FEEDBACK

Required public notice for the rezoning was given in the form of written notification mailed to all property owners within 600 feet of the subject site and a sign posted on the property for at least 10 days. In addition, in response to public comments received, additional public notification was given to property owners within 1,000 feet of the subject site as a meeting notice for the Planning Board hearing of Aug. 27, 2015; along with a public notification of the City Council meeting dates for the first and second readings of the proposed ordinance to rezone and the proposed ordinance for Land Use Code changes. All notice requirements of subsection 9-4-3(d), B.R.C. 1981 have been met.

Staff received a number of comments from members of the public via email and US Mail regarding this application along with a letter signed by 23 neighbors, residents of the “Community of Lower Bluebell” who provided addresses and signatures on the letter. The neighbors indicated their concerns about the property redeveloping upon rezoning to build “*multi-family/high density student rental housing which would be comprised of 16 townhomes with 4 bedrooms each (potentially 64 residents).*” Regarding the concerns articulated however, the applicant did not provide information that indicated student rental housing would be constructed. Among the neighbors concerns were those related to parking (and an indication from the property owners that they would request a parking reduction), light pollution, poorly maintained buffer zone, construction staging, pedestrian access, fire and life safety access, and solar access. Many of the letters indicated concerns about access to the site through the neighborhood. At the request of some of the neighbors, staff responded to specific questions and comments and noted that if redevelopment of the property in the future requires a parking reduction that a Site Review application with approval by Planning Board would be required. The emails and letters are provided in **Attachment C**. Since the Planning Board hearing of Aug. 27, 2015, staff received additional letters most of which were sent directly to the City Council.

At the Planning Board hearing on Aug. 27, 2015, there were 21 members of the public who spoke, including one person who pooled their time with two others in attendance. Of the 21 who spoke, 20 indicated opposition to the proposed rezoning primarily citing concerns about the potential for redevelopment of the site into townhome units (potentially as student rentals) with access to the site potentially relocated from the current access easement with NIST to Bluebell Avenue. Concerns expressed were that an increase in traffic through the neighborhood via Baseline Avenue to 22nd Street to Bluebell Avenue would create safety, security, and other impacts on the existing quiet residential neighborhood. Some commentors also indicated concerns that the original land use change was represented by the property owner at that time as a means to improve and expand the existing medical and dental offices on the property. However, the rezoning application indicates an intent to redevelop the property as 16 townhome units, but does not provide any further information or plans.

ANALYSIS

Rezoning: The applicant requests to rezone an 0.80 acre portion of the property at 385 Broadway from Residential – Low 1 (RL-1) to Business – Transitional 2 (BT-2) consistent with the Boulder Valley Comprehensive Land Use designation of Transitional Business.

The property was originally developed as an office building in 1957 and has functioned as a non-conforming commercial use in the Residential – Low 1 (RL-1) zoning district, making the existing commercial building difficult to expand, improve, or redevelop. In order to request a business zoning designation, the underlying BVCP land use designation first needed to be changed. As part of the 2008 Mid-Term review of the Boulder Valley Comprehensive Plan (BVCP), Ordinance 7662 was adopted by City Council which included approval of a request by the property owner of 385 South Broadway for a BVCP land use designation change for an 0.80 acre site from Low Density Residential to Transitional Business. At that time, a series of public hearings and neighborhood meetings concluded with a modification to

the original request to change the entire property from a land use of Low Density Residential to Transitional Business to a request to change only a portion of the property to Transitional Business with a portion of the site to remain Low Density Residential. More specifically, a 25-foot wide area on the north and west side of the property was left Low Density Residential. Shown in Figure 1 is the adopted Land Use Map for the site.

As reflected in the minutes from the public hearings, the intent in maintaining a 25-foot wide area of Low Density Residential land use on the property was to “provide a buffer to the adjacent low density Residential Neighborhood.”

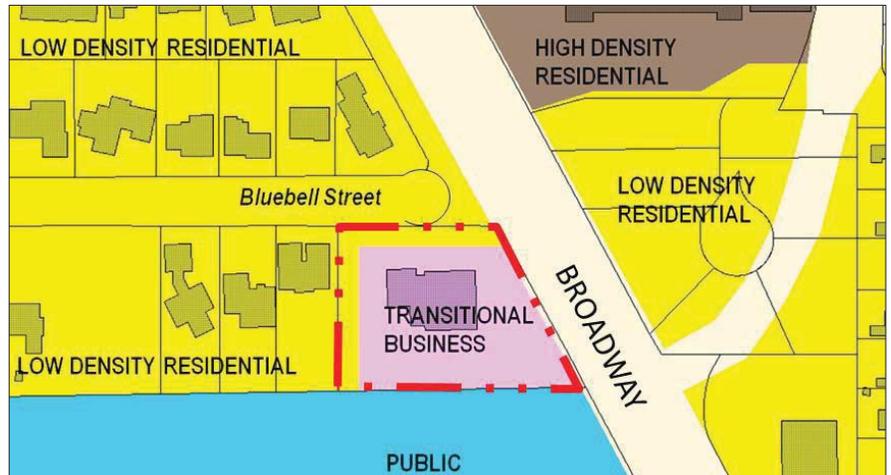


Figure 1: Boulder Valley Comprehensive Plan Land Use

Below is an excerpt from the April 17, 2008 staff memo.

Originally, the property owner requested a land use map change from low density residential to transitional business for the entire property. An alternate land use map change was proposed in the February hearing which would split the land use designation on the lot, leaving the low density residential designation on the west and north sides of the lot in order to provide a buffer to the adjacent low density residential neighborhood. The objective of creating a buffer from the surrounding residential is to reduce the impacts caused by expansion of the non-residential use including vehicles, noise, traffic as well as the visual impacts and to provide a more appropriate transition between the uses.

Change to Portions of the Land Use Code. To implement the intent of the 25-foot buffer, and to implement BVCP policies 2.13, *Protection of Residential Neighborhoods Adjacent to Non-residential Zones*, and 2.15, *Compatibility of Adjacent Land Uses*, an ordinance (see **Attachment B**) amending Sections 9-2-14, “Site Review,” and 9-9-2(d) “Zoning Standards for Lots in Two or More Zoning Districts,” B.R.C. 1981 is proposed for consideration simultaneously to the rezoning ordinance. This is discussed under “Key Issue: Code Change.”

Existing Site and Surroundings. As shown in the photos in Figures 2 and 3 on the following page, the one acre site is located on Broadway and currently has a medical and dental office building with a surrounding parking lot. To the south of the site is the campus of the federal agency, the National Institutes of Standards (NIST); to the west and south is singlefamily residential; to the east is Broadway, the Creekside Apartments; and an RTD Park and Ride; along with the Flatirons Medical/Dental Offices to the southeast. Further to the northeast is Basemar Shopping Center. The existing building on the property, shown in Figure 3, has been used as medical offices since 1957, and has been a non-conforming use since its construction.



Figure 2: Aerial Photo of Site and Context



Figure 3: Existing Site Looking Northwest

Review Process. Per Land Use Code subsection 9-2-18(d), “Hearing,” B.R.C. 1981, “*the planning board shall hear a request for rezoning at a public hearing and shall make a recommendation for approval or denial to the city council. After considering the planning board’s recommendation, the city council shall make the final determination on a request for rezoning at a public hearing.*” A draft rezoning ordinance is provided in **Attachment A**. Figure 4 shows the BVCP Land Use Map.

The applicant’s written statement (provided in **Attachment D**) indicates the intent to redevelop the site as townhomes, a use permitted by right in Business Transitional (BT) zoning districts. The one-acre size of the site does not meet the threshold for mandatory Site Review in the BT zones of two acres. However, if the townhome development is larger than 30,000 square feet, a mandatory Concept Plan and Site Review would be required. Similarly, a request for a residential parking reduction would also trigger a Site Review process.

As a part of the rezoning, staff has prepared an ordinance amending sections 9-2-14, “Site Review,” and 9-9-2, “General Provisions,” B.R.C. 1981, to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a low density residential district with neighboring land uses. The code change is intended to clarify what can and cannot be built within the 25 foot buffer area that is the Low Density Residential area on the west and north portion of the site. The code change also implements the intent behind the creation of parcels with more than one land use that are established for an appropriate transition between existing residential neighborhoods and future neighboring land uses that have a greater intensity of use.

BVCP Land Use. As shown in Figure 4, the Boulder Valley Comprehensive Plan land use designation for the site is Transitional Business, defined on page 68 of the BVCP:

“The Transitional Business designation is shown along certain major streets. These are areas usually zoned for less intensive business uses than in the General Business areas, and they often provide a transition to residential areas.”

In 2008, as part of the mid-term review of the BVCP, the property owner was granted a land use designation map change from Low Density Residential to Transitional Business because the medical and dental office building on the property had been a non-conforming use since it was constructed in the 1950s and had also received two variances, one for expansion in 1964, and one for an expansion of uses in 1973.

Existing Zoning. As shown on Figure 5, Zoning Map, the current zoning is Residential–Low 1 defined within the land use code section 9-5-2, “Zoning Districts,” B.R.C. 1981 as, “Single-family detached residential dwelling units at low to very low residential densities.”

Requested Zoning. As shown on Figure 6 Proposed Zoning, on the following page, the applicant is proposing Business - Transitional 2 (BT-2) zoning, as shown in the map on the following page, which is defined in the section 9-5-2, “Zoning Districts,” B.R.C. 1981,

“Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.”

Note that under the Transitional Business Land Use, the two compatible zoning districts are BT-1 and BT-2. An overview of the distinctions between the two is provided in Table 1.

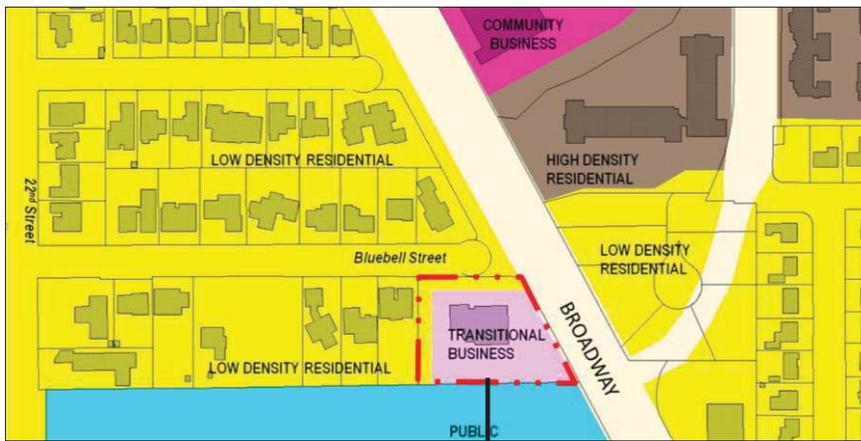


Figure 4: BVCP Land Use Map



Figure 5: Existing Zoning



Figure 6: Proposed Zoning

	Business - Transitional 1	Business - Transitional 2
PURPOSE	<i>“Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.”</i>	<i>SAME</i>
RES. USE	Detached and Attached Dwelling Units, and Townhomes are by-right	<i>SAME</i>
INTENSITY	1,200 square feet of open space per dwelling unit	1,600 square feet minimum lot area per dwelling unit maximum 27.2 dwelling units per acre.
MAXIMUM FLOOR AREA RATIO (FAR)	No maximum	0.5 FAR MAXIMUM
PARKING	1 for 1- or 2-bedroom dwelling unit 1.5 for 3-bedroom dwelling unit 2 for a 3-bedroom dwelling unit 2 for a 4 or more bedroom dwelling unit	<i>SAME</i>

Figure 7 illustrates the precise location of the rezoning within the property, and illustrateshow a 25-foot wide “buffer” of Residential - Low 1 (RL-1) wouldremain.



First Reading Question from Council: Density. A question was posed by the City Council just prior to the first reading of the ordinance that questioned whether the BT-2 zoning district may restrict density more than BT-1 zoning. Following is a response to that question. Note that under either BT-1 or BT-2 rezoning of the 0.8 acre area of the site, the density for the site cannot be calculated using any part of the area zoned as Residential - Low 1 (RL-1). Also note that the two zoning districts could generally produce the same number of dwelling units given that there are a number of variables for calculating density in both zoning districts including:

- open space
- setback requirements (larger for BT-2)
- size of units and
- parking (at grade versus below grade)

The maximum build out in either zoning district may be most dependent on whether parking is above or below grade. For example, under a BT-2 density, the maximum build out on the site is limited to 0.5 FAR or 17,680 square feet of floor area. Therefore, in this case, the maximum density (with a unit size assumption) would be as follows:

- $35,361 \text{ square feet} \times 0.5 \text{ FAR} = 17,680 \text{ square feet of floor area}$
- Assumption: average unit size + hallway access = 1,200 square feet = $17,680/1,200 = 14 \text{ dwelling units}$
- This would be the case whether or not parking is above or below grade because there is an FAR maximum that permits only 50 percent of the lot area (excluding LR area) to be floor area.
- If units were built below grade, they don't count as floor area. However, below grade units would likely be less marketable, and would also likely be built within the same overall foundation and footprint. Therefore, seven additional units could be built in this scenario for a total of 21 units.

Under the BT-1 zoning, there is no maximum FAR. Therefore, if parking were placed entirely below grade, the maximum density could be calculated over the entire 35,361 square foot lot area minus the area covered by the building. Therefore, if the remaining area not covered by a building is designed to be useable open space then the following maximum scenario could result:

- Assume that $\frac{1}{4}$ of the site is occupied by building footprint (this would produce the most open space opportunity) = $35,361 \times 0.25 = 8,840 \text{ sf}$
- Assume three stories by-right with 8,840 sf on each level
- Assume that the average unit size + hallway access is 1,200 square feet
- $8,840/1,200 \text{ sf} = 7 \text{ units per level} \times 3 \text{ levels} = 21 \text{ units}$

Note that under both examples above, elements such as staircases or other circulation are not factored in, and therefore, the maximum build out could be less for both. Also, under both scenarios, where parking is placed above ground, it is likely that the BT-1 zoning district is more restrictive because surface parking or drive aisles can't be counted toward open space. In conclusion, the two densities are similar, however BT-2 has an FAR maximum and has greater setback requirements, however, it also has an allowance that below grade floor area doesn't count toward density.

First Reading Question from Council: NIST Easement. Another question was received during the first reading consideration from a City Council member: “*Is the access easement from Broadway to the site permanent?*”

A copy of the Access Easement is provided in **Attachment E** and it states the following in paragraph 6:

The easement is granted subject to the following conditions and provisions:

That all right, title, interest and estate hereby granted shall cease and terminate effective as of the date of written notice from the Government [United States] to the grantee, its successors or assigns that there has been (a) an unreasonable failure to comply with the terms and conditions of this grant, or (b) a nonuse of the easement or a consecutive two-year period for the purpose for which granted, or, (c) an abandonment of the easement.

Paragraph 7 provides that,

"Should the Government at any time determine that the continued maintenance and operation of the easement, or any portion thereof, as then located, constitutes an undue interference with any of the Governments activities, Grantee agrees to negotiation in good faith with the Government to eliminated such interference."

In conclusion, it appears that there are three manners in which the easement can be terminated: unreasonable failure to comply with the easement terms, non-use, or abandonment. If use of the easement interferes with government activities, the grantee is bound to negotiate to eliminate such interference. Therefore, the burden by the easement is owned by the federal government who has eminent domain powers.

Hotline Question from Council: Land Use Designation. Additional questions received after the first reading consideration from a City Council member:

"1. Putting aside the understanding of how we got to where we are on the site with respect to the current land use designation and proposed compliant rezoning, if the parcel were vacant (as it would be after demolition of the current building), would Transitional Business remain the most logical land use designation?"

While a different land use was not analyzed during the rezoning application, nor have we analyzed if staff would have seen things differently if the parcel were vacant, staff notes that the comprehensive plan does support Transitional Business in a context such as this:

"The Transitional Business designation is shown along certain major streets. These are areas usually zoned for less intensive business uses than in the General Business areas, and they often provide a transition to residential areas."

The site is located along Broadway, a major street and the site would provide a transition from NIST and Broadway to the adjacent single family residential neighborhood . In addition, if the applicant were to ultimately build townhomes on the site, the comprehensive plan also supports both infill development as well as higher

density residential along major transit corridors such as Broadway. It's also important to note that there may be other land uses that could be appropriate in this location, however, that was not part of the analysis for the request to change the land use in 2008 nor part of the current rezoning analysis.

2. If not, why did staff not recommend a land use map change?

The staff analysis of why the land use map change was recommended along with minutes of the hearings in which the change was approved by City Council in 2008 are all provided in weblinks on page 2 of this memo.

3. If not, what BVCP land use designation(s) would be more appropriate?

An analysis of what other land use designation would be more appropriate was not a part of the current rezoning analysis, as the land use was already in place since the 2008 BVCP update. This request is to bring the zoning of the property into conformance with Transitional Business land use that was placed on the property in 2008.

KEY ISSUE 1: Is the rezoning request consistent with required review criteria for rezoning?
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The review criteria for rezoning property are found in subsection 9-2-18(e), "Criteria," B.R.C. 1981. Following is the review criteria checklist with analysis of the proposed rezoning to the review criteria:

"The city's zoning is the result of a detailed and comprehensive appraisal of the city's present and future land use allocation needs. In order to establish and maintain sound, stable, and desirable development within the city, rezoning of land is to be discouraged and allowed only under the limited circumstances herein described. Therefore, the city council shall grant a rezoning application only if the proposed rezoning is consistent with the policies and goals of the Boulder Valley Comprehensive Plan"

Staff finds the most relevant and most directly applicable BVCP goal for this rezoning request to be the BVCP land use map that is a sketch plan of the desired land use pattern, in this case designating the site for the Transitional Business Land Use – which the zoning implements by assigning each parcel a zoning district. The proposed rezoning would align the BVCP land use map and the zoning, which is currently inconsistent.

In addition, the 25-foot wide area of Low Density Residential land use to remain as RL-1 zoning on the site is intended to fulfill BVCP policy 2.13 "Protection of Residential Neighborhoods Adjacent to Non-Residential Zones" and BVCP Policy 2.15, "Compatibility of Adjacent Land Uses."

"For an application not incidental to a general revision of the zoning map, meets one of the following criteria:"

— ***"The applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map;"***

In the applicant's written statement it was noted,

“we are requesting rezoning the TB Land Use portion of the site to BT-2 zoning from the current RL-1 zoning. Doing so will bring the property into compliance with requirements of the Boulder Valley Comprehensive Plan Land Use Map.”

n/a ***“The existing zoning of the land was the result of a clerical error;”***

This review criterion is not applicable.

n/a ***“The existing zoning of the land was based on a mistake of fact;”***

Not applicable, the existing zoning was not based on a mistake of fact.

n/a ***“The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;”***

Not applicable, the existing zoning did not fail to take into account the constraints on development created by natural characteristics of the land.

n/a ***“The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area; or”***

Not applicable, the land or surrounding environs have not changed to a degree that it is in the public interest to encourage a redevelopment or to recognize the changed character of the area.

n/a ***“The proposed rezoning is necessary in order to provide land for a community need that was not anticipated at the time of adoption of the Boulder Valley Comprehensive Plan.”***

Not applicable, the rezoning is not necessary to provide land for a community need that was not anticipated at the time of the adoption of the BVCP.

KEY ISSUE 2: Is the code change consistent with the Boulder Valley Comprehensive Plan?

The land use code change proposed is intended to set forth standards for split zoned properties when one of the zoning districts is low density residential. It is intended to specifically address the comprehensive plan policies related to compatibility and protection of residential neighborhoods adjacent to non-residential zones. Those policies are as follows.

2.13 Protection of Residential Neighborhoods Adjacent to Non-residential Zones
The city and county will take appropriate actions to ensure that the character and livability of established residential neighborhoods will not be undermined by spill-

over impacts from adjacent regional or community business zones or by incremental expansion of business activities into residential areas. The city and county will protect residential neighborhoods from intrusion of non-residential uses by protecting edges and regulating the impacts of these uses on neighborhoods.

2.15 Compatibility of Adjacent Land Uses

To avoid or minimize noise and visual conflicts between adjacent land uses that vary widely in use, intensity or other characteristics, the city will use tools such as interface zones, transitional areas, site and building design and cascading gradients of density in the design of subareas and zoning districts. With redevelopment, the transitional area should be within the zone of more intense use.

Specific to the proposed rezoning at 385 Broadway, the 2008 land use designation change for just an 0.80 acre portion of the property from Low Density Residential to Transitional Business was intended to create a 25-foot “buffer” area on the north and west side of the property. As noted, this was intended to ensure an “appropriate transition between the existing low density residential neighborhood and more intense uses allowed on the rezoned portion of the property.”

To implement the intent of the 25-foot buffer of Low Density Residential Land Use, and to implement BVCP policies 2.13, and 2.15, the code change ordinance is being considered simultaneous to the rezoning ordinance to ensure that any structures, parking and other site improvements, other than landscaping and fences, have a setback that is the greater of the two zoning districts and not less than 25 feet from the property line. The ordinance allows for modifications of this standard if the proposed development is consistent with the use, form and intensity standards of the low density zoning district or if the project meets the site review criteria.

The proposed BT-2 zoning district on the 0.8 acre portion of property will permit a variety of transitional business uses consistent with the existing use that has occupied the site for approximately 60 years along with consistency with the BVCP land use designation. The proposed ordinance to amend sections of the land use code is intended to implement the BVCP by providing standards for split zoned properties that include low density residential zoning that ensure compatibility between low density residential land use and other uses.

Approved By:

Jane S. Brautigam
City Manager

ATTACHMENTS:

- A: Proposed rezoning Ordinance No. 8093
- B: Proposed Ordinance No. 8094 to amend code sections
- C: Correspondence received
- D: Applicant's written statement
- E: NIST Access Easement
- F: Planning Board's Findings of Fact for Denial

ORDINANCE NO. 8093

AN ORDINANCE REZONING AN 0.8 ACRE PORTION OF LAND GENERALLY LOCATED AT 385 BROADWAY FROM THE RESIDENTIAL – LOW 1 (RL-1) TO THE BUSINESS – TRANSITIONAL 2 (BT-2) ZONING DISTRICT AS DESCRIBED IN CHAPTER 9-5, “MODULAR ZONE SYSTEM,” B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO FINDS:

A. An application has been filed with the City of Boulder seeking rezoning of an 0.8 acre portion of land that is a portion of a parcel generally located at 385 Broadway and more particularly described on Exhibit A attached to this ordinance (the “Property”) from Residential – Low 1 (RL-1) to Business – Transitional 2 (BT-2).

B. A public hearing before the Planning Board of the City of Boulder was duly held on August 27, 2015, in consideration of said rezoning request for the Property.

C. The Planning Board recommended that the City Council deny the request to amend the zoning district map to include an 0.8 acre portion of the Property in the Business - Transitional 2 (BT-2) zoning district as provided in Chapter 9-5, “Modular Zone System,” B.R.C. 1981.

D. The City Council finds that the rezoning of the Property from Residential – Low 1 (RL-1) to Business - Transitional 2 (BT-2) is consistent with the policies and goals of the Boulder Valley Comprehensive Plan and is consistent with Land Use Code criteria Section 9-2-18(e)(1), B.R.C. “the applicant demonstrates by clear and convincing evidence that the proposed

1 rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan
2 map.”

3
4 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
5 COLORADO:

6 Section 1. Chapter 9-5, “Modular Zone System,” B.R.C. 1981, and the zoning district
7 map forming a part thereof are amended to include the Property within the Business -
8 Transitional 2 (BT-2) zoning district.

9
10 Section 2. The City Council finds that the rezoning of the Property from Residential –
11 Low 1 (RL-1) to Business - Transitional 2 (BT-2) is consistent with the policies and goals of the
12 Boulder Valley Comprehensive Plan, is necessary to bring the Property into compliance with the
13 Boulder Valley Comprehensive Plan map, and meets the criteria for rezoning as provided in
14 Chapter 9-2, “Review Processes,” B.R.C. 1981. The City Council adopts the recitals as a part of
15 this ordinance.

16
17 Section 3. The City Council has jurisdiction and legal authority to rezone the Property.

18 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of
19 the residents of the city, and covers matters of local concern. The rezoning of the Property bears
20 a substantial relation to, and will enhance the general welfare of, the Property and of the
21 residents of the City of Boulder.

22
23 Section 5. The City Council deems it appropriate that this ordinance be published by title
24 only and orders that copies of this ordinance be made available in the office of the city clerk for
25 public inspection and acquisition.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 17th day of November, 2015.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 1st day of December, 2015.

Mayor

Attest:

City Clerk

EXHIBIT A

PART OF LOTS 26, 27, & 28 SOUTH OAK PARK
LOCATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

FOR PURPOSES OF REZONING A PORTION OF LOTS 26, 27, AND 28 OF SOUTH OAK PARK, REC. NO. 90593794 DATED 5/22/1957, LOCATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE NORTH LINE OF LOTS 26, 27, AND 28 OF SAID SOUTH OAK PARK TO BEAR NORTH 89°48'30" EAST, A DISTANCE OF 179.03 FEET BETWEEN A FOUND #5 REBAR WITH 1 1/2" ALUMINUM CAP STAMPED "FLATIRONS SURV 16406" AND A FOUND #5 REBAR WITH 1 1/2" ALUMINUM CAP STAMPED "FLATIRONS SURV 16406", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 28; THENCE SOUTH 28°27'30" EAST ALONG THE EAST LINE OF SAID LOT 28, A DISTANCE OF 28.38 FEET TO A POINT ON SAID EAST LINE AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 28°27'30" EAST, A DISTANCE OF 214.16 FEET TO THE SOUTHEAST CORNER OF SAID LOT 28; THENCE SOUTH 88°27'16" WEST ALONG THE SOUTH LINE OF SAID LOTS 26, 27, AND 28, A DISTANCE OF 255.42 FEET TO A POINT ON SAID SOUTH LINE OF LOT 26; THENCE NORTH 00°13'25" WEST ALONG A LINE 25 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 26, A DISTANCE OF 169.66 FEET; THENCE NORTH 89°48'30" EAST ALONG A LINE PARALLEL WITH AND 25 FEET SOUTH OF SAID NORTH LINE, A DISTANCE OF 167.46 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINING 35,361 SQ.FT. OR 0.8 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.



JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS, INC.

FSI JOB NO. 15-64,763

JOB NUMBER: 15-64,763
DRAWN BY: W. BECKETT
DATE: AUGUST 11, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics

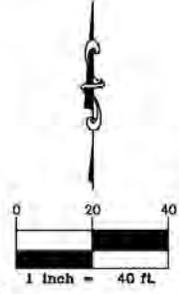
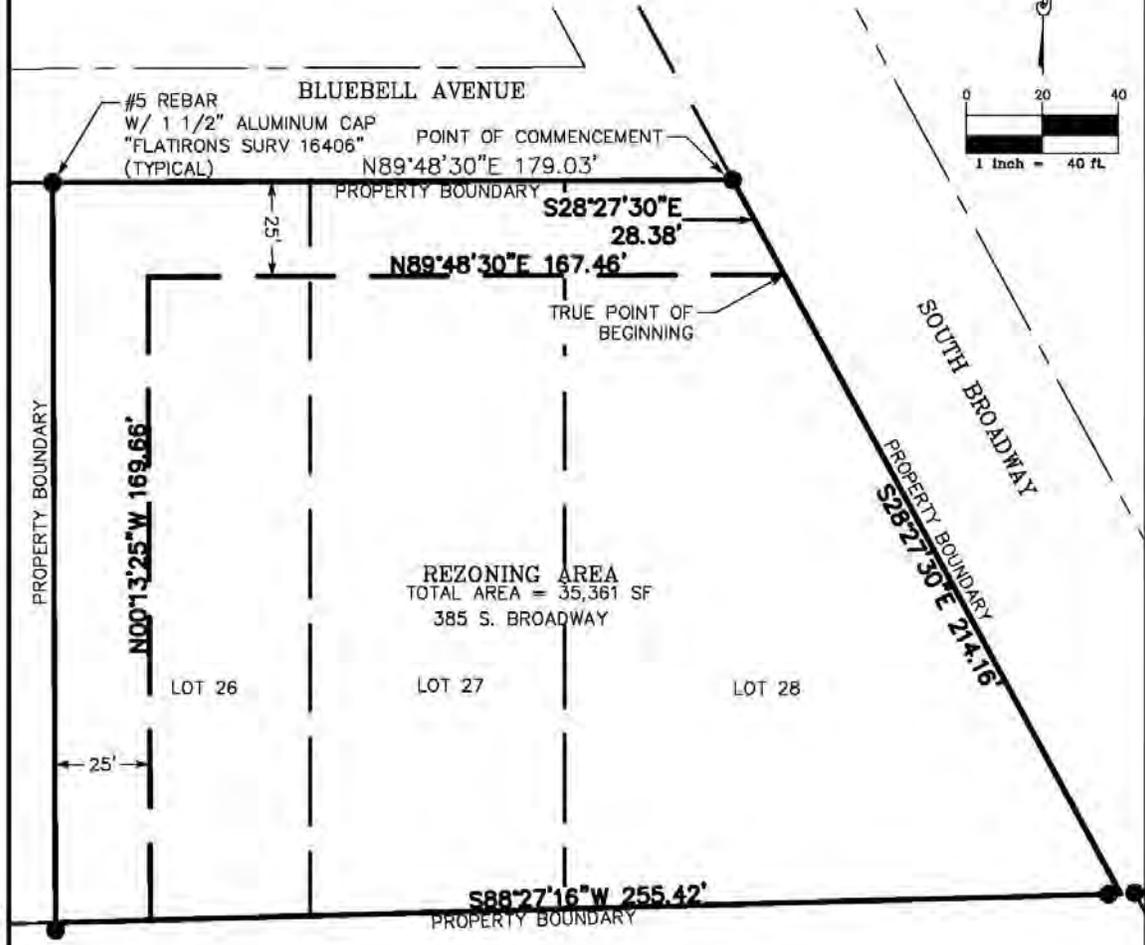


3825 IRIS AVE, STE 395
 BOULDER, CO 80301
 PH: (303) 443-7001
 FAX: (303) 443-9830
www.FlatironsInc.com

BY:SBEMINK FILE:164763-EXHIBIT.DWG DATE:8/11/2015 1:58 PM

EXHIBIT A

PART OF LOTS 26, 27, & 28, SOUTH OAK PARK
LOCATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO
SHEET 2 OF 2



BY:SPRINK FILE:164763-EXHIBIT.DWG DATE:8/11/2015 1:58 PM



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ORDINANCE NO. 8094

AN ORDINANCE AMENDING SECTIONS 9-2-14, "SITE REVIEW," B.R.C. 1981, AND 9-9-2 "GENERAL PROVISIONS," B.R.C. 1981, TO ENSURE REASONABLE COMPATIBILITY OF THE DEVELOPMENT OF LOTS AND PARCELS LOCATED IN MORE THAN ONE ZONING DISTRICT ONE OF WHICH IS A LOW DENSITY RESIDENTIAL DISTRICT WITH NEIGHBORING LAND USES, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-2-14. Site Review, B.R.C. 1981, is amended, and a new paragraph (c)(6) is added and subsequent paragraphs renumbered, to read:

9-2-14. - Site Review.

