C I T Y O F B O U L D E R
AGENDA ITEM PLANNING BOARD
MEETING DATE: August 27, 2015

AGENDA TITLE:

REZONING: Public hearing, consideration, and recommendation to City Council to rezone a 0.8 acre portion of land generally located at 385 South Broadway from the Residential - Low 1 (RL-1) to the Business - Transitional 2 (BT-2) zoning district consistent with the Boulder Valley Comprehensive Plan land use map designation of Transitional Business while retaining a 25-foot area along the northern and western property lines within the RL-1 zoning district. (LUR2015-00047); and

CODE CHANGE : Public hearing, consideration, and recommendation to City Council to adopt an ordinance amending sections 9-2-14, "Site Review," B.R.C.1981, and 9-9-2, "General Provisions," B.R.C. 1981, to implement the BVCP and to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district of which one is a low density residential district with neighboring land uses, and setting forth related details.

Applicant: Erin Bagnall (rezoning request); City of Boulder (Land Use Code Change)
Owner: 385 Broadway LLC

REQUESTING DEPARTMENT:

Community Planning and Sustainability:
David Driskell, Executive Director
Susan Richstone, Deputy Director
Charles Ferro, Development Review Manager
Elaine McLaughlin, Senior Planner

OBJECTIVE:

1. Hear Applicant and Staff presentations
2. Hold Public Hearing
3. Planning Board discussion
4. Planning Board recommendation to approve or deny the rezoning application and recommendation on proposed code amendment

REZONING PROPOSAL AND SITE SUMMARY:

Rezoning Proposal:	Proposal at the request of the property owner to rezone a 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.
Code Change Proposal:	Proposal by city to amend portions of the land use code related to development of lots located in more than one zoning district, of which one is a low density residential district.
Rezoning Project Name:	385 South Broadway Rezoning
Location:	385 South Broadway
Size of Property:	1.01 acre (44,253 square feet): area to be rezoned 0.8 acre (35,361 square feet)
Zoning:	Residential - Low 1, RL-1 (currently), with Business – Transitional 2, BC-2 (proposed) for a 0.8 acre portion of the site.
Comprehensive Plan:	Transitional Business (TB) and 25-foot wide area of Low Density Residential (LDR) on the north and west of the subject property.

KEY ISSUES:

Rezoning: Is the rezoning request consistent with review criteria for rezoning?

Code Change: Does the proposed code change implement the Boulder Valley Comprehensive Plan?

BACKGROUND:

The property was originally developed as an office building in 1957 and has functioned as a non-conforming commercial use in a low density residential zone district (RL-1), making the existing commercial building difficult to expand, improve or redevelop. In order to request a commercial 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.

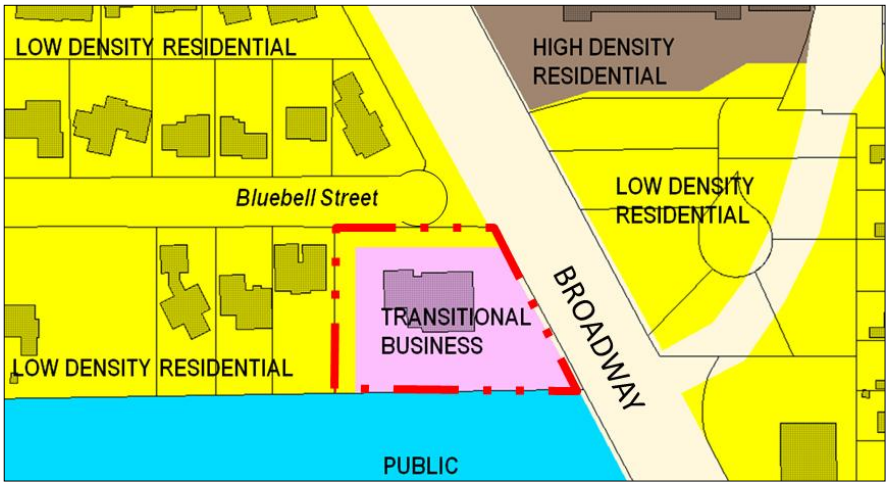

Figure 1: Boulder Valley Comprehensive Plan Land Use

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

> 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.

To implement the intent behind 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**) to amend section 9-9-2(d) "*Zoning Standards for Lots in Two or More Zoning Districts,"* is being considered simultaneously to the rezoning ordinance which is discussed below under "Key Issue: Code Change."

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.

Existing Site. As shown in the photos in Figures 3 and 4, 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 single family 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 section 9-2-18(d), 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."* Staff prepared a draft rezoning ordinance, provided in **Attachment A**. Figure 4 illustrates the BVCP Land Use Map.

The applicant's written statement (provided in **Attachment B**) indicates the intent to redevelop the site as townhomes, a use permitted by right in 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," B.R.C.1981, and 9-9-2, "General Provisions," B.R.C. 1981, to implement the BVCP and 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. Refer to **Attachment B** for the parcel report and the Planning Board Minutes. The property had also received two variances, one for expansion in 1964, and one for an expansion of uses in 1973.

