ORDINANCE 8314

AN EMERGENCY ORDINANCE AMENDING ORDINANCES 8308 AND 8312 WHICH TEMPORARILY SUSPENDED ACCEPTING BUILDING PERMITS, SITE REVIEW AND OTHER DEVELOPMENT APPLICATIONS THAT WILL RESULT IN ADDING FLOOR AREA OR DWELLING UNITS TO LAND WITHIN THE CENSUS TRACT 122.03 OPPORTUNITY ZONE, BY EXCLUDING ANY LAND IN THE BUSINESS COMMERCIAL ZONE DISTRICTS; AND SETTING FORTH RELATED DETAILS.

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

COLORADO:

Section 1. The City Council finds and recites the following facts leading to the temporary suspension of accepting building permits, site review and use review applications for any new nonresidential floor area described in Table 6-1 “Use Table,” in Section 9-6-1, “Schedule of Permitted Uses of Land,” B.R.C., 1981, any demolition that results in the removal of any multi-family residential dwelling or any nonresidential floor area or the creation of any new dwelling units that do not meet the additional development requirements of this Ordinance in the Planning Area in the Opportunity Zone located in federal Census Tract 122.03:

a. This Ordinance applies to approximately 2.5 square miles of land that is generally bounded on the west by 28th Street, on the south by Arapahoe Avenue, on the east by 55th Street/Airport Road and on the north by Highway 119/Independence Road and more particularly described on the map attached to this Ordinance as Exhibit A (the “Planning Area”), except any land in a Business Commercial zone district.

b. The Planning Area is federal Census Tract 122.03. The state of Colorado, with input from the city, nominated the Planning Area for Opportunity Zone designation on March 23, 2018. Thereafter, the Planning Area was certified by the federal government as an Opportunity Zone.
c. Investors in Opportunity Zones, through Opportunity Funds, will receive favorable tax relief as an incentive to invest in business and real estate within Opportunity Zones.

d. It is anticipated that the Opportunity Fund designation may lead to accelerated investment in the Planning Area.

e. A focus of the 2015 Boulder Valley Comprehensive Plan (BVCP) update was to develop land use related policy changes to reduce future imbalances by recommending additional housing in commercial and industrial areas (and corresponding regulatory changes) and reductions of nonresidential land use potential in the Boulder Valley Regional Center. (2015 BVCP, p. 17)

f. The BVCP provides that the city will continue to be a major employment center and will seek opportunities to improve the balance of jobs and housing while maintaining a healthy economy. This will be accomplished by encouraging new housing and mixed-use neighborhoods in areas close to where people work, encouraging transit-oriented development in appropriate locations, preserving appropriate levels of service commercial uses, converting commercial and industrial uses to residential uses in appropriate locations, improving regional transportation alternatives and mitigating the impacts of traffic congestion. (2015 BVCP, Policy 1.10)

g. The BVCP describes, among other things, the need for a review of the Boulder Valley Regional Center and 28th Street to ensure that this area establishes a proper mix of uses, including increasing housing capacity, reducing the current non-residential capacity, while maintaining retail potential. (2015 BVCP, Policy 2.18)

h. The BVCP describes, among other things, the need for a review of its efforts to pursue regulatory changes to better allow for housing and retail infill in its light industrial areas. Planning efforts include finding appropriate places for housing infill in areas zoned Industrial – General. (2015 BVCP, Policy 2.21)

i. The Planning Area includes land that is in the following zoning districts: Business Regional-1, Business Commercial-1 & 2, Business Main Street, Business Transitional-1 & 2, Mixed Use-4, Industrial General, Industrial Manufacturing, Industrial Main Street, Industrial Service-1 & 2, Agricultural, Enclave, Public, Residential High-3, 4, & 6, Residential Medium-1 and Mobile Home.

j. The city has started a project to examine the permitted uses of lands in its zoning districts. The goals include aligning the permitted uses with the BVCP, identifying community-desired land uses and better enable such uses in identified residential, commercial, and industrial districts, simplifying the use tables, and creating more predictability and certainty in the city’s use standards.

k. Large portions of the Planning Area are within the Crossroads Subcommunity and the East Boulder Subcommunity. Most of the Planning Area does not have a subcommunity plan, area plans or subarea plans.
1. In order to be prepared for the potential of additional investment in the Planning Area, the city needs to complete a review of planning and zoning regulations to ensure that investment in the Planning Area will be consistent with the community values, including without limitation, the BVCP.

m. The council intends to lift requirements of this Ordinance after each zoning district in the Planning Area has been reviewed under the Use Table Review project or other zoning or land use analysis or has had adequate planning and zoning developed through subcommunity or area planning. (2015 BVCP, Chapter V)

n. The Transit Village Area Plan (TVAP) was adopted in 2007 and presently guides development in that area. The plan includes a two-phase implementation approach. Presently, the area is actively being developed in the first phase. The city does not wish to prevent any efforts to develop in the Phase 1 area. (2007 TVAP, p. 7)

o. Given the anticipated additional investment in the Planning Area, the City Council concludes that it is necessary to review its existing planning and zoning districts to ensure that any development or redevelopment is done in a manner that is consistent with the BVCP and the goals and policies of the city.

p. The council finds that it is in the best interest of the public health, safety, and welfare to consider whether existing zoning standards will result in development consistent with the goals and policies of the BVCP.

q. The council finds and concludes that land use regulations contained within this Ordinance may cause hardships to property owners and tenants. The council intends to consider requests for relief from requirements of this Ordinance in its discretion as a legislative body.