...

(b) Scope: The following development review thresholds apply to any development that is eligible or that otherwise may be required to complete the site review process:

(1) Development Review Thresholds:

(A) Minimum Thresholds for Voluntary Site Review: No person may apply for a site review application unless the project exceeds the thresholds for the "minimum size for site review" category set forth in Table 2-2 of this section or a height modification pursuant to Subsection (e) below on any lot is requested.

(B) Minimum Thresholds for Required Site Review: No person may apply for a subdivision or a building permit for a project that exceeds the thresholds for the "concept plan and site review required" category set forth in table 2-2 of this section until a site review has been completed.

...

(E) Height Modifications: A development which exceeds the permitted height requirements of Section 9-7-5, "Building Height," or 9-7-6, "Building Height, Conditional," B.R.C. 1981, is required to complete a site review and is not subject to the minimum threshold requirements. No standard other than height

1 may be modified under the site review unless the project is also eligible for
2 site review.

3 (F) New Development on Lots in Two or More Zoning Districts: A development
4 which does not meet the standards of Section 9-9-2(d)(2), "Development of
5 New Structures on Lots in Two or More Zoning Districts," B.R.C. 1981, is
6 required to complete a site review and is not subject to the minimum threshold
7 requirements. No standard other than Section 9-9-2(d)(2), B.R.C. 1981, may
8 be modified under the site review unless the project is also eligible for site
9 review.

10 ...

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

13 ...

14 (5) 9-9-2(b), "Maximum Permitted Buildings on a Lot."

15 (6) Standards for new structures and other new site improvements for lots and parcels
16 in two or more zoning districts one of which is a RE, RR, or RL zoning district to
17 the extent permitted by Paragraph 9-9-2(d)(2), B.R.C. 1981.

18 ...

19 Section 2. Section 9-9-2. General Provisions, B.R.C. 1981, is amended to read:

20 **9-9-2. - General Provisions.**

21 No person shall use or develop any land within the city except according to the following
22 standards, unless modified through a use review under Section 9-2-15, "Use Review," B.R.C.
23 1981, or a site review, Section 9-2-14, "Site Review," B.R.C. 1981, or a variance granted under
24 Section 9-2-3, "Variances and Interpretations," B.R.C., 1981.

25 ...

 (d) Zoning Standards for Lots in Two or More Zoning Districts: The following standards
 apply to lots and parcels in two or more zoning districts:

(1) Existing buildings located in more than one zoning district shall be regulated
 according to the applicable use standards for the zoning district in which the
 majority of the existing building is located. Any building additions or site
 improvements shall be regulated according to the zoning district in which such
 additions or improvements are located. In the event that an existing building is
 split in half between two zoning districts, the city manager shall determine which
 use standards shall apply based upon the historic use of the building and the
 character of the surrounding area.

1 (2) Development of New Structures on Lots in Two or More Zoning Districts:

2
3 (A) Purpose: The purpose of this paragraph is to ensure reasonable compatibility
4 of the development of lots and parcels located in more than one zoning district
5 one of which is a RE, RR, or RL zoning district with neighboring land uses.

6 (B) Standard: Any new structure, parking area or other site improvements except
7 fences and landscaping on lots or parcels located in more than one zoning
8 district one of which is RR-1, RR-2, RE, RL-1, or RL-2 shall meet the greater
9 of the following:

10 (i) The setback standards applicable in the zoning district the improvement or
11 part thereof is located in;

12 (ii) The setback standards of the adjacent zoning district; or

13 (iii) A twenty-five foot setback from the property line that is generally parallel
14 to a zoning district boundary.

15 (C) Administrative Modification: The requirements of this paragraph may be
16 modified by the city manager if the applicant demonstrates that the proposed
17 development of the area is consistent with the standards of Chapters 9-6, "Use
18 Standards, " 9-7, "Form and Bulk Standards, " and 9-8, "Intensity Standards, "
19 applicable to the lower intensity zoning district of the two or more zoning
20 districts of the lot or parcel.

21 (D) Site Review Modification: The requirements of this paragraph may be
22 modified under the provisions of Section 9-2-14, "Site Review," B.R.C. 1981.

23 ...

24 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
25 the residents of the city, and covers matters of local concern and implements the intent of the
Boulder Valley Comprehensive Plan.

Section 4. 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.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 17th day of November, 2015.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 1st day of December, 2015.

Mayor

Attest:

City Clerk

From: ps angerer [mailto:psangerer@yahoo.com]
Sent: Monday, June 01, 2015 4:05 PM
To: McLaughlin, Elaine
Subject: Re: 385 Broadway

Dear Elaine,

The information you shared this morning in our phone conversation clarified many of my questions regarding the re-zoning request for 385 Broadway, (LUR2015-00047). Thank you for sending the BVCP link.

My understanding of the BVCP is that it is a general statement meant to guide decisions?

Is it necessary that re-zoning occur to bring a property into compliance with the BVCP land use? Or does current zoning and usage carry weight?

In the memorandum from SopherSparr Architects regarding Rezoning dated May 1, 2015, the argument is made that "rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map." This implies that re-zoning must occur because compliance is mandatory. Is this a true assumption on my part? I appreciate any clarity that you can bring to these questions.

Regards,
Patty

From: "McLaughlin, Elaine" <McLaughlinE@bouldercolorado.gov>
To: "psangerer@yahoo.com" <psangerer@yahoo.com>
Sent: Monday, June 1, 2015 12:07 PM
Subject: 385 Broadway

Hi Patty-

It was nice to talk with you this morning. Following is a link to the Boulder Valley Comprehensive Plan for your use:
<https://bouldercolorado.gov/planning/2010-boulder-valley-comprehensive-plan>

Please feel free to call or email with any additional questions, and as you noted, I will look for your comment letter by the end of the week.

Kind Regards-
Elaine

Elaine McLaughlin, Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

303-441-4130 (phone)
303-441-3241 (fax)

<http://www.boulderplandevlop.net>
<http://www.bouldercolorado.gov/>



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Regards,
Patty

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Boulder, CO 80306-0791
303-441-4130 (phone)
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<http://www.boulderplandevlop.net>
<http://www.bouldercolorado.gov/>



From: McLaughlin, Elaine
Sent: Thursday, June 04, 2015 3:48 PM
To: 'ps angerer'
Subject: RE: Lower Bluebell Response to LUR2015-00047

Hi Patty-

The applicant will need to respond to staff comments, which we're still putting together, and resubmit a response to our comments for a three week review track (beginning the first and third Monday of the month). Among the comments is to ask for any recent communications between the applicant and NIST regarding their access agreement and proposed rezoning. Our City Attorney's Office has a copy of the private access easement between the two property owners. I can check to see if you could have a copy of the easement. It may be somewhat proprietary given that it's for the Federal Labs, but I can certainly check.

Elaine

From: ps angerer [mailto:psangerer@yahoo.com]
Sent: Thursday, June 04, 2015 3:41 PM
To: McLaughlin, Elaine
Subject: Re: Lower Bluebell Response to LUR2015-00047

Thank you Elaine,

Once June 5 passes, what is the timeline for this application?

I have a question about the easement with NIST. Do the applicants have to contact NIST and if so, may I have a copy of their communication?

Regards

Patty

From: "McLaughlin, Elaine" <McLaughlinE@bouldercolorado.gov>
To: 'ps angerer' [mailto:psangerer@yahoo.com]
Sent: Thursday, June 4, 2015 1:00 PM
Subject: RE: Lower Bluebell Response to LUR2015-00047

Hi Patty-

Thanks very much for your letter. I'll ensure that it is provided to the applicant and becomes part of the public record for Planning Board and City Council.

Kind Regards-

Elaine

Elaine McLaughlin, Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

303-441-4130 (phone)

303-441-3241 (fax)

<http://www.boulderplandevlop.net>
<http://www.bouldercolorado.gov/>



From: ps angerer [mailto:psangerer@yahoo.com]
Sent: Thursday, June 04, 2015 12:55 PM
To: McLaughlin, Elaine
Subject: Lower Bluebell Response to LUR2015-00047

Elaine,
Attached you will find the Bluebell neighborhood response letter including signatures to LUR2015-00047.
Please keep us informed as the application proceeds.
Thank you
Patty

The Community of Lower Bluebell in Boulder, Colorado

6.1.2015

Ms. Elaine McLaughlin
Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

RE: Application for re-zoning
#LUR2015-00047
385 Broadway/High Density Student Housing

Dear Ms. Elaine McLaughlin,

The undersigned represent the community of Lower Bluebell who are vigorously opposed to the zoning change request, #LUR2015-00047, for 385 Broadway, Boulder.

We live in a low-density residential neighborhood that has maintained its character for 58 years. We are a strong, diverse community committed to caring for the fabric of the neighborhood and for one another. One half of the homes have been occupied by the same families for over 30 years, one third of the homes have been occupied for over 50 years by the original builders of the houses.

In 2008, the owner of 385 Broadway requested a land use map change. As a neighborhood we worked with the then owner and the city to come to an agreement that would allow for expansion or redevelopment of the site for continued business use while maintaining a buffer from the impacts of the proposed increase in business uses the owner was proposing. We were told he wanted to increase the square footage of office space and that a change in zoning would remove the need to request variances as was done in the past to allow for a business use in a residential zone. City Staff proposed the 25 foot RL-1 buffer on the west and north sides of the property and a zoning change to BT-2 for the remainder of the property to allow for the improvements. The neighbors agreed to the staff's proposal, the buffer was put into place and the BVCP land use was changed. However, the owner did not pursue the zoning change for the majority of the site and instead chose to list the property for sale.

The property was sold in 2014 and the current request for re-zoning is being requested by the new owners of the property. Unlike the previous owner's stated intent of increasing square footage of office space, the current owner's stated intent, found in their Project Fact Sheet, is to build multi-family/high density student rental housing which would be comprised of 16 townhomes with 4 bedrooms each (potentially 64 residents). They intend a reduction in off street parking spaces from the required 48 to 36, building code occupancy classification B and \$119,000 Cash-in-Lieu of 4 dedicated permanently affordable housing units on site. This project would require the demolition of a building that is over 50 years old, which would require a historic landmark review.

The current proposal states that a change in zoning is required by the Boulder Valley Comprehensive Plan and that the property zoning must be in compliance with the BVCP Land Use Map. We disagree, and recognize that the BVCP guides land use decisions, provides a general statement of communities desires for future development but does not regulate city zoning.

We strongly oppose the proposed change in zoning. Should rezoning occur, the owners would have "by-right" development opportunities. And therefore, could build anything allowed in that zoning, which is unacceptable. We insist on maintaining the residential zoning allowing for development with special review only.

The current project proposed by Matt Johnke Realty & Heritage Title Co., Sopher Sparr Architects LLC, Adrian Sopher and Erin Bagnall, exemplifies the potential scope of a project which could be developed by-right.

Our concerns specific to the above mentioned project are:

1. Parking: Requires review

The developers have requested a reduction in permitted parking spaces of 25%. With a potential of 64 residents and 36 parking spaces those without a space in the complex would have no alternative but

to park on Bluebell or Mariposa, which is not acceptable. While Bluebell is part of the Columbine Parking Zone, an increase of up to 28 permits is not sustainable.

2. Light Pollution: Compliance with “Dark Skies” requires a review
Two 3-story buildings housing 16 units and perched on a hill will produce unwelcomed light pollution.

3. Buffer Zone:
Both the 25 foot buffer zones, north which is in the required set back and west which abuts a residence, have historically been ill maintained.

4. Construction Staging: Requires review
Construction Staging is problematic in that there is no venue for staging.

6. Pedestrian Access:
The pedestrian access on the new development should go directly east from the developed property onto the bike/pedestrian path on Broadway, avoiding Bluebell Avenue altogether.

7. Fire and Life Safety: Requires Review
Access from Bluebell is non-existent. There is an existing fire truck access to the cul de sac at the end of Bluebell Ave through a chained gate which must remain exclusively dedicated to emergency vehicles.

8. Solar Access: Requires Review
The elevation of the site and the proposed height of the buildings suggest an infringement on access to sunlight on the property at 2290 Bluebell Avenue.

Thank you,
The undersigned neighbors

Attachment C - Correspondence Received

Name	Address	Phone	Signature
Michael Dominick	2265 Bluebell	3/817-4975	<i>Michael Dominick</i>
MARCIA WALK	2265 BLUEBELL	273.908.9009	<i>Marcia Walk</i>
Shirley Kilian	2240 Bluebell	303-442-8535	<i>Shirley Kilian</i>
Matthew Anderson	2290 Bluebell Ave.	720-233-6976	<i>Matthew Anderson</i>
J. Bellipai	2290 Bluebell Ave	720-233-6976	<i>JULIANNA BELLIPANNI</i>
Elizabeth Fleming	2285 Bluebell Ave	415-577-9779	<i>Elizabeth Fleming</i>
Heinrich M. Alekschuler	2250 Bluebell Ave	442-8769 (303)	<i>Heinrich M. Alekschuler</i>
T.F. Van Zant	2255 Bluebell	303-499-6395	<i>T.F. Van Zant</i>
Natalie L. Hedberg	2255 Bluebell	303-499-6395	<i>Natalie L. Hedberg</i>
Dan Olson	2285 Bluebell	415-713-7457	<i>Dan Olson</i>
Janice Alexander	415 Sunnyvale Ln	720 301 6129	<i>Janice Alexander</i>
Patty Angerer	2225 Bluebell	303-449-0968	<i>Patty Angerer</i>
Tom ANGERER	2225 Bluebell	303-449-0968	<i>Thomas Angerer</i>
Charles Palmer	2270 Bluebell	303-788-8502	<i>Charles Palmer</i>
Halina Palmer	2270 Bluebell	303 718 4798	<i>Halina Palmer</i>
Steven C. Monemund	2245 Bluebell Ave.	720-629-1733	<i>Steven C. Monemund</i>

Name	Address	Phone	Signature
Helen Taft	485 Sunnyside Ln	(303)444-1474	
GREN C. TAFT	485 Sunnyside Ln	303-444-1474	

Name	Address	Phone	Signature
HOLLOWAY, SALLY C.	2222 BLUEBELL AVE.	303-442-0980	
MARY TIAO	2208 BLUEBELL AVE	303-499-4747	
DORIS HASS	2207 Bluebell	303-443-7087	
Mho Salim	2211 Bluebell	303 449 3365	
Gray Salim	2211 Bluebell Ave	303 449-3365	

Contact: Patty Angerer
 2225 Bluebell Ave.
 Boulder, CO 80302
 303-449-0968
 pangerer@yahoo.com

From: ps angerer [mailto:pangerer@yahoo.com]
Sent: Thursday, June 04, 2015 3:41 PM
To: McLaughlin, Elaine
Subject: Re: Lower Bluebell Response to LUR2015-00047

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comments is to ask for any recent communications between the applicant and NIST regarding their access agreement and proposed rezoning. Our City Attorney's Office has a copy of the private access easement between the two property owners. I can check to see if you could have a copy of the easement. It may be somewhat proprietary given that it's for the Federal Labs, but I can certainly check.

Elaine

From: ps angerer [<mailto:psangerer@yahoo.com>]

Sent: Thursday, June 04, 2015 4:48 PM

To: McLaughlin, Elaine

Subject: Re: Lower Bluebell Response to LUR2015-00047

Thank you, I would appreciate a copy if it is available to the public.

Patty

From: McLaughlin, Elaine

Sent: Friday, June 05, 2015 10:58 AM

To: 'ps angerer'

Subject: RE: Lower Bluebell Response to LUR2015-00047

Hi Patty-

Please see the attachments of the NIST agreements with the property owners.

Elaine

From: dhh1056@gmail.com, [<mailto:dhh1056@gmail.com>] **On Behalf Of** David Holloway

Sent: Thursday, June 04, 2015 3:08 PM

To: McLaughlin, Elaine

Subject: Proposed Bluebell Student Housing Project at 385 Broadway, #LUR2015-00047

Dear Ms. McLaughlin,

I have an interest in property on lower Bluebell Avenue and am writing to express my alarm and opposition to the proposed student housing project for 385 Broadway.

It is stunning that planning and zoning would even consider such a proposal, given its scale and mass, when compared to the contiguous low density single family area of lower Bluebell.

As you know, the proposed student housing project triggers multiple reviews including parking, fire and life safety, and historical.

Moreover, the proposed project submitted by Mr. Johnke, et. al., raises serious questions about your department's position and record on FAR regulations and enforcement.

The Bluebell neighborhood has already experienced unfavorable development accommodations and mangling of FAR guidelines with several area redevelopment projects, including the recent (within the last several years) redevelopment of 2131 Bluebell. The 2131 Bluebell redevelopment more closely resembles a zero-lot-line project as the structure stretches north and east touching two alley boundaries! How could that have possibly been approved? Worse, after multiple assurances to the

contrary, the "single family" at 2131 Bluebell appears to be operating as a rental property, along with numerous other non-conforming rentals within a five block radius.

I have also been in contact with the GSA (General Services Administration), the federal government's property manager at NIST, and have asked them for their position on this student housing project. Among the questions for GSA is the issue of access to 385 Broadway - which essentially runs the length of the NIST main entrance - and how that access squares with their current and future security demands.

It seems inconsistent with their ongoing security concerns that the GSA would lock down their south and west entries (Dartmouth and King streets), and open up their front door to student housing.

The proposed parking scheme for 385 Broadway is a also total non-starter. The property won't accommodate the required 48 surface spaces, and it barely accommodates the current 36 spaces with a building one-third the mass of the proposed structure. So, as a result of the unfavorable access to the property, combined with the dearth of parking spaces, tenants (students) of this proposed project would be inclined to park on Bluebell - especially given the projects proposed orientation - facing Broadway and Bluebell.

In addition, though I have not yet received it, I have ordered a litigation report (title report) on 385 Broadway. There seem to be questions about a former or current leasehold estate in the chain of title, which wouldn't surprise me given that all of South Oak Park was essentially re-platted due to surveying errors. Plus, current use - commercial, conflicts with current zoning - low density residential; and the proposed zoning - business, seems to be in contravention of proposed use - high density student housing? Is student housing in Boulder zoned business?

Given the myriad entanglements with this project it is my hope that reason and common sense prevail and the proposed zoning request is denied forthwith.

Please know that if the project planning is allowed to continue, I will use - without limitation - all available methods and resources to block any further activity on this project.

Sincerely,

David Holloway

From: McLaughlin, Elaine

Sent: Thursday, June 04, 2015 4:18 PM

To: 'David Holloway'

Subject: RE: Proposed Bluebell Student Housing Project at 385 Broadway, #LUR2015-00047

Hi David-

Thanks very much for your thoughtful comment letter, I'll ensure that the applicant receives a copy and that it becomes part of the public record when Planning Board and City Council consider the rezoning.

A few quick points of clarification: we've not received any plans by the applicant, only a statement of intent to build 16 townhomes. Therefore we don't yet know if the 16 townhomes would be marketed as student housing or not. We are requesting that the applicant submit an application for Site Review application to accompany the rezoning, although they are not required to do so, as having the plans

upfront will provide a better understanding of the purpose of the rezoning for the benefit of the neighbors, staff, and the decision makers.

Secondly, while the city does not consider rezoning requests very often the application must meet one of the five rezoning criteria (found [here](#)). In this case, the applicant is requesting to bring the property into compliance with the Boulder Valley Comprehensive Land Use for the site which is designated Transitional Business. In the requested BT-1 zoning, townhomes of up to 35 feet in height are a use by-right. However, as you've pointed out to build the 16 units, the applicant would need to request a residential parking reduction which can only be approved through the more extensive Site Review process which would provide greater information about the project, the access and the number of planned vehicular trips per day.

Please feel free to contact me with any additional questions or comments.

Kind Regards-

Elaine

Elaine McLaughlin, Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791
303-441-4130 (phone)
303-441-3241 (fax)

From: Tom Van Zandt [mailto:vanzandt70@gmail.com]

Sent: Friday, June 12, 2015 8:54 PM

To: McLaughlin, Elaine

Subject: 385 Broadway

Elaine,

Thanks for you memo about 385 Broadway. We and our neighbors will respond to the memo. In the meantime, I have a couple of comments about the memo itself.

First, you give directions for accessing Title 9. But what then? In Title 9 how does a layperson find information such as density limits, setbacks, height limits, etc., etc.? Is there an index to Title 9?

Second, the map in the memo is about 40 years out of date. 27th Way was extended to Broadway in the '70's. This is relevant to the proposal because the intersection of 27th Way and Broadway is adjacent to 385 Broadway. The maps in the application as well as flood maps of the area are all up to date. The City should be able to do just as well.

Thanks for your attention.

Tom Van Zandt
2255 Bluebell Avenue

303-499-6395

From: McLaughlin, Elaine
Sent: Monday, June 15, 2015 8:49 AM
To: 'vanzandt70@gmail.com'
Subject: RE: 385 Broadway

Hi Tom-

Could you refer me to the specific memo you are addressing? I've prepared a staff comment letter that was sent to the applicant a couple of weeks ago and about a month ago I sent a public notice to the neighbors that Planning had received the application. That notice was intended to provide notification to the neighborhood only and not intended to be a memorandum. I've attached the staff comments that went to the applicant that could assist you in your questions about Title 9. If you do have questions beyond what the comment letter addresses, I'm happy to assist you with specific questions.

Kind Regards-
Elaine

Elaine McLaughlin, Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

303-441-4130 (phone)
303-441-3241 (fax)

<http://www.boulderplandev.net>
<http://www.bouldercolorado.gov/>



From: Tom Van Zandt [mailto:vanzandt70@gmail.com]
Sent: Wednesday, June 17, 2015 3:29 PM
To: McLaughlin, Elaine
Subject: Re: 385 Broadway

Elaine,

The memo I referred to is dated May 21.

Thanks for all the valuable information you included in the attachments.

I do have a few specific questions and comments.

How is "Dwelling Unit" defined?

How many beds are permitted in a bedroom? How is the limit enforced? (It's my impression that enforcement is very difficult, so that violations of occupancy limits are common.)

These questions are related to the parking requirements.

I don't believe that the Federal government would ever agree to any condition "in perpetuity". Even if they did agree, they could always change their mind!

Thank you very much.

Tom Van Zandt
2255 Bluebell Ave.

----- Forwarded Message -----

From: Helen hgoldman@colorado.edu>
To: angerer ps pangerer@yahoo.com>
Sent: Thursday, June 4, 2015 3:53 PM
Subject: Finaldraft.docx

Dear Ms. McLaughlin,
My husband Martin and I have lived at 2275 Bluebell Ave. since 1972. It has been a quiet residential street where our children grew up, and it continues to be a street with many youngsters playing outside. We are distressed to hear of the proposed changes to the property on Broadway that would inevitably turn it into a densely populated area. Our names would have been added to the letter sent to you by the neighborhood's close knit residents, had we not been traveling in France. We would like to add our voices to those strongly opposed to the zoning changes. We have asked Patty Angerer to forward this letter to you.

Yours truly,
Helen and Martin Goldman

From: Holtzman-Bell, Virginia K. [<mailto:virginia.holtzman-bell@nist.gov>]
Sent: Friday, June 05, 2015 12:18 PM
To: McLaughlin, Elaine
Cc: Salber, Stephen S.
Subject: LUR 2015-00047: 385 Broadway

Ms. McLaughlin:

Please find attached the Department of Commerce's input to the City's consideration of the rezoning request for 385 Broadway.

Virginia Holtzman-Bell

*Deputy Director for Facilities Design and Construction/
Boulder Laboratories Site Manager
Office of Facilities and Property Management
National Institute of Standards and Technology
325 Broadway, Rm. 05-1101, Mail Stop-194.00*

*Boulder CO 80305-3328
303-497-6673 (phone)
303-356-6911 (mobile)*



UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
325 Broadway
Boulder, Colorado 80305-3328

June 5, 2015

Elaine McLaughlin
City of Boulder
Planning and Development Services
P.O. Box 791
Boulder, CO 80306-0791

Re: LUR 2015-00047: 385 Broadway
Rezoning Request

Dear Ms. McLaughlin:

It has come to the Department of Commerce's attention that the new owner of 385 Broadway is seeking to modify the zoning on the property for the purpose of redevelopment, per the captioned Land Use Review Application. The subject property is immediately adjacent to, and shares a portion of its boundary with, the Department of Commerce's Boulder Campus. Current vehicular access to the subject property from Broadway is over an easement across the Boulder Campus. This easement was granted by the National Institute of Standards and Technology (NIST) for the existing medical/dental office building use.

NIST does not express an opinion at this time on the merits of the applicant's rezoning request. However, NIST wishes to express its serious reservations regarding the acceptability to NIST of access to the subject property via the existing easement, if the subject property is rezoned.

The existing easement provides a long access road to the subject property across a large frontage of NIST property. In granting the easement for the medical office building, NIST never contemplated that it would be obligating itself with an easement for the significantly different new use which NIST understands is proposed by the applicant for a rezoned 385 Broadway. The proposed new use that underlies the rezoning request was not contemplated by NIST in granting the easement initially, in recording it subsequently, or in its continuance today.

NIST notes that subsequent to NIST granting the easement, there have been several changes to the considerations that NIST must manage in its stewardship of the property on behalf of the federal government. The post 9-11 construction of a new entrance to the DOC Boulder Laboratories site with new security affected the design of NIST's front entrance on Broadway. Additionally, NIST now holds a municipal stormwater permit for the Boulder Site. The road and associated paving between the road and the bike path represent a significant amount of impermeable surface. A rough estimate of the paving that could be removed and redeveloped as permeable surface in this area, if the easement were vacated, is approximately 25,000 square feet.

If rezoning is granted by the City, NIST requests the City's support and engagement of the property owner to vacate the current easement and reconfigure vehicular access to the subject property. Use of the existing easement for the contemplated new facility is unacceptable because of the liability concerns from the increased number and different nature of vehicular, bicycle, and pedestrian trips. NIST believes that if the rezoning is granted, the redevelopment provides the landowner with opportunity to work with the City in a redesign of the entrance located upon the confines of the landowner's property which would meet the future purpose of the new building. Additionally, by changing the entrance to 385 Broadway, NIST would be able to better meet its current security and stormwater permit requirements. In the absence of assurances to NIST of alternative access to the subject property, NIST could not rule out taking action to terminate the easement because of this new, materially different use than the one for which the easement was granted and confirmed by NIST.

NIST appreciates the opportunity to submit this letter regarding its concerns for the record in the captioned application.

Sincerely,



Virginia Holtzman-Bell
Deputy Director for Facility Design and Construction/
Boulder Laboratories Site Manager
Office of Facilities and Property Management

Sent by Email with return receipt requested

From: "Ferro, Charles" <FerroC@bouldercolorado.gov>
To: "psangerer@yahoo.com" <psangerer@yahoo.com>
Cc: "McLaughlin, Elaine" <McLaughlinE@bouldercolorado.gov>
Sent: Monday, July 13, 2015 2:35 PM
Subject: 385 Broadway Rezoning

Hi Patty,

Please note that the rezoning hearing has been tentatively scheduled for Planning Board's consideration on August 27, 2015 at 6:00pm.

The Planning Board meeting will be held in chambers on the second floor of City Hall located at 1777 Broadway. Staff will send out a written notification to property owners within 600' of the site as a courtesy in early August. Please feel free to contact me with any questions.

Best,
Charles

Charles Ferro, AICP
Development Review Manager
City of Boulder - Department of Community Planning + Sustainability
303.441.4012 - Direct
303.441.3241 - Fax
ferroc@bouldercolorado.gov
www.bouldercolorado.gov

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Please consider the environment before printing this email.

From: ps angerer <psangerer@yahoo.com>
Date: July 13, 2015 at 5:37:09 PM MDT
To: "Ferro, Charles" <FerroC@bouldercolorado.gov>
Subject: Re: 385 Broadway Rezoning
Reply-To: ps angerer <psangerer@yahoo.com>

Hi Charles,

Thank you for the notification of the calendar scheduling.

I have a couple of questions:

1. What is the entire process for changing zoning?
2. What is the entire process for changing land use?

Pretty broad questions, but I am a little confused as to how many boards and how many times in front of those boards.

Thanks

Patty

Hi Patty,

Apologies for the delayed response.

The processes are a bit complex but, I've done my best to summarize them.

Please feel free to call me (or Elaine) with any additional questions.

Best,
Charles

Charles Ferro, AICP
Development Review Manager
City of Boulder - Department of Community Planning + Sustainability
303.441.4012 - Direct

303.441.3241 - Fax

ferroc@bouldercolorado.gov

www.bouldercolorado.gov

[f Facebook](#) | [t Twitter](#) | [Yt YouTube](#) | [RSS](#)

P Please consider the environment before printing this email.

From: ps angerer [<mailto:psangerer@yahoo.com>]

Sent: Monday, July 13, 2015 5:37 PM

To: Ferro, Charles

Subject: Re: 385 Broadway Rezoning

Hi Charles,

Thank you for the notification of the calendar scheduling.

