

ORDINANCE 8308

AN EMERGENCY ORDINANCE TEMPORARILY SUSPENDING ACCEPTING BUILDING PERMITS, SITE REVIEW APPLICATIONS, AND OTHER DEVELOPMENT APPLICATIONS THAT WILL RESULT IN ADDING FLOOR AREA TO LAND WITHIN THE CENSUS TRACT 122.03 OPPORTUNITY ZONE, 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 UNTIL JUNE 22, 2020; 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 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”).
- 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.

- 1 c. Investors in Opportunity Zones, through Opportunity Funds, will receive favorable
2 tax relief as an incentive to invest in business and real estate within Opportunity
3 Zones.
- 4 d. It is anticipated that the Opportunity Fund designation may lead to accelerated
5 investment in the Planning Area.
- 6 e. A focus of the 2015 Boulder Valley Comprehensive Plan (BVCP) update was to
7 develop land use related policy changes to reduce future imbalances by
8 recommending additional housing in commercial and industrial areas (and
9 corresponding regulatory changes) and reductions of nonresidential land use potential
10 in the Boulder Valley Regional Center. (2015 BVCP, p. 17)
- 11 f. The BVCP provides that the city will continue to be a major employment center and
12 will seek opportunities to improve the balance of jobs and housing while maintaining
13 a healthy economy. This will be accomplished by encouraging new housing and
14 mixed-use neighborhoods in areas close to where people work, encouraging transit-
15 oriented development in appropriate locations, preserving appropriate levels of
16 service commercial uses, converting commercial and industrial uses to residential
17 uses in appropriate locations, improving regional transportation alternatives and
18 mitigating the impacts of traffic congestion. (2015 BVCP, Policy 1.10)
- 19 g. The BVCP describes, among other things, the need for a review of the Boulder Valley
20 Regional Center and 28th Street to ensure that this area establishes a proper mix of
21 uses, including increasing housing capacity, reducing the current non-residential
22 capacity, while maintaining retail potential. (2015 BVCP, Policy 2.18)
- 23 h. The BVCP describes, among other things, the need for a review of its efforts to
24 pursue regulatory changes to better allow for housing and retail infill in its light
25 industrial areas. Planning efforts include finding appropriate places for housing infill
26 in areas zoned Industrial – General. (2015 BVCP, Policy 2.21)
- 27 i. The Planning Area includes land that is in the following zoning districts: Business
28 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 l. In order to be prepared for the potential of additional investment in the Planning
2 Area, the city needs to complete a review of planning and zoning regulations to
3 ensure that investment in the Planning Area will be consistent with the community
4 values, including without limitation, the BVCP.
- 5 m. The council intends to lift requirements of this Ordinance after each zoning district in
6 the Planning Area has been reviewed under the Use Table Review project or other
7 zoning or land use analysis or has had adequate planning and zoning developed
8 through subcommunity or area planning. (2015 BVCP, Chapter V)
- 9 n. The Diagonal Plaza is a neighborhood center that has been identified in previous
10 planning efforts as an area that needs revitalization. The BVCP provides that the city
11 will use a variety of tools and strategies in area planning and in the creation of
12 public/private partnerships that lead to successful redevelopment and minimize
13 displacement and loss of service and retail uses. (2015 BVCP, Policy 2.19 and 5.01)
14 The city does not wish to prevent any efforts to revitalize Diagonal Plaza.
- 15 o. The Transit Village Area Plan (TVAP) was adopted in 2007 and presently guides
16 development in that area. The plan includes a two-phase implementation approach.
17 Presently, the area is actively being developed in the first phase. The city does not
18 wish to prevent any efforts to develop in the Phase 1 area. (2007 TVAP, p. 7)
- 19 p. Given the anticipated additional investment in the Planning Area, the City Council
20 concludes that it is necessary to review its existing planning and zoning districts to
21 ensure that any development or redevelopment is done in a manner that is consistent
22 with the BVCP and the goals and policies of the city.
- 23 q. The council finds that it is in the best interest of the public health, safety, and welfare
24 to consider whether existing zoning standards will result in development consistent
25 with the goals and policies of the BVCP.

