

## Spence, Cindy

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**From:** Guiler, Karl  
**Sent:** Thursday, July 14, 2016 1:11 PM  
**To:** Crystal Gray; boulderplanningboard  
**Subject:** RE: 1440 Pine Street

Crystal,

Responses to your questions are below. Please let me know if you have any additional questions.

Karl

Hi All:

Here are some questions on 1440 Pine Street - certainly most can be clarified at the hearing except maybe 1, and 6.

1) Can we have some site plans available on Thursday? Not all members might want them but I do since my iPad cuts out in the muni building.

**Hard-copy site plans were couriered to the board on July 13<sup>th</sup>.**

2) Can staff clarify if this is Transitional Housing as defined by our code. The code says, according to p. 49/206, .....”where participation in a program of supportive services is required as a condition of residency...” yet on page 57 of 206 the applicant says "It is primarily an apartment building - residents sign 12 month leases and pay rent”. The statement goes on to say “ It is NOT a prison, transitional housing facility, homeless shelter, rehabilitation or treatment center, or an institution.”

**Based on the proposed concept plan description, the use appears to meet the city code definition for transitional housing (found in Section 9-16 of the code). Staff has informed the applicant that a more detailed written description would be required at time of Site Review to affirm that it meets the city’s definition.**

3) The office space is characterized as ‘social enterprise’. Is this defined in our code? I will ask the applicant to explain the uses of the large community spaces on the first floor facing Pine Street unless you know the uses and hours of operation. Also, it was mentioned on page 4/206 (agenda item packet)  
“These are spaces that could be used as retail and managed by Attention Homes with the purpose of enabling the residents to sell goods or provide services as part of their program to become self-sufficient”. - Do you have any other information on these possible uses, hours of operation, as well as what is allowed in RH2 concerning retail and selling of goods and services.

**Social enterprise space is not defined in the land use code. Staff has also requested in the Development Review Committee (DRC) comments that more information related to these spaces be provided at time of Site Review. In general, administrative offices and support services for the transitional housing use can be permitted as accessory to that use. In some cases, small-scale retail may be a component of transitional housing as the space is used as a training space to help residents of transitional housing learn responsible residency and job practices to help better transition residents into society. This is a component of the 1175 Lee Hill transitional housing project. Nevertheless, staff will need to evaluate the uses in more detail**

**if the project proceeds to understand if they go beyond this scope discussed here. If they did, the uses may either not be permitted in the RH-2 zone district or may require approval of a Use Review application.**

4) I thought the staff did a good job, in their review comments, of discussing the permanently affordable housing issues on p. 47/206. Just to clarify - there is no permanently affordable housing proposed on this site at this time - right? In reading the packet the applicant says they will be applying for \$2 million from the city in July from the affordable housing fund. Can the fund be used for non deed restricted housing? I know this not part of the site review criteria but the applicant mentioned it. The applicant also mentioned this is "Permanent Supportative Housing" - PSH - and that they are applying Low Income Housing Tax Credits (LIHTC). Is PSH defined in our code and are they permanently affordable?

**Attention Homes has submitted a funding application as part of the 2017 Housing Fund rounded up to \$2,000,000. The application proposes a commitment to 60 years of affordability to coincide with the land lease with the church.**

**As for the use of city funds, local funding sources (Affordable Housing Funds, Community Housing Assistance Program funds) require permanent affordability per city ordinance and policies. If permanent affordability is not secured the project is ineligible for local funds. However, federal HOME funds are not tied to the ordinance and while the HOME Consortium chooses to prioritize permanent affordability it is not required. With that said, HOME funds are competitive and funding applications complying with permanent affordability will prove to be more competitive. This has all been shared with the applicant.**

**Attention Homes will be applying for LIHTCs and have already been awarded vouchers. PSH is not called out in the code but if received local funding requires permanent affordability.**

**In addition, Inclusionary Housing applies to this development and any affordable units proposed to meet IH must have permanent affordability. The applicant is aware of this requirement and could propose to meet IH with cash-in-lieu.**

5) If there is no permanently affordable housing on site can they meet the Height Ordinance requirements p. 10 of 206 (agenda item packet)

Height ordinance

Ordinance no. 8028 restricts where height modifications may occur in the city of Boulder. The ordinance exempts projects that include at least 40% of their floor area as permanently affordable units. In this case, a height modification through the Site Review process is anticipated unless the building is modified to comply with the height limits of the zone. Staff would require additional information at time of Site Review to affirm that this exemption would be met.