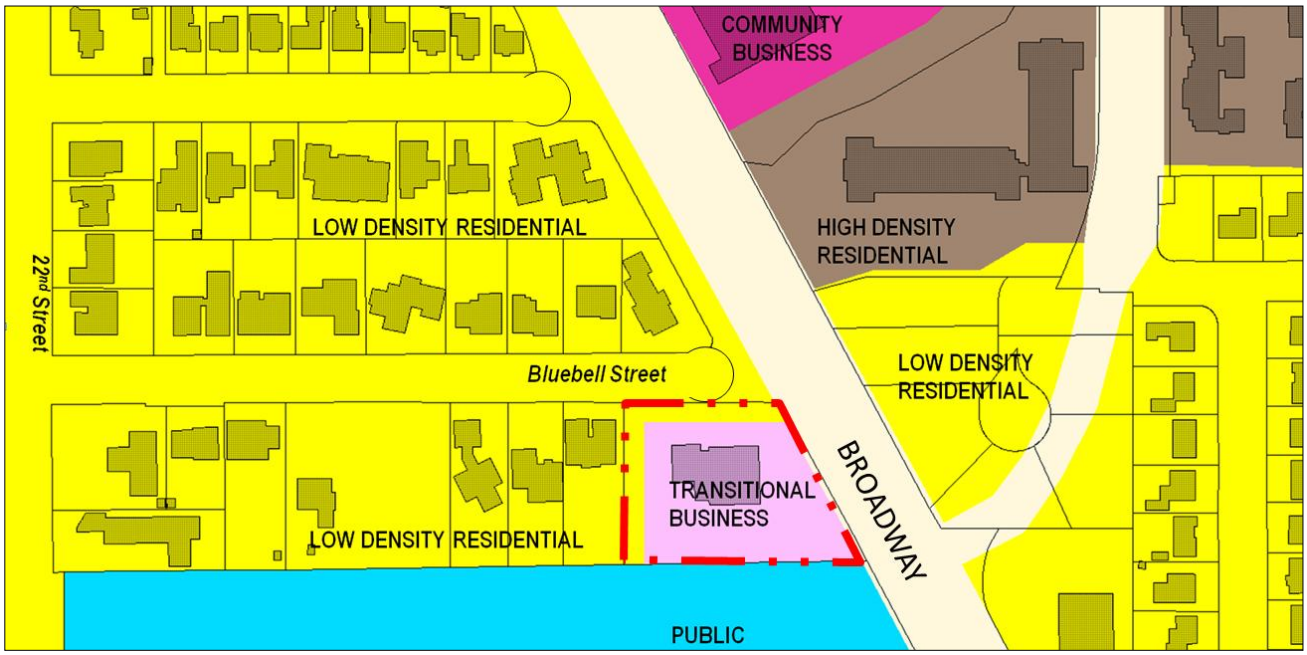

Figure 4: Broader Surrounding Area: Boulder Valley Comprehensive Plan Land Use Plan

Existing Zoning As shown on Figure 5, Zoning Map on following page, the current zoning is Residential – Low 1 defined within the land use code section 9-5-2, 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 land use code section 9-5-2, 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."*

