



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 2, 2018**

**AGENDA TITLE:**

Second reading and consideration of a motion to adopt Ordinance 8278, amending Title 9, "Land Use Code," B.R.C. 1981, to preserve commercial retail uses in the Business Community – 1 (BC-1) and Business Community -2 (BC-2) zoning districts by restricting residential ground floor uses and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Jim Robertson, Director of Planning and Sustainability  
Charles Ferro, Development Review Manager for Planning  
Thomas A. Carr, City Attorney  
David Gehr, Chief Deputy City Attorney  
Karl Guiler, Senior Planner/Code Amendment Specialist

**EXECUTIVE SUMMARY**

Staff is proposing two land use options for the BC zones at the request of some members of City Council: One that would apply ground floor restrictions to all BC zones citywide (see **Attachment A**) or one that would apply ground floor restrictions to only the BC-2 zoning district south of Baseline near the University (see **Attachment B**).

More specifically, **Attachment A** contains Ordinance 8278 that passed on first reading on July 17, 2018. This ordinance would seek to preserve commercial uses by restricting ground floor uses to non-residential uses in the BC zones consistent with the BC zoning intent. This ordinance was passed on first reading by City Council on [July 17, 2018](#).

As an alternative, staff has drafted an amendment to Ordinance 8278 in **Attachment B**. The amendment in **Attachment B** would preserve commercial uses in the BC-2 zone

south of Baseline near the University and not citywide by restricting residential ground floor uses only in that area and not other parts of the city. On September 6, 2018, Planning Board recommended that City Council adopt the amendment in **Attachment B**.

Staff is recommending that City Council either pass the ordinance in **Attachment A** (apply BC zone residential ground floor restrictions citywide) or amend the ordinance to adopt the language shown in **Attachment B** (apply residential ground floor restrictions only in the BC-2 zoned area south of Baseline near the University). If the council chooses to adopt the ordinance in **Attachment B**, a third reading of the ordinance (on consent) would be required.

If the council chooses to adopt the ordinance in **Attachment A**, staff proposes council consider the Amendment shown in **Attachment C**, which would exempt projects currently in the Site Review process, such as the Boulder Housing Partners (BHP) project at 2637 Valmont Road, from its scope.

## **BACKGROUND**

In July 2018, Council members Carlisle and Nagle raised concerns that entirely residential development in the BC-2 (Business Commercial – 2) zone south of Baseline and east of Broadway by the Basemar Shopping Center, may be detrimental to the existing commercial character of that area that presently serves nearby residential neighborhoods. The concern stems from residential uses being viewed as a more lucrative land use than commercial development and as a result, could be permitted in the BC zones without special review and as by-right uses. Redevelopment in these zones as entirely residential could be in conflict with the BC zones’ stated purpose, which is as follows:

*Business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate. (Section 9-5-2(c)(2)(G), B.R.C. 1981)*

City Council passed this change on first reading on July 17, 2018. Planning Board considered the proposed ordinance in **Attachment A** on Sept. 6<sup>th</sup> and did not recommend approval of the ordinance based on concerns about applying the residential ground floor restriction citywide. Rather, the board recommended to the City Council on a vote of 4-2 (Gray, Vitale opposed) that the City Council adopt an ordinance that applies the ground floor residential restriction only to the BC-2 zone south of Baseline near the University. A map of the BC zone locations citywide can be found in **Attachment D**.

## **STAFF RECOMMENDATION**

### *Suggested Motion Language:*

#### ***Option BC-citywide:***

- 1. Motion to adopt Ordinance 8278 amending Title 9, “Land Use Code,” B.R.C. 1981, to preserve commercial retail uses in the Business Community – 1 (BC-1) and Business Community -2 (BC-2) zoning districts by restricting residential ground floor uses and setting forth related details; **or***

***Option BC-citywide, exempting pending site review projects (incl. BPH project):***

2. *Motion to amend on second reading Ordinance 8278 amending Title 9, "Land Use Code," B.R.C. 1981, to preserve commercial retail uses in the Business Commercial -1 (BC-1) and Business Commercial -2 (BC-2) zoning districts by restricting residential ground floor uses, exempting certain projects with a site review application as shown in Attachment C, and setting forth related details;*  
**or**

***Option BC-2, south of Baseline only:***

3. *Motion to amend on second reading Ordinance 8278 amending Title 9, "Land Use Code," B.R.C. 1981, to preserve commercial retail uses in the Business Commercial -2 (BC-2) zoning district south of Baseline near the University by restricting residential ground floor uses as shown in Attachment B and setting forth related details.*

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic –With respect to the ordinances in **Attachment A** and **B**, the city is experiencing a downturn in retail tax revenues. The proposed change would work towards protecting and preserving Business Community (BC) areas, which have a stated purpose of being “*Business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.*” (Section 9-5-2(c)(2)(G), B.R.C. 1981).”
- Environmental – Any potential environmental impacts will be similar to the impacts of the existing development patterns.
- Social –As the BC zones tend to be in neighborhood centers serving residential areas, [Boulder Valley Comprehensive Plan \(BVCP\) Policy 2.19, Neighborhood Centers](#) (see below), speaks to encouraging neighborhood centers to be more mixed-use. The proposed zoning change will help preserve the predominate commercial character and avoid situations where a development may be entirely residential and not mixed-use, which is possible under current zoning. Future planning efforts will need to look at each neighborhood center and consider zoning changes that are consistent with the “[Neighborhood Center Guiding Principles](#)” within the BVCP (see page 44).