I have a couple of questions:

1. What is the entire process for changing zoning?

After the applicant submits an official application and the fee, staff then reviews the application & makes a recommendation to Planning Board based on the review criteria found in [Section 9-2-18\(e\) B.R.C. 1981](#). Planning Board makes a recommendation to the City Council regarding whether or not a rezoning should be approved based on aforementioned criteria. This occurs at a public hearing (the public is welcome to address the board). City Council then considers the Planning Board's recommendation via an ordinance. Typically there are two reading of an ordinance. The first reading is an opportunity for council and the public to review a proposal and ask questions of staff and or the applicant. The second reading is another public hearing (the public is welcome to address council) and this is typically when approval or denial would occur. All public hearings are published in the Daily Camera at least 10 days in advance of a hearing.

2. What is the entire process for changing land use?

The standards and processes are outlined [here](#).

There are land use plan changes that require only the approval of the City Planning Board and the City Council only and those that require the approval of the City Planning Board and the City Council in addition to the County Planning Commission and the County Board of Commissioners. There are individual changes that may be considered at any time as well as those that occur through the "mid term" update period or the "5 year or major update" period.

In this case, the land use map designation was changed in accordance with the last "mid term" update that was approved in 2008 (refer to my email from 7/7/15 for the approval documentation).

Pretty broad questions, but I am a little confused as to how many boards and how many times in front of those boards.

Thanks

Patty

From: lyalts@aol.com [<mailto:lyalts@aol.com>]

Sent: Wednesday, August 19, 2015 9:43 AM

To: boulderplanningboard

Subject: LUR2015-00047

Subject: Proposed rezoning of 385 Broadway, Boulder.

LUR2015-00047

I wish to address only one of the many aspects of the impact of the proposed rezoning on the 2200 block of Bluebell Avenue: A safe zone for children to live in and play.

My wife and I bought our home at 2250 Bluebell Avenue in 1965--50 years ago, and occupied it with our three children. It was ideal for children: A no-through-traffic cul-de-sac lined exclusively with one-family homes. Children could safely play on the street and ride their tricycles or bicycles on the block. This has not changed. Kids still play and ride up and down the block with or without parents. Further, I have often noted that only drivers that do not live here, who mistakenly try to drive through our block, drive so much faster through it than we residents.

Any rezoning that would increase traffic or parking by outside groups would impair this wonderful quality of the 2200 block of Bluebell.

MARCIA WEESE 2265 Bluebell Ave Boulder, CO 80302 773.908.9009

8.12.15

RE: #LUR2015-00047

Dear Boulder Planning Board,

I live in a quiet, lovely neighborhood called Lower Bluebell—across the street and 3 houses west of the lot that is requesting a zoning change for 385 Broadway, Case #LUR2015-00047.

Our neighborhood cherishes its planted island to the west and cul de sac to the east, which slows traffic and keeps it at a minimum. Children play, families commune, and pedestrians and cyclists float by.

This will radically change if the city allows the requested rezoning from RL-1 to BT2.

It takes years to weave together a neighborhood. It takes one vote to rip it asunder. I vote to keep this lot zoned as RL-1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcia Weese', followed by a long horizontal line extending to the right.

Marcia Weese, LEED AP

August 18, 2015

To: Boulder Planning Board

Re: LUR2015-00047, Zoning Change request for 385 Broadway

From: Shirley Keller, 2240 Bluebell Ave, Boulder, CO

My husband was one of the original occupants of the Medical/Dental building at 385 Broadway where he practiced dentistry from 1957 until he retired in 1987. We built our house, just five lots west of my husband's office in 1964; our house on Bluebell Avenue has been our family home for the last fifty years. The site on which 385 Broadway was built has been zoned residential low density since it platting. A variance was granted which allowed the construction of this non-conforming one story medical dental building. Over the years additional variances were granted for the expansion of the building. The medical/dental use has been long accepted by the neighborhood as it developed to the west and north. It has had adequate parking, continuous access off of Broadway and a buffer of dense growth that has protected the neighborhood from noise and light pollution. In addition it has been a welcome source of medical and dental services for the extended area, accessible by foot traffic, bicycle and public transportation. In the way this building has served the community, it has been an asset and a good fit not only for the immediate area but for all of this part of Boulder.

In 2008 Mr. Tenenbaum requested the land use designation be changed from Low Residential to Transitional Business because, "Office and medical usage have been the historical use of this property since 1956. It is an extremely busy and important center serving the Boulder community." He further stated, ". . . it seems unlikely that it would ever be desirable for residential use, and will better serve the people of Boulder by insuring that it remains in its current capacity." (Planning Board Agenda, February 21, 2008, Agenda Item#5A Page#C-17). We believed Mr. Tenenbaum when he said he only wanted to improve the building.

Now a new owner is requesting a zoning change to Business Transitional 2. It is difficult to imagine that any one of the 32 uses listed as "by-right" possibilities under BT2 would meet the same criteria or be in any way complementary to this area. Neither I nor any of my neighbors have any interest in a zoning change that would allow any of the possible uses to be established at the Broadway end of our street. We have no assurance which of these uses would be considered but the history of the real-estate investor who purchased the property suggests that he specializes in student housing.

This request for rezoning 385 Broadway from RL1 to BT2 is unacceptable to me and I strongly urge that the request be denied.

Matt Ludemann
2290 Bluebell Ave.
Boulder, CO 80302
720-233-6976

August 19, 2015

Re: Rezoning request at 385 Broadway

Dear Boulder Planning Board Members,

I am writing to you in opposition of the rezoning request to 'high residential' of the property at 385 Broadway in Boulder. For the past 5 ½ years, I have lived with my wife and two small children at 2290 Bluebell Ave, the house bordering the Broadway property directly to the west. I can tell you unequivocally that this is a single family neighborhood. The house across the Bluebell cul-de-sac from 385 Broadway, the house across Bluebell from our property, and our next door neighbors to the west all have small children ages 1-8. Many of the other owners on the block are original owners and elderly. There are no college rentals on the block. As evidenced by our community block parties, and the "Lower Bluebell" stone sign and neatly maintained flower bed at the top of the block, the owners on this block take great pride in the quiet, family-friendliness of the neighborhood.

I have several concerns about allowing the rezoning of the property at 385 Broadway to 'high residential'. First and foremost, a high residential property would greatly compromise the quiet, single family nature of the block. Currently, there are very few college student residences west of Broadway and south of Baseline, and none on our block of Bluebell. This would presumably change abruptly with many college students living in the proposed four bedroom apartments if the rezoning was approved. Noise would be disruptive on the block. My children's bedtime is 8pm. Having been a college student once upon a time, I know that most of their bedtimes are quite a bit later. I would expect there to be tensions between the families in the neighborhood and the 'high residential' tenants regarding evening noise levels. We do not want college students loitering around the neighborhood cul-de-sac.

Secondly, additional vehicle traffic on Bluebell is a big concern. Currently, the access to 385 Broadway is off of Broadway through the NIST government property to the south. The original proposal for the 385 Broadway property is asking for fewer parking spaces on the property than is traditionally allowed. Even if parking is adequate for this facility, I would expect residents to try to park on Bluebell because of its close proximity and easy access off of Broadway and Baseline. This would make our quiet street much busier and louder. Also, Bluebell is a major bike route off of the Broadway bike path that feeds all of Lower Chautauqua including King and Mariposa. Our family uses Bluebell frequently for bike access to the Broadway path, as do many families and bike commuters in the area. Additional vehicle traffic on Bluebell would potentially make bike traffic unsafe. I also worry that because the primary pedestrian access to 385 from Broadway may be indirect for some residents, residents would be inclined to cut through the Bluebell cul-de-sac and create a path off of the cul-de-sac. To take that a step further, the 385 Broadway developer could create formal pedestrian or vehicle access to Bluebell. Creating any kind of access directly to Bluebell from 385 Broadway would further disrupt the neighborhood.

Student neighborhoods and single family neighborhoods are both tremendous assets to our Boulder Community. While it is in Boulder's development plans to expand 'high residential' housing, it is neither in Boulder's plans nor in Boulder's best interest to compromise additional long-standing single family neighborhoods with 'high residential' property geared toward students. Rather than having 'high residential' student property spread into our single family neighborhoods, of which there are precious few, let's work to expand housing in areas that are already student neighborhoods, and keep the wonderful single family neighborhoods of Boulder, single family.

For the above reasons, my family and I strongly oppose the zoning change on 385 Broadway to 'high residential'. If the unfortunate decision to rezone the 385 Broadway property is made, please do everything you can to minimize its impact on our neighborhood. Thank you very much for your consideration in this matter, and thank you for your dedicated service to our great community!

Sincerely,

Matt Ludemann

From: oren.taft@comcast.net [mailto:oren.taft@comcast.net]
Sent: Monday, August 17, 2015 8:23 AM
To: boulderplanningboard
Subject: Proposed zoning change to 385 Broadway, Boulder, CO

8/17/15

RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Dear City of Boulder, Staff, Planning Board and City Council

We are Oren and Helen Taft, 485 Sunnyside Lane, Boulder, CO. We are 50 year residents of Boulder and have lived at this address since 1991. Due to the proximity of our residence and 385 Broadway, we received a notice from the city of the proposed zoning change to the above subject property. We thank you for this notification and for our chance to respond to this proposal. We are **NOT** in favor of this re-zoning proposal.

Our main concern is a potential increase in vehicle traffic and parking congestion in our neighborhood. If zoning is changed from RL-1 to BT-1 or 2, a "By-Right" development would result, increasing the density of the subject site, beyond its' carrying capacity. None of the long list of BT-1 or 2, by-right development options fit with the current neighborhood. (Please see: Boulder Comprehensive Plan, Para. 2.10)

Our residence sits on a corner lot and Mariposa fronts our house. While lower Mariposa is a permitted parking block, we already have many transient, non-permitted vehicles parking here. Permit monitoring seems spotty at best and an increase in out of area parked cars will only compound this problem.

385 Broadway is a small site and should zoning increase the density the natural alternative will be an increase in neighborhood parking on lower Columbine, Mariposa and Bluebell. Among other potentials, Baseline Ave. would experience a negative impact into our neighborhood. The current weekday mass exodus from upper Baseline slows the normal flow of traffic. When the Broadway light stops eastbound Baseline traffic, vehicles moving west from Broadway, must sometimes bypass 22nd and drive to the light on 20th to be able to turn left and into the neighborhood. A resultant increase in this neighborhood traffic attempting to turn left onto 22nd, will most certainly cause a back-up past a busy fire station and even onto the Baseline/Broadway intersection.

We do not wish to dwell on the traffic that already exists in front of our address, but want to offer a short review. Having been subject to the Skunk Creek Underpass Project, without much recourse, we now live amid a virtual sea of human transportation. We've lost our street in front of our house (Sunnyside Lane) yet through the kindness of the postmaster we were able to keep our address. Sunnyside Lane was a buffer from Broadway and we experienced little pedestrian traffic. We lost another buffer when 3 of our mature trees died due to project digging in front of our property. The city did plant evergreens outside of our property, in front of the tunnel, but that has only led to homeless people dragging items over from the Goodwill Store boxes, to use behind the evergreens as sleeping mats. This is all against our front yard fence and we constantly

are placing these items in our trash cans. We often contact the police to shepherd these campers along their way. Most annoying as a result of the underpass, the Broadway roadbed was raised above our fence level and now focuses a higher decibel vehicle noise across our property and into our home.

We had little chance of changing the outcome of the Skunk Creek Underpass project and its impact to our home. We hope this letter will help Staff, Planning Board and City Council decide to maintain the current zoning at 385 Broadway Avenue. By keeping 385 Broadway currently zoned RL-1, (low density residential), the future of our neighborhood will remain mostly as it exists today and should any changes be contemplated down this road, the by-right development list is shorter and much more acceptable. For other proposed uses, the review process will still be an option, one that does not exist if zoning is changed to BT-1 or 2.

Respectfully Submitted

Oren and Helen Taft
485 Sunnyside Lane
Boulder, CO 80302

From: Beth Fleming [<mailto:beth.fleming@boulderplanningboard.com>]
Sent: Wednesday, August 19, 2015 12:58 PM
To: boulderplanningboard
Subject: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)
Dear City of Boulder, Staff, Planning Board and City Council
Executive Summary: NO to zoning change to 385 Broadway Ave

I am the owner of 2285 Bluebell Ave, Boulder, CO which is directly across Bluebell from the 385 Broadway lot in question. I live in my home with my husband and 2 small children. I am strongly opposed to the 385 Broadway Rezoning Change from RL-1 to TB-2. The 2008 decision to change BVCP Land Use for the lot on 385 Broadway Ave was based on misinformation, false statements and conflicts of interest. Our neighborhood association plans to fight the BVCP land use designation for this lot as business transitional based on this misinformation. If the City of Boulder rushes to make a decision on this lot's zoning during the BVCP 2015 revision period, they will be cutting off our neighborhood associations' ability to work through the issues with the BVCP.

The number 1 concern to me is the developer's push to get the zoning changed before discussing issues of access to the 385 Bluebell lot if it becomes a transition business zone. In the definition of the BVCP Land Use Descriptions, "The Transitional Business designation is shown along certain major streets. These are areas usually zoned for less intensive business uses than the General Business areas, and they often **provide a transition to residential areas.**" The BVCP land use designation change in 2008 was allowed at a time when the access to 385 Broadway came through NIST with an easement. Since then, NIST has heightened its security in many ways and has stated in its recent letter to the planning board that they do not plan to support the continuation of their easement to the lot if the lot becomes BT-2. My understanding is that there is no other access point from Broadway into the property. The developer is trying to delay the conversations about planning and property access until after the zoning decision has been made.

But I would argue that, by the nature of BVCPs zones descriptions, a transitional business zone lot should and must have access from the major street. If not through NIST or directly from Broadway, the only other access to the property would be through Bluebell Ave which is a dead end quiet residential street with no access to Broadway. This means that any BT-2 building traffic would need to access the business through the residential neighborhood entering from Baseline and 22nd, driving down 22nd ave and driving down Bluebell Ave. **If you do not understand the planned access to the lot from Broadway, then you should not approve rezoning.**

The 385 Broadway property has always been one of non-conforming use. It changed ownership in 2006. Then the owner requested the change be made to the BVCP Land Use to allow for minor improvements to the existing non-conforming single-story office building. The property owner did not make the improvements but instead put the property up for sale as TB-2 Zoned lot in 2014. It was a total misrepresentation of the plans for the lot. The property was marketed by the seller as a TB-2 zoned property with the potential to build up to a 18K sq ft building.

385 Broadway St, Boulder, CO 80305

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\$1,250,000

Sale: Commercial/Industrial
IRES MLS # 740656

Sold

5933 Total Building SqFt

Built in 1957

TB-2 Zoning

Incorporated Area, Office Commercial Industrial

Type

Boulder County Boulder Area

Description

Terrific Investment Opportunity w/ great development potential! Incredible location on 1 acre in W. Boulder w/ a 7-1 parking to building ratio. Boulder's Comprehensive Plan has changed zoning from low density residential to transitional business; many possibilities for future use! Possible to build up to an 18,000 sqft building. By Right, a 2nd story now allowed. Close to major bus routes, CU, NIST, shopping, & HIGH VISIBILITY! See add'l docs for flr plans. Call agent for info & to set showing.

On Broadway between University and Greenbriar (@ 3.5 miles), there are no lots with business transitional zoning - ZERO. In addition, our entire lower Chautauqua neighborhood (From Baseline to King and from 15th to Broadway) is 100% low density residential. The proposed rezoning to BT-2 zoning is totally inappropriate for this historic residential area.

The fact that the current old commercial building has remained out of conformity with its designated land use without much argument from the neighbors is because it was low impact to the neighborhood. It had access from Broadway through NIST. As a dentist and optical office, it has very low car, foot and bike

traffic. It has a large parking lot with ample parking for the needs of the current businesses. Most of the development possibilities in an BT-2 zone would have a huge impact on the neighborhood:

- construction staging
- car, foot and bike traffic on Bluebell
- backed up traffic on Baseline (West of Broadway) in front of the fire station waiting to turn onto 22nd
- increased parking on Bluebell

As noted in the BVCP Plan's charter "The Boulder Valley Comprehensive Plan policies **guide** decisions about growth, development, preservation, environmental protection, economic development, affordable housing, culture and the arts, urban design, neighborhood character and transportation. The policies also inform decisions about the manner in which services are provided, such as police, fire, emergency medical services, water utilities, flood control and human services." It is intended as a **guide**, not legally binding document for local land use decisions

Please do not rezone this lot without allowing us the opportunity to fight the BVCP's incorrect change to Business Transitional in 2008. Also, do not rezone this lot without understanding access from Broadway. A lot cannot be described as a way to create a buffer from a busy street to a residential neighborhood if the only access is through that neighborhood. No Rezoning of 385 Broadway.

Thanks,
Beth Fleming
2285 Bluebell Ave, Boulder, CO.

To: Boulder Planning Board
Re: LUR2015-00047
Location: 385 Broadway
Description: Proposal to rezone from RL-1 to BT-1
From: Tom Van Zandt and Natalie Hedberg
2255 Bluebell Avenue,
Boulder 80302
303-499-6395
Date: Aug. 18, 2015

The only reason the proponents give for rezoning from RL-1 to BT-2 is to make the City zoning agree with the BVCP. But there isn't any requirement, in either the City Zoning regs or the BVCP, that the City zoning and BVCP uses agree in detail. The BVCP is advisory to the City, not regulatory.

We are very concerned that BT-2 zoning allows much more intensive uses that are not compatible with the neighborhood (but greatly increases the value of the property for the applicant!). Some of the allowed uses are: Fraternities, Sororities, Dormitories, Boarding houses, Town houses, and Congregate care facilities. Such uses are in direct contradiction to BVCP Neighborhoods policies.

For example, BVCP Policy 2.10, Preservation and Support for Neighborhoods, says "the city will work with neighborhoods to protect and enhance neighborhood character and livability". These allowed, by right, uses would certainly degrade the livability of the 2200 block of Bluebell Avenue as well as the larger neighborhood to the west and north. Imagine the intrusion of a fraternity or student housing on this quiet residential neighborhood! Nighttime uses are particularly objectionable. Note that next to 385 Broadway there are eight children up to the age of 11 in the residences at 2280, 2285, 2290 Bluebell, and 415 Sunnyside Lane.

Also, BVCP Policy 2.15, Compatibility of Adjacent Land Uses, requires that adjacent widely varying uses be separated by "interface zones, transitional areas ... and cascading gradients of densities," and "the transitional area should be within the zone of more intense use". It's obvious that a one-acre property is much too small to include an effective transitional area especially when you consider that the parcel less the 25-foot buffers on the north and west sides leave only 0.8 of an acre for development. Such a buffer would do nothing to minimize noise and light pollution.

The foregoing paragraphs present clear and convincing evidence that the proposed rezoning is NOT consistent with either the policies or goals of the BVCP or with BRC 9-2-18(a). For this reason we strongly oppose the proposed zoning change.

From: Helen hgoldman@colorado.gov
Date: August 19, 2015 at 9:54:03 AM MDT
To: boulderplanningboard@bouldercolorado.gov
Subject: Fwd: 385 Broadway LUR2015-00047

Dear Planning Board Members:

My husband and I live at 2275 Bluebell Avenue, nearly opposite the property requesting a zoning change. We have lived on this quiet residential street since 1972, and raised our two children here. I invite you to actually take a stroll down our street to see what we are in danger of losing.

If the proposal is accepted, our neighborhood is about to undergo a drastic and destructive change, which will undermine a family centered neighborhood where young children play safely, especially in the lower part of our street and the cul-de-sac. It has been a haven that substitutes for a local playground, which we do not have.

A bit of history: when we moved in, city planners included a playground in every other residential neighborhood, close enough for children to walk or ride bikes to, with no intervening major streets to cross, like Broadway. I was curious why we were not so blessed. So I called the city offices and their response was that when the city gave the land next door to the federal government for the Bureau of Commerce, there was an agreement between the city and the federal government that the local residents could use the unbuilt part of the land there to "play." Hah! Some playground, with limited access and no facilities.

So our little haven of peace and quiet, broken only by the laughter of the children at play will be shattered by traffic, parked cars and extremely dense population. There could be as many as 64 cars and as many or more unrelated people using our street. We feel that the original 2008 zoning change

was a Trojan Horse, meant to undermine our right to live quietly on our lovely residential street. Please do not do this to us.

Yours truly,
Helen Goldman

Sent from my iPad

From: lyalts@aol.com [mailto:lyalts@aol.com]
Sent: Wednesday, August 19, 2015 3:35 PM
To: boulderplanningboard
Subject: LUR2015-00047

Subject: Proposed rezoning of 385 Broadway, Boulder.
LUR2015-00047

I wish to address only one of the many aspects of the impact of the proposed rezoning on the 2200 block of Bluebell Avenue: A safe zone for children to live in and play.

My wife and I bought our home at 2250 Bluebell Avenue in 1965--50 years ago, and occupied it with our three children. It was ideal for children: A no-through-traffic cul-de-sac lined exclusively with one-family homes. Children could safely play on the street and ride their tricycles or bicycles on the block. This has not changed. Kids still play and ride up and down the block with or without parents. Further, I have often noted that only drivers that do not live here, who mistakenly try to drive through our block, drive so much faster through it than we residents.

Any rezoning that would increase traffic or parking by outside groups would impair this wonderful quality of the 2200 block of Bluebell.

Sincerely,

Helmut Altschuler
2250 Bluebell Avenue
Boulder, CO
303-442-8769

Date : August 19, 2015

To: City of Boulder City council, Planning Board and Staff

Subject: Rezoning & Site Review Process - LUR2015-00047 (385 Broadway Ave.)

Executive Summary: Opposing the proposal to rezone property at 385 Broadway

My wife and I have lived at 2211 Bluebell Avenue since 1981 when we moved to Boulder to raise our two children. Our property is on the north side and close to the west end of the 22nd block of Bluebell.

I am writing this letter along with and on behalf of our neighbors who unanimously and strongly oppose rezoning the property at 385 Broadway from RL1 to TB2 without considering its intended use and access.

My purpose in writing this letter is to bring to your attention that certain uses of this property, although within the guidelines of TB2 zoning classification, will have disastrous consequences for the neighborhood.

NIST has stated that it will not allow continued access to this property under the new zoning classification. It appears that attorneys for the new owner of the property have used a procedural loophole to put a request to rezone this property on the agenda without specifying its intended use, and more specifically, without telling the City how the property will be accessed.

In addition to exposing our neighborhood and the City to disastrous consequences, accepting this request without knowing what they plan to do with the property and how they plan to access the property is contrary to your responsibility to protect and enhance the interest of the community and the city.

I am requesting that you deny this rezoning request. The owner must work with the neighborhood and the City to find agreeable options and if there is a need for rezoning, the City can decide, with all facts on the table, if it is appropriate.

Respectfully



Mho Salim

August 19, 2015

From: Julianna Bellipanni [mailto:~~mailto:romana@boulderplanningboard.com~~]
Sent: Wednesday, August 19, 2015 7:51 PM
To: boulderplanningboard
Subject: LUR2015-00047 (385 Broadway Ave.) NO to zoning change to 385 Broadway Ave

RE: Rezoning and Site Review Processes LUR2015-00047 (385 Broadway Ave.)
NO to zoning change to 385 Broadway Ave

-

Dear City of Boulder, Staff, Planning Board and City Council:

I have lived with my brother's family for 4 years at 2290 Bluebell Ave, which is directly adjacent to 385 Broadway. I rely completely on my bike for transportation in and around Boulder. This location has offered me complete convenience and accessibility to the bike path and safe roads to get around. I am concerned that re-zoning of 385 Broadway will increase traffic and parking on Bluebell Ave and inhibit safe bike riding on this street. Bluebell is a major thoroughfare for bikes as it connects directly with the bike path. When cars are parked along both sides of the street, a bike and a single car cannot pass safely. Last week, cars were parked on each side of the street, a car was traveling eastbound on Bluebell, and I was riding westbound. There was no room for the car to move over and he couldn't pass me safely. I had to dismount in order to avoid being hit by the car. I have serious concerns that rezoning 385 Broadway will lead to more traffic and parking on Bluebell and it will no longer serve its function of allowing bike accessibility from western neighborhoods onto the Broadway bike path. This has the potential to affect all biking residents of Boulder, regardless of where they live. **No to rezoning of 385 Broadway Ave**

Sincerely,

Robert Ludemann

From: julianna bellipanni <~~juliannaroma@yahoo.com~~>
To: "boulderplanningboard@bouldercolorado.gov"
<boulderplanningboard@bouldercolorado.gov>
Sent: Wednesday, August 19, 2015 7:45 PM
Subject: LUR2015-00047 (385 Broadway Ave.) NO to zoning change to 385 Broadway Ave

RE: Rezoning and Site Review Processes - LUR2015-00047 (385 Broadway Ave.)
NO to zoning change to 385 Broadway Ave

Dear City of Boulder , Staff, Planning Board and City Council:

I was born and raised in Boulder and currently I am the owner and occupant of 2290 Bluebell Avenue , directly adjacent to 385 Broadway. When my husband, young child and I moved into this house almost 6 years ago, we chose this neighborhood, this street and this house based on the particular characteristics it offered: a dead end street, a residential community, at a distance from student rentals; views out all the windows of mature vegetation (not looking into any other properties' backyard). At that time, it appeared the Boulder city council and staff had an interest in preserving open space, parks and the character of neighborhoods by limiting excessive development and inappropriate re-development within the city limits.

The current medical/dental clinic at 385 Broadway seemed a curious neighbor within our residential neighborhood, but has proved to be a wonderful one as it is unobtrusive and has very minimal traffic--Much less than is typical of this type of building. The developer's lawyer argues "a "Medical-Dental Office" use generates 36.13 trips per day per 1000 square feet of office space. Given the existing 17,600 square foot medical office, that is 636 trips/day. On the other hand, a "Residential Condo/Townhome" use generates 5.81 trips per day per unit. In the case of 16 units, that results in a total of only 93 trips/day. In other words, the specific use about which NIST expresses concern would result in 543 fewer trips per day." This is completely erroneous. I hear the amount of cars that come in and out of that building daily and it is at most maybe 30 and is not disruptive at

Attachment C - Correspondence Received

all. A Residential Condo/Townhome seemingly designed for college students who drive to and from class, activities and downtown multiple times a day and have many guests would lead to exceedingly more traffic and parking concerns. In addition, the proposal suggests 4 students per unit which equals 64 people, drastically increasing the traffic trips per day.

A business-transitional 2 (BT-2) zoning change would allow the creation of a building that would significantly affect my house: It would inhibit my access to natural light; flood my house with artificial lights at night; increase noise and trash, and potentially damage or destroy the mature vegetation along my eastern property line.

I understand the developer needs to demonstrate “by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map”. **Rezoning 385 Broadway is not necessary for compliance with the Boulder Valley Comprehensive Plan Map.** It seems one of the most important tenants of the Comprehensive Plan is 2.10 Preservation and Support for Residential Neighborhoods. **Rezoning this land is completely contradictory to this point of the Comprehensive Plan. Not supporting the rezoning would be in compliance with this tenant,** as it would demonstrate “the city will work with neighborhoods to protect and enhance neighborhood character and livability.” Because of this issue of access to the property (NIST has said they will not allow a large development to use the access road) and what the redevelopment would look like in a business transitional zone (The developer has stated an intent to build high-density condominiums suitable for student use), the character and livability of our neighborhood would be irrevocably changed for the worst: If NIST refuses access through their property and access is through Bluebell, the numerous speeding cars would not allow my children to be safe playing outside in what is now a cul-de-sac. If the developer is granted the rezoning change and continues with their plan to build condominiums tailored for students, instead of having quiet evenings filled with ice cream street parties we will be subject to late loud parties, marijuana smoking and college drinking.

I understand the developer is pushing through rezoning so they don't have to discuss their redevelopment plans which they know will significantly harm the neighborhood. It is clear from their letter dated June 17, 2015, they have no interest in neighborhood or NIST input into their re-development plans and would like to have ultimate freedom in deciding what to build with no deference to the community, which would be granted to them by a rezoning decision. (Again, allowing this goes against the comprehensive plan to preserve and support residential neighborhoods) However, it is also clear from their June 17, 2015 letter they intend to build a high density condominiums (as they erroneously argue about the traffic patterns for this sort of establishment). The developer is well-known for the construction of high-density student housing in other parts of Boulder . It can only be assumed this is his intent and if rezoning is granted, this will happen. Besides ruining the community, this type of development would necessitate increased police response. Because student housing does not fit into our neighborhood and our concerns have been dismissed by the developer, the neighbors will not tolerate any late night noise, parties, drinking or marijuana smoking nearby. When this occurs, unfortunately we will be forced to call the police to respond and manage these issues, diverting their presence and time away from areas already notorious for dealing with student life.

There are plenty of places in Boulder more suitable for this type of development—such as that proposed for 27th way/Broadway (where the old Wendy's used to be), which can be developed appropriately. Spot-zoning a single parcel of residential land into business transitional is not appropriate, ruins our neighborhood , disrupts my family's way of living, and negates all the reasons we chose to live in this house.

Please join with the Boulder citizens and choose to protect and defend our neighborhood and community against the bullying of a single developer. **No Rezoning of 385 Broadway.**

Thank you.

Sincerely,

Julianna Bellipanni

ATTACHMENTS: A copy of this letter in Microsoft Word; PDF file with NIST's concerns (p. 12); Developer's letter indicating dismissal of neighborhood and NIST concerns

-----Original Message-----

From: Dan Olson [mailto:~~danolson1@gmail.com~~]
Sent: Wednesday, August 19, 2015 11:43 PM
To: boulderplanningboard
Subject: NO on rezoning 385 Broadway

Hello, please see the attached letter regarding the proposed rezoning of 385 Broadway.

We urge the planning board to VOTE NO on the rezoning, as it is done without complete information and would be ruinous to the character of the Lower Bluebell neighborhood.