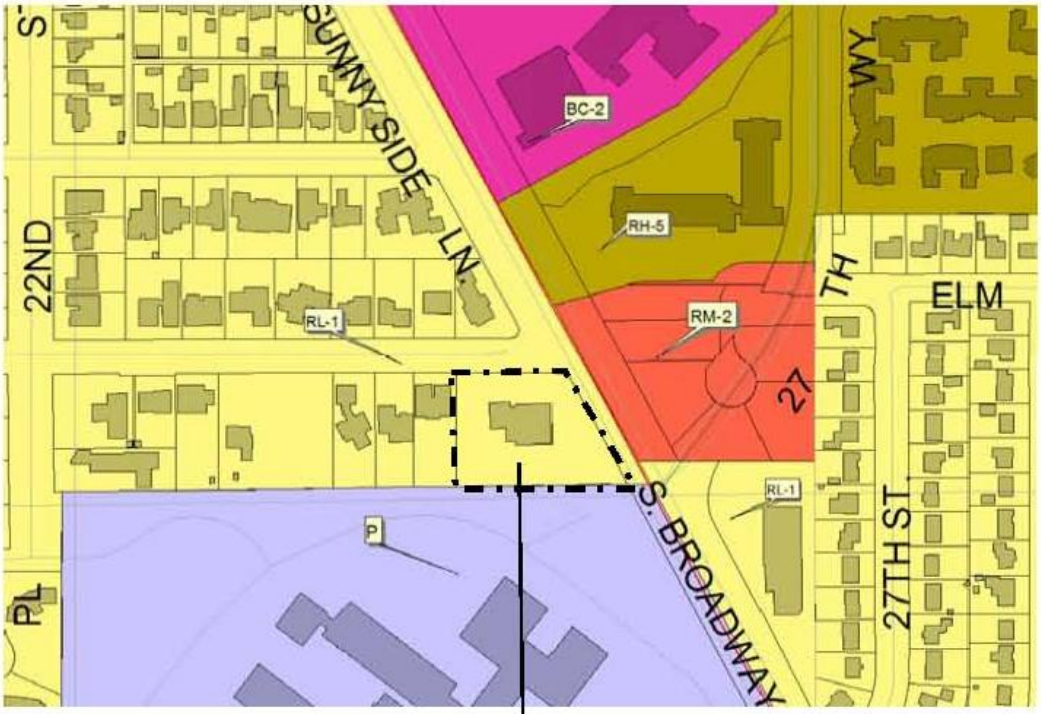

Figure 5: Existing Zoning

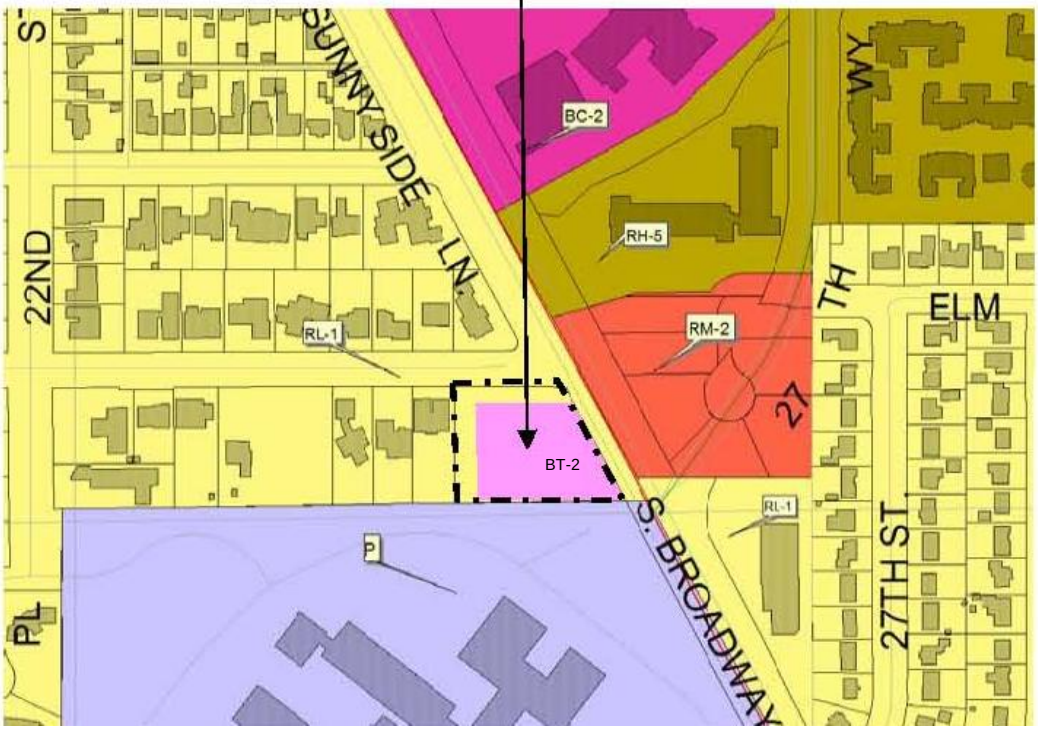

Figure 6: Proposed Zoning

Figure 6 illustrates the precise location of the rezoning within the property, and illustrates how a 25-foot wide "buffer" of Residential - Low 1 (RL-1) would remain.

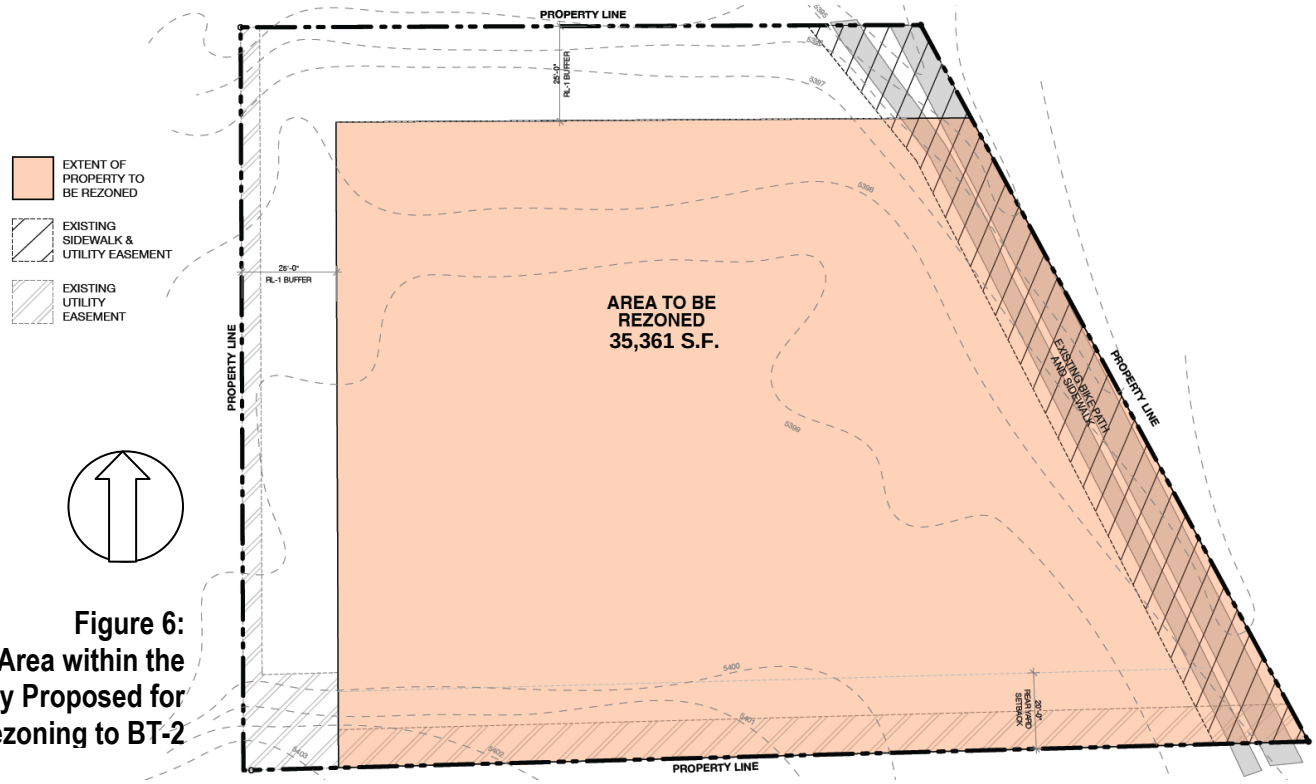

Figure 6: Area within the Property Proposed for Rezoning to BT-2

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.

	Business - Transitional 1	Business - Transitional 2
PURPOSE	*"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."*	*SAME*
RES. USE	Detached and Attached Dwelling Units, and Townhomes are by-right	SAME
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 FOUR OR MORE BEDROOM DWELLING UNIT	SAME

As can be noted, the BT-2 zoning district is more restrictive in terms of residential density because one dwelling unit requires 1,600 square feet of lot area compared to a requirement of 1,200 square feet of open space per dwelling unit for BT-1. This would result in fewer units than the BT-1 zoning. Similarly, BT-2 has a maximum FAR of 0.5, whereas BT-1 has no FAR restriction. Note that the density for the site cannot be calculated using any part of the area zoned as Residential - Low 1 (RL-1).

KEY ISSUE: Is the rezoning request consistent with required review criteria for rezoning?

Land Use Code Section 9-2-18(e), B.R.C. 1981 states:

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,

The most relevant BVCP goal for this rezoning request is 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."

and,

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;***

Not applicable.

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

Not applicable.

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.

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.

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.

KEY ISSUE: Is the code change consistent with the Boulder Valley Comprehensive Plan (BVCP)?