**At present, the proposal is not intended for permanent affordability and thus, would not be subject to the exemption in Ordinance No. 8028 allowing for a height modification to be requested.**

6) In calculating residential density for the project why is the area of the totally developed Church lot allowed to be counted as if it was a vacant lot? The Church takes up at least 1/4 of the entire site review area - see figure 2. Has this transfer of density occurred to this extent in other RH-2 Zones? I can't think of any but I would like to review any projects that you come up with.

**Section 9-2-14(b)(1)(C), B.R.C. 1981 requires that properties in common ownership be combined as part of the Site Review process. This sets the land area subject to the Site Review and how much land may be taken into consideration for determining possible density. In the RH-2 zone, the calculation for density is a function of the lot area and not of floor area. Existence of floor area on the site would not lower the**

amount of units that may be requested. As discussed in the response to Leonard May, the evaluation of the appropriateness of the massing and height and general intensity of the project would be through the Site Review process. Project would have to meet the Site Review criteria to be approved. While the applicant can elect to request the proposed density, the proposed density (over 28 units) would be subject to consistency with the Site Review criteria as part of the evaluation of whether the proposed intensity of the project is consistent and compatible with its surrounding context. With over 28 units proposed, this request is subject to Planning Board review and approval.

7) Can we get a map indicating how staff came up with 40 units if they are transferred from other First Methodists lots - since the property is still subdivided?

Per the code section specified in question 6 above, the entirety of the United Methodist Church lots would be the site area factored into the Site Review with a total of 1.93 acres, whether it is subdivided or not. The map of this shown below:



The relevant density section is shown below with a calculation for what density may be requested:

9-8-3. - Density in the RH-1, RH-2, RH-3 and RH-7 Districts.

- (a) Additional Density in the RH-1 District: In the RH-1 zoning district, the planning board may reduce the minimum open space per dwelling unit of 1,600 square feet per dwelling unit to 800 square feet of open space per dwelling unit pursuant to site review approval.
- (b) Additional Density in the RH-2 District: In the RH-2 zoning district, the planning board may reduce the minimum lot area of 3,000 square feet per dwelling unit to 1,600 square feet of lot area per dwelling unit pursuant to site review approval.

1.93 acres = 84,070 sq ft

84,070 sq ft / 3,000 sq ft = 28 units (standard determination of permitted density; anything over this amount requires Planning Board review)

84,070 sq ft / 1,600 sq ft = 52 units (maximum amount that may be requested)

This is also consistent with Section 9-8, "Intensity Standards", B.R.C. 1981 which notes that 14 units per acre are permitted in the RH-2 with up to 27 dwelling units per acre possible through special review. Also, the RH-2 zone requires Site Review for any project with at least 20 dwelling units proposed.

Karl Guiler, AICP  
Senior Planner/Code Amendment Specialist



**City of Boulder**  
**Planning, Housing and Sustainability**

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1739 Broadway, 3<sup>rd</sup> Floor, Boulder CO 80306-0791  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

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**From:** Crystal Gray [mailto:graycrystal@comcast.net]  
**Sent:** Tuesday, July 12, 2016 8:06 PM  
**To:** Guiler, Karl <GuilerK@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Subject:** 1440 Pine Street

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Thanks,  
Crystal

## Spence, Cindy

---

**From:** Guiler, Karl  
**Sent:** Thursday, July 14, 2016 2:55 PM  
**To:** May, Leonard  
**Cc:** boulderplanningboard  
**Subject:** RE: 1440 pine

Leonard,

Per your scenario, if there were 27 units concentrated on 1/6<sup>th</sup> of the site, other areas of the site could include proposals for additional units through Site Review, but no more than 25 units could be added as this would exceed the maximum possible number of units of **52 units (27 dwelling units per acre maximum)**. If in your scenario you mean all of the existing units (8 units) and the actual proposed number of units (40 units) being concentrated on the corner and an additional 21 units being added, then that would not be possible under the code since the density would exceed the 27 dwelling units per acre maximum. Only through a legislative process with City Council approval would something like the scenario you outlined be possible.