Thanks,

Dan Olson
2285 Bluebell Ave

From: Jennifer Lancaster [mailto:~~jenn_lancaster@hotmail.com~~]
Sent: Wednesday, August 19, 2015 9:35 PM
To: boulderplanningboard
Subject: Regarding the rezoning of 385 Broadway Ave

Please see the attached letter.

Regarding: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Dear City of Boulder, Staff, Planning Board and City Council,

Executive summation: Please vote no to zoning change to 385 Broadway Avenue

My family and I live at 415 Sunnyside Lane, Boulder CO; directly across the street (Bluebell Avenue) from 385 Broadway Avenue. We have owned our home since 2003 (and I am a CO native). I have **3 young children ages, 11, 9 and 9.**

I purchased my home because of the neighborhood, the cul-de-sac, the schools, the community and the quietness of our neighbors and neighborhood. I am requesting that you **decline** the request to rezone **385 Broadway Avenue** because it would change the tenor of our lower Bluebell community, the quietness of our street and would devalue our homes. Most importantly (to me); it would greatly increase vehicle traffic which would impact my family's quality of life. (The developer has implied they would build high density condominiums).

We LOVE our neighborhood because it safe. My children feel comfortable riding their bikes up and down Bluebell, running over to our neighbors to play with their children, and we have ice cream socials in our cul-de-sac. If 385 Broadway were rezoned it is unclear how the numerous tenants would access the property (given NIST's statements) and undoubtedly they would drive and park on Bluebell, given the easy access (and possibly the only access). I would no longer feel comfortable having my children outside with numerous cars driving on Bluebell; and with high turn-over tenants who are not vested in our community, nor our children. I understand people want to make money and utilize under-developed space, but I ask you to consider the impact that has on our children and our community.

I moved to Boulder and to Lower Chautauqua because of the family centric neighborhood and quality of life. I specifically chose not to live on the Hill because of the high traffic, high turn-over population and how these influences would impact my children.

I ask that we keep the zoning as it stands on 385 Broadway Avenue and maintain the integrity of our neighborhood.

Thank you for your consideration.

Regards,

Jennifer Lancaster Alexander

415 Sunnyside Lane Boulder, CO 80302

720-301-6129

From: Tom Angerer [<mailto:tkpaper@msn.com>]

Sent: Thursday, August 20, 2015 2:48 PM

To: boulderplanningboard

Subject: Opposition to Zoning Change for 385 South Broadway (LUR2015-00047)

As a homeowner at 2225 Bluebell Avenue since 1978, I strongly oppose the proposed Zoning Change to the property at 385 South Broadway.

When the original request for a specific variance to construct a specific medical/dental building at 385 South Broadway was made (sometime in the late 1950's), I am confident that the request seemed reasonable to the neighborhood and the city. After all, the variance represented a benefit to the neighborhood in that the building would house low-impact dental and eye-doctor businesses, thus making access for the neighborhood to obtain dental and optometry care readily available. It was a variance specifically for a medical/dental facility, not a range of facilities that a "zoning change" would allow the developer to construct.

In 2008 we were asked by the building's owner, Mr. Tenenbaum, to agree to a zoning change for his property, because it would make it easier to upgrade and repair the building. Perhaps we were naive to believe that a zoning change was necessary, especially when the owner never proceeded with any of those repairs and upgrades. However, as a result of his request, a "land use" change to the Boulder Valley Comprehensive Plan was moved by the Planning Board and ultimately approved by City Council. Planning Staff did try to help and thus recommended that the land use change be accompanied by a 25' buffer on the North and West sides of the property. However, following City Council's vote to approve the land use change, we learned that a "a condition" (i.e. the buffers) could not be attached to the land use change as had been originally recommended by City Staff. Also, we never learned what could or could not be done in a "buffer", but it turned out that a buffer was not allowed at the time of the land use change.

Now, we are again faced with an untenable situation. If we agree to a zoning change to the property, we agree to a "by right" change of the property by a developer who initially asked for a permit to build multi-unit residences on the site along with a variance request for a reduced parking requirement. The consequences of such a development would be dire to our neighborhood. Since access to the site is relatively inconvenient from Broadway, we would see increased hazardous traffic conditions on Bluebell, Mariposa, 22nd, 21st and 20th Streets. The young children of our neighborhood would certainly be exposed to additional risk when playing in the street as children are prone to do on a "dead end" street like Bluebell.

- Is it not the City Council's and Planning Board's goal to preserve the character and stability of neighborhoods which are classified as residential (RL-1)?
- Is it not the City Council's and Planning Board's goal to conserve property values by encouraging the most appropriate uses of land within zoning districts?
- Is it not the City Council's and Planning Board's goal to protect the peace, comfort, convenience and welfare of those citizens of an area that is zoned residential (RL-1)?

A zoning change for 385 South Broadway, would actually impede the City Council's and Planning Board's ability to fulfill those goals for the Lower East Chautauqua neighborhood.

Please do NOT allow a zoning change from Residential Low Density (RL-1) to Business Transitional (BT-1 or BT-2) for the property at 385 South Broadway. If there are changes that need to be made to this building and property, let them be initiated as a non-conforming use variance request to the original zoning of Residential Low Density.

Sincerely,

Tom Angerer
2225 Bluebell Avenue

From: Paul Cheng [<mailto:pacheng@gmail.com>]
Sent: Thursday, August 20, 2015 3:10 PM
To: boulderplanningboard
Subject: LUR2015-00047

Planning Board,

We have attached a letter that we have written regarding concerns we have about the proposed rezoning of 385 Broadway (LUR2015-00047).

Thank you for your consideration!

Paul Cheng and Crystal Lee

From: Trina Rioux [<mailto:tarioux@jrlaw.com>]
Sent: Wednesday, June 17, 2015 2:58 PM
To: McLaughlin, Elaine
Cc: Brad Curl; asopher@sophersparn.com; Pannewig, Hella; mattjohnke@gmail.com; Gehr, David
Subject: 385 Broadway– Application for Rezoning (LUR2015-00047)

Ms. McLaughlin:

Please see the attached correspondence from Brad Curl in connection with the above-referenced matter.

Trina Rioux, Legal Assistant

Johnson & Repucci LLP
2521 Broadway St., Ste A
Boulder, Colorado 80304
Phone: 303-442-1900
Fax: 303-442-0191
E-mail: tarioux@jrlaw.com

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Bradley R. Curl
brcurl@j-rlaw.com

June 17, 2015

Via E-Mail (McLaughlinE@bouldercolorado.gov)

Ms. Elaine McLaughlin
Senior Planner
City of Boulder
1739 Broadway, 3rd Floor
Boulder, Colorado 80306

Re: 385 Broadway (the "Property") – Application for Rezoning (LUR2015-00047) (the "Rezoning Application")

Dear Elaine:

As you know, this firm represents the owner of the above-referenced Property (the "Owner") with respect to various land use issues, including the above-referenced Rezoning Application. In that regard, thank you for the City of Boulder's (the "City") June 5, 2015 Land Use Review Results and Comments regarding the Rezoning Application (the "Comments"). This letter responds to the Comments and expresses Owner's serious concerns related thereto. In particular,

- Owner's site review application, to the extent required, will be separate and apart from the pending Rezoning Application;
- as such, a "Good Neighbor" meeting is not required; and
- the National Institute of Standards and Technology ("NIST") is improperly interfering with the Rezoning Application process and, as a result, the City's conditioning of rezoning upon receipt of access approval from NIST is without basis.

I. THE CITY MUST CONSIDER THE REZONING APPLICATION ON ITS OWN MERITS.

The Comments require that Owner prepare a site review application and submit that application, along with a resubmittal of the Rezoning Application, so that the City may consider the two applications concurrently. The City's requirement in this regard is unfounded.

Although it is true that Owner is considering constructing a future project on the Property that includes townhomes, the scope and nature of that project may change, or the project may not proceed at all. In any event, the type of review that will be required in connection with the final

Ms. Elaine McLaughlin

June 17, 2015

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version of the proposed development of the Property, if any, is entirely separate and distinct from, and has no bearing upon, simply rezoning the Property to bring it in to compliance with the Comprehensive Plan land use map.

The list of relevant criteria that the City may consider in connection with review of a rezoning application is relatively short and does not include concurrent approval of any particular possible development of the subject property. Code, §9-2-18(e). Owner therefore requires that the City (a) withdraw its condition that Owner submit a site plan application; and (b) move forward with processing the Rezoning Application.

II. A GOOD NEIGHBOR MEETING IS NOT REQUIRED.

The Comments also require that Owner conduct a Good Neighbor meeting. However, as noted above, the only application before the City as of this date is the Rezoning Application, which simply is the vehicle pursuant to which the zoning will be made consistent with the Comprehensive Plan land use map, as was contemplated when the City revised the map in 2008. Owner has not submitted a development application and, as such, the actual use of the Property is not yet known. A Good Neighbor meeting is therefore at best premature at this point, and may never be triggered pursuant to the Code, depending upon the ultimate use of the Property. Owner therefore requests that the City delete the requirement for a Good Neighbor meeting as a condition to its merely processing the Rezoning Application.

III. NO NIST APPROVAL REQUIRED.

The Comments also condition the processing of the Rezoning Application upon Owner securing consent from NIST with respect to access issues. For the reasons set forth below, such a condition is patently improper.

A. *NIST does not Oppose the Rezoning Application.*

As an initial matter, and as noted above, the only application that is currently pending with respect to the Property is the Rezoning Application. In that regard, we have reviewed a copy of NIST's June 5, 2015 letter to the City. In relevant part, the letter states that "NIST does not express an opinion at this time on the merits of the applicant's rezoning request" (emphasis added). Simply put, that is the only comment in the letter that is germane to the pending Rezoning Application.

The NIST correspondence admittedly raises a number of other issues, but all of those issues are related to the redevelopment, not rezoning, of the Property. Owner has not submitted an application for redevelopment. Accordingly, in light of NIST not expressing an opinion regarding the Rezoning Application, the City's requirement that Owner secure consent from NIST in connection with the Rezoning Application is misplaced.

Ms. Elaine McLaughlin

June 17, 2015

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B. NIST has no Basis to Oppose the Rezoning Application.

Even if NIST's comments were correctly provided in connection with a pending development application, for the reasons set forth below, NIST simply has no basis for its position.

1. The Access Rights are without Restriction.

As you are aware, access to and from the Property is currently via an easement across the NIST property to the south of the Property (the "Easement"). A copy of the relevant Deed of Easement is enclosed for your reference.

In its correspondence, NIST expresses "... its serious reservations regarding the acceptability to NIST of access to the [Property] via the [Easement], if the [Property] is rezoned" and "... requests the City's support and engagement of the [Owner] to vacate the [Easement] . . ." NIST goes on to indicate that it "... could not rule out taking action to terminate the [E]asement because of this new, materially different use. . ."

Notwithstanding the content of its correspondence, NIST simply has no right to terminate the Easement or otherwise restrict the rights pursuant to the Deed of Easement, which rights NIST granted without restriction. In particular, the Deed of Easement provides as follows:

[NIST] does hereby grant and convey . . . an easement and right-of-way for vehicular ingress and egress, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement . . . over and across that portion of the existing roadway . . . as is reasonably necessary to allow for ingress and egress to the [Property] . . . said easement shall be appurtenant to and for the use and benefit of [the Property].

In other words, Owner's access rights pursuant to the Easement Deed are absolute – the Deed of Easement simply grants the rights of ingress and egress to and from the Property, without distinction as to the purpose for the allowed access. NIST therefore has no basis whatsoever for making the claims in its letter.

Accordingly, NIST inserting itself into the Rezoning Application process by asserting rights that it does not possess and soliciting the City's assistance in terminating rights that it is incapable of terminating, is entirely inappropriate and raises serious legal concerns. We have communicated as much to NIST.

Ms. Elaine McLaughlin

June 17, 2015

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2. Independent of the Absolute Nature of the Access Rights across the Easement, NIST's Stated Objections are Without Merit.

The NIST correspondence touches on various other issues, but stops short of specifically arguing that those issues somehow give rise to rights that NIST does not otherwise have to terminate the Easement or restrict the access over and across the same. For example, the NIST letter merely invokes 9/11 in what amounts to no more than a red herring. Parties have been accessing the Property across the NIST property since at least 1995 and for nearly 14 years since 9/11. Driving the same car across the same Easement to access a residence, rather than a medical/dental office, does not implicate the sort of security concerns about which the correspondence muses.

In addition, NIST refers to the fact that elimination of the Easement would help it comply with its stormwater permit obligations. However, NIST's required compliance with respect to stormwater matters is completely independent of, and frankly subject to, its obligation to provide access pursuant to the Easement Deed.

Finally, NIST appears to base its position upon the purported "increased number" of trips that would result and the correspondingly "materially different" use of the Easement. However, the number of daily trips over the Easement will be substantially less if, for example, the Property were rezoned and developed into townhomes. In particular, according to the ITE Trip Generation Manual, a "Medical-Dental Office" use generates 36.13 trips per day per 1000 square feet of office space. Given the existing 17,600 square foot medical office, that is 636 trips/day. On the other hand, a "Residential Condo/Townhome" use generates 5.81 trips per day per unit. In the case of 16 units, that results in a total of only 93 trips/day. In other words, the specific use about which NIST expresses concern would result in 543 fewer trips per day.

* * * * *

We have copied your counsel on this correspondence and encourage you to seek their input. The City cannot delay the rezoning process by requiring submittal of a concurrent site review application or requiring a Good Neighbor meeting with respect to a use that is as yet unknown. Neither can the City require that Owner secure the consent of a third party that has asserted claims that have no basis in fact or law, and in any event, have nothing to do with simply causing the zoning of the Property to comply with the Comprehensive Plan land use map.

Based upon the forgoing, we strongly encourage the City to (a) withdraw its conditions that Owner (i) submit for site review; (ii) hold a Good Neighbor meeting; and (iii) secure NIST consent; and (b) move forward with processing the Rezoning Application in accordance with the Code.

Ms. Elaine McLaughlin

June 17, 2015

Page 5

Thank you for your attention to this matter.

Sincerely,



Brad R. Curl

Enclosure

cc: David Gehr, Esq. *(via e-mail)*
Hella Parnewig, Esq. *(via e-mail)*
Mr. Matthew Johnke *(via e-mail)*
Adrian Sopher, AIA *(via e-mail)*

From: Ferro, Charles
Sent: Tuesday, June 30, 2015 6:06 PM
To: Brad R. Curl
Cc: Gehr, David; Pannewig, Hella; McLaughlin, Elaine
Subject:

Mr. Curl,
Please find the attached letter related to 385 Broadway.
Best,
Charles

Charles Ferro, AICP
Development Review Manager
City of Boulder - Department of Community Planning + Sustainability
303.441.4012 - Direct
303.441.3241 - Fax

ferroc@bouldercolorado.gov

www.bouldercolorado.gov

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CITY OF BOULDER

Community Planning & Sustainability

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

6/29/15

Via E-Mail (brcurl@j-rlaw.com)

Mr. Brad Curl
Johnson & Repucci LLP
2521 Broadway
Boulder, CO 80304

RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Mr. Curl:

I am in receipt of your letter dated June 17, 2015. With regard to process, while a Site Review is required to address the proposed parking reduction, please note that the Rezoning and the Site Review applications are not required to be processed concurrently (although that is preferable). Both applications can be reviewed separately under the respective criteria found in Section 9-2-18(e), B.R.C. 1981 and 9-2-14(h), B.R.C. 1981 and while a neighborhood meeting is not required by the Boulder Revised Code, it is strongly encouraged. Finally, site access is not a consideration for rezoning however, suitable access that meets the city's access standards must be demonstrated at the time of Site Review.

Best,

Charles Ferro, AICP
Development Review Manager

From: lyalts@aol.com
To: boulderplanningboard
Subject: LUR2015-00047
Date: Wednesday, August 19, 2015 3:35:08 PM

Subject: Proposed rezoning of 385 Broadway, Boulder.
LUR2015-00047

I wish to address only one of the many aspects of the impact of the proposed rezoning on the 2200 block of Bluebell Avenue: A safe zone for children to live in and play.

My wife and I bought our home at 2250 Bluebell Avenue in 1965--50 years ago, and occupied it with our three children. It was ideal for children: A no-through-traffic cul-de-sac lined exclusively with one-family homes. Children could safely play on the street and ride their tricycles or bicycles on the block. This has not changed. Kids still play and ride up and down the block with or without parents. Further, I have often noted that only drivers that do not live here, who mistakenly try to drive through our block, drive so much faster through it than we residents.

Any rezoning that would increase traffic or parking by outside groups would impair this wonderful quality of the 2200 block of Bluebell.

Sincerely,

Helmut Altschuler
2250 Bluebell Avenue
Boulder, CO
303-442-8769

August 25, 2015

To: Boulder Planning Board, City of Boulder Department of Planning and Development Services
CC: Boulder City Council,
Boulder City Manager, Jane Brautigam
Boulder City Attorney, Thomas Carr
Deputy City Attorney, David Gehr

From: Patty Angerer, 2225 Bluebell Ave. Boulder

RE: LUR2015-00047, Rezoning Application for 385 (South) Broadway

In the most recent documents received from the city (Notice of Upcoming Planning Board Hearing, undated) it becomes clear what we suspected was true. The land use change of 2008 promising a buffer of RL-1 had no basis in code. Planning Board and City Council knew or should have known that a split designation of land use was not supported by ordinance at the time of the approval of the land use change for 385 (South) Broadway.

In 2008, Bluebell Neighbors originally opposed the idea of a land-use change from Residential to Business for the property at 385 (South) Broadway. We were led to believe that if we dropped our opposition and compromised with the land owner our concern about access to the site from Bluebell would be taken away by a buffer, which would inhibit vehicle access from the Bluebell Avenue cul-de-sac to the Property. As it turns out no restrictions could be applied to the land use designation and no buffer can be applied to the current zoning request without a new ordinance being written to allow for such a split use designation. At this point there are no guarantees that Planning Board will recommend or City Council will adopt the proposed ordinance, amending sections 9-2-14, "Site Review," B.R.C 1981, and 9-9-2, "General Provisions," B.R.C. 1981, prior to the approval of the rezoning.

Since NIST has stated that they cannot support the increased traffic that would cross the easement in front of their building it appears that we have been set up for vehicular access from Bluebell to the Property. ("NIST does not express an opinion at this time on the merits of the applicants rezoning request ...However, NIST wishes to express its serious reservations regarding the acceptability to NIST of the access to the subject property via the existing easement, if the subject property is rezoned. . . .If rezoning is granted by the City, NIST requests the City's support and engagement of the property owner to vacate the current easement and reconfigure vehicular access to the subject property." (NIST letter to Elaine McLaughlin, City of Boulder, Department of Planning and Development Services, June 5, 2015))

Because the promised buffer does not exist and because NIST has indicated that they wish the current easement be vacated if rezoning occurs, we request that the recommendation to rezone the property at 385 (South) Broadway from Low 1 (RL-1) to Business- Transitional 2 (BT-2) be denied.

From: [Tom Angerer](#)
To: [boulderplanningboard](#)
Subject: Opposition to Zoning Change for 385 South Broadway (LUR2015-00047)
Date: Thursday, August 20, 2015 2:48:14 PM

As a homeowner at 2225 Bluebell Avenue since 1978, I strongly oppose the proposed Zoning Change to the property at 385 South Broadway.

When the original request for a specific variance to construct a specific medical/dental building at 385 South Broadway was made (sometime in the late 1950's), I am confident that the request seemed reasonable to the neighborhood and the city. After all, the variance represented a benefit to the neighborhood in that the building would house low-impact dental and eye-doctor businesses, thus making access for the neighborhood to obtain dental and optometry care readily available. It was a variance specifically for a medical/dental facility, not a range of facilities that a "zoning change" would allow the developer to construct.

In 2008 we were asked by the building's owner, Mr. Tenenbaum, to agree to a zoning change for his property, because it would make it easier to upgrade and repair the building. Perhaps we were naive to believe that a zoning change was necessary, especially when the owner never proceeded with any of those repairs and upgrades. However, as a result of his request, a "land use" change to the Boulder Valley Comprehensive Plan was moved by the Planning Board and ultimately approved by City Council. Planning Staff did try to help and thus recommended that the land use change be accompanied by a 25' buffer on the North and West sides of the property. However, following City Council's vote to approve the land use change, we learned that a "a condition" (i.e. the buffers) could not be attached to the land use change as had been originally recommended by City Staff. Also, we never learned what could or could not be done in a "buffer", but it turned out that a buffer was not allowed at the time of the land use change.

Now, we are again faced with an untenable situation. If we agree to a zoning change to the property, we agree to a "by right" change of the property by a developer who initially asked for a permit to build multi-unit residences on the site along with a variance request for a reduced parking requirement. The consequences of such a development would be dire to our neighborhood. Since access to the site is relatively inconvenient from Broadway, we would see increased hazardous traffic conditions on Bluebell, Mariposa, 22nd, 21st and 20th Streets. The young children of our neighborhood would certainly be exposed to additional risk when playing in the street as children are prone to do on a "dead end" street like Bluebell.

- Is it not the City Council's and Planning Board's goal to preserve the character and stability of neighborhoods which are classified as residential (RL-1)?
- Is it not the City Council's and Planning Board's goal to conserve property values by encouraging the most appropriate uses of land within zoning districts?
- Is it not the City Council's and Planning Board's goal to protect the peace, comfort, convenience and welfare of those citizens of an area that is zoned residential (RL-1)?

A zoning change for 385 South Broadway, would actually impede the City Council's

and Planning Board's ability to fulfill those goals for the Lower East Chautauqua neighborhood.

Please do NOT allow a zoning change from Residential Low Density (RL-1) to Business Transitional (BT-1 or BT-2) for the property at 385 South Broadway. If there are changes that need to be made to this building and property, let them be initiated as a non-conforming use variance request to the original zoning of Residential Low Density.

Sincerely,

Tom Angerer
2225 Bluebell Avenue

RE: Rezoning and Site Review Processes - LUR2015-00047 (385 Broadway Ave.)
NO to zoning change to 385 Broadway Ave

Dear City of Boulder, Staff, Planning Board and City Council:

I was born and raised in Boulder and currently I am the owner and occupant of 2290 Bluebell Avenue, directly adjacent to 385 Broadway. When my husband, young child and I moved into this house almost 6 years ago, we chose this neighborhood, this street and this house based on the particular characteristics it offered: a dead end street, a residential community, at a distance from student rentals; views out all the windows of mature vegetation (not looking into any other properties' backyard). At that time, it appeared the Boulder city council and staff had an interest in preserving open space, parks and the character of neighborhoods by limiting excessive development and inappropriate re-development within the city limits.

The current medical/dental clinic at 385 Broadway seemed a curious neighbor within our residential neighborhood, but has proved to be a wonderful one as it is unobtrusive and has very minimal traffic--Much less than is typical of this type of building. The developer's lawyer argues "a "Medical-Dental Office" use generates 36.13 trips per day per 1000 square feet of office space. Given the existing 17,600 square foot medical office, that is 636 trips/day. On the other hand, a "Residential Condo/Townhome" use generates 5.81 trips per day per unit. In the case of 16 units, that results in a total of only 93 trips/day. In other words, the specific use about which NIST expresses concern would result in 543 fewer trips per day." This is completely erroneous. I hear the amount of cars that come in and out of that building daily and it is at most maybe 30 and is not disruptive at all. A Residential Condo/Townhome seemingly designed for college students who drive to and from class, activities and downtown multiple times a day and have many guests would lead to exceedingly more traffic and parking concerns. In addition, the proposal suggests 4 students per unit which equals 64 people, drastically increasing the traffic trips per day.

A business-transitional 2 (BT-2) zoning change would allow the creation of a building that would significantly affect my house: It would inhibit my access to natural light; flood my house with artificial lights at night; increase noise and trash, and potentially damage or destroy the mature vegetation along my eastern property line.

I understand the developer needs to demonstrate "by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map". **Rezoning 385 Broadway is not necessary for compliance with the Boulder Valley Comprehensive Plan Map.** It seems one of the most important tenants of the Comprehensive Plan is 2.10 Preservation and Support for Residential Neighborhoods. **Rezoning this land is completely contradictory to this point of the Comprehensive Plan. Not supporting the rezoning would be in compliance with this tenant,** as it would demonstrate "the city will work with neighborhoods to protect and enhance neighborhood character and livability." Because of this issue of access to the property (NIST has said they will not allow a large

development to use the access road) and what the redevelopment would look like in a business transitional zone (The developer has stated an intent to build high-density condominiums suitable for student use), the character and livability of our neighborhood would be irrevocably changed for the worst: If NIST refuses access through their property and access is through Bluebell, the numerous speeding cars would not allow my children to be safe playing outside in what is now a cul-de-sac. If the developer is granted the rezoning change and continues with their plan to build condominiums tailored for students, instead of having quiet evenings filled with ice cream street parties we will be subject to late loud parties, marijuana smoking and college drinking.

I understand the developer is pushing through rezoning so they don't have to discuss their redevelopment plans which they know will significantly harm the neighborhood. It is clear from their letter dated June 17, 2015, they have no interest in neighborhood or NIST input into their re-development plans and would like to have ultimate freedom in deciding what to build with no deference to the community, which would be granted to them by a rezoning decision. (Again, allowing this goes against the comprehensive plan to preserve and support residential neighborhoods) However, it is also clear from their June 17, 2015 letter they intend to build a high density condominiums (as they erroneously argue about the traffic patterns for this sort of establishment). The developer is well-known for the construction of high-density student housing in other parts of Boulder. It can only be assumed this is his intent and if rezoning is granted, this will happen. Besides ruining the community, this type of development would necessitate increased police response. Because student housing does not fit into our neighborhood and our concerns have been dismissed by the developer, the neighbors will not tolerate any late night noise, parties, drinking or marijuana smoking nearby. When this occurs, unfortunately we will be forced to call the police to respond and manage these issues, diverting their presence and time away from areas already notorious for dealing with student life.

There are plenty of places in Boulder more suitable for this type of development—such as that proposed for 27th way/Broadway (where the old Wendy's used to be), which can be developed appropriately. Spot-zoning a single parcel of residential land into business transitional is not appropriate, ruins our neighborhood, disrupts my family's way of living, and negates all the reasons we chose to live in this house.

Please join with the Boulder citizens and choose to protect and defend our neighborhood and community against the bullying of a single developer. **No Rezoning of 385 Broadway.**

Thank you.

Sincerely,

Julianna Bellipanni



Bradley R. Curl
brcurl@j-rlaw.com

June 17, 2015

Via E-Mail (McLaughlinE@bouldercolorado.gov)

Ms. Elaine McLaughlin
Senior Planner
City of Boulder
1739 Broadway, 3rd Floor
Boulder, Colorado 80306

Re: 385 Broadway (the "Property") – Application for Rezoning (LUR2015-00047) (the "Rezoning Application")

Dear Elaine:

As you know, this firm represents the owner of the above-referenced Property (the "Owner") with respect to various land use issues, including the above-referenced Rezoning Application. In that regard, thank you for the City of Boulder's (the "City") June 5, 2015 Land Use Review Results and Comments regarding the Rezoning Application (the "Comments"). This letter responds to the Comments and expresses Owner's serious concerns related thereto. In particular,

- Owner's site review application, to the extent required, will be separate and apart from the pending Rezoning Application;
- as such, a "Good Neighbor" meeting is not required; and
- the National Institute of Standards and Technology ("NIST") is improperly interfering with the Rezoning Application process and, as a result, the City's conditioning of rezoning upon receipt of access approval from NIST is without basis.

I. THE CITY MUST CONSIDER THE REZONING APPLICATION ON ITS OWN MERITS.

The Comments require that Owner prepare a site review application and submit that application, along with a resubmittal of the Rezoning Application, so that the City may consider the two applications concurrently. The City's requirement in this regard is unfounded.

Although it is true that Owner is considering constructing a future project on the Property that includes townhomes, the scope and nature of that project may change, or the project may not proceed at all. In any event, the type of review that will be required in connection with the final

Ms. Elaine McLaughlin

June 17, 2015

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version of the proposed development of the Property, if any, is entirely separate and distinct from, and has no bearing upon, simply rezoning the Property to bring it in to compliance with the Comprehensive Plan land use map.

The list of relevant criteria that the City may consider in connection with review of a rezoning application is relatively short and does not include concurrent approval of any particular possible development of the subject property. Code, §9-2-18(e). Owner therefore requires that the City (a) withdraw its condition that Owner submit a site plan application; and (b) move forward with processing the Rezoning Application.

II. A GOOD NEIGHBOR MEETING IS NOT REQUIRED.

The Comments also require that Owner conduct a Good Neighbor meeting. However, as noted above, the only application before the City as of this date is the Rezoning Application, which simply is the vehicle pursuant to which the zoning will be made consistent with the Comprehensive Plan land use map, as was contemplated when the City revised the map in 2008. Owner has not submitted a development application and, as such, the actual use of the Property is not yet known. A Good Neighbor meeting is therefore at best premature at this point, and may never be triggered pursuant to the Code, depending upon the ultimate use of the Property. Owner therefore requests that the City delete the requirement for a Good Neighbor meeting as a condition to its merely processing the Rezoning Application.

III. NO NIST APPROVAL REQUIRED.

The Comments also condition the processing of the Rezoning Application upon Owner securing consent from NIST with respect to access issues. For the reasons set forth below, such a condition is patently improper.

A. NIST does not Oppose the Rezoning Application.

As an initial matter, and as noted above, the only application that is currently pending with respect to the Property is the Rezoning Application. In that regard, we have reviewed a copy of NIST's June 5, 2015 letter to the City. In relevant part, the letter states that "NIST does not express an opinion at this time on the merits of the applicant's rezoning request" (emphasis added). Simply put, that is the only comment in the letter that is germane to the pending Rezoning Application.

The NIST correspondence admittedly raises a number of other issues, but all of those issues are related to the redevelopment, not rezoning, of the Property. Owner has not submitted an application for redevelopment. Accordingly, in light of NIST not expressing an opinion regarding the Rezoning Application, the City's requirement that Owner secure consent from NIST in connection with the Rezoning Application is misplaced.