The BVCP has policies the city adopted with the intent to protect residential neighborhoods that are located adjacent to non-residential zoning districts and establish compatibility of adjacent land uses. 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.*

This code change is intended to specifically address the comprehensive plan policies related to compatibility and protection of residential neighborhoods adjacent to non-residential zones. In doing so, it will also address compatibility of adjacent land uses by specifying standards for split zoned properties when one of the zoning districts is low density residential.

Specific to the proposed rezoning at 385 Broadway, the land use designation change for just a 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. Therefore, a development on a split zoned property, that includes low density residential zoning, must be developed consistent with the use, form and bulk, and intensity standards of the lower density zoning district, or it must be approved through Site Review.

PUBLIC NOTIFICATION AND COMMENT

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. All notice requirements of Section 9-4-10(g),

B.R.C. 1981 have been met.

Staff received a number of comments from members of the public via email regarding this application along with a letter signed by 23 neighbors, residents of the "Community of Lower Bluebell" who provided signature and addresses 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, 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. The emails and letters are provided in Attachment C.

As noted under the Key Issue, there is only one applicable criteria for rezoning the property under Land Use Code section 9-2-18(e)(1), B.R.C. 1981:

> *"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"*

At the request of some of the neighbors, staff responded to their questions and comments with the applicable criteria and also 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. Another letter was received from a representative for the National Institute of Standards (NIST) who indicated concerns about changes to the zoning that may impact traffic and the existing access easement the is currently in place between NIST and the property owners of 385 Broadway.

STAFF FINDINGS AND RECOMMENDATION:

(1) Staff finds that the proposed rezoning application meets the rezoning criteria of Section 9-2-18(e), "Criteria," B.R.C., 1981 and finds the proposed rezoning request to be in compliance with the Boulder Valley Comprehensive Plan land use map designation of Transitional Business. Therefore, staff recommends that Planning Board recommend approval of case no. LUR2015-00047 to City Council incorporating this staff memorandum and the above review criteria checklist as findings of fact.

(2) Staff further recommends that Planning Board recommend approval of the ordinance amending sections 9-2-14, "Site Review," B.R.C.1981, 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.

Approved By:

David Driskell, Executive Director
Department of Community Planning and Sustainability

Attachments

Attachment A: Draft Rezoning Ordinance
Attachment B: Draft Code Change Ordinance
Attachment C: Public Comment Received
Attachment D: DRC Comment Letter
Attachment E: Applicant's Written Statement

ORDINANCE NO. _____

AN ORDINANCE REZONING A 0.8 ACRE PORTION OF LAND GENERALLY LOCATED AT 385 SOUTH 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. A public hearing before the Planning Board of the City of Boulder was duly held on August 27, 2015, in consideration of rezoning a 0.8 acre portion of land from Residential – Low 1 (RL-1) to Business - Transitional 2 (BT-2), that is a portion of a parcel of land generally located at 385 South Broadway, City of Boulder, County of Boulder, State of Colorado, as more particularly described on Exhibit A attached to this ordinance (the "Property").

B. The Planning Board found 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 rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map."

C. The Planning Board recommended that the City Council amend the zoning district map to include a 0.81 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.

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

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

Section 2. 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, is necessary to bring the Property into compliance with the Boulder Valley

Comprehensive Plan map, and meets the criteria for rezoning as provided in Chapter 9-2, "Review Processes," B.R.C. 1981. The City Council adopts the recitals as a part of this ordinance.

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

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

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 20___.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ___ day of _____, 20__.

_____
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.

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR 16406 8/11/15

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

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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,
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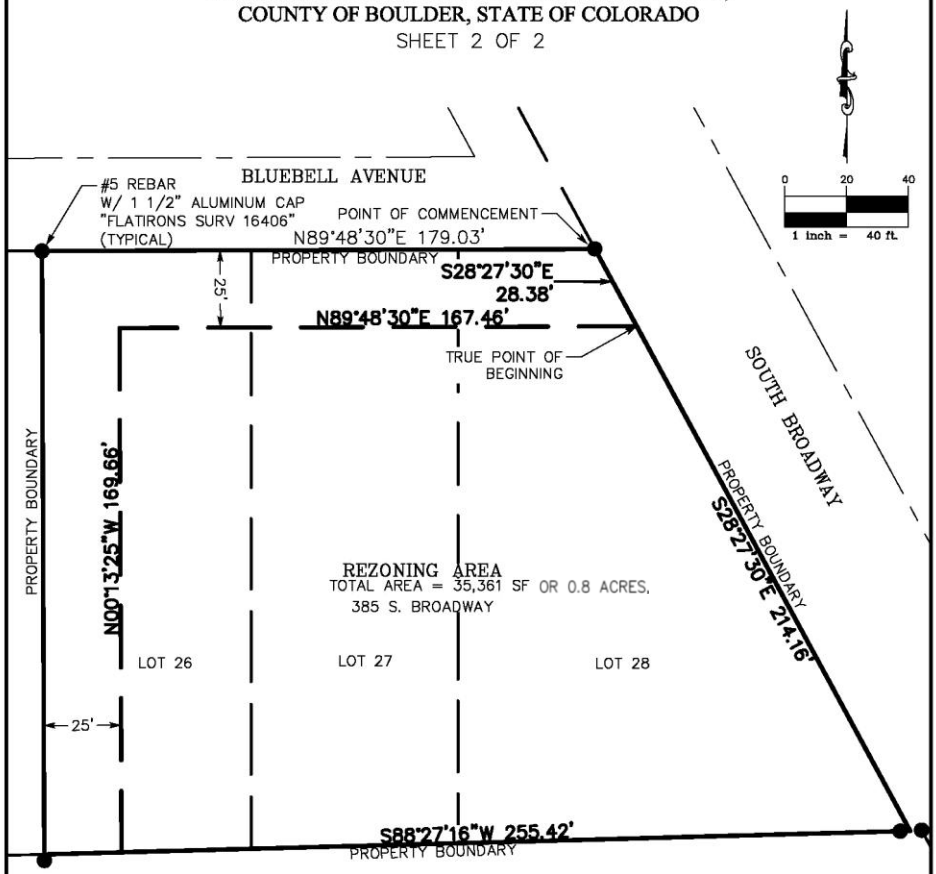
SHEET 2 OF 2