To answer your second question, the code does not necessarily disregard the existence of other uses and floor area, it just technically separates the number of dwelling units per acre calculation from the overall assessment of the general intensity of development on the site. For example, Step 1 would be determining the technical # of units that are possible per the RH-2 zone and Step 2 would be evaluating the site plan for consistency with the site review criteria, which include factors such as compatibility of building height, mass, scale, and configuration with the existing character of the area or adopted design guidelines, provision of open space meeting the needs of anticipated users of the property, and provision of parking meeting the needs of the project. These criteria can ensure a balanced overall site plan that meets the needs of the users of the property and is compatible with character of the area. If an application was filed in the future to add new floor area or units, the city would have to evaluate each such application on its merits through future Site Review. Any significant proposed change to the site plan would again have to meet the site review criteria. Same applies for any request that may require Use Review in the future.

Karl

**Karl Guiler, AICP**  
**Senior Planner/Code Amendment Specialist**



**City of Boulder**  
**Planning, Housing and Sustainability**

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[guilerk@bouldercolorado.gov](mailto:guilerk@bouldercolorado.gov)

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1739 Broadway, 3<sup>rd</sup> Floor, Boulder CO 80306-0791  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

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**From:** Leonard May [mailto:lomay@may-yin-architecture.com]  
**Sent:** Wednesday, July 13, 2016 8:39 PM  
**To:** Guiler, Karl <GuilerK@bouldercolorado.gov>; May, Leonard <lomay@may-yin-architecture.com>  
**Cc:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Subject:** RE: 1440 pine

*I think that you provided the info I seek. I'll restate it to be sure and add a second part to the question which I'd like a spate answer to.*

*Where multiple lots are aggregated for the purposes of site review and for the purposes of determining number of residential units, any future ownership changes of some lots on the overall aggregated site would not be allowed to result in those lots being able to add to the total allowable number of units as determined by the aggregated site? In other words, the aggregated site has a certain maximum allocation of units and if that allocation is utilized, any future subdivision of the aggregated site or changes in ownership of lots on that aggregated site would not be able to add to that initial allocation or residential units?*

*The second part to this question arises from my followup question to your response to question 2. If all nonresidential construction on the aggregated site is disregarded for the purposes of establishing the allowable number of residential units, if after the number of units is maximized on 1/6<sup>th</sup> of the aggregated site, could future sale of lots from the aggregated site result in yet more development of permissible (whether by use review or not) non residential such as restaurants or brew pubs, neighborhood business centers, indoor athletic facilities, etc.? The gist of this question is that the residential allowance is based on number of units and not FAR and disregards (as I understand your answer to question 2) all other uses on the site. So if other uses as allowed by the use table (by "allowed" I mean they have the opportunity to exist regardless of what review process is involved) come up for consideration, what standards of development intensity are applied? It seems that the predictability of development intensity as engendered in the RH-2 zoning is not all that predictable if the residential uses and non residential uses have different orbits and do not impact each other's maximum development potentials.*

Leonard May

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**From:** Guiler, Karl [<mailto:GuilerK@bouldercolorado.gov>]  
**Sent:** Wednesday, July 13, 2016 4:24 PM  
**To:** May, Leonard <[lomay@may-yin-architecture.com](mailto:lomay@may-yin-architecture.com)>  
**Cc:** boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>  
**Subject:** RE: 1440 pine

Leonard,

Only through a legislative process could the scenario that you outlined be possible. Please let me know if you have any additional questions.