### ***2.19 Neighborhood Centers***

*Neighborhood centers often contain the economic, social and cultural opportunities that allow neighborhoods to thrive and for people to come together. The city will encourage neighborhood centers to provide pedestrian-friendly and welcoming environments with a mix of land uses. The city acknowledges and respects the diversity of character and needs of its neighborhood centers and will pursue area planning efforts to support evolution of these centers to become mixed-use places and strive to accomplish the guiding principles noted below.*

## OTHER IMPACTS

- Fiscal – This project is being completed using existing resources.
- Staff time – This project is being completed using existing staff resources.

## BOARD AND COMMISSION FEEDBACK

On Sept. 6, 2018, Planning Board discussed several options for the BC zones. Most of the board members understood the concern related to ground floor residential impact to the character of business community zones, while one board member found that such restrictions would be inconsistent Boulder Valley Comprehensive Plan (BVCP) policies on mixed-use or integration of new housing. Some board members expressed concern about applying the ground floor residential restrictions citywide and that perhaps this may require additional analysis.

After some discussion, most of the board found that the BC-2 zone south of Baseline near the University would likely encounter the highest residential growth pressures based on its close proximity to the University of Colorado campus and that regulations should focus on that area rather than citywide. Planning Board voted to recommend that City Council adopt an ordinance that would only apply to the BC-2 discussed above. This recommendation passed on a vote of 4-2 with one board member finding that the regulations should apply citywide and the other objecting to the proposed restrictions for being out of alignment with the BVCP. The motion is found below:

On a motion by **D. Ensign**, seconded by **B. Bowen**, the Planning Board voted 4-2 (**C. Gray** and **P. Vitale** opposed; **H. Zuckerman** absent) to recommend approval of the draft ordinance found in Attachment A related to the BC code changes with the restriction of the ground floor use in the BC-2 zone for the Basemar area to be non-residential otherwise by Use Review only.

## PUBLIC FEEDBACK

Planning staff has sent out a notice in the Planning newsletter and mailed notice to BC property owners citywide informing the community about the pending BC zoning change and City Council's action on the ordinance. Staff has also informed developers and property owners of projects that are in process or active as a pre-application. City Council had requested expedient action to add the draft ordinance to the [July 17, 2018](#) agenda, so staff did not have the ability to notify property owners and developers until the item was scheduled for City Council consideration. This has resulted in some negative feedback about the nature of the notice.

In particular, Boulder Housing Partners is moving forward with an expansion to the existing affordable housing project, Red Oak Park, and the proposed provisions related to BC zoning would prohibit the expansion as proposed. Staff is proposing an amendment shown in **Attachment C** that would make Site Review applications that were submitted prior to the first reading of the BC ordinance (July 17<sup>th</sup>) exempt from its provisions. Several property owners spoke to Planning Board about their properties being rendered non-conforming as a result of the proposed BC change. One example are some BC

properties that include single-family houses just west of 28<sup>th</sup> Street north of Pearl Street. Written comments on these proposed changes can be found in **Attachment E**.

## **ANALYSIS**

### **Draft ordinance applying ground floor restrictions to all BC zones**

Staff has prepared a draft ordinance (**Attachment A**) that seeks to preserve commercial and retail uses in the Business Community (BC) zones of the city and the viability of the city's neighborhood serving retail centers by restricting ground floor uses to non-residential uses as described in this section. The BC zoned areas are large source of the city's retail tax income. The draft ordinance addresses the concern that entirely residential use projects could substantially change the character of the Basemar Shopping center and vicinity (and similarly zoned other locations in the city), reduce the possibility of future mixed-use consistent with BVCP policies, as well as undermining the intent of BC zones throughout the city to be "*retail centers serving a number of neighborhoods*". This ordinance was passed on first reading by council on July 17, 2018.

As this particular issue is not necessarily isolated to the BC-2 south of Baseline in the vicinity of the Basemar Shopping Center and adjacent commercial areas, staff finds that it may be appropriate and practical to alter both the BC-1 and BC-2 zones citywide to ensure that the zones remain consistent with their stated purpose in Section 9-5-2(c)(2)(G), B.R.C. 1981, as follows, "*Business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.*" (Section 9-5-2(c)(2)(G), B.R.C. 1981). **Attachment D** contains a map of the BC zones throughout the city.