COLORADO LICENSED
JOHN RUSSELL BENNINK
16406
8/11/15
PROFESSIONAL LAND SURVEYOR

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ORDINANCE NO. _____

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

(F) New Development on Lots in Two or More Zoning Districts: A development which does not meet the standards of Section 9-9-2(d)(2), Development of New Structures on Lots in

Two or More Zoning Districts," B.R.C. 1981, is required to complete a site review and is not subject to the minimum threshold requirements. No standard other than Section 9-9-2(d)(2), B.R.C. 1981, may be modified under the site review unless the project is also eligible for site review.

. . .

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

. . .

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

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

. . .

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

9-9-2. - General Provisions.

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

. . .

(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.

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

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

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

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

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

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

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

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

. . .

Section 3. This ordinance is necessary to protect the public health, safety, and welfare of 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____, 2015.

_____
Mayor

Attest:

_____
City Clerk

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

_____
Mayor

Attest:

_____
City Clerk

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

CITY OF BOULDER
LAND USE REVIEW RESULTS AND COMMENTS

DATE OF COMMENTS:	**June 5, 2015**
CASE MANAGER:	**Elaine McLaughlin**
PROJECT NAME:	**385 BROADWAY REZONING**
LOCATION:	**385 BROADWAY**
COORDINATES:	**S01W05**
REVIEW TYPE:	**Rezoning**
REVIEW NUMBER:	**LUR2015-00047**
APPLICANT:	**Erin Bagnall**
DESCRIPTION:	**REZONING: Rezone the 48,219 square foot property from Residential - Low 1 (RL-1) to Business - Transitional 2 (BT-2) to be consistent with the BVCP land use; except for the 25-foot buffers of RL-1 zoning which will remain along northern and western property lines.**

REQUESTED VARIATIONS FROM THE LAND USE REGULATIONS: **none related to rezoning**

I. REVIEW FINDINGS

The applicant's written materials indicate that a proposed project will result from the rezoning that includes 16 four bedroom townhomes, however there were no project plans accompanying the application. In the Application Project Fact Sheet, the applicant indicates that a 25 percent parking reduction would be necessary for the intended plan. Please note that such a request for a residential parking reduction requires application for Site Review. If the project moves forward, a Site Review application must accompany the resbumittal, so that staff, the neighborhood, and the decision makers all fully understand, and can review, the proposed project.

In addition, staff received a letter from the National Institute of Standards (NIST) the federal agency for whom the property owner holds an access agreement, indicating "serious reservations" regarding the access to the property via the existing easement if the property is rezoned and has a greater intensity of use. A copy of the letter is attached under Attachment A. Also provided in Attachment 'A' are comment letters from residential neighbors from Bluebell Avenue who articulated a number of concerns, including concerns about potential access and increased traffic via Bluebell Avenue.

Given the potential access issues and given the intended redevelopment to townhomes, several steps must be taken by the applicant prior to conclusion of this review application. Because of access issues raised, staff requires the applicant to provide a letter from NIST that indicates support for continued use of the access easement, in perpetuity, before this application can move forward. In addition, the buffer area designated in the BVCP Land Use as Low Density Residential must also be reviewed through a Site Review concurrent with the rezoning to ensure that a functional, high quality buffer adequately protects the adjacent properties from potential impacts. Therefore, please review the "Next Steps" at the end of this comment letter to understand how best to proceed.

II. CITY REQUIREMENTS

This section addresses issues that must be resolved prior to a project decision or items that will be required conditions of a project approval. Requirements are organized by topic area so that each department's comments of a similar topic are grouped together. Each reviewer's comment will be followed by the reviewer's department or agency and telephone number. Reviewers are asked to submit comments by section and topic area so that the comments can be more efficiently organized into one document. Topics are listed here alphabetically for reference.

Access/Circulation, David Thompson, 303-441-4417

1. Pursuant to Section 2.6 of the State of Colorado State Highway Access Code a new CDOT State Highway Access Permit Application must be approved for the proposed land use change. The new CDOT access permit must be reviewed and approved

through a separate Technical Document Review process. Application materials and requirements are located on the 3rd Floor of the Park Central Building.

2. The Applicant must notify the National Institute of Standards and Technology Labs (NIST) of the proposed land use change and obtain their approval for the continued use of the access easement which provides access to the site across NIST property from Broadway.

Fees
Please note that 2015 development review fees include a $131 hourly rate for reviewer services following the initial city response (these written comments). Please see the P&DS Questions and Answers brochure for more information about the hourly billing system.

Neighborhood Comments Elaine McLaughlin, 303-441-4130
Staff received three phone calls from three different neighbors who reside along Bluebell Avenue who articulated concerns about the proposed rezoning. In addition, staff received a neighborhood comment letter with 23 signatures and one additional email confirming the a neighbor's agreement with the letter. In addition to the neighborhood comment letter, staff received a separate letter from another neighbor. The correspondence is provided in Attachment A.

Staff also received a letter from the National Institute of Standards (NIST) the federal agency for whom the property owner holds an access agreement. As stated in the letter,

> *"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."*

Therefore, a priority will be for the applicant to determine in conversations with NIST if access into the property will be maintained in perpetuity and must document it as such through a letter from NIST. Because this seems to be at question at the present, this will be critical before the applicant moves forward. This would be true for either a by-right or discretionary review development application.

Given the concerns raised by neighboring property owners, staff requires the applicant host a Good Neighbor meeting. This should be done once the access issue is resolved through NIST.