Ms. Elaine McLaughlin

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B. NIST has no Basis to Oppose the Rezoning Application.

Even if NIST's comments were correctly provided in connection with a pending development application, for the reasons set forth below, NIST simply has no basis for its position.

1. The Access Rights are without Restriction.

As you are aware, access to and from the Property is currently via an easement across the NIST property to the south of the Property (the "Easement"). A copy of the relevant Deed of Easement is enclosed for your reference.

In its correspondence, NIST expresses "... its serious reservations regarding the acceptability to NIST of access to the [Property] via the [Easement], if the [Property] is rezoned" and "... requests the City's support and engagement of the [Owner] to vacate the [Easement] . . ." NIST goes on to indicate that it "... could not rule out taking action to terminate the [E]asement because of this new, materially different use. . ."

Notwithstanding the content of its correspondence, NIST simply has no right to terminate the Easement or otherwise restrict the rights pursuant to the Deed of Easement, which rights NIST granted without restriction. In particular, the Deed of Easement provides as follows:

[NIST] does hereby grant and convey . . . an easement and right-of-way for vehicular ingress and egress, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement . . . over and across that portion of the existing roadway . . . as is reasonably necessary to allow for ingress and egress to the [Property] . . . said easement shall be appurtenant to and for the use and benefit of [the Property].

In other words, Owner's access rights pursuant to the Easement Deed are absolute – the Deed of Easement simply grants the rights of ingress and egress to and from the Property, without distinction as to the purpose for the allowed access. NIST therefore has no basis whatsoever for making the claims in its letter.

Accordingly, NIST inserting itself into the Rezoning Application process by asserting rights that it does not possess and soliciting the City's assistance in terminating rights that it is incapable of terminating, is entirely inappropriate and raises serious legal concerns. We have communicated as much to NIST.

Ms. Elaine McLaughlin

June 17, 2015

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2. Independent of the Absolute Nature of the Access Rights across the Easement, NIST's Stated Objections are Without Merit.

The NIST correspondence touches on various other issues, but stops short of specifically arguing that those issues somehow give rise to rights that NIST does not otherwise have to terminate the Easement or restrict the access over and across the same. For example, the NIST letter merely invokes 9/11 in what amounts to no more than a red herring. Parties have been accessing the Property across the NIST property since at least 1995 and for nearly 14 years since 9/11. Driving the same car across the same Easement to access a residence, rather than a medical/dental office, does not implicate the sort of security concerns about which the correspondence muses.

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Finally, NIST appears to base its position upon the purported "increased number" of trips that would result and the correspondingly "materially different" use of the Easement. However, the number of daily trips over the Easement will be substantially less if, for example, the Property were rezoned and developed into townhomes. In particular, according to the ITE Trip Generation Manual, a "Medical-Dental Office" use generates 36.13 trips per day per 1000 square feet of office space. Given the existing 17,600 square foot medical office, that is 636 trips/day. On the other hand, a "Residential Condo/Townhome" use generates 5.81 trips per day per unit. In the case of 16 units, that results in a total of only 93 trips/day. In other words, the specific use about which NIST expresses concern would result in 543 fewer trips per day.

* * * * *

We have copied your counsel on this correspondence and encourage you to seek their input. The City cannot delay the rezoning process by requiring submittal of a concurrent site review application or requiring a Good Neighbor meeting with respect to a use that is as yet unknown. Neither can the City require that Owner secure the consent of a third party that has asserted claims that have no basis in fact or law, and in any event, have nothing to do with simply causing the zoning of the Property to comply with the Comprehensive Plan land use map.

Based upon the forgoing, we strongly encourage the City to (a) withdraw its conditions that Owner (i) submit for site review; (ii) hold a Good Neighbor meeting; and (iii) secure NIST consent; and (b) move forward with processing the Rezoning Application in accordance with the Code.

Ms. Elaine McLaughlin

June 17, 2015

Page 5

Thank you for your attention to this matter.

Sincerely,



Brad R. Curl

Enclosure

cc: David Gehr, Esq. (*via e-mail*)
Hella Pannewig, Esq. (*via e-mail*)
Mr. Matthew Johnke (*via e-mail*)
Adrian Sopher, AIA (*via e-mail*)

The Community of Lower Bluebell in Boulder, Colorado

6.1.2015

Ms. Elaine McLaughlin
Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

RE: Application for re-zoning
#LUR2015-00047
385 Broadway/High Density Student Housing

Dear Ms. Elaine McLaughlin,

The undersigned represent the community of Lower Bluebell who are vigorously opposed to the zoning change request, #LUR2015-00047, for 385 Broadway, Boulder.

We live in a low-density residential neighborhood that has maintained its character for 58 years. We are a strong, diverse community committed to caring for the fabric of the neighborhood and for one another. One half of the homes have been occupied by the same families for over 30 years, one third of the homes have been occupied for over 50 years by the original builders of the houses.

In 2008, the owner of 385 Broadway requested a land use map change. As a neighborhood we worked with the then owner and the city to come to an agreement that would allow for expansion or redevelopment of the site for continued business use while maintaining a buffer from the impacts of the proposed increase in business uses the owner was proposing. We were told he wanted to increase the square footage of office space and that a change in zoning would remove the need to request variances as was done in the past to allow for a business use in a residential zone. City Staff proposed the 25 foot RL-1 buffer on the west and north sides of the property and a zoning change to BT-2 for the remainder of the property to allow for the improvements. The neighbors agreed to the staff's proposal, the buffer was put into place and the BVCP land use was changed. However, the owner did not pursue the zoning change for the majority of the site and instead chose to list the property for sale.

The property was sold in 2014 and the current request for re-zoning is being requested by the new owners of the property. Unlike the previous owner's stated intent of increasing square footage of office space, the current owner's stated intent, found in their Project Fact Sheet, is to build multi-family/high density student rental housing which would be comprised of 16 townhomes with 4 bedrooms each (potentially 64 residents). They intend a reduction in off street parking spaces from the required 48 to 36, building code occupancy classification B and \$119,000 Cash-in-Lieu of 4 dedicated permanently affordable housing units on site. This project would require the demolition of a building that is over 50 years old, which would require a historic landmark review.

The current proposal states that a change in zoning is required by the Boulder Valley Comprehensive Plan and that the property zoning must be in compliance with the BVCP Land Use Map. We disagree, and recognize that the BVCP guides land use decisions, provides a general statement of communities desires for future development but does not regulate city zoning.

We strongly oppose the proposed change in zoning. Should rezoning occur, the owners would have "by-right" development opportunities. And therefore, could build anything allowed in that zoning, which is unacceptable. We insist on maintaining the residential zoning allowing for development with special review only.

The current project proposed by Matt Johnke Realty & Heritage Title Co., Sopher Sparn Architects LLC, Adrian Sopher and Erin Bagnall, exemplifies the potential scope of a project which could be developed by-right.

Our concerns specific to the above mentioned project are:

1. Parking: Requires review

The developers have requested a reduction in permitted parking spaces of 25%. With a potential of 64 residents and 36 parking spaces those without a space in the complex would have no alternative but to park on Bluebell or Mariposa, which is not acceptable. While Bluebell is part of the Columbine Parking Zone, an increase of up to 28 permits is not sustainable.

2. Light Pollution: Compliance with “Dark Skies” requires a review

Two 3-story buildings housing 16 units and perched on a hill will produce unwelcomed light pollution.

3. Buffer Zone:

Both the 25 foot buffer zones, north which is in the required set back and west which abuts a residence, have historically been ill maintained.

4. Construction Staging: Requires review

Construction Staging is problematic in that there is no venue for staging.

6. Pedestrian Access:

The pedestrian access on the new development should go directly east from the developed property onto the bike/pedestrian path on Broadway, avoiding Bluebell Avenue altogether.

7. Fire and Life Safety: Requires Review

Access from Bluebell is non-existent. There is an existing fire truck access to the cul de sac at the end of Bluebell Ave through a chained gate which must remain exclusively dedicated to emergency vehicles.

8. Solar Access: Requires Review

The elevation of the site and the proposed height of the buildings suggest an infringement on access to sunlight on the property at 2290 Bluebell Avenue.

Thank you,
The undersigned neighbors

Name	Address	Phone	Signature
Michael Dominick	2265 Bluebell	3/817-4975	Michael Dominick
MARCIA WALKER	2265 BLUEBELL	773.908.9009	MARCIA WALKER
Shirley S. Keller	2240 Bluebell	303-442-8535	Shirley S. Keller
Matthew Anderson	2290 Bluebell Ave.	720-233-6976	Matthew Anderson
J. Bellipai	2240 Bluebell Ave	720-233-6976	JULIANNA BELLIPANNI
Elizabeth Fleming	2285 Bluebell Ave	415-677-9779	Elizabeth Fleming
Helmut M. Alekschuler	2250 Bluebell Ave	442-8769 (303)	Helmut M. Alekschuler
T.F. Van Zant	2255 Bluebell	303-499-6395	T.F. Van Zandt
Natalie L. Hedberg	2255 Bluebell	303-499-6395	Natalie L. Hedberg
Dan Olson	2285 Bluebell	415-713-7457	Dan Olson
Janet Alexander	415 Sunnyside Ln	720 301 6129	Janet Alexander
Patty Angerer	2225 Bluebell	303-449-0968	Patty Angerer
Tom ANGERER	2225 Bluebell	303-449-0968	Thomas Angerer
Charles Palmer	2270 Bluebell	303-788-8502	Charles Palmer
Halina Palmer	2270 Bluebell	303 718 4798	Halina Palmer
Steve C. Monem	2245 Bluebell Ave.	720-629-1733	Steve C. Monem

Name	Address	Phone	Signature
Helen Taft	485 Sunnyside Ln	303-444-1474	Helen Taft
GREN C. TAFT	485 Sunnyside Ln	303-444-1474	Gren C. Taft

Name	Address	Phone	Signature
HOLLOWAY, SALLY C.	2222 BLUEBELL AVE,	303-442-0980	Sally C. Holloway
MARY TIAO	2202 BLUEBELL AVE	303-499-4747	Mary Tiao
DORIS HASS	2207 Bluebell	303-443-7089	Doris E. Hass
Mho Salim	2211 Bluebell	303-449-3365	M. H. Salim
Fayy Salim	2211 Bluebell Ave	303-449-3365	Fayy Salim

Contact: Patty Angerer
 2225 Bluebell Ave.
 Boulder, CO 80302
 303-449-0968
 psangerer@yahoo.com

From: ~~dh1056@gmail.com~~ [mailto:~~dh1056@gmail.com~~] **On Behalf Of** David Holloway

Sent: Thursday, June 04, 2015 3:08 PM

To: McLaughlin, Elaine

Subject: Proposed Bluebell Student Housing Project at 385 Broadway, #LUR2015-00047

Dear Ms. McLaughlin,

I have an interest in property on lower Bluebell Avenue and am writing to express my alarm and opposition to the proposed student housing project for 385 Broadway.

It is stunning that planning and zoning would even consider such a proposal, given its scale and mass, when compared to the contiguous low density single family area of lower Bluebell.

As you know, the proposed student housing project triggers multiple reviews including parking, fire and life safety, and historical.

Moreover, the proposed project submitted by Mr. Johnke, et. al., raises serious questions about your department's position and record on FAR regulations and enforcement.

The Bluebell neighborhood has already experienced unfavorable development accommodations and mangling of FAR guidelines with several area redevelopment projects, including the recent (within the last several years) redevelopment of 2131 Bluebell. The 2131 Bluebell redevelopment more closely resembles a zero-lot-line project as the structure stretches north and east touching two alley boundaries! How could that have possibly been approved? Worse, after multiple assurances to the contrary, the "single family" at 2131 Bluebell appears to be operating as a rental property, along with numerous other non-conforming rentals within a five block radius.

I have also been in contact with the GSA (General Services Administration), the federal government's property manager at NIST, and have asked them for their position on this student housing project.

Among the questions for GSA is the issue of access to 385 Broadway - which essentially runs the length of the NIST main entrance - and how that access squares with their current and future security demands.

It seems inconsistent with their ongoing security concerns that the GSA would lock down their south and west entries (Dartmouth and King streets), and open up their front door to student housing.

The proposed parking scheme for 385 Broadway is a also total non-starter. The property won't accommodate the required 48 surface spaces, and it barely accommodates the current 36 spaces with a building one-third the mass of the proposed structure. So, as a result of the unfavorable access to the property, combined with the dearth of parking spaces, tenants (students) of this proposed project would be inclined to park on Bluebell - especially given the projects proposed orientation - facing Broadway and Bluebell.

In addition, though I have not yet received it, I have ordered a litigation report (title report) on 385 Broadway. There seem to be questions about a former or current leasehold estate in the chain of title, which wouldn't surprise me given that all of South Oak Park was essentially re-platted due to surveying errors. Plus, current use - commercial, conflicts with current zoning - low density residential; and the proposed zoning - business, seems to be in contravention of proposed use - high density student housing? Is student housing in Boulder zoned business?

Given the myriad entanglements with this project it is my hope that reason and common sense prevail and the proposed zoning request is denied forthwith.

Please know that if the project planning is allowed to continue, I will use - without limitation - all available methods and resources to block any further activity on this project.

Sincerely,

David Holloway



UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
325 Broadway
Boulder, Colorado 80305-3328

June 5, 2015

Elaine McLaughlin
City of Boulder
Planning and Development Services
P.O. Box 791
Boulder, CO 80306-0791

Re: LUR 2015-00047: 385 Broadway
Rezoning Request

Dear Ms. McLaughlin:

It has come to the Department of Commerce's attention that the new owner of 385 Broadway is seeking to modify the zoning on the property for the purpose of redevelopment, per the captioned Land Use Review Application. The subject property is immediately adjacent to, and shares a portion of its boundary with, the Department of Commerce's Boulder Campus. Current vehicular access to the subject property from Broadway is over an easement across the Boulder Campus. This easement was granted by the National Institute of Standards and Technology (NIST) for the existing medical/dental office building use.

NIST does not express an opinion at this time on the merits of the applicant's rezoning request. However, NIST wishes to express its serious reservations regarding the acceptability to NIST of access to the subject property via the existing easement, if the subject property is rezoned.

The existing easement provides a long access road to the subject property across a large frontage of NIST property. In granting the easement for the medical office building, NIST never contemplated that it would be obligating itself with an easement for the significantly different new use which NIST understands is proposed by the applicant for a rezoned 385 Broadway. The proposed new use that underlies the rezoning request was not contemplated by NIST in granting the easement initially, in recording it subsequently, or in its continuance today.

NIST notes that subsequent to NIST granting the easement, there have been several changes to the considerations that NIST must manage in its stewardship of the property on behalf of the federal government. The post 9-11 construction of a new entrance to the DOC Boulder Laboratories site with new security affected the design of NIST's front entrance on Broadway. Additionally, NIST now holds a municipal stormwater permit for the Boulder Site. The road and associated paving between the road and the bike path represent a significant amount of impermeable surface. A rough estimate of the paving that could be removed and redeveloped as permeable surface in this area, if the easement were vacated, is approximately 25,000 square feet.

If rezoning is granted by the City, NIST requests the City's support and engagement of the property owner to vacate the current easement and reconfigure vehicular access to the subject property. Use of the existing easement for the contemplated new facility is unacceptable because of the liability concerns from the increased number and different nature of vehicular, bicycle, and pedestrian trips. NIST believes that if the rezoning is granted, the redevelopment provides the landowner with opportunity to work with the City in a redesign of the entrance located upon the confines of the landowner's property which would meet the future purpose of the new building. Additionally, by changing the entrance to 385 Broadway, NIST would be able to better meet its current security and stormwater permit requirements. In the absence of assurances to NIST of alternative access to the subject property, NIST could not rule out taking action to terminate the easement because of this new, materially different use than the one for which the easement was granted and confirmed by NIST.

NIST appreciates the opportunity to submit this letter regarding its concerns for the record in the captioned application.

Sincerely,



Virginia Holtzman-Bell
Deputy Director for Facility Design and Construction/
Boulder Laboratories Site Manager
Office of Facilities and Property Management

Sent by Email with return receipt requested

On Aug 25, 2015, at 10:13 PM, Brett Walker MSCRP wrote:
Lois and Stan,

Here are a few words I think might help. You should forward them on to Dan Olsen and Patty:

Inconvenient zoning is not considered a taking. Completely denying access to adjacent ROW from private property is.

If the City and applicant do not sort out the access issues with NIST (that is, guarantee the access to Broadway that the site has enjoyed for decades), yet go ahead and approve a rezone (that is, give the owner an entitlement) to allow for higher density and/or more intensive use (especially speculatively), the City will set the neighborhood up for some big problems.

The City will be forced into providing access onto Bluebell should NIST be able to somehow rescind the access easement or whatever arrangement they have.

If I were a cynical person, I would think the planners/decision makers are counting on this situation as it takes a hard decision out of their hands: "if we don't allow it, we'll be sued for a Takings". And indeed they would be.

I say this because while a Comprehensive Plan gives some legitimacy to the City's Police Power to regulate land uses (that is, to create and change zoning districts or other land use regulation), the Plan is much more than just a Future Land Use recommendation map. It contains goals and visions for growth that are more complex than a color on a piece of paper. The planners and decision makers should read those before making a decision on this.

For the planning staff to say their hands are tied to supporting a zone change for a single acre of land SOLELY because of the color on a recommending future land use map is indicative that their professional judgment and expertise (that is, the very thing we are paying them to utilize for our community's betterment) is either suspect or irrelevant. In short, they don't want to make the tough, but right, decision (that is, recommend as staff that the governing body make the tough, but right, decision).

No court in the country would say that just because a Future Land Use recommendation (color on a map) says "business", the owner is thus automatically entitled to a business zone (indeed that is why the Council is required to make a decision and hold a public hearing).

Every court in the country would say that if a City doesn't provide access to existing, adjacent ROW for private property, the City has thus deprived the owner of such reasonable use that it would indeed be considered a Taking.

Brett

To: City of Boulder Staff, Planning Board, and City Council
RE: Rezoning of 385 Broadway (LUR2015-00047)

We are writing to express our concern with the proposed zoning change of **385 Broadway** from residential (RL-1) to Business Transitional (BT2). **LUR2015-00047**

We live at 2280 Bluebell with our 6 year old daughter and we are located two lots away from 385 Broadway.

We are very concerned that changing the zoning to Business Transitional will have a highly detrimental impact on the residential area of 2200 Bluebell and the surrounding blocks.

The access to 385 Broadway includes a very long driveway from the south off Broadway (across the bike path) by NIST.

Here are our concerns:

- Traffic
 - Because vehicle access is difficult (because of the very long driveway), visitors to 385 Broadway will use residential streets including Bluebell, 22nd St and 20th Street to get to 385 Broadway
 - Bluebell, 22nd St, and 20th St are quiet residential streets and are not designed for business access. There are many children and other pedestrians in the area. We anticipate that there will be speeding vehicles using those roads to get to 385 Broadway. It will be a safety risk especially as there are many children (including our child) who play in the area and rely on the fact that it is a quiet street.
 - The intersection of 22nd and Baseline is a congested area (with a Firehouse). Adding traffic here will worsen the congestion.
- Parking
 - 385 Broadway does not have much space for parking and we anticipate that users of the site will park heavily on the 2200 block of Bluebell and Mariposa. This will negatively impact the quiet nature of those streets and the larger area of Lower Chautauqua
- Noise
 - Since 385 South Broadway is adjacent to a quiet residential area we feel that there will be noise and light pollution issues. The developer has proposed a plan for building 16 condo units and this sort of density is in our opinion too intense for this area of Lower Chautauqua.

We are in favor of maintaining the RL1 zoning. We believe that rezoning to BT will have a significant negative impact on the quality of life on 2200 Bluebell and surrounding streets.

Our understanding is that the Boulder Valley Comprehensive Plan is just a guideline and that it is not a rule of law. It is subject to errors and inaccuracies, like any large scope plan. Thusly we

feel that each zoning change should be considered by many factors and not just what is recommended in the BVCP

In addition, we believe that our stance is supported by the statement in the BVCP that one of its primary goals is to preserve the character of existing neighborhoods. This particular proposed zoning change is diametrically opposed to that goal.

We ask that the Planning Board consider these factors (keeping in mind the the BVCP is just a guideline and not a rule) and recommend against the zoning change.

Thank you for your efforts and consideration in this matter.

Sincerely,

Paul Cheng & Crystal Lee

From: [Sarah Chesnutt](#)
To: [boulderplanningboard](#)
Subject: Rezoning for 385 Broadway
Date: Thursday, August 27, 2015 3:14:30 PM

Dear Boulder Planning Board,

I strongly oppose the zoning change at 385 Broadway. The Baseline and Broadway intersection is one of the most congested in the city and is a location of frequent accidents already. The proposed use of the land parcel for a 16-unit complex of four bedrooms each would add way, way too much traffic to the area around Broadway and Baseline. There is also a fire station that needs to get through for emergencies (and also adds to the existing congestion when they are answering a call), and a bus stop that is heavily used and uses a lane of traffic.

I just can't see how anyone would consider it good planning to put high density housing on that parcel.

Thank you for your time,
Sarah Chesnutt

Sarah Chesnutt
1421 Bluebell Avenue
Boulder, CO 80302
sarah@sarahchesnutt.com
cell: 720-840-9594

From: [Michael P. Dominick](#)
To: [boulderplanningboard](#)
Cc: [PS Angerer](#)
Subject: 385 Broadway LUR2015-00047
Date: Friday, August 14, 2015 3:47:51 PM

Dear Planning board and staff

I am a long time home owner (2265 Bluebell) in the lower Bluebell neighborhood. I (along with **all** the neighbors) are **strongly** opposed to any rezoning of the 385 Broadway property adjacent to our neighborhood.

One of my concerns with rezoning that parcel from low density residential to transitional business is that it would inevitably generate increased traffic and severe parking issues. The BVCP of 2008 was dead wrong in designating this property as appropriate for the uses allowed under transitional business zoning.

Related to the increased traffic and parking issues, the existing underpass beneath Broadway between Bluebell and Mariposa Avenues facilitates many walkers and bikers who go back and forth to the neighboring stores in the Basemar complex. This street (Bluebell) and the adjacent pathway to the Broadway underpass is part of the Skunk Creek Greenway corridor that was established by the City to encourage biking, walking, and sustainability. Significant increased traffic and parking in the immediate area will cause safety risks to the walkers, bikers, and young children on what is and has been for decades a very quiet and low traffic cul de sac.

I have more to say in opposition and will supplement this later as time allows.

Thank you for your attention and consideration.

Law Offices of Michael P. Dominick
Michael P. Dominick
250 Arapahoe Ave., Suite 301
Boulder, Colorado 80302
O: [303 447 2644](tel:3034472644)
F: [303 447 1685](tel:3034471685)
E: mpdominick@gmail.com

Attachment C - Correspondence Received

As noted in the BVCP Plan's charter "The Boulder Valley Comprehensive Plan policies guide decisions about growth, development, preservation, environmental protection, economic development, affordable housing, culture and the arts, urban design, neighborhood character and transportation. The policies also inform decisions about the manner in which services are provided, such as police, fire, emergency medical services, water utilities, flood control and human services." It is intended as a guide, not legally binding document for local land use decisions

Please do not rezone this lot without allowing us the opportunity to fight the BVCP's incorrect change to Business Transitional in 2008. Also, do not rezone this lot without understanding access from Broadway. A lot cannot be described as a way to create a buffer from a busy street to a residential neighborhood if the only access is through that neighborhood. No Rezoning of 385 Broadway.

Thanks,
Beth Fleming
2285 Bluebell Ave, Boulder, CO.

Attachment C - Correspondence Received

From: [Elizabeth Garfield](#)
To: [boulderplanningboard](#)
Subject: 385 Broadway
Date: Friday, August 28, 2015 2:41:50 PM

Hello,

I am writing to express my opposition to rezoning the property at 385 Broadway and putting in a large apartment building with limited parking. This change would have dire consequences for a very quiet, low-traffic neighborhood.

Thank you for your consideration.

Elizabeth Garfield
205 Devon Place
Boulder, CO 80302

From: [Helen](#)
To: [boulderplanningboard](#)
Subject: Re: 385 Broadway LUR2015-00047
Date: Wednesday, August 19, 2015 3:12:44 PM

Sent from my iPad

From: Helen <hgoldman@colorado.edu>
Date: August 19, 2015 at 9:54:03 AM MDT
To: boulderplanningboard@bouldercolorado.gov
Subject: Fwd: 385 Broadway LUR2015-00047

Dear Planning Board Members:

My husband and I live at 2275 Bluebell Avenue, nearly opposite the property requesting a zoning change. We have lived on this quiet residential street since 1972, and raised our two children here. I invite you to actually take a stroll down our street to see what we are in danger of losing.

If the proposal is accepted, our neighborhood is about to undergo a drastic and destructive change, which will undermine a family centered neighborhood where young children play safely, especially in the lower part of our street and the cul-de-sac. It has been a haven that substitutes for a local playground, which we do not have.

A bit of history: when we moved in, city planners included a playground in every other residential neighborhood, close enough for children to walk or ride bikes to, with no intervening major streets to cross, like Broadway. I was curious why we were not so blessed. So I called the city offices and their response was that when the city gave the land next door to the federal government for the Bureau of Commerce, there was an agreement between the city and the federal government that the local residents could use the unbuilt part of the land there to "play." Hah! Some playground, with limited access and no facilities.

So our little haven of peace and quiet, broken only by the laughter of the children at play will be shattered by traffic, parked cars and extremely dense population. There could be as many as 64 cars and as many or more unrelated people using our street. We feel that the original 2008 zoning change was a Trojan Horse, meant to undermine our right to

Attachment C - Correspondence Received

live quietly on our lovely residential street. Please do not do this to us.

Yours truly,
Helen Goldman

Sent from my iPad

August 27, 2015

To: Boulder Planning Board

From: Doris E. Hass, 2207 Bluebell Avenue, Boulder, CO 80302

Opposition to the Re-zoning of 385 Broadway

I am Doris Hass and live at 2207 Bluebell AND I oppose this rezoning.

I am a founding member of the Lower Bluebell Block Improvement Association which started in the early 1960s. And this proposal is certainly not an improvement!

In 1954 my husband, Willard, and I bought this property after his graduation from CU. We designed and built our home in 1961 and raised our family here.

I founded the Boulder Public Library Foundation and the Senior's Foundation, and for over 50 years I have taught Sunday School, fed the homeless once a month, served as president of the AAUW and am serving on the board of the Latina Women of Boulder County.

When we bought our property, proximity to public transportation on Broadway was a necessity since I have never driven a car. I have always used the city buses and walk up and down lower Bluebell to get to the Broadway bus stops. A change in the zoning and re-development that increases the density of people and vehicles in the neighborhood will be a disaster for me. With cars parked continuously along the sidewalks, it will be nearly impossible to clear the sidewalks during the winter. Now I sometimes walk in the middle of the street – but with increased traffic that would no longer be safe.

I see no reason for the zoning to be changed for this property. The new owner simply needs to abide by the current zoning. The west side of Broadway should remain a low density residential neighborhood. If the plans to develop the site are realized, there will be more people living on that 0.8 acre site than on our entire lower Bluebell block. Do not allow this to happen to our neighborhood!



Doris E. Hass
2207 Bluebell Avenue

Attachment C - Correspondence Received

From: [Cynthia Holloway](#)
To: [boulderplanningboard](#)
Cc: [bluebell22@comcast.net](#); [psangerer@yahoo.com](#)
Subject: Re-zoning Request for 385 Broadway
Date: Thursday, August 20, 2015 11:15:59 AM

Elevations Law Group
330 South Lincoln Avenue, Suite 222
Steamboat Springs, CO 80477
Phone 970.879.4389
counselors@ElevationLawGroup.com

August 5, 2015

City of
Boulder Planning Department
Via email delivery

Re: Re-zoning request for 385 Broadway

The applicant's zone change request for 385 Broadway should be denied. The zoning should stay as residential low density, and eventually the use (now non-conforming) will revert to conform to the rest of the immediate vicinity and neighborhood.

My family has lived at 2222 Bluebell for almost six (6) decades. My father, a former city councilman and Mayor of Boulder, was adamantly opposed to spot zoning (so am I), which is in essence what the applicant is requesting. I believe that spot zoning is undesirable and unacceptable in these circumstances. The applicant's zone change request should be denied. The existing medical office building was originally built and used/occupied by several doctors and dentists who lived within

Attachment C - Correspondence Received

a block of two of their offices. In those days kids walked to school and many of parents walked to work. The non-conforming use was and has been tolerated for these many years because it didn't negatively affect the residential nature of the neighborhood. The requested zone change would substantially and negatively impact the neighborhood. As kids, we walked to our dentist and doctor's appointments which were just at the end of Bluebell. Continued use as a medical office building is OK. Changing the zoning, and thus the future uses, is unacceptable and should NOT be allowed.

I respectfully request that the applicant's zone change request be denied.
Sincerely,

John P. Holloway,
Jr.

http://cp.mcafee.com/d/2DRPoA920w96Om6bTd7dPhO-YrKruKMUCMCruKMUC-CrjKOMOMqekQkjqQtQhMVAsOUOr8lrfg-aN-Mxa14xnoE0ExIIz3USGvmeEIUzkOr8lrfg-dGDRzG5u8RcCQ625T47T-LPxEVv79IZuVtdBAOb2pEVuuvVqWdAkIrK8YG7DR8OJMddECQjt-jhphho7fI8CXCOD3h_CtDaI0HFw9hGSJOVKOfEfvZj6BATwllqsBmRu1FJBBUQsCMnVskH2k29Ew1vyPvQCq87qNd43bPVEw6oRRONFoSOMraAV4

From: Spence, Cindy
To: Spence, Cindy
Subject: RE: Rezoning 385 Broadway LUR205-00047
Date: Thursday, August 27, 2015 10:31:42 AM

From: Lois Kruschwitz [<mailto:eco@earthnet.net>]
Sent: Thursday, August 27, 2015 9:17 AM
To: Meschuk, Chris <MeschukC@bouldercolorado.gov>
Subject: Rezoning 385 Broadway LUR205-00047

Lois and Stan Kruschwitz, 2190 Bluebell Ave. Boulder CO 80302

I AM WRITING WITH GREAT CONCERN REGARDING THE POSSIBLE REZONING OF 385 BROADWAY FROM RESIDENTIAL TO BUSINESS TRANSITIONAL:

To give some context, we already see congestion issues related to students, NIST, and bus stop parking. Adding business or student housing with up to 64 residents would have devastating impacts.