Best,

Karl

**Karl Guiler, AICP**  
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**Sent:** Wednesday, July 13, 2016 4:13 PM  
**To:** Guiler, Karl <[GuilerK@bouldercolorado.gov](mailto:GuilerK@bouldercolorado.gov)>; May, Leonard <[lomay@may-yin-architecture.com](mailto:lomay@may-yin-architecture.com)>  
**Cc:** boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>  
**Subject:** RE: 1440 pine

*Thanks Karl,*

*But you didn't answer my question 3. Could the scenario I illustrated be possible?*

Leonard May

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**From:** Guiler, Karl [<mailto:GuilerK@bouldercolorado.gov>]  
**Sent:** Wednesday, July 13, 2016 3:59 PM  
**To:** May, Leonard <[lomay@may-yin-architecture.com](mailto:lomay@may-yin-architecture.com)>  
**Cc:** boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>  
**Subject:** RE: 1440 pine

Leonard,

Thank you for your email and questions. My answers to your questions are provided below.

Karl

- 1) It isn't clear what will be demolished or moved on the site. Are the buildings in the NW quadrant (4 unit apt, 2 unit apt, 1 unit apt. Out Boulder) all existing to remain?

**The applicant has indicated to city reviewers that the building along Pine Street labeled as '1 Unit Apt.' is proposed to be moved west on the site to better accommodate the proposed new building. No other buildings are proposed for removal or relocation.**

- 2) At 1.93 acres, if the site were empty, up to a max of 52 units or 104 ELUs would be allowed. Is the net site area, after subtracting existing square footage of residential and non-residential uses, the basis of determining that the proposed 40 new units can exist?

**The site area is the determining factor in how many units are possible and may be approved on the site. In the RH-2 zoning district, density is regulated by the number of dwelling units and open space, not floor area. The land use code allows density to be calculated based on all of the lot area included in a site review development and allows for lot area to be counted that has existing floor area, such as a non-residential building that is part of the site plan. When calculating density in the RH-2 zoning district, floor area of any existing or proposed residential and non-residential uses is not considered, but all existing dwelling units that are proposed to remain on site and proposed new dwelling units are considered.**

**While the density calculation does not take floor area into account, the proposal would be subject to the site review criteria, including that the buildings are compatible in height, mass, scale, architecture and orientation with the character established in the design guidelines and that open space provides relief to the density and provides active and passive areas that will meet the needs of the anticipated residents, occupants, tenants, and visitors of the property. The site review criteria, therefore, ensure that the intensity of the development is compatible with the vision and character of the area.**

- 3) A neighbor stated in an email to the Board that all the new units in the application are concentrated on 1/6<sup>th</sup> of the site. This appears to be allowable since the entire block can be treated as one site due to common ownership. What happens if after project is built, the owner sells off the church and all the historic structures on the site, let's say to 3 different entities - is the subsequent development potential for the block now increased because the block under this current review is all treated as one site and after sale and subdivision in my what-if scenario, there will be 4 sites on the block? Does each new subdivided portion not part of this project get to essentially reset and each get to build 14-27.2 units per acre? If so, the end result would be many more units than if each lot within the block had been treated separately as part of this review. I give an example below to clarify my question.

1.93 acres allows at a minimum 27 units at 14 units per acre. If all are concentrated on 1/6<sup>th</sup> of block, that leaves 1.6 acres. If the remainder 1.6 acres were sold off to 3 entities as .53 acres parcels, could each one build at a minimum 7 units totaling 21 units for all 3 new parcels? That would be in addition to the 27 units when the entire commonly owned block was considered to be one site. So in my scenario, at a minimum there are 48 units with the subdivided block – a 77% increase over what would be allowed with a consolidated commonly owned block.

Is the example I illustrate a possible outcome?

**If the Site Review were approved permitting the concentration of density in one part of the site, it would affect how much density would be permitted on other parts of the site, regardless of ownership of those parts of the site. Any purchasers would need to be aware of the development limitations of a property based on the number of dwelling units in other areas of the site. Further, any changes to the approved site plan would be subject to the amendment or minor modification procedures outlined in Section 9-2-14, "Site Review," B.R.C. 1981. If the density on the corner is only possible by the combining of lots in Site Review, the city would not permit any lots to be severed from the site plan if such severance would result in a project that does not meet the land use code standards.**

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**Sent:** Monday, July 11, 2016 9:15 AM  
**To:** Guiler, Karl <[GuilerK@bouldercolorado.gov](mailto:GuilerK@bouldercolorado.gov)>  
**Cc:** boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>  
**Subject:** 1440 pine

Hi Karl,

Can you clarify several things for me?