Review Process
Because the applicant included information in the application materials about the proposed intent to redevelop the site for townhomes, that would require a request for a parking reduction through a Site Review. Therefore, the applicant should submit an application for the Site Review to run concurrently with the rezoning request and a key submittal requirement is provision of a letter by NIST indicating access from the easement in perpetuity. Because that Site Review would be dependent upon a rezoning, staff will refer the Site Review to the Planning Board who would in turn, make a recommendation on both the Rezoning and the Site Review to City Council.

III. INFORMATIONAL COMMENTS
This section addresses issues that are for the applicant's reference but are not required to be resolved prior to a project decision or as a condition of approval. Informational Comments are organized by topic area so that each department's comments of a similar topic are grouped together. Each reviewer's comment will be followed by the reviewer's department or agency and telephone number. Reviewers are asked to submit comments by section and topic area so that the comments can be more efficiently organized into one document. Topics are listed here alphabetically for reference.

Access / Circulation, David Thompson, 303-441-4417

1. The Applicant must demonstrate at time of Site Review submittal that a curb cut (access) meeting the design standards found in Section 2.04 of the City's Design and Construction Standards (DCS) can be constructed from Bluebell Avenue should the access easement across the NIST site be vacated by NIST.

2. Please provide staff with a diagram showing the area of the access easement the site is responsible to maintain per the access easement executed with NIST.

3. A Parking Study / TDM Plan is required to support any requested parking reductions on the site.

4. Pursuant to Section 9-9-5 of the Boulder Revised Code, 1981 access to the site must be taken from the lowest category street which is Blue Bell unless the applicant can demonstrate why this is not feasible and that other access can meet the intent of the BRC.

Historic Preservation, James Hewat 303-441-3207
Sources:
Boulder Carnegie Library for Public History. Obituary of Charles Keller,
http://www.legacy.com/obituaries/dailycamera/obituary.aspx?pid=171055928

The existing building located at 385 Broadway was constructed in 1957. It first appears in the City of Boulder Directory in 1958 and is listed as the Oak Park Medical & Dental Building. The first physicians and dentists to occupy the building included Duhon & Wolfe, Frederick U. Timms, Duane M. Clement, Joseph L Hutton, and Charles B. Keller. Through initial research, an obituary on dentist Charles B. Keller was found. Charles Keller occupied the building from at least 1959-1975. After fighting in World War II, Keller enrolled in the University of Southern California Dental School and practiced dentistry in Southern California until 1953. In 1954 he moved to Boulder and moved his practice into the Oak Park Medical Building by 1959. Keller passed away on May 12th, 2014. Further research may be needed to gather more information about the other physicians and dentists that occupied the building. Since South Broadway Road was originally named Marshall Road pre-1963, the Oak Park Medical Building was first addressed as 385 Marshall Road.

In 1964, Hobart D. Wagener was commissioned to design an addition on the west side of the building. Further research is needed to determine the architect of the 1957 portion. Wagener's architectural drawings of the 1964 addition are located at the Boulder Carnegie Library for Public History. Outlined in red is the addition designed by Hobart Wagener (permission is needed by Wagener's heirs to duplicate or copy the architect's drawings):

Land Use and Zoning, Elaine McLaughlin, 303-441-4130

1. **BVCP Land Use**
   As shown in the map on page 5, 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 changed from Low Density Residential to Transitional Business because the building on the property had been non-conforming since it was constructed in the 1950s. Refer to Attachment B for the parcel report and the Planning Board Minutes. The property had also received two additional variances, one for expansion in 1964, and one for an expansion of uses in 1973.

2. **Existing Zoning**
   As shown in the map on page 5, the current zoning is Residential Low-1 defined within the land use code section 9-5-2, B.R.C. 1981 as,

   " Single-family detached residential dwelling units at low to very low residential densities."

3. **Proposed Zoning**

The applicant is proposing Business Transition - 2 (BT-2) zoning, as shown in the map on page 5, which is defined in the land use code section 9-5-2, B.R.C. 1981,

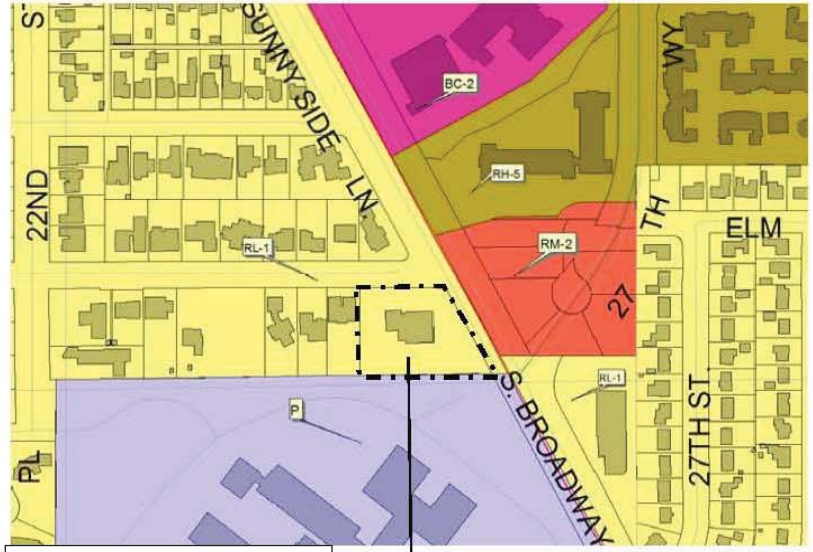
> *"Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses."*

Refer to maps on the page 5 that include the BVCP Land Use Map, the Existing Zoning and the Proposed Zoning. The applicant indicated that the intent is to redevelop the site as 16 townhomes, four-bedrooms each that would require a 25 percent parking reduction. Residential parking reductions are subject to a review under a Site Review application. Because the redevelopment is prompting the rezoning at this time, the applicant is encouraged to submit application concurrently with the rezoning. The threshold for a Site Review and the areas of the Land Use Code that can be modified through Site Review are found in section 9-2-14, B.R.C. 1981, provided **here** for reference.

