



**CITY OF BOULDER**  
**Planning, Housing & Sustainability**

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**MEMORANDUM**

**To: Planning Board**

**From: Karl Guiler, Senior Planner/Code Amendment Specialist**

**Re: Pilot Form-Based Code (FBC) for Boulder Junction; follow-up on issues raised at Oct. 29<sup>th</sup> public hearing**

**Date: December 17, 2015**

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Planning Board discussed the pilot Form-Based Code (FBC) for Boulder Junction at a public hearing on Oct. 29<sup>th</sup> and provided substantial input on the content of the FBC. The consultant and staff have been working on revisions to bring back to the board for consideration with an ordinance to adopt and make the FBC part of the Land Use Code. Staff is working towards returning to Planning Board on Jan. 28, 2016.

At the Oct. 29<sup>th</sup> hearing, Planning Board requested follow-up on the following topics:

- Consideration of incorporating new energy/sustainability measures into the FBC that go above and beyond current requirements; and
- Investigation on whether on-site permanently affordable units can be required in the FBC.

These topics are discussed further below. Staff is checking with the Planning Board on these topics to get direction before returning with the final draft of the FBC.

**Special energy/sustainability measures**

**Topic:** Some board members expressed concern that the FBC does not include standards requiring energy efficiency and solar siting, which are factors reviewed in Site Review. Board members requested that staff look into the possibility of incorporating new energy/sustainability measures into the FBC that go above and beyond current requirements.

**Staff analysis:** To achieve this objective, one option would be to incorporate similar criteria as found in the current Site Review criteria related to minimizing and mitigating energy and water use and encouraging designs conducive to solar systems in the FBC. The solar siting piece does pose some challenges because the FBC is more prescriptive on where buildings should be located whereas the solar siting criteria is meant to inform the placement of buildings (typically within subdivisions) in a way that may increase spacing between buildings or increase setbacks to optimize access to passive solar and to not impede placement of solar energy systems. To encourage solar installations, special requirements may have to be added to the FBC “Cap Types” section of the FBC to encourage or require solar system installation.

Another option, or in addition to the first option, would be to adopt more definitive requirements related to energy use. Such requirements could be guided by standards that exist in the 2015 International Green Construction Code (IgCC), which staff is currently evaluating for eventual adoption (at the earliest in 2017).

Staff has considered the following energy/sustainability measures that go above and beyond current requirements and has provided comments next to each on their feasibility:

Option	Staff comment
1. Pre-wiring buildings to be solar ready;	Possible to add to FBC, but more appropriate to incorporate into the city's building code
2. Smart systems in residential, such as automatic timers for lights, computer reporting of energy use;	Possible to add to FBC, but more appropriate to incorporate into the city's building code
3. Sub-metering of each commercial tenant space and residential unit, and real time energy use tracking and reported on a "dashboard";	Possible to add to FBC, but more appropriate to incorporate into the city's building code
4. Low-flow water fixtures;	Possible to add to FBC, but more appropriate to incorporate into the city's building code
5. Require buildings to perform 5 to 10 percent better (on an annual energy cost basis) than current commercial energy code;	This may be overly expensive and could deter redevelopment
6. Green roof requirements;	Recommended
7. Electric vehicle (EV) charging stations; and	Recommended.
8. Bike facilities/amenities (ex. bike repair, showers for employees etc.)	Recommended.

While the IgCC is not yet adopted, the city's current energy code has arguably the most rigorous energy requirements in the country. Singling out this small area for special requirements could create confusing implementation problems in the future once newer standards are adopted. Further, many of these standards would be more appropriate adopted into the city's building code as opposed to incorporation as zoning regulations.