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*Hi Karl,*

*Thanks for the answers to Crystal's questions.*

*Re question 6, Common Ownership: All contiguous lots or parcels under common ownership or control, not subject to a planned development, planned residential development, planned unit development, or site review approval, shall be considered as one property for the purposes of determining whether the maximum site review thresholds below apply. If such lots or parcels cross zoning district boundaries, the lesser threshold of the zoning districts shall apply to all of the lots or parcels. My understanding of this clause is that it applies ONLY to establishing a threshold for engaging in voluntary site review and is not so relevant to the issue of how the aggregated site may be considered for the purpose of determining number of dwelling units. But, I believe there may be other code language that gets at this issue. Could you provide us tonight, with that more relevant code provision?*

*Leonard May*

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**At present, the proposal is not intended for permanent affordability and thus, would not be subject to the exemption in Ordinance No. 8028 allowing for a height modification to be requested.**

6) In calculating residential density for the project why is the area of the totally developed Church lot allowed to be counted as if it was a vacant lot? The Church takes up at least 1/4 of the entire site review area - see figure 2. Has this transfer of density occurred to this extent in other RH-2 Zones? I can't think of any but I would like to review any projects that you come up with.

**Section 9-2-14(b)(1)(C), B.R.C. 1981 requires that properties in common ownership be combined as part of the Site Review process. This sets the land area subject to the Site Review and how much land may be taken into consideration for determining possible density. In the RH-2 zone, the calculation for density is a function of the lot area and not of floor area. Existence of floor area on the site would not lower the amount of units that may be requested. As discussed in the response to Leonard May, the evaluation of the appropriateness of the massing and height and general intensity of the project would be through the Site Review process. Project would have to meet the Site Review criteria to be approved. While the applicant can elect to request the proposed density, the proposed density (over 28 units) would be subject to consistency with the Site Review criteria as part of the evaluation of whether the proposed intensity of the project is consistent and compatible with its surrounding context. With over 28 units proposed, this request is subject to Planning Board review and approval.**

7) Can we get a map indicating how staff came up with 40 units if they are transferred from other First Methodists lots - since the property is still subdivided?

**Per the code section specified in question 6 above, the entirety of the United Methodist Church lots would be the site area factored into the Site Review with a total of 1.93 acres, whether it is subdivided or not. The map of this shown below:**



The relevant density section is shown below with a calculation for what density may be requested:

9-8-3. - Density in the RH-1, RH-2, RH-3 and RH-7 Districts.

- (a) Additional Density in the RH-1 District: In the RH-1 zoning district, the planning board may reduce the minimum open space per dwelling unit of 1,600 square feet per dwelling unit to 800 square feet of open space per dwelling unit pursuant to site review approval.
- (b) Additional Density in the RH-2 District: In the RH-2 zoning district, the planning board may reduce the minimum lot area of 3,000 square feet per dwelling unit to 1,600 square feet of lot area per dwelling unit pursuant to site review approval.

1.93 acres = 84,070 sq ft

84,070 sq ft / 3,000 sq ft = 28 units (standard determination of permitted density; anything over this amount requires Planning Board review)

84,070 sq ft / 1,600 sq ft = 52 units (maximum amount that may be requested)

This is also consistent with Section 9-8, “Intensity Standards”, B.R.C. 1981 which notes that 14 units per acre are permitted in the RH-2 with up to 27 dwelling units per acre possible through special review. Also, the RH-2 zone requires Site Review for any project with at least 20 dwelling units proposed.

Karl Guiler, AICP  
Senior Planner/Code Amendment Specialist

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Department of Planning, Housing and Sustainability  
1739 Broadway, 3<sup>rd</sup> Floor, Boulder CO 80306-0791  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

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**From:** Crystal Gray [<mailto:graycrystal@comcast.net>]  
**Sent:** Tuesday, July 12, 2016 8:06 PM  
**To:** Guiler, Karl <[GuilerK@bouldercolorado.gov](mailto:GuilerK@bouldercolorado.gov)>; boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>  
**Subject:** 1440 Pine Street

Hi All:

Here are some questions on 1440 Pine Street - certainly most can be clarified at the hearing except maybe 1, and 6.