26 Section 2. The following provisions of the Boulder Revised Code, 1981, are hereby
27 suspended as to applications on December 18, 2018 after 5:00 p.m. until June 22, 2020 at 8:00
28 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 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 any new dwelling
units in the Planning Area:

- 1 a. Building permits under Title 10, "Structures," B.R.C., 1981;
- 2 b. Site review requests under the provisions of Section 9-2-14, B.R.C., 1981; and
- 3 c. Use review requests under the provisions of Section 9-2-15, B.R.C., 1981.

4 Section 3. Notwithstanding any standard in this Ordinance to the contrary, the following
5 provisions of the Boulder Revised Code, 1981, are expressly permitted during the term of this
6 Ordinance:

- 7 a. The creation of any new dwelling units on a site that is four acres or more which
8 includes all inclusionary housing units on the development site that meet the
9 requirements of Chapter 9-13, "Inclusionary Housing," and C.R.S. § 31-12-301, *et*
10 *seq.* The creation of any dwelling units on a site that is less than four acres.
- 11 b. Any development for which a valid application for site review, use review, or
12 building permit application has been approved or an application made prior to
13 December 18, 2018 at 5:00 p.m. Site review and use review applications that also
14 refer to similar approvals, by previous names described in Section 9-1-3, B.R.C.,
15 1981.
- 16 c. Development within the 2007 TVAP area described as Phase 1, an area generally
17 bounded on the west by 30th Street, on the south by Pearl Parkway, on the east by the
18 Burlington Northern Rail Road Tracks and on the north by Valmont Avenue. (2007
19 TVAP, p. 7)
- 20 d. The construction of any building or conversion of floor area owned by a community
21 serving Colorado non-profit corporation.

22 Section 4. Complete site review and use review applications that have been submitted to
23 the city prior to December 18, 2018 will be permitted to continue through the process under the
24 regulations in place at the time such application is made. Such applicants shall be required to
25 pursue such development approvals and meet all requirements and deadlines set by the city
26 manager and the Boulder Revised Code. Pending developments may apply for and receive
27 building permits that are necessary to construct the approved development.

28 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

1 Amendments,” B.R.C., 1981, apply to the adoption of this Ordinance, such provisions are
2 temporarily suspended.

3 Section 6. The immediate passage of this Ordinance is necessary for the preservation of
4 the public peace, health, or property. The council declares this to be an emergency measure due
5 to the need to prevent community benefit incompatible development, to pause to consider next
6 steps, and to consider development of zoning regulations that implement the BVCP and other
7 polices of the city within the Planning Area. Therefore, this Ordinance is hereby declared to be
8 an emergency measure, and as such shall be in full force and effect upon its passage.
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10 Section 7. If any section, paragraph, clause, or provision of this Ordinance shall for any
11 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining
12 provisions of this Ordinance.
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14 Section 8. This Ordinance is necessary to protect the public health, safety, and welfare of
15 the residents of the city, and covers matters of local concern.