CURRENT SITUATION AT CORNER OF 22ND AND BLUEBELL AVE:

-Students park in front and to the side of our house and walk to class.

-NIST employees park on 22nd Street between King and Bluebell. The back gate is no longer open since 9/11 for NIST employees to enter. We inquired and NIST employees said that it is more convenient to use the street for parking than to use the NIST parking lots.

-It is sometimes difficult to maneuver our cars out of the driveway with cars parked on both sides of the street.

-Evidently some people park in this area to catch busses. The bus stop is in front of NIST on Broadway. Sometimes cars are left for days.

-Our daughter, especially in winter, has problems accessing the house with young children.

August 18, 2015

Regarding: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Dear City of Boulder, Staff, Planning Board and City Council,

Executive summation: Please vote no to zoning change to 385 Broadway Avenue

My family and I live at 415 Sunnyside Lane, Boulder CO; directly across the street (Bluebell Avenue) from 385 Broadway Avenue. We have owned our home since 2003 (and I am a CO native). I have **3 young children ages, 11, 9 and 9.**

I purchased my home because of the neighborhood, the cul-de-sac, the schools, the community and the quietness of our neighbors and neighborhood. I am requesting that you **decline** the request to rezone **385 Broadway Avenue** because it would change the tenor of our lower Bluebell community, the quietness of our street and would devalue our homes. Most importantly (to me); it would greatly increase vehicle traffic which would impact my family's quality of life. (The developer has implied they would build high density condominiums).

We LOVE our neighborhood because it safe. My children feel comfortable riding their bikes up and down Bluebell, running over to our neighbors to play with their children, and we have ice cream socials in our cul-de-sac. If 385 Broadway were rezoned it is unclear how the numerous tenants would access the property (given NIST's statements) and undoubtedly they would drive and park on Bluebell, given the easy access (and possibly the only access). I would no longer feel comfortable having my children outside with numerous cars driving on Bluebell; and with high turn-over tenants who are not vested in our community, nor our children. I understand people want to make money and utilize under-developed space, but I ask you to consider the impact that has on our children and our community.

I moved to Boulder and to Lower Chautauqua because of the family centric neighborhood and quality of life. I specifically chose not to live on the Hill because of the high traffic, high turn-over population and how these influences would impact my children.

I ask that we keep the zoning as it stands on 385 Broadway Avenue and maintain the integrity of our neighborhood.

Thank you for your consideration.

Regards,

Jennifer Lancaster Alexander

415 Sunnyside Lane Boulder, CO 80302

720-301-6129

From: lyalts@aol.com
To: [boulderplanningboard](#)
Subject: LUR2015-00047
Date: Wednesday, August 19, 2015 9:43:01 AM

Subject: Proposed rezoning of 385 Broadway, Boulder.
LUR2015-00047

I wish to address only one of the many aspects of the impact of the proposed rezoning on the 2200 block of Bluebell Avenue: A safe zone for children to live in and play.

My wife and I bought our home at 2250 Bluebell Avenue in 1965--50 years ago, and occupied it with our three children. It was ideal for children: A no-through-traffic cul-de-sac lined exclusively with one-family homes. Children could safely play on the street and ride their tricycles or bicycles on the block. This has not changed. Kids still play and ride up and down the block with or without parents. Further, I have often noted that only drivers that do not live here, who mistakenly try to drive through our block, drive so much faster through it than we residents.

Any rezoning that would increase traffic or parking by outside groups would impair this wonderful quality of the 2200 block of Bluebell.

Matt Ludemann
2290 Bluebell Ave.
Boulder, CO 80302
720-233-6976

August 19, 2015

Re: Rezoning request at 385 Broadway

Dear Boulder Planning Board Members,

I am writing to you in opposition of the rezoning request to 'high residential' of the property at 385 Broadway in Boulder. For the past 5 ½ years, I have lived with my wife and two small children at 2290 Bluebell Ave, the house bordering the Broadway property directly to the west. I can tell you unequivocally that this is a single family neighborhood. The house across the Bluebell cul-de-sac from 385 Broadway, the house across Bluebell from our property, and our next door neighbors to the west all have small children ages 1-8. Many of the other owners on the block are original owners and elderly. There are no college rentals on the block. As evidenced by our community block parties, and the "Lower Bluebell" stone sign and neatly maintained flower bed at the top of the block, the owners on this block take great pride in the quiet, family-friendliness of the neighborhood.

I have several concerns about allowing the rezoning of the property at 385 Broadway to 'high residential'. First and foremost, a high residential property would greatly compromise the quiet, single family nature of the block. Currently, there are very few college student residences west of Broadway and south of Baseline, and none on our block of Bluebell. This would presumably change abruptly with many college students living in the proposed four bedroom apartments if the rezoning was approved. Noise would be disruptive on the block. My children's bedtime is 8pm. Having been a college student once upon a time, I know that most of their bedtimes are quite a bit later. I would expect there to be tensions between the families in the neighborhood and the 'high residential' tenants regarding evening noise levels. We do not want college students loitering around the neighborhood cul-de-sac.

Secondly, additional vehicle traffic on Bluebell is a big concern. Currently, the access to 385 Broadway is off of Broadway through the NIST government property to the south. The original proposal for the 385 Broadway property is asking for fewer parking spaces on the property than is traditionally allowed. Even if parking is adequate for this facility, I would expect residents to try to park on Bluebell because of its close proximity and easy access off of Broadway and Baseline. This would make our quiet street much busier and louder. Also, Bluebell is a major bike route off of the Broadway bike path that feeds all of Lower Chautauqua including King and Mariposa. Our family uses Bluebell frequently for bike access to the Broadway path, as do many families and bike commuters in the area. Additional vehicle traffic on Bluebell would potentially make bike traffic unsafe. I also worry that because the primary pedestrian access to 385 from Broadway may be indirect for some residents, residents would be inclined to cut through the Bluebell cul-de-sac and create a path off of the cul-de-sac. To take that a step further, the

385 Broadway developer could create formal pedestrian or vehicle access to Bluebell. Creating any kind of access directly to Bluebell from 385 Broadway would further disrupt the neighborhood.

Student neighborhoods and single family neighborhoods are both tremendous assets to our Boulder Community. While it is in Boulder's development plans to expand 'high residential' housing, it is neither in Boulder's plans nor in Boulder's best interest to compromise additional long-standing single family neighborhoods with 'high residential' property geared toward students. Rather than having 'high residential' student property spread into our single family neighborhoods, of which there are precious few, let's work to expand housing in areas that are already student neighborhoods, and keep the wonderful single family neighborhoods of Boulder, single family.

For the above reasons, my family and I strongly oppose the zoning change on 385 Broadway to 'high residential'. If the unfortunate decision to rezone the 385 Broadway property is made, please do everything you can to minimize its impact on our neighborhood. Thank you very much for your consideration in this matter, and thank you for your dedicated service to our great community!

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Ludemann".

Matt Ludemann

MARCIA WEESE 2265 Bluebell Ave Boulder, CO 80302 773.908.9009

8.12.15

RE: #LUR2015-00047

Dear Boulder Planning Board,

I live in a quiet, lovely neighborhood called Lower Bluebell—across the street and 3 houses west of the lot that is requesting a zoning change for 385 Broadway, Case #LUR2015-00047.

Our neighborhood cherishes its planted island to the west and cul de sac to the east, which slows traffic and keeps it at a minimum. Children play, families commune, and pedestrians and cyclists float by.

This will radically change if the city allows the requested rezoning from RL-1 to BT2.

It takes years to weave together a neighborhood. It takes one vote to rip it asunder. I vote to keep this lot zoned as RL-1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcia Weese', followed by a long horizontal line extending to the right.

Marcia Weese, LEED AP

Attachment C - Correspondence Received

From: [Dan Olson](#)
To: [boulderplanningboard](#)
Subject: NO on rezoning 385 Broadway
Date: Wednesday, August 19, 2015 11:43:05 PM
Attachments: [NO to 385 Broadway Rezoning!.pdf](#)

Hello, please see the attached letter regarding the proposed rezoning of 385 Broadway.

We urge the planning board to VOTE NO on the rezoning, as it is done without complete information and would be ruinous to the character of the Lower Bluebell neighborhood.

Thanks,

Dan Olson
2285 Bluebell Ave

To: City of Boulder, Staff, Planning Board, and City Council
RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)
Executive Summary: **NO to zoning change to 385 Broadway Ave**

Hello,

My wife and I own the house at 2285 Bluebell Ave, in Boulder, CO and live there with our two young children (ages 4 and 2). Our property is directly across from the lot at 385 Broadway, which is currently under consideration for a Rezoning Change from RL-1 to BT-2. We and the other members of the Lower Bluebell Block Improvement Association **strongly oppose** the rezoning of this lot and urge you to **vote NO** on this issue.

The proposed rezoning is entirely out of character with the rest of neighborhood.

Our neighborhood is a quiet, close-knit community, with several families with small children, and others who have lived there since the neighborhood was developed over 50 years ago. Our houses are historic and mid-modern, well-built, with interesting architectural details and lots of character. We take care of our property, we look out for each other, and we cherish the quiet streets and cul-de-sac that allow us to socialize with our friends and neighbors, and allow our children to play safely in the streets and yards at the end of the block. Although we live in proximity to the University, it is quiet - there is no student housing within at least four blocks of our street, and because we are on a cul-de-sac, the traffic is low and generated only by the residents.

And it is not just Bluebell Ave that enjoys its residential status. **The entire Bluebell neighborhood (from Baseline to King and from Broadway to 15th St) every single property is designated Low Density Residential.** Furthermore, there is not a single other BT-2 zoned property on the west side of Broadway from Greenbriar to University Ave!

The property at 385 Broadway was built in the 50's, and has always been non-conforming Low Density Residential. It is currently a low-impact, low-traffic professional office, housing a dentist's office and an optometrist. The non-conforming nature is acceptable to the neighborhood because access comes from Broadway (through an easement from NIST), the building is one-story (and not very visible from the neighboring properties, there is ample parking for the type of business (and thus no overflow parking onto Bluebell Ave), and because the foot and car traffic is low.

The 2008 change to the BVCP was made under false pretenses

In 2006, the property changed ownership, and the owner petitioned the City to designate the property BT-2 on the BVCP, with **the express purpose of making repairs and improvements to the existing building.** The neighborhood agreed to this because the existing building is not obtrusive, making basic repairs would not alter the character of the neighborhood, and also because the previous owner (and proprietor of the dentist's office) lived on Bluebell Ave and was a part of the Bluebell community. However, under the new owner, **the repairs were never made** (and were likely never intended to be made). Instead, the owner put the property up for sale in 2014, **falsely representing** the site as zoned BT-2, which given the fact that we are conducting this hearing, it is not. **It is under these false pretenses that the change was made to the BVCP and it is under those false pretenses that the City now considers this zoning change.**

Further obfuscating the issue is **that the developer has not only refused the City's strong recommendation to conduct a Good Neighbor meeting to discuss the proposed site change,** but has also withdrawn the original site proposal (from June 17, 2015) for **high-density student condominiums** from the record, claiming that the end use is irrelevant to the rezoning process. I'm not an attorney, but I find it bewildering and absurd that the end use of the property would not be material to the discussion of its zoning status. Are we to pretend that despite thoughtful documents like the BVCP, which speak to nothing but the careful and deliberate planning of our community, that the end usage of a property has no relevance to the zoning decision making process? Clearly, student housing is the least desirable outcome for the neighborhood, but even if that is not the ultimate usage, the other options available to a developer in a BT-2 zone are equally unacceptable: fraternity and sorority houses, indoor amusement facility, hostels, motels, shelters, etc etc – **NONE of which are remotely compatible with the character of our quiet, residential, child-friendly neighborhood.**

Furthermore, there has been **no consideration of the access to the property**. Currently the property is accessed via Broadway, through an easement granted by NIST. NIST has already indicated that it opposes any more intense usage for the site, and would likely rescind the easement if a zoning change is passed. Since there is no other obvious access point on Broadway (the property abuts the bike path), the only other access would be from Bluebell Ave, via 22nd St from Baseline. Not only would the markedly increased traffic flow cause serious safety concerns for us and our children, it would completely and thoroughly destroy the quiet character of the neighborhood. Besides the safety issues, under the BVCP, the purpose of a BT-2 zone is to provide a transition from commercial use to residential use. Without access from a major street (Broadway), **a BT-2 zoning designation would drive traffic through a residential neighborhood - the exact opposite of its intention!** It is deeply concerning that the City would fail to consider this critical point prior to a zoning change.

The City is not compelled by the BVCP to make this change

It is also crucial to note that **the BVCP is not a legally binding document**, and thus, **the City is no way compelled to make the zoning change based on the current map**. The charter of the BVCP Plan is clear “The Boulder Valley Comprehensive Plan policies **guide** decisions about growth, development, preservation, environmental protection, economic development, affordable housing, culture and the arts, urban design, neighborhood character and transportation. The policies also inform decisions about the manner in which services are provided, such as police, fire, emergency medical services, water utilities, flood control and human services.” It is intended as a **guide**, not legally binding document for local land use decisions

Beyond the charter, **Section 2.10 of the BVCP** states that “**the City will work with neighborhoods to protect and enhance neighborhood character and livability**”. A zoning change to BT-2 certainly does nothing to protect or enhance our neighborhood character – in fact it almost certainly degrades it. The developer has already failed to work with the neighborhood, and if the City were to allow a zoning change in the face of such vehement homeowner opposition, it would seem that the City would be failing to work with the neighborhoods as well.

Furthermore, **Section 2.12 of the BVCP** states that “the City will encourage the preservation or replacement in-kind of existing, legally established residential uses in non-residential zones. **Non-residential conversions in residential zoning districts will be discouraged, except where there is a clear benefit or service to the neighborhood**” On this point the neighborhood has spoken loud and clear – there is **absolutely no clear benefit or service to the neighborhood with the proposed rezoning**.

And lastly, **Section 2.13 of the BVCP** states “The city and county will take appropriate actions to **ensure that the character and livability of established residential neighborhoods will not be undermined by spill-over impacts from adjacent regional or community business zones or by incremental expansion of business activities into residential areas. The city and county will protect residential neighborhoods from intrusion of non-residential uses by protecting edges and regulating the impacts of these uses on neighborhoods**. It’s difficult to imagine something more intrusive than a BT-2 designated property, with its noise, traffic, and nuisance directly across the street from our home.

Our desire is to preserve the essential character of our residential neighborhood and to protect the safety of our children and the value of our property. The proposed zoning change is absolutely incompatible with the existing neighborhood, and a BT-2 property would provide no benefit or service whatsoever to the residents of Lower Bluebell. **I strongly urge the City to consider the opinions of the property owners in the Lower Bluebell Block Improvement Association and to vote NO on the rezoning of 385 Broadway.**

Sincerely,

Dan Olson
2285 Bluebell Ave

RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Dear City of Boulder, Staff, Planning Board and City Council

Executive Summary: NO to zoning change.

I live 3 doors west of the requested zoning change and have lived here since 1989. The existing property has always been a good, useful and discreet part of the neighborhood. Having a professional / medical office so close to our residence has been convenient. With normal business hours (8a-5p), the quiet activity on the property and traffic to and from the property has never been an issue. No one or few people have ever parked on Bluebell since adequate parking is provide on site and driving access to the property is from Broadway. This has all been very compatible with our RL-1 Low Density Residential neighborhood.

In 2007 Bruce Tenenbaum requested BVCP Land Use change from Residential to Business Transitional. At that time, he inform the neighbors that the goal of the BVCP change was to support updating “the aging building and can not be reasonably updated .. due to the current residential zoning.” He also said: “The lot and entry are adjacent to ... NIST. ... would deem my land less desirable for residential use.” “The lot sits directly on Broadway... Once again, this will make the property less appropriate for residential usage.” “... access was re-done in 2007, still over Federal land ... The further diminishes desirability to ever use this property for residential development.”

All this led us to BELIEVE HIM. We were fooled. BAIT AND SWITCH.

We had several conversations with city staff dealing with this Land Use change. The staff recommended the “residential buffer.” We though that the future would be a new and improve Medical and/or Professional office building that would compliment the neighborhood.

Maybe we were naive but we then gave our support to the Business Transitional BVCP change. We were WRONG. We should have become City Code experts and had a book reading group to study the BVCP. We should not have listened to the staff or owner. I have now learned that the staff originally recommended against this Land Use change to the BVCP, but by a motion of a Planing Board person, A. Sopher, the staff was directed “to consider a split land use designation of the property.” I now understand that Mr. A. Sopher is now the current owners architect. This smells of conflict of interest.

Fool us once ... We now understand that changing BVCP to Business Transitional could lead to City Zoning change to BT-1 or BT-2 which would lead to BY RIGHT development of:

- Detached dwelling units
- Duplexes
- Townhouses
- Congregate care facility
- Fraternities
- Sororities
- Dormitories
- Boarding houses
- Arts and crafts studio space less than 2,000 s.f.
- Arts and craft studio space greater than 2,000 s.f.
- Daycare center with less than 50 children or adults
- Daycare center with more than 50 children or adults

Essential municipal and public utility facilities
Government facilities
Private elementary, junior and senior schools
Public elementary, junior and senior schools
Public colleges and universities
Adult education facilities less than 20,000 s.f.
Adult education facilities greater than 20,000 s.f.
Religious assemblies
Data processing facilities or offices
Addiction recovery facilities
Medical or dental clinics
Offices administrative
Offices professional
Offices technical less than 5,000 s.f.
Offices technical greater than 5,000 s.f.
Offices other, park and recreation uses
Indoor recreation or athletic facilities
Broadcast and recording facilities
Personal service uses
Computer design and development facilities
Telecommunication facilities
Accessory buildings to the above

Where the current zoning of RL-1 only allows BY RIGHT (other uses with review):

Detached dwelling units
Daycare home
Private elementary, junior and senior schools
Public elementary, junior and senior schools
Religious assemblies
Park and recreation uses
Crop production
Accessory buildings to the above

But all the verbal and written reasons for the need to change the BVCP was a fib. No need to change the BVCP – leave it Residential. The past owner or current owner could apply for rezoning to RL-2 and request a Use Review for “Office, Professional.” RL-2 would also limit the number of dwelling units via Table 8-1 to something reasonable.

The change of the BVCP was wrong and we intend to get it corrected back to Residential. The reason for the BVCP change was a lie. The proposed use as presented to us did NOT “need” a BVCP change and the change goes against the BVCP:

2.10 Preservation and Support for Residential Neighborhoods

The city will work with neighborhoods to protect and enhance neighborhood character and livability and preserve the relative affordability of existing housing stock. The city will seek appropriate building scale and compatible character in new development or redevelopment, appropriately sized and sensitively designed streets and desired public facilities and mixed commercial uses. The city will also encourage neighborhood schools and safe routes to school.

The BY RIGHT use of BT-2 is TOOOOO intense of a use for our RL-1 neighborhood.
NO TO ZONING CHANGE.

Chuck Palmer
2270 Bluebell Ave
Boulder, CO 80302
303-786-8502

March 26, 2008

TO: City of Boulder Planning Board

FROM: The undersigned are current owners and residents of properties on the 2200 block of Bluebell Ave.

RE: Comprehensive Plan Land Use Map change for 385 Broadway

We are agreeable to the proposed Boulder Valley Comprehensive Plan land use map change from Low Density Residential to Transitional Business for the bulk of the property, leaving the Low Density Residential designation on a 25-foot buffer on the west and north sides of the lot, as recommended by Staff.

We understand that this change to the BVCP map will allow the property owner(s) of 385 Broadway to request zoning change to either BT-1 or BT-2. We favor the BT-2 zoning because it has an FAR limit.

Our main concerns are:

1. To prevent access to/from businesses at 385 Broadway from Bluebell, since that would have a negative impact on the very quiet residential neighborhood of the 2200 block of Bluebell Ave.
 - Therefore, we request that the City in cooperation with the landowner(s) consider establishing a permanent easement on the north side of the property in the buffer area to prohibit access to/from Bluebell Ave. forever.
2. Protection of the residence at 2290 Bluebell Ave., which abuts 385 Broadway to the west.
 - The proposed buffer zone would be important for this purpose.
 - In addition, the impacts on 2290 Bluebell Ave., including solar access, of changes to the current building or of a new building should be carefully evaluated.

In summary, our intent is to minimize encroachment into the residential area in the 2200 block of Bluebell Ave. while allowing for improvements to the lot at 385 Broadway.

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March 27, 2008
Bluebell Ave./385 Broadway

Name Address Signature

DORIS E. HASS 2207 Bluebell Doris E. Hass

John P. Holloway 2222 Bluebell John P. Holloway

SALLY C. HOLLOWAY 2222 Bluebell Sally C. Holloway

Charles B. Keller 2240 Bluebell Ave. Charles B. Keller

Shirley S. Keller 2240 Bluebell Ave. Shirley S. Keller

Comments: T.E. Van Zee 2255 Bluebell Ave. T.E. Van Zee

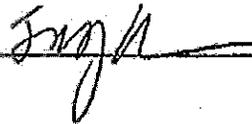
Natalie L. Hedberg 2255 Bluebell Ave. Natalie L. Hedberg

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March 27, 2008
Bluebell Ave./385 Broadway

Name Address Signature

Tony K. Alexander 415 Sunnyside Lane 

Comments: I would propose that there be a permanent
Prohibition ~~of~~^{of} access to the property from Bluebell
avenue. I'm not sure if easements can be negative
or prohibitive, & if they can, then an easement
preventing access would be appropriate.



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Bluebell Ave./385 Broadway

Name

Address

Signature

Helmut M. Altschuldinger 2256 Bluebell Ave
Fond du Lac, WI 53002 Helmut Altschuldinger

Comments:

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Bluebell Ave./385 Broadway

Name	Address	Signature
Michael Dominick	2265 Bluebell	Michael P. Dominick

Comments: _____

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Bluebell Ave./385 Broadway

Name	Address	Signature
MARY TIAO	2200 Bluebell Ave	Mary Tiao
JOHN TIAO	" " "	John Tiao

Comments: _____

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Bluebell Ave./385 Broadway

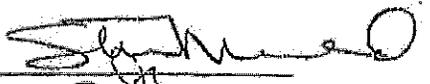
Name Address Signature

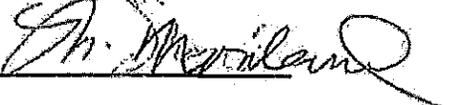
Martin Goldman	2275 Bluebell Ave	M. Goldman
Helen Goldman	"	Helen B Goldman

Comments: _____

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Bluebell Ave./385 Broadway

Name Address Signature

STEVEN C. MORELAND 2245 Bluebell 

Mandha W. Moreland 2245 Bluebell Dr. 

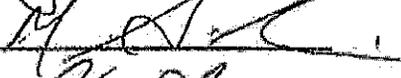
Comments: No commercial traffic on Bluebell
agreed - please do not change
the character of our residential
street.

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Bluebell Ave./385 Broadway

Name	Address	Signature
Paul Cheng	2280 Bluebell Ave. Bldg 50302	[Handwritten Signature]

Comments: _____

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Bluebell Ave./385 Broadway

Name	Address	Signature
Gay Salim	2211 Bluebell Ave	Gay R. Salim
Mohammad Salim	2211 Bluebell Ave	
Anna Salim	2211 Bluebell Ave.	

Comments: _____

From: [Beth Pommer](#)
To: [boulderplanningboard](#)
Subject: 385 Broadway
Date: Tuesday, August 25, 2015 7:02:55 PM

Planning Board ,

Having called the city of Boulder my permanent residence for over 50 years, and having served as a past member of the City of Boulder's Planning Board for 12 and a half years, I am compelled to address an issue with you.

It is my contention that the property located at 385 Broadway should NOT be re zoned. Particularly if the major reason to support such a change is because the Boulder Valley Comprehensive Plan designation of this site was changed in 2008.

A primary rationale in that discussion was that the medical and dental offices historically on the site, were nonconforming uses. I believe that the historic nonconforming use of low impact should simply have remained nonconforming.

While financing an expansion of the use, and sale of the property might be made more difficult for the owner of the property, that is irrelevant to the decision of the underlying zoning, and the long term desired use of the property. I would assert that the primary point of a zoning designation is to proscribe the most desired uses on properties, not necessarily to match a nonconforming use or the Comp Plan designation, both of which can change overtime.

The current, nonconforming uses at 385 Broadway will be going away, and the existent building undoubtedly torn down. Hence, there will no longer be a nonconforming use on the site which needs to be matched to the Comp Plan change of 2008.

Timely, as I would suggest a proposed Comp Plan revision for this year's Comp Plan update...Go back to this properties original designation, not a Transitional Business designation of any sort.

If the re zoning of this property moves forward, all of the uses allowed under the new zoning designation would be just that, allowed.

Looking carefully at those uses, it is clear that there are many of them which are not at all suited to the site, nor its existing context, the low density residential neighbors as well as the federal labs. There is no buffer zone for these neighboring properties. A real necessity, given some of the potential allowed uses.

If the zoning designation being requested alters the most desired uses for a property, or provides the allowance of undesirable uses by right, it should be summarily rejected. The existent and historic uses, the context of the property, should be respected. The underlying zoning should stand unchanged.

This long standing neighborhood should not have to police the multiple unwelcome uses that this zoning change would allow.

This is precisely the type of planning change and developer manipulation which has the neighborhoods and citizenry aggravated at this point. There are no solid grounds presented, nor sound reason for this change, whatsoever.

Thanks for your careful consideration of this ill advised zoning change, as well as your time commitment to all that being on Planning Board entails.

Sincerely,
Beth Geesaman Pommer

Sent from my iPhone

RE: Rezoning and Site Review Processes - LUR2015-00047 (385 Broadway Ave.)
NO to zoning change to 385 Broadway Ave

Dear City of Boulder, Staff, Planning Board and City Council:

I have lived with my brother's family for 4 years at 2290 Bluebell Ave, which is directly adjacent to 385 Broadway. I rely completely on my bike for transportation in and around Boulder. This location has offered me complete convenience and accessibility to the bike path and safe roads to get around. I am concerned that re-zoning of 385 Broadway will increase traffic and parking on Bluebell Ave and inhibit safe bike riding on this street. Bluebell is a major thoroughfare for bikes as it connects directly with the bike path. When cars are parked along both sides of the street, a bike and a single car cannot pass safely. Last week, cars were parked on each side of the street, a car was traveling eastbound on Bluebell, and I was riding westbound. There was no room for the car to move over and he couldn't pass me safely. I had to dismount in order to avoid being hit by the car. I have serious concerns that rezoning 385 Broadway will lead to more traffic and parking on Bluebell and it will no longer serve its function of allowing bike accessibility from western neighborhoods onto the Broadway bike path. This has the potential to affect all biking residents of Boulder, regardless of where they live. **No to rezoning of 385 Broadway Ave**

Sincerely,

Robert Ludemann

Attachment C - Correspondence Received

From: [Trina Rioux](#)
To: [boulderplanningboard](#)
Cc: [Brad Curl](#)
Subject: Application for Rezone regarding 385 Broadway - Correspondence from Brad Curl
Date: Wednesday, August 26, 2015 2:09:39 PM
Attachments: [385 Bway Johnke mem 150824 rezoning BVCP compliance.pdf](#)
[JOHNKE - 385 Broadway - Ltr to Planning Board \(00322942x9F71D\).pdf](#)

Dear Planning Board Members:

Please see the attached correspondence and related memorandum in relation to the 385 Broadway project. If you have any questions or comments, please contact Brad Curl is copied on this email.

Trina Rioux, Legal Assistant

Johnson & Repucci LLP

2521 Broadway St., Ste A

Boulder, Colorado 80304

Phone: 303-442-1900

Fax: 303-442-0191

E-mail: tarioux@j-rlaw.com

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MEMORANDUM

To: Planning Board
From: Adrian Sopher - SOPHER SPARN ARCHITECTS LLC
Project: 385 BROADWAY
Date: 26 August 2015

Re: Key Issue: 385 Broadway rezoning compliance with Boulder Valley Comprehensive Plan

The applicant has identified the following ways the proposed rezoning will comply with the Boulder Valley Comprehensive Plan.

In Support of the buffer:

The buffer zone of RL-1 zoning along the north and west property lines provides adequate separation uses, as provided in the Land Use Map change in 2008, and supported by the neighbors at that time. This is in compliance with the following BVCP Policies...

2.13 Protection of Residential Neighborhoods Adjacent to Non-residential Zones The city and county will take appropriate actions to ensure that the character and livability of established residential neighborhoods will not be undermined by spill-over impacts from adjacent regional or community business zones or by incremental expansion of business activities into residential areas. The city and county will protect residential neighborhoods from intrusion of non-residential uses by protecting edges and regulating the impacts of these uses on neighborhoods.

2.15 Compatibility of Adjacent Land Uses To avoid or minimize noise and visual conflicts between adjacent land uses that vary widely in use, intensity or other characteristics, the city will use tools such as interface zones, transitional areas, site and building design and cascading gradients of density in the design of subareas and zoning districts. With redevelopment, the transitional area should be within the zone of more intense use.

In support the mixed-use transitional zoning of the BT districts, as opposed to keeping the site as RL-1:

The BT-2 zone in this location provides a transition from the single family RL-1 neighborhood to the higher intensity of uses and activity along Broadway. The existing use and the previous Land Use Map change supported such an appropriate transition as the rezoning provides. The following BVCP Policies supported such a change when the Land Use was modified in 2008, and in compliance with those same policies, the rezoning of the site completes the process begun at that time...