The proposed code change within **Attachment A** is straightforward and would entail changing residential uses in the BC zones from allowable uses (denoted as a footnote in the [Land Use Code Use Table 6-1](#) as "A" for "Allowable") to a new "B" footnote category (termed "Business"), which would explicitly require that ground floor uses be non-residential uses excepting necessary access of upper floor uses from the ground level as follows:

### **Proposed Language:**

***B: Allowed use provided that it is not located on the ground floor, with the exception of minimum necessary ground level access.***

This new category would be similar to the existing "G" footnote category ("G" for "Ground Floor"), which requires ground floor non-residential uses in Boulder's more urban, walkable neighborhoods like the Downtown (DT), Business- Main Street (BMS) and Mixed-Use (MU) zoning district, and listed below for reference:

***G: Allowed use provided that it is not located on the ground floor facing a street, with the exception of minimum necessary ground level access, otherwise by use review only.***

The primary difference between the two categories is that the “B” category would not require the uses to “face a street” like the “G” category does. The proposed language is otherwise the same. Staff contemplated applying the “G” category in the BC zones but found that this could be problematic since the BC zones tend to be more suburban type shopping centers like Basemar, Table Mesa Shopping Center or Meadows where such retail or commercial uses do not necessarily “face a street”, but rather have buildings set back from the street facing upon internal circulation and parking lots. While it may be more desirable from a design perspective to have buildings “face a street” in BC zoned areas in the future, staff finds that applying the “G” category may be more appropriate only when any new zoning standards are applied to those areas as a result of a planning process where redevelopment is anticipated to be more like downtown Boulder in terms of walkability and requiring that buildings be built closer to the street.

Another difference between the footnote categories, is that unlike the “G category”, the “B” category would not include the ability for property owners or applicants to request a Use Review to have residential uses on the ground floor. This would more firmly keep the character of the BC zones as commercial zones. If the council disagreed with this or found that there should be more flexibility of where residential uses may be located, the draft ordinance could be updated to allow a Use Review option like the “G” category already does. This option is discussed further on page 8.

**Attachment A** also contains some additional criteria in Chapter 9-6, “Use Standards,” B.R.C. 1981 pertaining to group homes, residential care facilities and transitional housing making it clear that such uses in the BC zone would not be permitted on the ground floor.

#### Impacts to BC zones

If the BC zone restrictions are adopted citywide, there are some projects and properties that would be impacted. As stated in the ‘Public Comment’ section below, some active Site Review projects, including an expansion of the permanently affordable housing project, Red Oak Park, would be impacted by this change. Staff proposes an amendment to Ordinance 8278 to include a new provision that would exempt Site Review applications submitted prior to July 17, 2018 from the BC zone restrictions on residential to allow such projects to proceed. This proposed amendment to exempt these Site Review applications is in **Attachment C**. If council amends Ordinance 8278 on second reading to include the exemption in **Attachment C**, a third reading of the ordinance will be required (consent).

Further, there are existing residential properties within the BC zones citywide that would become nonconforming as a result of any changes restricting residential uses. This would limit the expansion potential of these properties as nonconforming residential uses and would require a Nonconforming Use Review for any expansions permitted under that process (e.g., limit of 10 percent floor area expansion etc.). The following residential areas have been identified:

- A portion of a residential project on Moorhead behind the Basemar Shopping Center;
- Residential uses south of the Meadows Shopping Center in the vicinity of Mohawk Drive and Thunderbird Drive;

- Portions of east Whittier neighborhood where it intersects with 28<sup>th</sup> Street where some single-family dwellings remain in residential use;
- A recently constructed residential project at 2560 28<sup>th</sup> Street by Goose Creek;
- A residential project built north of Pearl just west of 28<sup>th</sup> Street (this project appears to have non-residential uses on the ground floor);
- Residential uses just south of Diagonal Plaza Shopping Center, and
- Residential units west of Broadway and north of Portland Place by Community Plaza Shopping Center.

If a Use Review option were added for flexibility as discussed on page 6, the properties above would have the ability to expand beyond 10 percent with a regular Use Review application and would not be considered non-conforming.

**Alternative: Amend ordinance to apply the ground floor restriction only to the BC-2 zone south of Baseline by the University**

Planning Board recommended that City Council adopt an ordinance that would apply only to the BC-2 zoning district south of Baseline by the University based on concerns that this area would receive the highest amount of residential growth pressure due to its close proximity to the University of Colorado campus. **Attachment B** contains the proposed amendment to Ordinance 8278 recommended by the Planning Board.

This option would change residential uses in the BC zones from “A”, allowable, to “C”, conditional. Conditional uses are required to meet specific use standards in the code before they can be approved. They are reviewed at a staff level and are only approved if the specific criteria are met. To make it clear where the regulations would apply, a new Appendix N is proposed as part of **Attachment B** which includes a map of the BC-2 zone area south of Baseline and near the University. Further, as the context of the BC-2 zone is different than the Pearl Street “downtown” mixed-use character of the MU-3 zone, the criteria for the Baseline BC-2 do not include the same requirements requiring retail at the ground floor with residential above facing the street etc. The proposed regulations, if adopted, would become a new Section 9-6-3(k), B.R.C. 1981 in the Land Use Code. If the criteria were not met, an applicant could seek approval of a Use Review. An additional criterion for this consideration is proposed as follows:

- (1) In the BC-2 zoning district within the area south of Baseline Road shown in Appendix N, “Areas in the BC-2 Zone Where Residential Uses are Prohibited on the Ground Floor Except by Use Review,” the uses are permitted by right so long as they are not be located on the ground floor, with the exception of minimum necessary ground level access. The uses may be located on the ground floor only if approved pursuant to [Section 9-2-15, “Use Review,” B.R.C. 1981](#). In addition to meeting the use review criteria, the applicant shall demonstrate that the residential use on the ground floor will not adversely affect the intended function and character of the area as a neighborhood serving business area where retail-type stores predominate. In determining whether this criterion is met, the reviewing authority shall*



*consider the location and design of the proposed use and the existing and approved uses on the property and in the area.*

This approach would create a localized “exception” to the use standards increasing the complexity of the land use code (for instance, currently there are specific use standards for restaurants and residential uses on University Hill, residential restrictions on East Pearl in MU-3, restrictions on financial institutions on the Pearl Street mall and special use requirements for medical offices near the hospital in the vicinity of East Arapahoe etc.). However, given concerns expressed about properties that may become non-conforming as a result of a citywide application of the change, staff has included the amendment in **Attachment B** as an alternative for council consideration in the event that council’s concerns were more focused on the area of the city encompassed by the BC-2 zone south of Baseline by the University

### **Other BC zoning options**

If the council did not agree with the approaches discussed above, staff has included descriptions below for some additional zoning options that could work towards preserving commercial retail ground floor uses in the BC zones:

#### ***(1) Allow residential uses on the ground floor in all BC zones with Use Review approval.***

This option was alluded to under the first option to allow more flexibility. The proposed language in **Attachment A** is written to be relatively strict to ensure that residential uses do not occur on the ground floor with the exception of necessary access to the upper floors. If the council found this to be too rigid, the requirement could be updated to include allowance for a Use Review application if the ground floor provision is not met. This is similar to other uses in the use table that do not meet the ground floor restriction. While this option would create more flexibility, there are currently no specific criteria about under what circumstances it would be most appropriate to permit residential uses on the ground floor and thus, the predictability of such requests would be low. To address this, the criterion suggested on page 7 and listed here underlined, could be added to the footnote if a Use Review is sought.

*B: Allowed use provided that it is not located on the ground floor, with the exception of minimum necessary ground level access. The uses may be located on the ground floor only if approved pursuant to [Section 9-2-15](#), "Use Review," B.R.C. 1981. In addition to meeting the use review criteria, the applicant shall demonstrate that the residential use on the ground floor will not adversely affect the intended function and character of the area as a neighborhood serving business area where retail-type stores predominate. In determining whether this criterion is met, the reviewing authority shall consider the location and design of the proposed use and the existing and approved uses on the property and in the area.*

#### ***(2) Modify the Use Table to require at least 50 percent non-residential uses in the BC zones.***

As the issue of residential uses impacting the commercial/retail character of the BC zones is not necessarily isolated to the BC-2 south of Baseline, another option to



restrict residential uses would be to alter both the BC-1 and BC-2 zones citywide to ensure that the zones remain consistent with the stated purpose in Section 9-5-2(c)(2)(G), B.R.C. 1981.

This change is rather straightforward and would entail changing residential uses in the BC zones from allowable uses (denoted in the Use Table 6-1 as “A”) to an ‘*allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use review*’ (denoted in the Use Table 6-1 as “N”). These descriptions are found in the footnotes following Table 6-1.

This is a relatively simple change that is consistent with the intent of the zone to ensure non-residential uses are the dominant use and also since the “N” category is already used in the use table to minimize residential redevelopment in certain zones that would be counter to the zone’s original intent. One example of this is the Industrial Mixed Use (IMS) zone where residential uses are limited to no more than 50% by the “N” category in the use table. This is also noted in the footnotes at the end of Table 6-1. If a project were to propose more than 50 percent residential, then a Use Review (discretionary review with Planning Board call up) would be required.

***(3) Create a new use category in the use table that would require a higher percentage of non-residential uses in the BC zones.***

Similar to the option (2) above, another option would be to require a percentage of non-residential-uses greater than 50 percent. This would be consistent with the purpose of the zone district and would limit the extent of residential redevelopment to a greater extent. If the board found this to be an appropriate option, staff proposes that the letter “A” for ‘allowable’ for residential uses in the BC zones be changed to “B” denoting ‘business’ uses. The updated code language under this option would be as shown below and the specific percentage could be adjusted by the board if found appropriate:

*“B: Allowed use provided at least 70% of the floor area is for nonresidential uses, otherwise by use review.”*

**ATTACHMENTS**

- A: Ordinance 8278 amending BC zones citywide
- B: Amendment to apply residential ground floor restrictions only to the BC-2 zone south of Baseline and near the University
- C: Amendment to exempt certain site review projects
- D: Map showing location of the BC zoning districts
- E: Public comment

ORDINANCE 8278

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO PRESERVE COMMERCIAL RETAIL USES IN THE BUSINESS-COMMERCIAL 1 (BC-1) AND BUSINESS-COMMERCIAL 2(BC-2) ZONING DISTRICTS BY RESTRICTING RESIDENTIAL GROUND FLOOR USES, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-6-1, "Schedule of Permitted Land Use," B.R.C. 1981, is amended to read as follows:

**9-6-1. - Schedule of Permitted Land Uses.**

The schedule shows the uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review pursuant to Section 9-2-15, "Use Review," B.R.C. 1981.