1) Can we have some site plans available on Thursday? Not all members might want them but I do since my iPad cuts out in the muni building.

2) Can staff clarify if this is Transitional Housing as defined by our code. The code says, according to p. 49/206, .....”where participation in a program of supportive services is required as a condition of residency...” yet on page 57 of 206 the applicant says "It is primarily an apartment building - residents sign 12 month leases and pay rent". The statement goes on to say “ It is NOT a prison, transitional housing facility, homeless shelter, rehabilitation or treatment center, or an institution.”

3) The office space is characterized as 'social enterprise'. Is this defined in our code? I will ask the applicant to explain the uses of the large community spaces on the first floor facing Pine Street unless you know the uses and hours of operation. Also, it was mentioned on page 4/206 (agenda item packet) “These are spaces that could be used as retail and managed by Attention Homes with the purpose of enabling the residents to sell goods or provide services as part of their program to become self-sufficient”. - Do you have any other information on these possible uses, hours of operation, as well as what is allowed in RH2 concerning retail and selling of goods and services.

4) I thought the staff did a good job, in their review comments, of discussing the permanently affordable housing issues on p. 47/206. Just to clarify - there is no permanently affordable housing proposed on this site at this time - right? In reading the packet the applicant says they will be applying for \$2 million from the city in July from the affordable housing fund. Can the fund be used for non deed restricted housing? I know this not part of the site review criteria but the applicant mentioned it. The applicant also mentioned this is “Permanent Supportative Housing” - PSH - and that they are applying Low Income Housing Tax Credits (LIHTC). Is PSH defined in our code and are they permanently affordable?

5) If there is no permanently affordable housing on site can they meet the Height Ordinance requirements p. 10 of 206 (agenda item packet)

Height ordinance

Ordinance no. 8028 restricts where height modifications may occur in the city of Boulder. The ordinance exempts projects that include at least 40% of their floor area as permanently affordable units. In this case, a height modification through the

Site Review process is anticipated unless the building is modified to comply with the height limits of the zone. Staff would require additional information at time of Site Review to affirm that this exemption would be met.

6) In calculating residential density for the project why is the area of the totally developed Church lot allowed to be counted as if it was a vacant lot? The Church takes up at least 1/4 of the entire site review area - see figure 2. Has this transfer of density occurred to this extent in other RH-2 Zones? I can't think of any but I would like to review any projects that you come up with.

7) Can we get a map indicating how staff came up with 40 units if they are transferred from other First Methodists lots - since the property is still subdivided?

Thanks,  
Crystal

**From:** [Ferro, Charles](#)  
**To:** [boulderplanningboard](#)  
**Subject:** RE: 1440 Pine  
**Date:** Friday, July 01, 2016 5:46:16 PM  
**Attachments:** [whittier potential hist dist.jpg](#)

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Hi Liz,

The memo touches on the Whittier potential historic district and the LAC process. Staff's DRC comments (attached to the memo) also include an evaluation of the historic significance of the structures on site. My understanding is that the "potential" designation has no regulatory effect and that it is meant to illustrate a prospective area where a district may form in the future. That said, the board's ability to pursue land marking through the Site Review process remains. I've included a map of the potential Whittier historic district for your convenience. Please feel free to contact me with any additional questions.

Best,  
Charles

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

From: Liz Payton [<mailto:liz@bouldergarden.net>]  
Sent: Friday, July 01, 2016 3:33 PM  
To: Ferro, Charles  
Cc: boulderplanningboard  
Subject: 1440 Pine

Hi Charles,

Sorry for the misfire just now--I must be getting rusty sending PB emails :)

For the memo on 1440 Pine, could staff include the boundaries of the Whittier potential historic district? If 1440 Pine is within the boundaries, could you let us know what that means for the review?

Thanks!

Liz