Section 2. The following provisions of the Boulder Revised Code, 1981, are hereby suspended as to applications on December 18, 2018 after 5:00 p.m. until June 22, 2020 at 8:00 a.m. Any complete application submitted before 5:00 p.m. on December 18, 2018 shall be deemed to have been accepted. The city manager shall not accept any applications in the Planning Area that will result in: the creation of any new nonresidential floor area in Section 9-6-1, “Schedule of Permitted Uses of Land,” B.R.C., 1981; any demolition that results in the removal of any multi-family residential dwelling or any nonresidential floor area; or the creation of...
of any new dwelling units that do not meet the additional development requirements of this Ordinance:

b. Site review requests under the provisions of Section 9-2-14, B.R.C., 1981; and
c. Use review requests under the provisions of Section 9-2-15, B.R.C., 1981.

Section 3. Notwithstanding any provision in this Ordinance to the contrary, the following are expressly permitted during the term of this Ordinance:

a. The creation of any new dwelling units on a site that is four acres or more which includes all inclusionary housing units on the development site that meet the requirements of Chapter 9-13, “Inclusionary Housing,” and C.R.S. § 31-12-301, et seq. The creation of any dwelling units on a site that is less than four acres. Provided, however, that the creation of such dwelling units does not require a demolition permit for any multi-family dwelling unit.

b. Any development for which a valid application for site review, use review, or building permit application has been approved or an application made prior to December 18, 2018 at 5:00 p.m. Site review and use review applications that also refer to similar approvals, by previous names described in Section 9-1-3, B.R.C., 1981.

c. Development within the 2007 TVAP area described as Phase 1, an area generally bounded on the west by 30th Street, on the south by Pearl Parkway, on the east by the Burlington Northern Rail Road Tracks and on the north by Valmont Avenue. (2007 TVAP, p. 7)

d. The construction of any building or conversion of floor area owned by a community serving Colorado non-profit corporation. A community serving Colorado non-profit corporation means any Colorado non-profit corporation or similar organization that qualifies as an exempt person under the provisions of Section 3-2-7, "Exempt Person," B.R.C. 1981, and holds and maintains an exempt institution license, under Section 3-17-4, "Exempt Institution License," B.R.C. 1981, and has a mission that will predominately and directly serve the needs of Boulder County residents, employees, or visitors.

e. The construction of any building or conversion of floor area for a museum use.

f. Construction of an addition that does not exceed 10 percent of entry floor area or 2500 sq.ft., whichever is less.
g. The demolition of any non-residential floor area that does not result in the removal of any exterior walls.

h. The demolition of any building that the city manager finds is unsafe or otherwise is found to be dangerous to the life, health, property or safety of the public generally or to the occupants of the structure. In making such determination, the city manager will consider the deficiencies of the structure, including without limitation, damage, decay, faulty construction, potential for collapse, disrepair or the presence of health and safety concerns such as unsanitary conditions, infestation of rats or vermin, the presence of filth and contamination or other conditions that constitute a hazard to occupants or to the public.

i. Development in any Business Commercial zone district that is otherwise consistent with the city’s development regulations.

Section 4. Complete site review, use review, and technical document review applications that have been submitted to the city prior to December 18, 2018 will be permitted to continue through the process under the regulations in place at the time such application is made.

Technical document review applications are administrative in nature and the application date shall be the date that the fee required by Section 4-20-43, B.R.C. 1981, has been paid. Such applicants shall be required to pursue such development approvals and meet all requirements and deadlines set by the city manager and the Boulder Revised Code. Pending developments may apply for and receive building permits that are necessary to construct the approved development.

Section 5. This Ordinance is temporary in duration and intended to be replaced by subsequent legislative enactment regulating the items listed in this Ordinance, by June 22, 2020.

To the extent that the provisions of Section 9-1-5 “Amendments and Effect of Pending Amendments,” B.R.C., 1981, apply to the adoption of this Ordinance, such provisions are temporarily suspended.

Section 6. The immediate passage of this Ordinance is necessary for the preservation of the public peace, health, or property. The council declares this to be an emergency measure due to the need to prevent community benefit incompatible development, to pause to consider next
steps, and to consider development of zoning regulations that implement the BVCP and other
policies of the city within the Planning Area. Therefore, this Ordinance is hereby declared to be
an emergency measure, and as such shall be in full force and effect upon its passage.

Section 7. If any section, paragraph, clause, or provision of this Ordinance shall for any
reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining
provisions of this Ordinance.

Section 8. This Ordinance is necessary to protect the public health, safety, and welfare of
the residents of the city, and covers matters of local concern.

Section 9. The City Council deems it appropriate that this Ordinance be published by
title only and orders that copies of this ordinance be made available in the office of the city clerk
for public inspection and acquisition.

READ ON THE FIRST READING, PASSED, ADOPTED AS AN EMERGENCY
MEASURE BY TWO-THIRDS COUNCIL MEMBERS PRESENT, AND ORDERED
PUBLISHED BY TITLE ONLY this 5th day of February 2019.

______________________________
Suzanne Jones,
Mayor

Attest:

______________________________
City Clerk,
Lynnette Beck