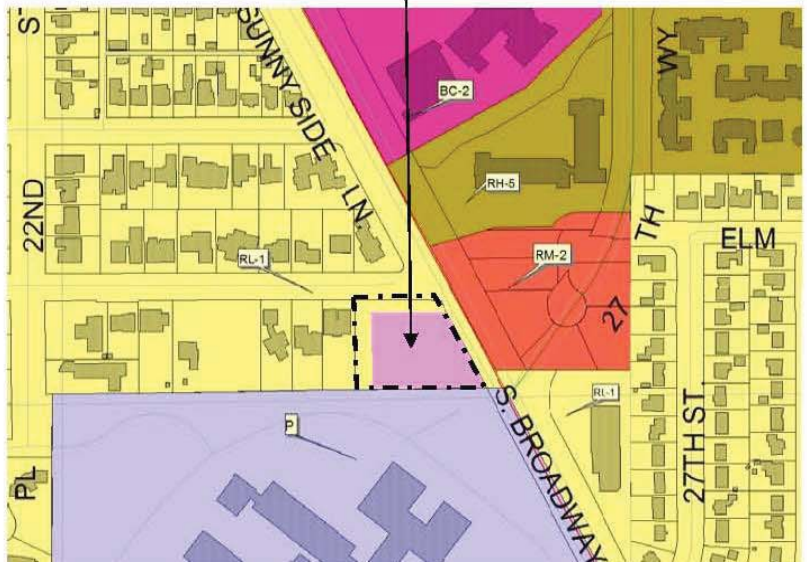
Note that under the Transitional Business Land Use, the two compatible zoning districts are BT-1 and BT-2. An overview of the distinctions between the two is provided in the following table. As can be noted, the BT-2 zoning district is more restrictive in terms of density, and would result in fewer units than the BT-1 zoning. Note that the density for the site cannot be calculated using any part of the area zoned as Residential Low -1 (RL-1).

	Business Transition- 1	**Business Transition - 2**
PURPOSE	*"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."*	*SAME*
USES	TOWNHOMES BY-RIGHT	SAME
INTENSITY	1,200 SQUARE FEET OF OPEN SPACE PER DWELLING UNIT: NO MAXIMUM FAR	1,600 SQUARE FEET MINIMUM LOT AREA PER DWELLING UNIT MAXIMUM 27.2 DWELLING UNITS PER ACRE AND 0.5 FAR
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 FOUR OR MORE BEDROOM DWELLING UNIT	SAME

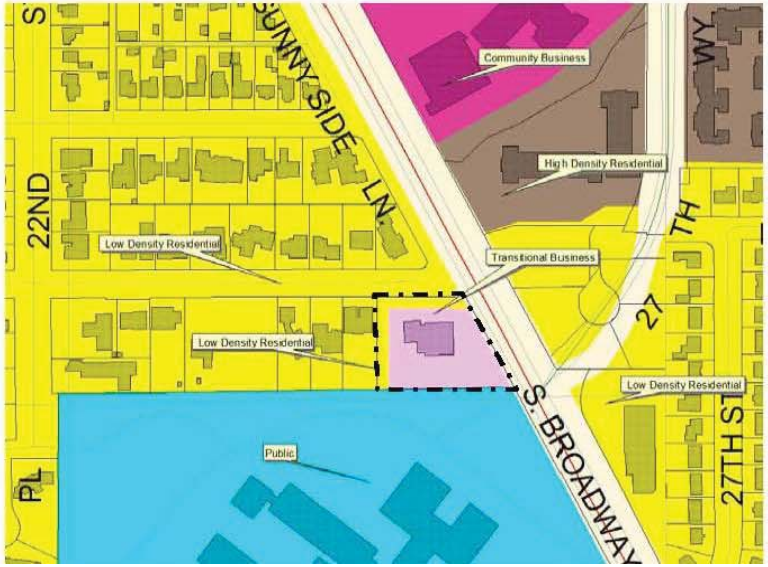
Exhibits Illustrating Existing BVCP Map along with Existing Zoning and Proposed Zoning



Current Zoning



Proposed Zoning



Comp Plan Land Use Designation

Address: 385 Broadway

IV. NEXT STEPS

Coordinate project plans with NIST. Request a letter from NIST that indicates support for continued use of the access easement in perpetuity and resubmit with an application for Site Review for the proposed project that includes a 25 percent parking reduction.

V. CITY CODE CRITERIA CHECKLIST

To be completed upon a recommendation.

VI. Conditions on Case

None at this time.

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	
MARCIA WEISS	2265 BLUEBELL	773.908.9009	
Shirley S Kirn	2240 Bluebell	303-442-8535	
Matthew Ludemann	2290 Bluebell Ave.	720-233-6976	
J. Bellipani	2240 Bluebell Ave	720-233-6976	JULIANNA BELLIPANNI
Elizabeth Fleming	2285 Bluebell Ave	415-5777979	
Helmut M Altschuler	2250 Bluebell Ave	442-8769 (303)	
T.E. Van Zandt	2255 Bluebell	303-499-6395	T.E. Van Zandt
Natalie L. Hedberg	2255 Bluebell	303-499-6395	Natalie L. Hedberg
Dan Olson	2285 Bluebell	415-713-7457	
Jennifer Alexander	415 Summyside Ln	7203016129	
Patty Angerer	2225 Bluebell	303 449 0968	
Tom Angerer	2225 Bluebell	303-449-0968	
Charles Palmer	2270 Bluebell	303-788-8502	
Halina Palmer	2270 Bluebell	3037184798	
Steven C. Moneemz	2245 Bluebell Ave.	720-629-1733	

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	2203 BLUEBELL AVE	303-499-4747	Mary Tiao
DORIS HASS	2207 Bluebell	303-443-7087	Doris E. Hass
Mho Salim	2211 Bluebell	303 449 3365	M. A. Sal.
Fay Salim	2211 Bluebell Ave	303449-3365	Fay Salim

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

From: [redacted] **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

Attachment B: 2008 Comp. Plan Land Use Change Parcel Report and Planning Board Hearing Minutes