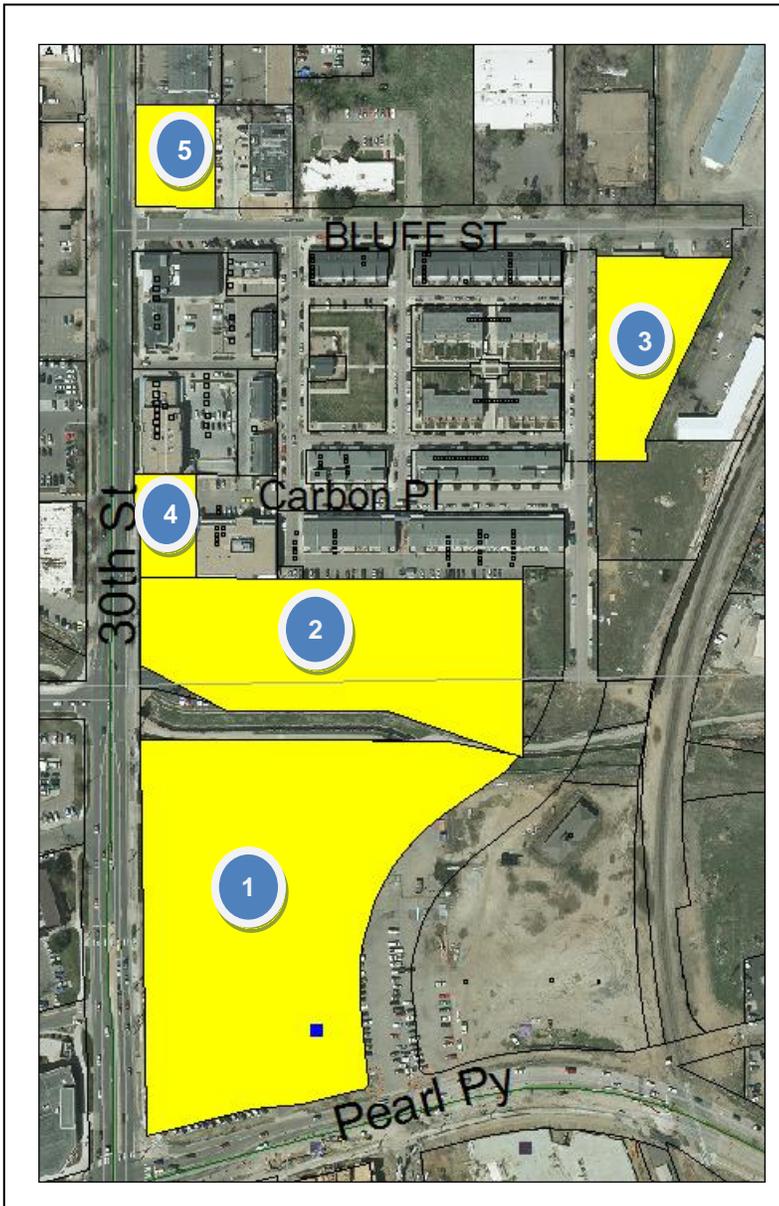
**Staff recommendation:** If the Planning Board wanted to require certain energy efficiency requirements as part of the FBC, staff would then recommend Options 6 through 8 at this time. These options could be required for each development and would work towards achieving the goals of TVAP to be a transit-rich, bikeable, walkable neighborhood.

**On-site permanently affordable units**

**Topic:** Planning Board requested that staff investigate whether on-site permanently affordable units can be required in the FBC as opposed to allowing off-site or cash in-lieu options.

**Staff analysis:** Current city wide inclusionary housing requirements mandate that all residential developments contribute to the provision of affordable housing in the city. The requirement may be met in different ways, including provision of affordable units on-site or off-site, payment of an in-lieu fee, land dedication or a combination of options.

As part of this analysis, staff presents the sites that would be most informed by the FBC as they have not yet redeveloped and have development potential. The analysis also describes the land use and anticipated housing on each as specified by the Transit Village Area Plan (TVAP).



The aerial shows the core of the Boulder Junction Phase I area and highlights parcels that would be most informed by adoption of the FBC. They include:

1. 30<sup>th</sup> & Pearl, city owned formal Pollard site;
2. 2438 30<sup>th</sup>, industrial building just north of the Goose Creek multi-use path;
3. AirGas site;
4. 2480 30<sup>th</sup>, Safelite Autoglass site; and
5. 3005 30<sup>th</sup>.

The FBC would supersede current floor area and open space requirements with respect to development intensity, but has been crafted to be consistent with the land use plan and intended intensities in TVAP. A discussion about anticipated land use intensity per TVAP follows.

The 30<sup>th</sup> and Pearl (1) and the AirGas site (3) are designated in the Boulder Valley Comprehensive Plan (BVCP) and TVAP as *Mixed Use 2*. These sites, zoned MU-4 (Mixed Use -4), have the highest development potential where up to a 2.0 FAR (Floor Area Ratio) is anticipated along with “three to four story mixed-use buildings. Predominant use may be business or residential. Mostly structured or first-floor parking; may have some surface parking.”