(a) Explanation of Table Abbreviations: The abbreviations used in Table 6-1 of this section have the following meanings:

- (1) Allowed Uses: An "A" in a cell indicates that the use type is permitted by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this title.
- (2) Conditional Uses: A "C" in a cell indicates that the use type will be reviewed in accordance with the procedures established in Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981. Conditional use applications shall also meet the additional standards set forth in Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards," or other sections of this title.
- (3) Use Review Uses: A "U" in a cell indicates that the use type will be reviewed in accordance with the procedures established in Section 9-2-15, "Use Review," B.R.C. 1981. Use review applications shall also meet the additional standards set forth in Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards."
- (4) Ground Floor Restricted Uses: A "G" in a cell indicates that the use type is permitted by right in the respective zoning district, so long as it is not located on the ground floor facing a street, with the exception of minimum necessary ground level access, otherwise by use review only.
- (5) Ground Floor Restricted Uses: A "B" in a cell indicates the use type is permitted by right in the respective zoning district, so long as it is not located on the ground floor, with the exception of minimum necessary ground level access.

(56) Residential Restricted Uses - M: An "M" in a cell indicates the use is permitted, provided at least fifty percent of the floor area is for residential use and the nonresidential use is less than seven thousand square feet per building, otherwise by use review only.

(67) Residential Restricted Uses - N: An "N" in a cell indicates the use is permitted, provided at least fifty percent of the floor area is for nonresidential use, otherwise by use review only.

(78) Prohibited Uses: An asterisk symbol ("\*") in a cell indicates that the use type is prohibited in the zoning district.

(89) Additional Regulations: There may be additional regulations that are applicable to a specific use type. The existence of these specific use regulations is noted through a reference in the last column of the use table entitled "Specific Use." References refer to subsections of Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards," or other sections of this title. Such standards apply to all districts unless otherwise specified. Uses located on a lot or parcel designated in Appendix L, "Form-Based Code Areas," are subject to the requirements of this chapter, but may also be subject to additional use regulations pursuant Appendix M, "Form-Based Code."

(910) n/a: Not applicable; more specific use applications apply.

...

Section 2. That portion of Table 6-1 labeled "Use Table" related to the BC-1 and BC-2 zones and the associated footnotes, Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, is amended as follows:

**TABLE 6-1: USE TABLE**

| <b>Zoning District</b>                   | <b>BC-1,<br/>BC-2</b> |                              |
|--|-----------------------|------------------------------|
| <b>Use Modules</b>                       | <b>B3</b>             | <b>Specific Use Standard</b> |
| <b>Residential Uses</b>                  |                       |                              |
| Detached dwelling units                  | <u>AB</u>             | 9-8-4                        |
| Detached dwelling unit with two kitchens | *                     | 9-6-3(c)                     |
| Duplexes                                 | <u>AB</u>             | 9-8-4                        |
| Attached dwellings                       | <u>AB</u>             | 9-8-4                        |

|   |                       |                              |
|---|-----------------------|------------------------------|
| <b>Zoning District</b>  | <b>BC-1,<br/>BC-2</b> |                              |
| <b>Use Modules</b>  | <b>B3</b>             | <b>Specific Use Standard</b> |
| Mobile home parks   | *                     |                              |
| Townhouses  | <u>AB</u>             | 9-8-4                        |
| ...   |                       |                              |
| Efficiency living units outside the University Hill general improvement district: |                       |                              |
| A. If <20% of total units   | <u>AB</u>             |                              |
| B. If ≥20% of total units   | U                     |                              |
| ...   |                       |                              |
| Group quarters:   |                       |                              |
| A. Congregate care facilities   | <u>AB</u>             | 9-3-2(i)<br>9-6-3(f)         |
| B. Custodial care   | U                     |                              |
| C. Group homes  | C                     | 9-3-2(i)<br>9-6-3(c)         |
| D. Residential care facilities  | C                     | 9-6-3(e)                     |
| E. Fraternities, sororities and dormitories                                       | <u>AB</u>             | 9-3-2(i)                     |
| F. Boarding houses  | <u>AB</u>             |                              |
| ...   |                       |                              |
| Transitional housing  | C                     | 9-6-3(hg)                    |
| ...   |                       |                              |

1 **A:** Allowed use.

2 **C:** Conditional use. See Section 9-2-2 for administrative review procedures.

3 **•:** Use prohibited.

4 **U:** Use review. See Section 9-2-15 for use review procedures.

5 **G:** Allowed use provided that it is not located on the ground floor facing a street, with the  
6 exception of minimum necessary ground level access, otherwise by use review only.

7 **B:** Allowed use provided that it is not located on the ground floor, with the exception of  
8 minimum necessary ground level access.

9 **M:** Allowed use provided at least 50% of the floor area is for residential use and the  
nonresidential use is less than 7,000 square feet per building, otherwise use review.

10 **N:** Allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use  
11 review.

12 **n/a:** Not applicable; more specific use applications apply.