2.14 Mix of Complementary Land Uses The city and county will strongly encourage, consistent with other land use policies, a variety of land uses in new developments. In existing neighborhoods, a mix of land use types, housing sizes and lot sizes may be possible if properly mitigated and respectful of neighborhood character. Wherever land uses are mixed, careful design will be required to ensure compatibility, accessibility and appropriate transitions between land uses that vary in intensity and scale.

2.16 Mixed Use and Higher Density Development The city will encourage well-designed mixed use and higher

density development that incorporates a substantial amount of affordable housing in appropriate locations, including in some commercial centers and industrial areas and in proximity to multimodal corridors and transit centers. The city will provide incentives and remove regulatory barriers to encourage mixed use development where and when appropriate. This could include public-private partnerships for planning, design or development; new zoning districts; and the review and revision of floor area ratio, open space and parking requirements.

2.17 Variety of Activity Centers The city and county support a variety of regional, subcommunity and neighborhood activity centers where people congregate for a variety of activities such as working, shopping, going to school or day care, accessing human services and recreating. Activity centers should be located within walking distance of neighborhoods and business areas and designed to be compatible with surrounding land uses and intensity and the context and character of neighborhoods and business areas. Good multimodal connections to and from activity centers and accessibility for people of all ages and abilities will be encouraged.

2.21 Commitment to a Walkable and Accessible City The city and county will promote the development of a walkable and accessible city by designing neighborhoods and business areas to provide easy and safe access by foot to places such as neighborhood centers, community facilities, transit stops or centers, and shared public spaces and amenities. The city will consider additional neighborhood-serving commercial areas where appropriate and supported by the neighbors they would serve.



Brad R. Curl
brcurl@j-rlaw.com

August 26, 2015

Via E-mail (boulderplanningboard@bouldercolorado.gov)

Mr. Aaron Brockett, Chair
Mr. Leonard May
Mr. John Putnam
Mr. John Gerstle
Ms. Crystal Gray
Ms. Elizabeth Payton
Mr. Bryan Bowen

Re: *Application for Rezone (the “Rezoning Application”) regarding 385 Broadway (the “Property”)*

Dear Planning Board Members:

My office is assisting 385 Broadway LLC (the “Owner”) in connection with its ownership of the above-referenced Property. In that regard, we are in receipt of staff’s memorandum concerning the above-referenced Rezoning Application. This letter expresses support for staff’s recommendation of approval of the Rezoning Application, and in connection therewith, provides information that may be helpful in connection with your discussions regarding the same at the Board’s August 27th hearing.

I. NATURE OF REZONING APPLICATION.

As an initial matter, and as staff has confirmed, the scope of the Rezoning Application extends simply to rezoning the Property to be consistent with the Boulder Valley Comprehensive Plan (the “Comp Plan”). There are no applications or permits pending with respect to any sort of development of the Property in particular.

Previously, and in connection with investigating possible redevelopment scenarios, Owner’s pre-application submittal solicited input from staff concerning the potential development of attached housing on the Property. As the Board is aware, the pre-application process allows property owners the opportunity to gather information regarding potential scenarios so that those owners can make an informed decision regarding whether they would actually like to proceed with a formal application. Of course, for a variety of reasons, many owners decide to abandon the ideas discussed during the pre-application process. In this particular case, Owner continues to evaluate its options and has not yet determined whether or how it would like to proceed. As a result, it has not submitted a formal application.

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August 26, 2015
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Therefore, although we certainly understand the legitimate interest expressed by neighbors regarding the future development of this Property, Owner simply does not know what that is going to look like at this point. For now, Owner is merely seeking to rezone the Property so that it is consistent with the Comp Plan Land Use Map (the “Map”) designation.

II. THE REZONING APPLICATION SIMPLY CONTINUES THE PROCESS BEGUN IN 2008.

A. *Prior Recommendation of BT-2 Zoning.* As the Board is aware, in 2008, the City amended the Map to designate the vast majority of the Property as “Transitional Business,” with a 25’ buffer of a “Low Density Residential” designation remaining along the western and northern edges of the Property. As the parties involved in that process at the time can confirm, the City undertook extensive neighborhood outreach in connection with the Map revision and actually implemented the buffer at the request of the neighbors and to address their concerns.

As a result of the City’s efforts, twenty-seven of the neighbors penned a letter to the City stating, in part:

[w]e are agreeable to the proposed [Map] change from Low Density Residential to Transitional Business for the bulk of the [P]roperty, leaving the Low Density Residential designation on a 25-foot buffer on the west and north sides of the [Property], as recommended by Staff.

We understand that this change to the [Map] will allow the property owner(s) of 385 Broadway to request zoning change to either BT-1 or BT-2. We favor the BT-2 zoning because it has an FAR limit (emphasis added).

Most, if not all, of the concerns that the neighbors have recently expressed to staff are related to a specific potential development of the Property that may not even occur, and in any event, is not the subject of the Rezoning Application or any other pending application. At this point in the process, Owner is simply seeking to rezone the Property consistent with the neighbors’ prior recommendation. That rezoning is the sole issue currently before the Board.

B. The Proposed Rezoning is required by the Comp Plan and Boulder Revised Code (the “Code”).

Rezoning applications are governed by Section 9-2-18 of the Code. As set forth in staff’s memo, the Rezoning Application satisfies the requirements of the Code. In particular, the proposed rezoning is necessary to come into compliance with the Map. Specifically, as noted above, in 2008, a large portion of the Property was designated on the Map as “Transitional Business.” As staff has correctly pointed out, the only two zone districts consistent with that land use designation are BT-1 and BT-2. The neighbors have recommended, and Owner is pursuing, a rezone of the Property to BT-2 to bring it into compliance with the Map.

The proposed rezone is also otherwise consistent with the policies and goals of the Comp Plan. For example, see the enclosed memorandum from Owner’s architect detailing various Comp Plan policies and goals specifically addressed by the Rezoning Application. In addition, pursuant to

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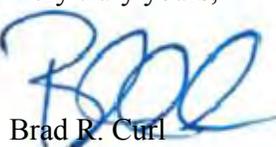
its terms, the policies and goals of the Map include defining the “desired land use pattern for the Boulder Valley” and “desired future uses in the Boulder Valley.” Comp Plan, Introduction. Approval of the Rezoning Application would implement those desires and goals as is required by Section 9-1-1(f) of the Code (supporting and implementing the goals of the Comp Plan is one of the purposes that the Code is intended to accomplish).

* * * * *

Owner appreciates staff’s work with respect to the Rezoning Application. Owner has taken a careful look at the potential redevelopment of this Property, which has included participating with staff in the pre-application and Rezoning Application process, along with meetings related thereto.

Owner further understands and appreciates the concerns raised by neighbors. Owner continues to evaluate its options and looks forward to receiving staff’s input and working with the neighbors if and when this matter progress to the point of an actual development proposal.

Thank you for your consideration of the Rezoning Application.

Very truly yours,

Brad R. Curl

Enclosure.

cc: Ms. Elaine McLaughlin (*via e-mail*)
Ms. Susan Richstone (*via e-mail*)
Mr. David Driskell (*via e-mail*)
Mr. Charles Ferro (*via e-mail*)

August 27, 2015

To: City of Boulder Council, Planning Board and Staff

Subject: Rezoning and Site Review Process – LUR2015-00047 (385 Broadway Ave.)

RE: Opposition to rezoning 385 Broadway – please consider ALL of the data regarding this project!

I sincerely hope that City Manager Jane Brautigam does not have to tell another neighborhood, "We made some very serious mistakes".

I (and the neighbors and residents surrounding 385 Broadway) do not believe the City is considering all of the data required to make a good decision on the Re-Zoning of the property at 385 Broadway.

The City's responsibility to protect the "Quality-of-Life" for its citizens includes considering all of the data and facts related to the property's intended use, design, and access rights for 385 Broadway.

Please don't make the same "very serious mistakes" that you admitted to making just this past Tuesday regarding the Folsom Bike Lane Project.

According to the Daily Camera, on August 25, 2015, City Manager Jane Brautigam apologized to the community for not going through a more detailed public process.

And, council members also said the city made mistakes in not collecting rigorous data to better measure the impact of the project before implementing the project.

Rezoning the property at 385 Broadway will have a particularly adverse and irreversible impact to the surrounding neighborhood on and around Lower Bluebell Avenue.

Please do not make the same mistake of making a decision on this rezoning without considering all of the data and facts.

Please make an INFORMED decision that includes considering the property's intended use, design, and particularly the access rights to the property.

And finally, please consider the "quality-of-life" for this close-knit neighborhood and the families who live here.

I would be proud if we are able to say that the City took its time, looked at all of the facts regarding the impact of this project at 385 Broadway, and made an informed decision – instead of reading a quote from the City Manager that says, "We made some very serious mistakes," when it comes to the property at 385 Broadway and the Quality-of-Life for the residents of Bluebell Avenue.

Sincerely,



Barb Rossner
Boulder, Colorado (resident since 1983)

August 19, 2015

Attn: Boulder Planning Board, Staff and City Council
Re: Rezoning of property at 385 Broadway should be DENIED
LUR2015-00047

The Property Owners on the 2200 block of Bluebell Avenue have huge, LONG-TERM investments in their residences, as opposed to a probable, short- term, in-and-out developer at the 385 Broadway site. There are no business sites from Broadway West to Chautauqua or from Baseline South to Green Mountain Cemetery and beyond.

Many of us are long time Citizens of Boulder who have worked together to keep our neighborhood beautiful and desirable, at our own expense.

The subject property should not be granted a zoning change for any reason, Spot Zoning being one.

I respectfully request that the Board support its long time Citizens and neighborhoods by keeping the original RL1 zoning of the 385 Broadway property.

SALLY C. HOLLOWAY
2222 BLUEBELL AVENUE

Attachment C - Correspondence Received

From: [Mho Salim](#)
To: [boulderplanningboard](#)
Cc: [Mho Salim](#)
Subject: Objection rezoning property at 385 broadway
Date: Wednesday, August 19, 2015 4:57:06 PM
Attachments: [385 Broadway rezoning objection.pdf](#)

Hello, Attached please find my letter indicating strong objection to rezoning the property at 385 Broadway. Please find my phone number and address below should you need to contact me.

Best regards
Mho Salim
2211 Bluebell Ave
Boulder, CO 80302
303 449 3365

Date : August 19, 2015

To: City of Boulder City council, Planning Board and Staff

Subject: Rezoning & Site Review Process - LUR2015-00047 (385 Broadway Ave.)

Executive Summary: Opposing the proposal to rezone property at 385 Broadway

My wife and I have lived at 2211 Bluebell Avenue since 1981 when we moved to Boulder to raise our two children. Our property is on the north side and close to the west end of the 22nd block of Bluebell.

I am writing this letter along with and on behalf of our neighbors who unanimously and strongly oppose rezoning the property at 385 Broadway from RL1 to TB2 without considering its intended use and access.

My purpose in writing this letter is to bring to your attention that certain uses of this property, although within the guidelines of TB2 zoning classification, will have disastrous consequences for the neighborhood.

NIST has stated that it will not allow continued access to this property under the new zoning classification. It appears that attorneys for the new owner of the property have used a procedural loophole to put a request to rezone this property on the agenda without specifying its intended use, and more specifically, without telling the City how the property will be accessed.

In addition to exposing our neighborhood and the City to disastrous consequences, accepting this request without knowing what they plan to do with the property and how they plan to access the property is contrary to your responsibility to protect and enhance the interest of the community and the city.

I am requesting that you deny this rezoning request. The owner must work with the neighborhood and the City to find agreeable options and if there is a need for rezoning, the City can decide, with all facts on the table, if it is appropriate.

Respectfully

A handwritten signature in black ink, appearing to read "M. Salim", with a stylized flourish at the end.

Mho Salim

August 19, 2015

August 18, 2015

To: Boulder Planning Board
Re: LUR2015-00047, Zoning Change request for 385 Broadway
From: Shirley Keller, 2240 Bluebell Ave, Boulder, CO

My husband was one of the original occupants of the Medical/Dental building at 385 Broadway where he practiced dentistry from 1957 until he retired in 1987. We built our house, just five lots west of my husband's office in 1964; our house on Bluebell Avenue has been our family home for the last fifty years.

The site on which 385 Broadway was built has been zoned residential low density since its platting. A variance was granted which allowed the construction of this non-conforming one story medical dental building. Over the years additional variances were granted for the expansion of the building. The medical/dental use has been long accepted by the neighborhood as it developed to the west and north. It has had adequate parking, continuous access off of Broadway and a buffer of dense growth that has protected the neighborhood from noise and light pollution. In addition it has been a welcome source of medical and dental services for the extended area, accessible by foot traffic, bicycle and public transportation. In the way this building has served the community, it has been an asset and a good fit not only for the immediate area but for all of this part of Boulder.

In 2008 Mr. Tenenbaum requested the land use designation be changed from Low Residential to Transitional Business because, "Office and medical usage have been the historical use of this property since 1956. It is an extremely busy and important center serving the Boulder community." He further stated, ". . . it seems unlikely that it would ever be desirable for residential use, and will better serve the people of Boulder by insuring that it remains in its current capacity." (Planning Board Agenda, February 21, 2008, Agenda Item#5A Page#C-17). We believed Mr. Tenenbaum when he said he only wanted to improve the building.

Now a new owner is requesting a zoning change to Business Transitional 2. It is difficult to imagine that any one of the 32 uses listed as "by-right" possibilities under BT2 would meet the same criteria or be in any way complementary to this area. Neither I nor any of my neighbors have any interest in a zoning change that would allow any of the possible uses to be established at the Broadway end of our street. We have no assurance which of these uses would be considered but the history of the real-estate investor who purchased the property suggests that he specializes in student housing.

This request for rezoning 385 Broadway from RL1 to BT2 is unacceptable to me and I strongly urge that the request be denied.

From: [Beret Strong](#)
To: [boulderplanningboard](#)
Subject: AGAINST rezoning of 385 Broadway
Date: Thursday, August 27, 2015 11:14:17 AM

Dear Planning Board Members,

As a Lower Chautauqua / Floral Park resident and alumna of CU-Boulder, I respectfully request that you do NOT grant the rezoning petition for 385 Broadway. Ours is a historic neighborhood and this incursion of multi-unit housing and significant accompanying demand for parking places – not to mention additional traffic – is a very bad idea. It is a bad idea whether or not NIST allows an easement for future residents to use its frontage road to access the property. Once done, it can't be undone.

I note that the architect's proposal cites 16 4-bedroom units. Yet, the site is quite small. How does that work? And is the city really going to enforce the law about no more than 3 "unrelated adults" living in a single residential unit? If so, what's the enforcement plan?

Furthermore, the architect's proposal includes several drawings, but omits the most important one – where the 2 proposed buildings are to be placed on the small lot and what the site would really look like if it were built as proposed. It's not helpful to the community evaluating the proposal to get a lot of verbiage but no actual drawing to scale. Where would the parking be? Where would the headlights of the residents' vehicles shine as they drove in and out in the middle of the night? What about noise impact?

Please preserve one of the few quiet, historic neighborhoods left in our city. I welcome communication on this subject.

Thank you for the work that you do.

Sincerely,

Beret E. Strong
1505 Mariposa Ave.
Boulder, CO 80302
Tel: 303-440-5499

From: orentaft@comcast.net
To: boulderplanningboard
Subject: Proposed zoning change to 385 Broadway, Boulder, CO
Date: Monday, August 17, 2015 8:23:29 AM

8/17/15

RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Dear City of Boulder, Staff, Planning Board and City Council

We are Oren and Helen Taft, 485 Sunnyside Lane, Boulder, CO. We are 50 year residents of Boulder and have lived at this address since 1991. Due to the proximity of our residence and 385 Broadway, we received a notice from the city of the proposed zoning change to the above subject property. We thank you for this notification and for our chance to respond to this proposal. We are NOT in favor of this re-zoning proposal.

Our main concern is a potential increase in vehicle traffic and parking congestion in our neighborhood. If zoning is changed from RL-1 to BT-1 or 2, a "By-Right" development would result, increasing the density of the subject site, beyond its' carrying capacity. None of the long list of BT-1 or 2, by-right development options fit with the current neighborhood. (Please see: Boulder Comprehensive Plan, Para. 2.10)

Our residence sits on a corner lot and Mariposa fronts our house. While lower Mariposa is a permitted parking block, we already have many transient, non-permitted vehicles parking here. Permit monitoring seems spotty at best and an increase in out of area parked cars will only compound this problem.

385 Broadway is a small site and should zoning increase the density the natural alternative will be an increase in neighborhood parking on lower Columbine, Mariposa and Bluebell. Among other potentials, Baseline Ave. would experience a negative impact into our neighborhood. The current weekday mass exodus from upper Baseline slows the normal flow of traffic. When the Broadway light stops eastbound Baseline traffic, vehicles moving west from Broadway, must sometimes bypass 22nd and drive to the light on 20th to be able to turn left and into the neighborhood. A resultant increase in this neighborhood traffic attempting to turn left onto 22nd, will most certainly cause a back-up past a busy fire station and even onto the Baseline/Broadway intersection.

We do not wish to dwell on the traffic that already exists in front of our address, but want to offer a short review. Having been subject to the Skunk Creek Underpass Project, without much recourse, we now live amid a virtual sea of human transportation. We've lost our street in front of our house (Sunnyside Lane) yet through the kindness of the postmaster we were able to keep our address. Sunnyside Lane was a buffer from Broadway and we experienced little pedestrian traffic. We lost another buffer when 3 of our mature trees died due to project digging in front of our property. The city did plant evergreens outside of our property, in front of the tunnel, but that has only led to homeless people dragging items over from the Goodwill Store boxes, to use behind the evergreens as sleeping mats. This is all against our front yard fence and we constantly are placing these items in our trash cans. We often contact the police to shepherd these campers along their way. Most annoying as a result of the underpass, the Broadway roadbed was raised above our fence level and now focuses a higher decibel vehicle noise across our property and into our home.

We had little chance of changing the outcome of the Skunk Creek Underpass project and its impact to our home. We hope this letter will help Staff, Planning Board and City Council decide to maintain the current zoning at 385 Broadway Avenue.

By keeping 385 Broadway currently zoned RL-1, (low density residential), the future of our neighborhood will remain mostly as it exists today and should any changes be contemplated down this road, the by-right development list is shorter and much more acceptable. For other proposed uses, the review process will still be an option, one that does not exist if zoning is changed to BT-1 or 2.

Respectfully Submitted

Oren and Helen Taft
485 Sunnyside Lane
Boulder, CO 80302

To: Boulder Planning Board

Re: LUR2015-00047

Location: 385 Broadway

Description: Proposal to rezone from RL-1 to BT-1

From: Tom Van Zandt and Natalie Hedberg
2255 Bluebell Avenue,
Boulder 80302
303-499-6395

Date: Aug. 18, 2015

The only reason the proponents give for rezoning from RL-1 to BT-2 is to make the City zoning agree with the BVCP. But there isn't any requirement, in either the City Zoning regs or the BVCP, that the City zoning and BVCP uses agree in detail. The BVCP is advisory to the City, not regulatory.

We are very concerned that BT-2 zoning allows much more intensive uses that are not compatible with the neighborhood (but greatly increases the value of the property for the applicant!). Some of the allowed uses are: Fraternities, Sororities, Dormitories, Boarding houses, Town houses, and Congregate care facilities. Such uses are in direct contradiction to BVCP Neighborhoods policies.

For example, BVCP Policy 2.10, Preservation and Support for Neighborhoods, says "the city will work with neighborhoods to protect and enhance neighborhood character and livability". These allowed, by right, uses would certainly degrade the livability of the 2200 block of Bluebell Avenue as well as the larger neighborhood to the west and north. Imagine the intrusion of a fraternity or student housing on this quiet residential neighborhood! Nighttime uses are particularly objectionable. Note that next to 385 Broadway there are eight children up to the age of 11 in the residences at 2280, 2285, 2290 Bluebell, and 415 Sunnyside Lane.

Also, BVCP Policy 2.15, Compatibility of Adjacent Land Uses, requires that adjacent widely varying uses be separated by "interface zones, transitional areas ... and cascading gradients of densities," and "the transitional area should be within the zone of more intense use". It's obvious that a one-acre property is much too small to include an effective transitional area especially when you consider that the parcel less the 25-foot buffers on the north and west sides leave only 0.8 of an acre for development. Such a buffer would do nothing to minimize noise and light pollution.

The foregoing paragraphs present clear and convincing evidence that the proposed rezoning is NOT consistent with either the policies or goals of the BVCP or with BRC 9-2-18(a). For this reason we strongly oppose the proposed zoning change.

From: Brett Walker <bwalker@laramiecounty.com>
Subject: [SPAM (2.2)] a few more thoughts to pass on
Date: August 27, 2015 2:51:32 PM MDT
To: "eco@earthnet.net" <eco@earthnet.net>

Single parcels containing separate zoning districts is bad practice. What kind of lender would underwrite that mortgage? Use landscape buffers, especially when it is the more intensive use developing.

How can something be non-conforming from the moment it was constructed? It didn't just pop-up like a teepee overnight. How did it get permitted in the first place? It is probably non-conforming because of the adoption of a zoning code adopted after 1957.

Who determines what the most relevant BVCP goal is? Staff?

Do not approve this unless access across NIST is GUARANTEED to remain.

What kind of future land use plan recommends a single acre as the ideal overall area of a Transitional Business Area. Future Land Use Plans should not be this parcel specific.

BRETT WALKER, AICP

PLANNING MANAGER

LARAMIE COUNTY PLANNING & DEVELOPMENT

3966 ARCHER PARKWAY

CHEYENNE, WY 82009

(307) 633-4523

[Land Use Regs](#) | [P&D Home Page](#) | [Parcel Viewer](#)

Lois and Stan Kruschwitz, 2190 Bluebell Ave. Boulder CO 80302

I AM WRITING WITH GREAT CONCERN REGARDING THE POSSIBLE REZONING OF
385 BROADWAY FROM RESIDENTIAL TO BUSINESS TRANSITIONAL:

To give some context, we already see congestion issues related to students, NIST, and bus stop parking. Adding business or student housing with up to 64 residents would have devastating impacts.

CURRENT SITUATION AT CORNER OF 22ND AND BLUEBELL AVE:

- Students park in front and to the side of our house and walk to class.
- NIST employees park on 22nd Street between King and Bluebell. The back gate is no longer open since 9/11 for NIST employees to enter. We inquired and NIST employees said that it is more convenient to use the street for parking than to use the NIST parking lots.
- It is sometimes difficult to maneuver our cars out of the driveway with cars parked on both sides of the street.
- Evidently some people park in this area to catch busses. The bus stop is in front of NIST on Broadway. Sometimes cars are left for days.
- Our daughter, especially in winter, has problems accessing the house with young children.

On Aug 25, 2015, at 10:13 PM, Brett Walker MSCRP wrote:
Lois and Stan,

Here are a few words I think might help. You should forward them on to Dan Olsen and Patty:

Inconvenient zoning is not considered a taking. Completely denying access to adjacent ROW from private property is.

If the City and applicant do not sort out the access issues with NIST (that is, guarantee the access to Broadway that the site has enjoyed for decades), yet go ahead and approve a rezone (that is, give the owner an entitlement) to allow for higher density and/or more intensive use (especially speculatively), the City will set the neighborhood up for some big problems.

The City will be forced into providing access onto Bluebell should NIST be able to somehow rescind the access easement or whatever arrangement they have.

If I were a cynical person, I would think the planners/decision makers are counting on this situation as it takes a hard decision out of their hands: "if we don't allow it, we'll be sued for a Takings". And indeed they would be.

I say this because while a Comprehensive Plan gives some legitimacy to the City's Police Power to regulate land uses (that is, to create and change zoning districts or other land use regulation), the Plan is much more than just a Future Land Use recommendation map. It contains goals and visions for growth that are more complex than a color on a piece of paper. The planners and decision makers should read those before making a decision on this.

For the planning staff to say their hands are tied to supporting a zone change for a single acre of land SOLELY because of the color on a recommending future land use map is indicative that their professional judgment and expertise (that is, the very thing we are paying them to utilize for our community's betterment) is either suspect or irrelevant. In short, they don't want to make the tough, but right, decision (that is, recommend as staff that the governing body make the tough, but right, decision).

No court in the country would say that just because a Future Land Use recommendation (color on a map) says "business", the owner is thus automatically entitled to a business zone (indeed that is why the Council is required to make a decision and hold a public hearing).

Every court in the country would say that if a City doesn't provide access to existing, adjacent ROW for private property, the City has thus deprived the owner of such reasonable use that it would indeed be considered a Taking.

Brett

September 7, 2015

FROM:

Matthew and Alexandrine Johnke
734 Maxwell Avenue
Boulder, CO 80304

Phone : 303-221-6400

Email : MattJohnke@gmail.com



TO:

Tom and Patty Angerer
2225 Bluebell Avenue
Boulder, CO 80302

RE : Re-Development of 385 Broadway

Hello Mr. and Mrs. Angerer,

Alexandrine and I had the opportunity to attend the August 27 Planning Board meeting and to listen to the expressed concerns regarding changes to the property at 385 Broadway. She is the owner, and I would be the "project manager". We have reflected upon the various comments made, and wanted to take the time after some reflection to respond.

Who are you?

I grew up in Montana and graduated from CU in 1987 with undergraduate degrees in Chemical Engineering and Business. Alexandrine grew up on the Caribbean island of Guadeloupe and graduated in 1991 from the University of Sorbonne in Paris with doctorates in Biology and Psychology. We have been married approximately ten years, and have five children – four girls aged 19-23, and a boy that is 4 years old.

We live in a similar neighborhood, in the Maxwell/Dewey/Concord area north of Mapleton Hill. The houses consist of small bungalows and medium-sized family homes. It is a mix of younger families and long time residents, with a few rental properties here and there. It is generally quiet, although our road has a fair amount of traffic since people use it to access the neighborhoods west and north.

I have lived almost continually in Boulder for over 30 years, working in real estate in one form or another during that time. My philosophy for fixing up and improving properties came from a conversation I had as a college student with one of the designers of the Pearl Street Mall. He talked about the reason the mall was successful, whereas so many others had failed. By his estimation, the mall had become the modern day version of the medieval "watering hole", where the entire community comes together. The mix and diversity of merchants, professionals, blue collars, students, and beggars is what makes it all "real" and dynamic.

In a somewhat similar way, each property, be it a single-family home, apartment building, or commercial center, must be thought about as more than a potential pretty design of building

materials. The real question is, "What's the heart? What belongs here? How do we create it in such a way that encourages people to positively interact with one another?" I'd like to think that the reason you have not read my name in the newspaper over the last 25 years is because I make an effort to operate in a low key manner, trying to work for the good and without controversy.

What are your intentions with the property?

The plans are to hold onto the property long-term as part of our retirement. We have three specific ideas, each with a tentative name:

The Nest At NIST: The plan is for up to 16 townhome style units, marketed for rent specifically to visiting scientists and workers at the government laboratories. The desire and need for this has been mentioned by several professional contacts and real estate agents.

Barrister Brownstones: The plan is for up to 16 townhome style units, marketed for rent solely to CU law school students. Our oldest daughter attended a law school that owns an apartment building; we observed the helpful synergy of a unique environment where everyone is going through the same difficult life experience.

Broadway Medical: The plan is for an up to 18,000 square foot medical building. The existing eye practice has been bought-out by the University of Colorado, which may be the tenant, or it could be a multi-occupant building with different types of medical practices.

Would you ever rent to CU undergrads?

We understand the concerns over CU undergrads. There are a few private homes in our neighborhood with this tenant mix, and there have been more than a few nights in which I have checked whether the hollering and screaming was people partying, or someone in distress. I have experienced this even though these properties are far enough away from us that I don't even know where they are located. We would no more place student undergrads in your neighborhood than we would in our own. This is a restriction we would place upon future property owners.

Isn't your background as a CU tenant landlord?

Not exactly. There is a website, www.CollegeTownInvestments.com, which touts my experience in redeveloping and fixing up student rentals. However, that website is not my resume; it was created specifically to help explain the partners involved in a particular student-oriented project to potential lenders. While that biography is true, it is also the case that I've owned four or five non-student apartments to each one for students. I have experience of medical building ownership similar to the one proposed, as well. This project has not and never will be for CU student undergrads.

Why didn't you apply for a Site Review the same time as the Zoning Change?

We borrowed the money for the down payment and initial project costs from a friend. As we have gotten deeper into the high costs of the architect, engineers, third-party studies, and the city, it has seemed prudent to take each step at a time in order to slow down the outflow of cash in the early stages.

What can you do about concerns over access via Bluebell?

We are as adamant over wanting to avoid this as you. It would lessen the value of the property if tenants had to access via the labyrinth off of Baseline, and provide absolutely unnecessary intrusion into the adjacent residential neighborhood. Our attorney has advised us

that the access easement with NIST is absolute. However, we have had pushback from the Access/Circulation Department at the City to abandon the easement for Bluebell Avenue. I was furious that the City's June 5 comments pushed this despite familiarity with the specific issue and how it concerned the neighbors. Our response has been that any new building would be L-shaped, along the entire northern property line of Bluebell Avenue (set back from the 25-foot buffers), and east property line of Broadway, in order to physically circumvent any current or future attempts to change the historic access from the south. We will develop the project in such a way so that the only viable access alternative would be the more direct approach at 27th Way and Broadway.

We are concerned about overflow parking into the neighborhood

If there was one concern that really hit home, it was that over the possibility of a request on our part for a reduction in the parking requirement. As an explanation, due to the round-about way of accessing the property via your neighborhood, I hadn't even considered it as viable or potentially problematic. Given the feedback, we would not ask for any parking reduction. In addition, the rental lease agreements will contain monetary fines for either residents or guests using your neighborhood for parking, to the degree necessary to make you comfortable in this regard.

What will you do about light pollution?