16 Section 9. The City Council deems it appropriate that this Ordinance be published by
17 title only and orders that copies of this ordinance be made available in the office of the city clerk
18 for public inspection and acquisition.
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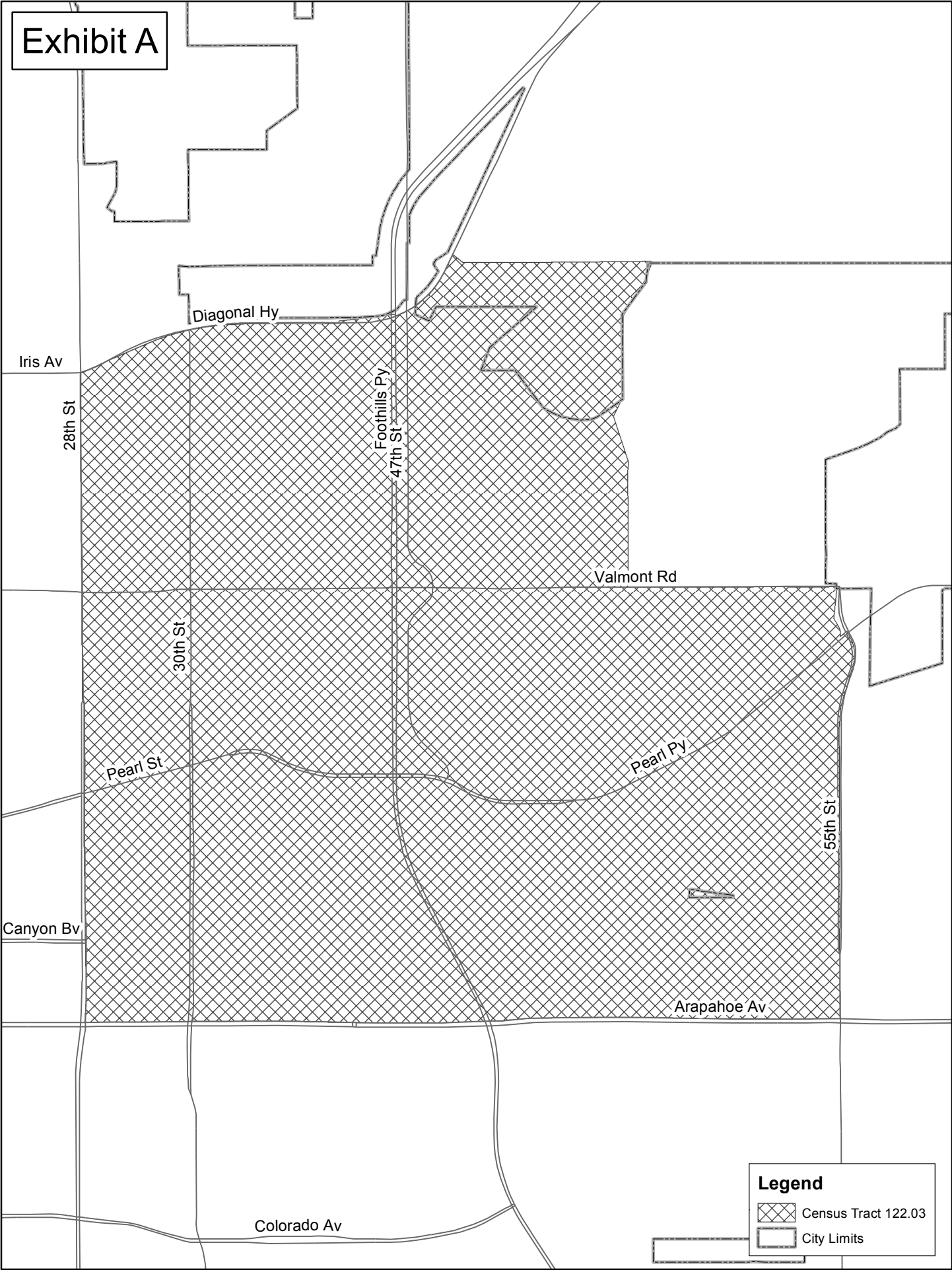
1 READ ON THE FIRST READING, PASSED, ADOPTED AS AN EMERGENCY
2 MEASURE BY TWO-THIRDS COUNCIL MEMBERS PRESENT, AND ORDERED
3 PUBLISHED BY TITLE ONLY this 18th day of December 2018.
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6 _____
7 Suzanne Jones,
8 Mayor



9 Attest:

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11 City Clerk,
12 Lynnette Beck
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Exhibit A



Legend

-  Census Tract 122.03
-  City Limits