13 Section 3. Section 9-6-3, “Specific Use Standards – Residential Uses,” B.R.C. 1981, is  
14 amended by adding the following paragraphs:

15 **9-6-3. – Specific Use Standards – Residential Uses.**

16 . . .

17 (c) Group Home Facilities: The following criteria apply to any group home facility:

18 . . .

19 (5) Group home uses allowed in the BC-1 and BC-2 districts shall not be located on the  
20 ground floor, with the exception of minimum necessary ground level access.

21 . . .

22 (e) Residential Care, Custodial Care and Congregate Care Facilities: The following criteria  
23 apply to any residential care facility, custodial care facility or congregate care facility:

24 . . .

(4) In the BC-1 and BC-2 districts, the use shall not be located on the ground floor, with the exception of minimum necessary ground level access.

...  
(g) Transitional Housing: The following criteria apply to any transitional housing facility:

(1) Density: The maximum number of dwelling units with transitional housing facility shall be the same as is permitted within the underlying zoning district, except that for any zoning district that is classified as an industrial zoning district pursuant to Section 9-5-2, "Zoning Districts," B.R.C. 1981, the number of dwelling units permitted shall not exceed one dwelling unit for each one thousand six hundred square feet of lot area on the site.

(2) Occupancy: No person shall occupy such dwelling unit within a transitional housing facility except in accordance with the occupancy standards set forth in Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, for dwelling units.

(3) Parking: The facility shall provide one off-street parking space for each dwelling unit on the site. The approving authority may grant a parking deferral of up to the higher of fifty percent of the required parking or what otherwise may be deferred in the zoning district if the applicant can demonstrate that the criteria set forth in Subsection 9-9-6(e), B.R.C. 1981, have been met.

(4) No Ground Floor: In the BC-1 and BC-2 districts, the use shall not be located on the ground floor, with the exception of minimum necessary ground level access.

...  
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.

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.

1 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 17th day of July 2018.

3 \_\_\_\_\_  
4 Suzanne Jones  
Mayor

5 Attest:

6  
7 \_\_\_\_\_  
8 Lynnette Beck  
City Clerk

9 READ ON SECOND READING, PASSED AND ADOPTED this 2<sup>nd</sup> day of October,  
10 2018.

11  
12  
13 \_\_\_\_\_  
14 Suzanne Jones  
Mayor

15 Attest:

16 \_\_\_\_\_  
17 Lynnette Beck  
City Clerk



Alternate Version

## ORDINANCE 8278

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, BY THE ADDITION OF DEVELOPMENT STANDARDS TO PRESERVE COMMERCIAL RETAIL USES BY RESTRICTING RESIDENTIAL GROUND FLOOR USES IN THE BUSINESS COMMERCIAL-2 (BC-2) ZONING DISTRICT SOUTH OF BASELINE ROAD NEAR THE UNIVERSITY, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-2-1, "Types of Reviews," B.R.C. 1981, is amended to read as follows:

**9-2-1. - Types of Reviews.**

- (a) Purpose: This section identifies the numerous types of administrative and development review processes and procedures. The review process for each of the major review types is summarized in Table 2-1 of this section.
- (b) Summary Chart:

**TABLE 2-1: REVIEW PROCESSES SUMMARY CHART**

| <i><b>I. ADMINISTRATIVE<br/>REVIEWS</b></i>   | <i><b>II. ADMINISTRATIVE<br/>REVIEWS -<br/>CONDITIONAL USES</b></i>                                     | <i><b>III. DEVELOPMENT<br/>REVIEW AND BOARD<br/>ACTION</b></i>  |
|---|---|---|
| Administrative form-based code review   | Accessory Units (Dwelling, Owners, Limited)   | Annexation/initial zoning   |
| Building permits  | Wireless Communications Facilities  | BOZA variances  |
| Change of address   | Attached Dwelling Units and Efficiency Living Units in the University Hill General Improvement District | Concept plans   |
| Change of street name   | Bed and Breakfasts  | Demolition, moving, and removal of buildings with potential historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981 |
| Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of | Cooperative Housing Units   |   |