Our intent is to build a project that doesn't negatively affect the neighbors. It is currently an isolated parcel along Broadway that doesn't impact the Bluebell area, and we intend to keep it that way.

The paradox of this property is that although it's on a busy thoroughfare, the grounds themselves have a serene park-like setting. That's the "heart" – even walking around it's asphalt parking lot – the place feels like Chautauqua. We want to plant lots of coniferous trees in order to augment the large cottonwoods and other deciduous trees, and create a cozy feel and sense of intimacy year-round. The building placement along Bluebell was also intended to forestall the removal of any trees. The design will be subtle, heavy on additional trees and landscaping, and not employ exterior lighting visible to the neighbors.

We want our kids to be able to continue to play in the streets

We want to keep the impact of 385 Broadway on the nearby neighborhoods essentially non-existent. It is our intent and hope to construct a property that serves the people who use it in a very positive manner, while leaving you and your neighbors free to go about your lives as before.

Thank you,

Matthew Johnke

Alexandrine Johnke



MEMORANDUM

To: Charles Ferro, Land Use Review Manager - CITY OF BOULDER
From: Adrian Sopher - SOPHER SPARN ARCHITECTS LLC
Project: 385 BROADWAY
Date: 1 May 2015

Re: REZONING WRITTEN STATEMENT

5. Description of proposed project

Project intent

To create a new, high quality, and energy-efficient multi-unit residential project at the address above, that orients itself to the Broadway frontage and maintains ample separation from the single family residential neighborhood to the west. In order to do so, we are requesting rezoning the TB Land Use portion of the site to BT-2 zoning from the current RL-1 zoning. Doing so will bring the property into compliance with requirements of the Boulder Valley Comprehensive Plan Land Use Map.

Site Conditions



The 1.01 acre property is located adjacent to the northwest intersection of Broadway and 27th Way. It is immediately north of the northeast corner of the NIST site, and is at the far southeast corner of the termination of Bluebell Avenue.

The site, while bordered by Broadway on the east and Bluebell on the north, has no direct vehicular access from those streets. Currently, its sole means of vehicular access is from a frontage road running northward from the NIST entry at Broadway & 27th Street and terminating at the site.

The east side of the property along Broadway has a bikeway, pedestrian & utility easement beneficial to the city along its entire length, providing pedestrian and bicycle access to the site.

The north edge of the site along Bluebell is heavily vegetated with overgrown shrubs and trees, and, while the site itself slopes minimally, there is a ±6' grade separation to the sidewalk on this perimeter.

The existing single story brick office building on the site is intended to be removed, and the site is intended to be fully redeveloped with the proposed changed in use effected by the rezoning.

Adjacent Properties

- West & Northwest – existing single family residential structures and Bluebell Neighborhood.
- North – Basemar Shopping Center.
- East – Base Mar high-density residential apartments

and city owned park-n-ride facility.

- Southeast – Flatirons Medical Dental office building.
- South & Southwest – National Institute of Standards facilities.

Existing Zoning Conditions



The site is currently zoned RL-1, as is the single-family neighborhood to the west of the site. However it is our understanding that the property has not had a single-family residential use on the site since the existing building was constructed in 1957. This was concurrent to the time that the subdivision was established in 1956 (per County Subdivision Plat, attached).

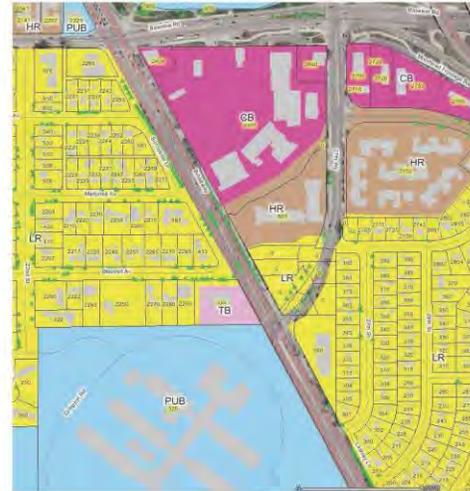
All properties to the north, east and south reflect the intensity of activity of the Broadway corridor, both in the scale of the structures and the intensity of use that their zoning designation allows. The only exception is the medical office building at 350 Broadway southeast of the site, which is clearly a pre-existing nonconforming use in what is arguably an oddly zoned RL-1 property and the adjacent rump RM-2 parcels at a major intersection of 27th Way and Broadway. Also to the Northwest, the single family residences extend to Broadway.

Pre-2008 Land Use Map

It was in recognition of the inconsistency between the conditions affecting this site, both in terms of its longtime non-single family residential use and the ever-increasing importance of Broadway as a major transit corridor for the city, that the owner requested

that the land use map be changed. During the time of the 2008 mid-term review of the BVCP, both the Planning Board and City Council agreed that leaving this site with RL-1 zoning unfairly burdened and limited the property owner's ability to improve the site. The owner was until then, limited to what was possible under a non-conforming use review. Such changes are extremely minimal, and at the time, the owner wanted to make improvements to the structure to provide for greater commercial use of the site.

2008 Land Use Map Revision



Upon staff's recommendation and after extensive public process, Planning Board & City Council adopted a change to the parcel's land use which incorporated a 25' buffer zone of RL-1 zoning along the western and northern property boundaries.

The purpose of the 25' buffer was to ensure that the single family neighborhood abutting those property lines were able to maintain an adequate separation from impacts arising from the increase in commercial activity or other impacts that might be associated with a change in the property's intensity of activity.

Likewise, it was understood that there was no intention to provide vehicular access to the site from Bluebell, in order to maintain the single-family character of the street and the neighborhood it serves. The newly established access to the property from the south ensured that adequate access to the site remained available.

The ostensive reason for the change was to recognize that the intensity of Broadway could easily support improvements to the property, whether to increase the commercial use on the site, or for other compatible uses that are in keeping with the revised land use designation and the activity of the other Broadway fronting higher intensity uses.

Subsequent to Adoption of Map Change

Pursuant to a map change, it would have been reasonable to expect that the property owner would soon thereafter apply for rezoning of the property, bringing it into compliance with the Comp Plan designation then adopted. However subsequent to the adoption of the map change at the end of 2008 – presumably due to the general economic conditions – the zoning change was not applied for and whatever the property owner intended in terms of modifications to the site has now changed.

The property has been sold, with the new owner intent on building multi-family housing on the property. According to the land use designation this is supportable, and consequently we are applying for rezoning to BT-2 in support of that use. The applicable rezoning criterion for that application will be Criterion #1:

The applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map.

We are proposing the rezoning of the site from RL-1 to BT-2. As noted earlier, this rezoning is supportable based on Rezoning Criteria #1 regarding the necessity of bring the property into compliance with the Boulder Valley Comprehensive Plan.

General Description

The project is intended to provide 16 town homes, and on-grade vehicular parking for residents. The larger building will be oriented principally towards Broadway, with a secondary building that fronts Bluebell for pedestrian access only. The Bluebell structure will maintain a 25' buffer from the street. Internal to the site, the structure or structures will orient towards a south-facing green space protected from Broadway.

Parking will be accessed from the south frontage road, and will be oriented towards the south and western sides of the site, again, maintaining adequate separation from the adjoining single-family site to the west.

Building Organization and Usage

The proposed structures would form a generally L-shaped plan, forming 2-sides along an improved courtyard and fronting along the streets to the north and east. The structure would be oriented towards both Broadway and Bluebell, with the private entries to each individual town home along the street edges to the north and east. Secondary entries from the parking to the south would be via the south-facing courtyard. The buildings would maintain the 25' buffer from the north and west, as required by the Land Use Map.

At this time, we are considering 16 residential units with an average size of 1100 net square feet per unit.

Vehicular Access and Parking

To the south of that courtyard would be parking along the south property line, and turning northward along the western side of the site. Parking for up to 16 units would require at most, 48 parking spaces, if there is no parking reduction. Given the project's proximity to a major multi-modal corridor, the university and the federal labs, we believe that a 25% parking reduction is supportable. Therefore we will be requesting an administrative parking reduction of 25%.

Fire access would be achievable from three directions:

- From the south, via the frontage access and into the parking area.
- From the north along Bluebell Avenue.
- From the east directly from Broadway.

Fire Department turnaround is provided with the 30' T (or Y) intersection, as requested by the Fire Marshall.

Other Considerations

At this time, it is not anticipated that the inclusionary housing requirement would be met on site.

Lots

We are proposing that all of the uses and units would remain combined on a single lot, and that Lots 26, 27 & 28 of the South Oak Park Subdivision would remain under a single ownership.

Construction Staging

At this time, we feel it is pre-mature for us to address this issue, though we intend to build in a single phase.

- Cc. Matt Johnke (property owner)
- Leslie Ewy, Sanitas Group (civil engineer)

Existing Project Site Zoning



385 BROADWAY
CURRENTLY ZONED RL-1
EXISTING LOT: 1.01 ACRES

ZONING LEGEND

	MU-3		BC-2
	MU-4		BT-1
	RMX-1		BT-2
	RM-2		GR-1
	RH-2		P
	RH-5		IG
	RL-1		

Proposed Project Site Zoning



385 BROADWAY
PROPOSED ZONE: BT-2
PROPOSED SF IN BT-2: 35,406

#01509157 04/10/95 01:36 PM REAL ESTATE RECORDS
F2046 CHARLOTTE HOUSTON BOULDER CNTY CO RECORDER

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DEED OF EASEMENT

The Director of the National Institute of Standards and Technology (NIST), acting for and in behalf of the United States of America, hereinafter referred to as the "Government", under and by virtue of the authority contained in 40 United States Code 319, having determined that it will not be adverse to the interests of the United States, does hereby grant and convey, without covenant or warranty of any kind and subject to the conditions hereinafter stated, unto Bruce Alan Tenenbaum, the owner of 385 South Broadway, Boulder, Colorado, hereinafter referred to as the "Grantee", his successors and assigns, an easement and right-of-way for vehicular ingress and egress, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement, said easement being described as follows:

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Over and across that portion of the existing roadway which most directly routes vehicular traffic between the intersection of Broadway and 27th Way and Grantee's property, which is located in the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 6, Township 1 South, Range 70 West of the 6th P.M., Boulder County, Colorado as is reasonably necessary to allow for ingress and egress to the following described property:

Lots 26, 27 and 28, South Oak Park, City of Boulder, County of Boulder, State of Colorado, also known and numbered as 385 South Broadway, Boulder, Colorado.

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Said easement shall be appurtenant to and for the use and benefit of Lots 26, 27 and 28, South Oak Park, City of Boulder, County of Boulder, State of Colorado.

The easement is granted subject to the following conditions and provisions:

1. That the Government reserves unto itself rights for all purposes across, over, or under the said easement and right-of-way, provided that (a) such rights are exercised in a manner which will not create undue interference with the use by the Grantee of said facilities, and, (b) any construction by the Government in connection with the rights so reserved shall be at the expense of the Government.
2. That the Government reserves the right to change the location of the roadway over which this easement is granted, provided that such change does not substantially alter or affect Grantee's access as it exists as of the date of this Deed of Easement, and provided that the construction of the new roadway does not substantially affect Grantee's access during construction. If the location of the existing roadway is changed, the location of the easement granted herein shall be deemed to be changed to the new location of the roadway.
3. That existing improvements on Government property will be maintained, reconstructed, repaired, and replaced by the Government. Any new facilities such as additional curb cuts, collateral paving, etc. required by the Grantee for its sole enjoyment shall be installed, maintained, reconstructed, repaired, and replaced by the Grantee, within the easement area without cost or expense to the Government, under the general supervision and subject to the prior written approval of the Chief, Technical Services Division, hereinafter referred to as the "Coordinator." The Grantee shall replace, repair, restore, or relocate any property of the Government affected or damaged directly or indirectly by the construction, reconstruction, installation, operation, maintenance, and replacement of said facilities, all to the satisfaction of the Coordinator.

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- 4. That the Grantee will indemnify and save the Government harmless from any liability or responsibility of any nature whatsoever arising directly or indirectly from the privileges herein granted.
- 5. That within a reasonable time after termination or forfeiture of this grant, the Grantee shall, at its expense, if so requested by the Coordinator, remove from the said easement and right-of-way hereinbefore described, all structures, installations, and appurtenances thereto belonging to Grantee and restore that portion of easement used exclusively by the Grantee to the same or as good condition as that which existed prior to the exercise of its rights hereunder, all to the satisfaction of the Coordinator.
- 6. That all right, title, interest, and estate hereby granted shall cease and terminate effective as of the date of written notice from the Government to the Grantee, its successors or assignees, that there has been (a) an unreasonable failure to comply with the terms and conditions of the grant, or, (b) a nonuse of the easement for a consecutive two-year period for the purpose for which granted, or, (c) an abandonment of the easement.
- 7. That, should the Government at any time determine that continued maintenance and operation of the easement, or any portion thereof, as then located, constitutes an undue interference with any of the Government's activities, Grantee agrees to negotiate in good faith with the Government to eliminate such interference.

UNITED STATES OF AMERICA
Acting by and through the Director of the NIST

Arati Prabhakar

Date 4-6-95

STATE OF MARYLAND
COUNTY OF MONTGOMERY

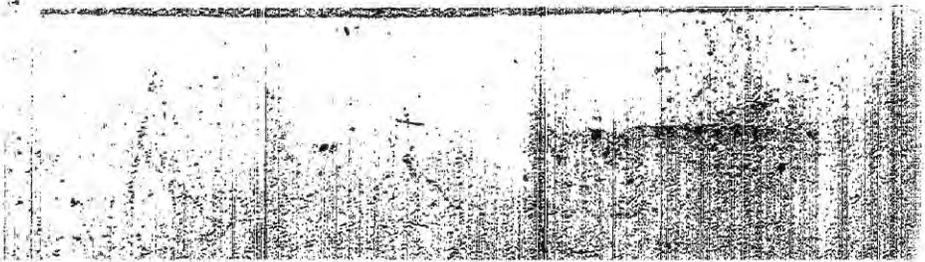
ON THIS day of Apr 6, 1995, before me a Notary Public in and for said State of Maryland, personally appeared Arati Prabhakar to me well known and known by me to be Arati Prabhakar, whose name is subscribed to the within instrument and acknowledged that he executed the same as a voluntary act and deed of the United States of America, within the scope of his lawful authority.

Kevin S. Williams
Notary public
State of Maryland

My commission expires Jan 1, 1997

*Arati Prabhakar
Director, National Institute of
Standards and Technology
Williams

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Boulder County Clerk, CO AND EASEMENT R 11.00

**AMENDMENT NUMBER 1
to the
DEED OF EASEMENT**

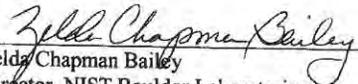
This Amendment refers to the Deed of Easement of April 6, 1995 granted by the National Institute of Standards and Technology (NIST) to Bruce Alan Tenenbaum (Grantee) for lots 26, 27 and 28, South Oak Park, City of Boulder, County of Boulder, Colorado, located at 385 South Broadway, Boulder, Colorado, and commonly known as the "Oak Park Medical Center."

Pursuant to section 2 of the Deed of Easement, NIST has elected to change the location of the roadway over which the easement was granted, commencing in February 2006. A temporary access way will be constructed prior to the completion of the permanent access road, which will provide full access pursuant to the Easement. The temporary access way will be maintained by NIST until the permanent access road is completed.

Pursuant to section 3 of the Deed of Easement, the relocation, installation, and maintenance of the temporary access way and permanent access road on Government property will be at the cost of the Government (as that term is defined in the Easement). Reasonable access to the Oak Park Medical Center will be provided uninterrupted during the construction of the temporary access way and the permanent access road.

The permanent access road will be constructed per the attached drawing and open for use by October 2007, subject to the availability of funds.

The Government and the Grantee agree to the relocation of the easement according to the attached drawing.


Zelda Chapman Bailey
Director, NIST Boulder Laboratories

2-8-06
date


Bruce Alan Tenenbaum
Owner, Oak Park Medical Center

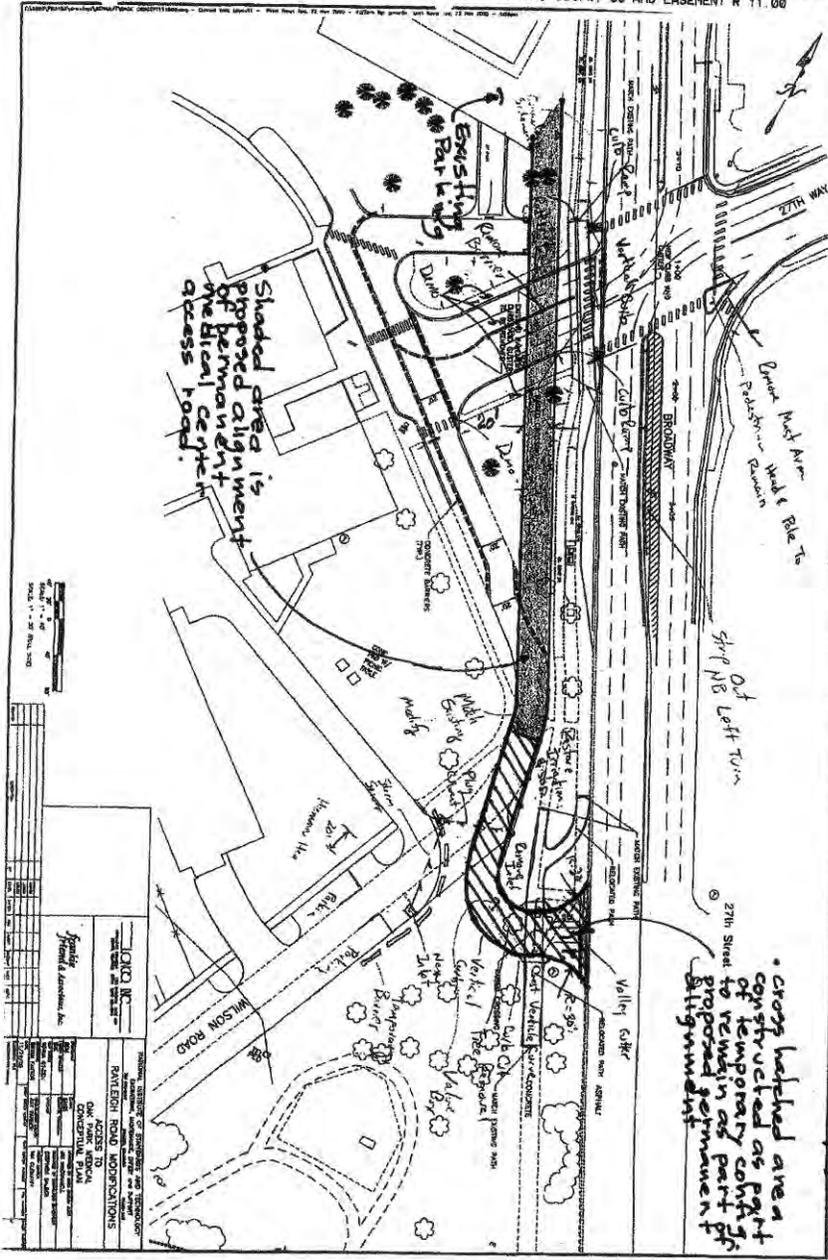
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Boulder County Clerk, CO AND EASEMENT R 11.00



Proposed Permanent Medical Ctr. Access

12/5/05

OWNER NIST National Institute of Standards and Technology 325 Broadway, Boulder, CO 80501		
DESIGNER J. Michael & Associates, Inc. 1000 North 10th Street, Suite 100, Boulder, CO 80501		
PROJECT NIST Access Easement 1000 North 10th Street, Suite 100, Boulder, CO 80501		
DATE 12/5/05		
SCALE 1" = 20'		
REVISIONS		
NO.	DATE	DESCRIPTION
1	12/5/05	ISSUED FOR PERMIT

Attachment A

PLANNING BOARD, CITY OF BOULDER, COLORADO

IN THE MATTER OF THE APPLICATION FOR A REZONING APPLICATION FOR A
PORTION OF THE PROPERTY LOCATED AT 385 BROADWAY, LUR2015-00047

FINDINGS OF FACT

On August 27, 2015, in accordance with the requirements of Section 9-2-18, "Rezoning," B.R.C. 1981, the City of Boulder Planning Board (the "Planning Board") held a public hearing after giving notice as required by law on application LUR2015-00047 seeking rezoning of a portion of the property located at 385 Broadway, Boulder, Colorado.

Erin Bagnall and Adrian Sopher, as the proponents (the "Applicant") of the application for a rezoning application is seeking approval of rezoning of a 0.8 acre portion of land generally located at 385 Broadway from the Residential-Low 1 (RL-1) to the Business-Transitional 2 (BT-2) zoning district (the "Property"). The Applicant has the burden of proof to demonstrate that the application meets the requirements of the Boulder Revised Code pursuant to Subsection 1-3-5(h), "Hearings and Determinations," B.R.C. 1981.

The review criteria for a rezoning application can be found in Subsection 9-2-18(e), "Criteria," B.R.C. 1981, and read as follows:

Criteria: The city's zoning is the result of a detailed and comprehensive appraisal of the city's present and future land use allocation needs. In order to establish and maintain sound, stable and desirable development within the city, rezoning of land is to be discouraged and allowed only under the limited circumstances herein described. Therefore, the city council shall grant a rezoning application only if the proposed rezoning is consistent with the policies and goals of the Boulder Valley Comprehensive Plan, and, for an application not incidental to a general revision of the zoning map, meets one of the following criteria:

- (1) The applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map;
- (2) The existing zoning of the land was the result of a clerical error;
- (3) The existing zoning of the land was based on a mistake of fact;
- (4) The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils and inadequate drainage;
- (5) The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area; or
- (6) The proposed rezoning is necessary in order to provide land for a community need that was not anticipated at the time of adoption of the Boulder Valley Comprehensive Plan.

Based upon a consideration of the entire evidentiary record, the Planning Board makes the following findings of fact:

1. **Summary Finding:** The Applicant failed to demonstrate, based upon a preponderance of the evidence, that the proposed rezoning is consistent with the policies and goals of the Boulder Valley Comprehensive Plan.
2. In evaluating the credibility and weight to be given to the evidence, the Planning Board considered the entire record, including materials and testimony provided by the city staff at the hearing; the staff memorandum dated August 27, 2015, including all attachments thereto and material that was linked by way of internet web links; and all materials, testimony and information placed in the record at or before the public hearing; and weighed a number of specific factors. While the Planning Board did not rely exclusively on any of the following factors, their collective and corroborative weight were considered as follows:
 - a. **CONSISTENCY WITH GOALS AND POLICIES OF THE BOULDER VALLEY COMPREHENSIVE PLAN**

The Boulder Valley Comprehensive Plan has many policies related to neighborhood compatibility and the creation and protection of unique physical elements of neighborhood character and identity and livability, the Planning Board finds that the following Comprehensive Plan policies and goals are relevant to this application:

1.29 Channeling Development to Areas with Adequate Infrastructure

In order to protect and use past investments in capital improvements, new development and redevelopment will be located in areas where adequate public services and facilities presently exist or are planned to be provided under the city's Capital Improvements Program.

2.09 Neighborhoods as Building Blocks

The city and county will foster the role of neighborhoods to establish community character, provide services needed on a day-to-day basis, foster community interaction, and plan for urban design and amenities. All neighborhoods, whether residential areas, business districts, or mixed land use areas, should offer unique physical elements of neighborhood character and identity, such as distinctive development patterns or architecture; historic or cultural resources; amenities such as views, open space, creeks, irrigation ditches, and varied topography; and distinctive community facilities and business areas.

2.10 Preservation and Support for Residential Neighborhoods

The city will work with neighborhoods to protect and enhance neighborhood character and livability and preserve the relative affordability of existing housing stock. The city will seek appropriate building scale and compatible character in new development or redevelopment, appropriately sized and sensitively designed streets and desired public facilities and mixed commercial uses. The city will also encourage neighborhood schools and safe routes to school.

2.13 Protection of Residential Neighborhoods Adjacent to Non-residential Zones

The city and county will take appropriate actions to ensure that the character and livability of established residential neighborhoods will not be undermined by spill-over impacts from adjacent regional or community business zones or by incremental expansion of business activities into residential areas. The city and county will protect residential neighborhoods from intrusion of non-residential uses by protecting edges and regulating the impacts of these uses on neighborhoods.

2.14 Mix of Complementary Land Uses

The city and county will strongly encourage, consistent with other land use policies, a variety of land uses in new developments. In existing neighborhoods, a mix of land use types, housing sizes and lot sizes may be possible if properly mitigated and respectful of neighborhood character. Wherever land uses are mixed, careful design will be required to ensure compatibility, accessibility and appropriate transitions between land uses that vary in intensity and scale.

2.15 Compatibility of Adjacent Land Uses

To avoid or minimize noise and visual conflicts between adjacent land uses that vary widely in use, intensity or other characteristics, the city will use tools such as interface zones, transitional areas, site and building design and cascading gradients of density in the design of subareas and zoning districts. With redevelopment, the transitional area should be within the zone of more intense use.

2.30 Sensitive Infill and Redevelopment

With little vacant land remaining in the city, most new development will occur through redevelopment. The city will gear subcommunity and area planning and other efforts toward defining the acceptable amount of infill and redevelopment and standards and performance measures for design quality to avoid or adequately mitigate negative impacts and enhance the benefits of infill and redevelopment to the community and individual neighborhoods. The city will also develop tools, such as neighborhood design guidelines, to promote sensitive infill and redevelopment.

The Property proposed for rezoning is located in the southeast corner of an older, existing low density residential neighborhood that is bordered to the east by South Broadway and to the south by the campus of a federal agency, the National Institute of Standards and Technology (NIST) and to the south and west by City of Boulder Open Space. The neighborhood's character is that of single family residential uses with quiet streets as there is no motor-vehicle connection from the local neighborhood streets to South Broadway (to the east) or to the south or west where the neighborhood is bordered by City of Boulder Open Space and NIST. Residents of the neighborhood testified that many families live in the neighborhood, children play on the streets, neighbors go for walks and socially interact on the streets, and bicyclists choose the neighborhood as a safe route to the mountains.

The existing building on the Property has been used for medical office uses since 1957 and has been non-conforming since its construction.

While a private access easement exists to the Property through the NIST property, it is possible that that easement through federal land may, through agreement, violation

of its terms, or use of eminent domain powers by the federal government, at some point in time be extinguished, which would most likely require motor vehicle access to the Property be taken from Bluebell Avenue and through the quiet neighborhood to the north. In a letter sent to the City of Boulder, a representative for NIST expressed serious reservations regarding the acceptability to NIST of access to the Property via the existing easement if the Property were rezoned to greater intensity. Based on staff testimony, it is very unlikely that the Property could meet the regulatory requirements for direct access to the Property from South Broadway.

The Boulder Valley Comprehensive Plan map shows the Property surrounded by properties with Low Density Residential designations, which are described as residential land use areas with two to six units per acre, with the exception of the NIST property, which is designated Public.

The current zoning of the Property and of the neighborhood is RL-1. The purpose or RL-1 zoning is defined as single-family detached residential dwelling units at low to very low residential densities. Section 9-5-2, "Zoning Districts," B.R.C. 1981. Uses allowed in the RL-1 zone without any additional standards or reviews are limited to detached dwelling units, in-home daycares, religious assemblies, park and recreation uses, crop production, public schools and colleges, and accessory buildings and uses. The purpose of BT-2 zoning is defined as transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation temporary lodging and office uses. Section 9-5-2, "Zoning Districts," B.R.C. 1981. Allowed uses in the Business-Transitional 2 (BT-2) zoning district include duplexes, attached dwellings, townhouses, efficiency living units if less than 20 percent of total units, congregate care facilities, fraternities, sororities, and dormitories, boarding houses, art and craft studios, daycare centers with more than 50 children or adults, public and private office uses providing social services, adult educational facilities, data processing facilities, medical or dental clinics or offices, administrative, professional and technical offices, indoor recreational or athletic facilities, broadcasting and recording studios, computer design and development facilities, and telecommunication uses. Some retail uses could be approved pursuant to a Use Review application in the BT-2 zoning district.

The possible uses in the BT-2 zoning district and their impacts on this established quiet neighborhood in a unique location that does not allow for any through traffic to the south or west or east is not consistent with the development pattern of this neighborhood and its established character and identity. The potential noise and visual impacts as well as potential traffic impacts through this neighborhood of some of the allowed uses in the BT-2 zoning district would undermine the livability and character of this established neighborhood

The Property is not part of, and would not by itself create, an activity center and business area and, in light of the Land Use Map designations in the area, which anticipate low density residential and public uses on all the surrounding properties,

would also not function as a transition area to zones of more intense use. In light of the location of the Property, the access situation, and the negative impacts some of the allowed uses under BT-2 zoning would have on the character, livability, and identity of the established neighborhood, the Planning Board is also not convinced that the proposed rezoning would effectively meet the purpose of the BT-2 zone district - to create a transition to South Broadway buffering the residential area.

For these reasons, the Planning Board finds that the Applicant failed to demonstrate by a preponderance of the evidence that the proposed rezoning is consistent with the policies and goals of the Boulder Valley Comprehensive Plan.

b. THE PROPOSED REZONING IS NECESSARY TO COME INTO COMPLIANCE WITH THE BOULDER VALLEY COMPREHENSIVE PLAN MAP

The land use map designates the Property for a Business Transitional land use which is defined as follows: "The Transitional Business designation is shown along certain major streets. These are areas usually zoned for less intensive business uses than in the General Business areas, and they offer provide a transition to residential areas." The current zoning is RL-1. Based on the descriptions for Business Transitional land use and the regulations applicable to RL-1 and BT-2, the Planning finds that the Applicant has demonstrated this criterion; the proposed rezoning would render the zoning consistent with the Boulder Valley Comprehensive Plan map.

3. For the reasons set forth in these findings, the Planning Board finds that the application fails to meet the requirements of the Boulder Revised Code and recommends to City Council denial of the application on a vote of 7-0.

The Planning Board adopts these findings of fact on the above referenced application this 17th day of September, 2015.