2480 and 3005 30<sup>th</sup> Street (4 and 5 respectively) are similar in terms of land use to the properties discussed above, but with a lower development intensity of 1.0 FAR. Their land use designation is *Mixed Use 1*.

2438 30<sup>th</sup> (2) is an important site north of the Goose Creek path and city site that is currently zoned IMS (Industrial Mixed Services) – the mixed-use zone that applies to most of Steel Yards. The current IMS zoning permits up to 0.6 FAR on this site. However, per BVCP and TVAP the land use designation is *High Density Residential 2*, which permits a higher intensity with no FAR limit and anticipates “stacked flats and lofts with underground or structured parking at two to five stories.” With lower parking requirements, rezoning of the site to this land use is incentivized by joining the Boulder Junction Transportation Demand

Management (TDM) and Parking District. In this case, a rezoning to RH-7 (Residential High – 7) is anticipated.

While mixed-use is essential for an active, walkable neighborhood and commercial uses are certainly desired in the Boulder Junction area, the adopted TVAP vision is for a predominantly residential neighborhood in Boulder Junction to help offset the jobs:housing imbalance. When the city's inclusionary housing program (IH) was adopted, a strong desire existed that the required affordable housing be provided on site; the system ultimately incorporated a number of policy considerations and was carefully drafted with potential legal challenges in mind. IH was envisioned to create both for-sale and rental affordable units. However, Colorado's rent control statute significantly complicates the creation of on-site affordable rental units through regulatory requirements such as IH.

Through its control of 30<sup>th</sup> and Pearl the city can achieve on-site affordable housing directly through a voluntary agreement and thus support the affordable housing goals of TVAP. The plan on page 14 notes that *"up to half of the homes built on the city housing site (i.e., Pollard site) will be permanently affordable."* The process of discussing what the city will do with the site is already under way and City Council will be discussing the site at a study session in the spring of 2016. The remaining sites shown in the diagram will continue to be subject to the city's Inclusionary Housing requirements and opportunities for additional on-site units may be possible.

The FBC pilot, if adopted, will apply to only a few properties (discussed above) as much of the area is either developed or approved for redevelopment. A requirement of providing the IH affordable units on site for these very few properties and not in the rest of the city would need to be based on a rational basis. At this time it is unclear what, if any, basis for such a distinction could be supported. If the city were to require on-site affordable units, there would also need to be more intensive public outreach with affected property owners. In the current housing market most property owners are choosing to build rental housing and not for-sale condominium units. Due to the limitations of Colorado's rent control statute, IH requirements for rental developments cannot be met on or off site unless the units are owned, at least in part, by a housing authority or similar agency or are developed pursuant to a voluntary agreement between the owner and the city. If the IH requirements were required to be provided on site, the "voluntariness" of such an agreement regarding rental units may become questionable.

**Staff recommendation:** In light of the complexity of issues of requiring on-site affordable units, staff recommends against requiring on-site affordable units as part of the FBC for the following reasons:

1. There are few remaining sites for redevelopment in Boulder Junction Phase I that would be impacted by the pilot FBC;
2. The legal risk of implementing legislation that differs from the citywide application is not equivalent to the time, effort and potential gain of the limited sites that remain; and
3. The process to implement an on site affordable housing requirements would likely delay the FBC project where its implementation is important before new submittals are received in the area and where its effectiveness can be evaluated through the pilot project..
4. Obtaining more affordable units in the area per the goals of TVAP would be more effective through the city's control of the 30<sup>th</sup> and Pearl site as opposed to crafting special regulations in the FBC.

### Conclusion

Based on this information, staff is hoping to get more guidance on these topics before finalizing the draft of the FBC for Planning Board consideration in January 2016. While not explicitly related to energy conservation and affordable housing, another option as additional amenities in projects in Boulder Junction

is requiring or incentivizing accessible roof top decks. This is something that was discussed at the Oct. 29<sup>th</sup> hearing given the prominent viewlines of the Flatirons from the area. Staff is looking to get feedback on this point in addition to the analyses in this memorandum.

Staff is moving forward with the review process option that enables Planning Board call-up of all projects (some projects may be exempted from call-up if they are very small in nature) in the Boulder Junction Phase I area per direction from the board on Oct. 29<sup>th</sup>. Each project would be staff level, require review by the Design Advisory Board (DAB) similar to current Site Review projects where an area plan or design guidelines exist and would be subject to call-up by Planning Board. Evaluation of projects would be based on general compliance with the regulations within the FBC as well as any specified exception criteria.