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|    |   |  |   |
|----|---|--|---|
| 1  | Buildings Not Designated,"<br>B.R.C. 1981   | Daycare Centers  | Form-based code review  |
| 2  | Easement vacation   | Detached Dwelling Units with<br>Two Kitchens   | Landmark alteration   |
| 3  | Extension of development<br>approval/staff level  | Drive-Thru Uses  | certificates other than those<br>that may be approved by staff<br>per Section 9-11-14, "Staff |
| 4  | Landmark alteration certificates<br>(staff review per Section 9-11-<br>14, "Staff Review of               | Group Home Facilities  | Review of Application for   |
| 5  | Application for Landmark<br>Alteration Certificate," B.R.C.   | Home Occupations   | Landmark Alteration   |
| 6  | 1981)   | Manufacturing Uses with Off-<br>Site Impacts   | Certificate," B.R.C. 1981   |
| 7  | Landscape standards variance  | Medical or Dental Clinics or<br>Offices or Addiction                                   | Lot line adjustments  |
| 8  | Minor modification to approved<br>site plan   | Recovery Facilities in the<br>Industrial General Zoning                                | Lot line elimination  |
| 9  | Minor modification to approved<br>form-based code review  | District near the Boulder<br>Community Health Foothills<br>Campus                      | Minor Subdivisions  |
| 10 | Nonconforming use (extension,<br>change of use (inc. parking))  | Neighborhood Service<br>Centers  | Out of city utility permit  |
| 11 | Parking deferral per Subsection<br>9-9-6(e), B.R.C. 1981  | Offices, Computer Design and<br>Development, Data<br>Processing,                       | Rezoning  |
| 12 | Parking reduction of up to fifty<br>percent per Subsection 9-9-6(f),<br>B.R.C. 1981                       | Telecommunications, Medical<br>or Dental Clinics and Offices,<br>or Addiction Recovery | Site review   |
| 13 | Parking reductions and<br>modifications for bicycle<br>parking per Paragraph 9-9-<br>6(g)(6), B.R.C. 1981 | Facilities in the Service<br>Commercial Zoning Districts                               | Subdivisions  |
| 14 | Parking stall variances   | Recycling Facilities   | Use review  |
| 15 | Public utility  | Religious Assemblies   | Vacations of street, alley, or<br>access easement   |
| 16 | Rescission of development<br>approval   | Residential Care, Custodial<br>Care, and Congregate Care<br>Facilities                 |   |
| 17 |   | Residential Development in<br>Industrial Zoning Districts                              |   |

## Alternate Version

|    |                      |   |  |
|----|----------------------|---|--|
| 1  | Revocable permit     | <u>Residential Uses in the MU-3 Zoning District</u>   |  |
| 2  |                      |   |  |
| 3  | Right of way lease   | <u>Residential Uses in the BC-2 Zoning District located South</u>                               |  |
| 4  | Setback variance     | <u>of Baseline Road shown in Appendix N</u>   |  |
| 5  | Site access variance |   |  |
| 6  | Solar exception      | Restaurants, Brewpubs, and Taverns  |  |
| 7  | Zoning verification  | Sales or Rental of Vehicles on Lots Located 500 Feet or Less from a Residential Zoning District |  |
| 8  |                      |   |  |
| 9  |                      |   |  |
| 10 |                      | Service Stations  |  |
| 11 |                      | Shelters (Day, Emergency, Overnight, temporary)   |  |
| 12 |                      |   |  |
| 13 |                      | Temporary Sales   |  |
| 14 |                      | Transitional Housing  |  |

15

16 Section 2. That portion of Table 6-1 labeled “Use Table” related to the BC-1 and BC-2

17 zones in Section 9-6-1, “Schedule of Permitted Land Uses,” B.R.C. 1981, is amended as follows:

**TABLE 6-1: USE TABLE**

|    |                         |                       |                                      |
|----|-------------------------|-----------------------|--------------------------------------|
| 19 |                         |                       |                                      |
| 20 | <b>Zoning District</b>  | <b>BC-1,<br/>BC-2</b> |                                      |
| 21 |                         |                       |                                      |
| 22 | <b>Use Modules</b>      | <b>B3</b>             | <b>Specific Use Standard</b>         |
| 23 | <b>Residential Uses</b> |                       |                                      |
| 24 | Detached dwelling units | <u>AC</u>             | 9-8-4<br>9-6-3(j)<br><u>9-6-3(k)</u> |
| 25 |                         |                       |                                      |

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|   |                       |   |
|---|-----------------------|---|
| <b>Zoning District</b>  | <b>BC-1,<br/>BC-2</b> |   |
| <b>Use Modules</b>  | <b>B3</b>             | <b>Specific Use Standard</b>            |
| Detached dwelling unit<br>with two kitchens                                       | *                     | 9-6-3(c)                                |
| Duplexes  | <u>AC</u>             | 9-8-4<br>9-6-3(j)<br><u>9-6-3(k)</u>    |
| Attached dwellings  | <u>AC</u>             | 9-8-4<br>9-6-3(j)<br><u>9-6-3(k)</u>    |
| Mobile home parks   | *                     |   |
| Townhouses  | <u>AC</u>             | 9-8-4<br>9-6-3(j)<br><u>9-6-3(k)</u>    |
| ...   |                       |   |
| Efficiency living units outside the University Hill general improvement district: |                       |   |
| A. If <20% of total units   | <u>AC</u>             | <u>9-6-3(k)</u>                         |
| B. If ≥20% of total units   | U                     | <u>9-6-3(k)</u>                         |
| ...   |                       |   |
| Group quarters:   |                       |   |
| A. Congregate care<br>facilities  | <u>AC</u>             | 9-3-2(i)<br>9-6-3(f)<br><u>9-6-3(k)</u> |
| B. Custodial care   | U                     |   |
| C. Group homes  | C                     | 9-3-2(i)<br>9-6-3(c)                    |
| D. Residential care<br>facilities   | C                     | 9-6-3(e)                                |
| E. Fraternities, sororities<br>and dormitories                                    | <u>AC</u>             | 9-3-2(i)<br><u>9-6-3(k)</u>             |