(refer to attached PDFs)

From: ps angerer [[redacted]]
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 SopherSparn 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: "[redacted]>
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.boulderplandevelop.net
http://www.bouldercolorado.gov/

From: ps angerer [[redacted]]
Sent: Monday, June 01, 2015 4:05 PM
To: McLaughlin, Elaine
Subject: Re: 385 Broadway

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

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

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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

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Kind Regards-
Elaine

Elaine McLaughlin, Senior Planner
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Boulder, CO 80306-0791
303-441-4130 (phone)
303-441-3241 (fax)

http://www.boulderplandevelop.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 [mail[redacted]]
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' [redacted]
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.boulderplandevelop.net
http://www.bouldercolorado.gov/

From: ps angerer [mailto[redacted]]
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 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	
MARCIA WEISE	2265 BLUEBELL	773.908.9009	
Shirley S. Kilpatrick	2240 Bluebell	303-442-8535	
Matthew Ruderman	2290 Bluebell Ave.	720-233-6976	
J. Bellipani	2290 Bluebell Ave	720-233-6976	JULIANNA BELLIPANNI
Elizabeth Fleming	2285 Bluebell Ave	415-5771979	
Helmut M Altschuler	2250 Bluebell Ave	442-8769 (303)	
T.E. Van Zandt	2255 Bluebell	303-499-6395	T.E. Van Zandt
Natalie L. Hedberg	2255 Bluebell	303-499-6395	Natalie L. Hedberg
Dan Olson	2285 Bluebell	415-713-7457	
Jennifer Alexander	4155 Sunnyside Ln	7203016129	
Patty Angerer	2225 Bluebell	303 449.0968	
Tom ANGERER	2225 Bluebell	303-449-0968	
Charles Palmer	2270 Bluebell	303-788-8502	
Halina Palmer	2270 Bluebell	3037184798	
Steven C. Moneemz	2245 Bluebell Ave.	720-629-1733	

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	2203 BLUEBELL AVE	303-499-4747	Mary Tiao
DORIS HASS	2207 Bluebell	303-443-7087	Doris E. Hass
Mho Salim	2211 Bluebell	303 449 3365	M. A. Sal.
Guy Salim	2211 Bluebell Ave	303-449-3365	Guy Salim

Contact: Patty Angerer
2225 Bluebell Ave.
Boulder, CO 80302
303-449-0968
[redacted]

From: ps angerer [mailt[redacted]]
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
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[redacted]]
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: [redacted] [mailto[redacted]] **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[redacted]]
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: [redacted]
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

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http://www.boulderplandevelop.net
http://www.bouldercolorado.gov/

From: Tom Van Zandt [mailt[redacted]]
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 agee, they could always change their mind!

Thank you very much.

Tom Van Zandt
2255 Bluebell Ave.

----- Forwarded Message -----
From: Helen <[redacted]>
To: angerer ps <[redacted]
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:[redacted]v]
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: "ps[redacted]" [redacted]>
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 [redacted]
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 [redacted]

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
Facebook | Twitter | YouTube | RSS
Please consider the environment before printing this email.

From: ps angerer [mail[redacted]]
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: l[redacted] [mailto:l[redacted]]
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,

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: [redacted] [mailto:[redacted]]
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:bflemingca@hotmail.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 it's 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

Print Request Info

Photos Map Docs Neighborhoods Walk Score®

$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.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 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:[redacted]]
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 though fare 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 it's 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 <[redacted]>
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 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:[redacted]om]
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 <u>no</u> 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 **<u>decline</u>** 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[redacted]]
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:[redacted]]
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 [m[redacted]]
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@j-rlaw.com

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JOHNSON & REPUCCI LLP
ATTORNEYS AT LAW

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

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.

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.

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.

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*)

{00316875 / 1 }

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
Facebook | Twitter | YouTube | RSS
P Please consider the environment before printing this email.

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

SOPHERSPARN
ARCHITECTS LLC

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

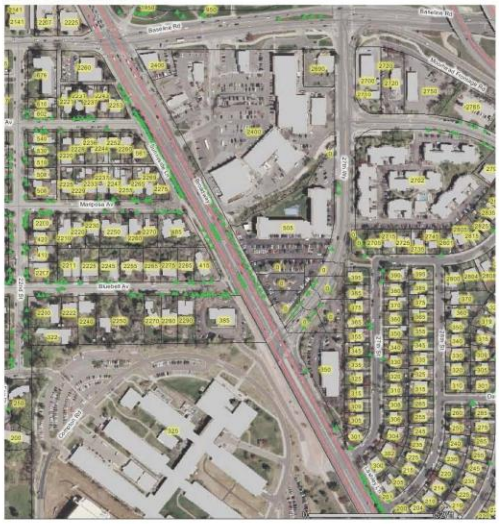
Re: REZONING WRITTEN STATEMENT

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 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.

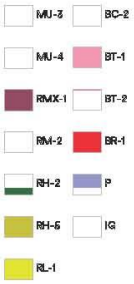
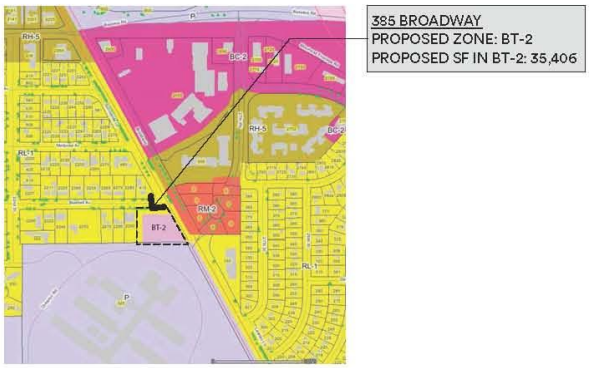
Lots
We are proposing that all of the uses and units would remain combined on a single lot, and that Lots 26, 27 & 28 of the South Oak Park Subdivision would remain under a single ownership.

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

ZONING LEGEND



Proposed Project Site Zoning