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|                        |                       |                              |
|------------------------|-----------------------|------------------------------|
| <b>Zoning District</b> | <b>BC-1,<br/>BC-2</b> |                              |
| <b>Use Modules</b>     | <b>B3</b>             | <b>Specific Use Standard</b> |
| F. Boarding houses     | <u>AC</u>             | <u>9-6-3(k)</u>              |
| ...                    |                       |                              |
| Transitional housing   | C                     | 9-6-3(h)                     |
| ...                    |                       |                              |

**A:** Allowed use.

**C:** Conditional use. See Section 9-2-2 for administrative review procedures.

**∗:** Use prohibited.

**U:** Use review. See Section 9-2-15 for use review procedures.

**G:** Allowed use provided that it is not located on the ground floor facing a street, with the exception of minimum necessary ground level access, otherwise by use review only.

**M:** Allowed use provided at least 50% of the floor area is for residential use and the nonresidential use is less than 7,000 square feet per building, otherwise use review.

**N:** Allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use review.

**n/a:** Not applicable; more specific use applications apply.

Section 3. Section 9-6-3, "Specific Use Standards – Residential Uses," B.R.C. 1981, is amended to read as follows:

**9-6-3. – Specific Use Standards – Residential Uses.**

...

(c) Group Home Facilities: The following criteria apply to any group home facility:

- (1) For purposes of density limits in Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, and occupancy limits, eight occupants, not including staff, in any group home facility constitute one dwelling unit, but the city manager may increase the occupancy of a group home facility to ten occupants, not including staff, if:

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- 1 (A) The floor area ratio for the facility complies with standards of the Colorado State  
2 Departments of Public Health and Environment and Social Services and Chapter 10-  
2, "Property Maintenance Code," B.R.C. 1981; and
- 3 (B) Off-street parking is appropriate to the use and needs of the facility and the number  
4 of vehicles used by its occupants, regardless of whether it complies with other off-  
street parking requirements of this chapter.
- 5 (2) In order to prevent the potential creation of an institutional setting by concentration of  
6 group homes in a neighborhood, no group home facility may locate within three hundred  
7 feet of another group home facility, but the city manager may permit two such facilities  
8 to be located closer than three hundred feet apart if they are separated by a physical  
barrier, including, without limitation, an arterial, a collector, a commercial district or a  
topographic feature that avoids the need for dispersal. The planning department will  
maintain a map showing the locations of all group home facilities in the City.
- 9 (3) No person shall make a group home facility available to an individual whose tenancy  
10 would constitute a direct threat to the health or safety of other individuals or whose  
11 tenancy would result in substantial physical damage to the property of others. A  
determination that a person poses a direct threat to the health or safety of others or a risk  
12 of substantial physical damage to property must be based on a history of overt acts or  
current conduct of that individual and must not be based on general assumptions or fears  
about a class of disabled persons.
- 13 (4) Group home uses allowed in the BMS district shall not be located on the ground floor  
14 facing a street, with the exception of minimum necessary ground level access, otherwise  
by use review only.
- 15 (5) In the BC-2 zoning district in the area south of Baseline Road shown in Appendix N,  
16 group home uses allowed in the BC-2 zoning district shall not be located on the ground  
floor, with the exception of minimum necessary ground level access, otherwise by use  
review only.
- 17 ...
- 18 (e) Residential Care, Custodial Care and Congregate Care Facilities: The following criteria apply  
to any residential care facility, custodial care facility or congregate care facility:
- 19 (1) For purposes of density limits in Section 9-8-1, "Schedule of Intensity Standards," B.R.C.  
20 1981, and occupancy limits, six occupants, including staff, in any custodial, residential  
or congregate care facility constitute one dwelling unit, but the city manager may increase  
the occupancy of a residential care facility to eight occupants, including staff, if:
- 21 (A) The floor area ratio for the facility complies with standards of the Colorado State  
22 Departments of Health and Social Services and Chapter 10-2, "Property Maintenance  
Code," B.R.C. 1981; and
- 23 (B) Off-street parking is appropriate to the use and needs of the facility and the number  
24 of vehicles used by its occupants, regardless of whether it complies with other off-  
street parking requirements of this chapter.
- 25 (2) In order to prevent the potential creation of an institutional setting by concentration of  
custodial, residential or congregate care facilities in a neighborhood, no custodial,

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residential or congregate care facility may locate within seven hundred fifty feet of another custodial, residential or congregate care facility, but the approving agency may permit two such facilities to be located closer than seven hundred fifty feet apart if they are separated by a physical barrier, including, without limitation, an arterial collector, a commercial district or a topographic feature that avoids the need for dispersal. The planning department will maintain a map showing the locations of all custodial, residential or congregate care facilities in the City.

- (3) Uses allowed in the BMS district shall not be located on the ground floor facing a street, with the exception of minimum necessary ground level access; otherwise by use review only.

(4) In the BC-2 zoning district in the area south of Baseline Road shown in Appendix N, the uses shall not be located on the ground floor, with the exception of minimum necessary ground level access, otherwise by use review only.

...

- (g) Transitional Housing: The following criteria apply to any transitional housing facility:

(1) Density: The maximum number of dwelling units with transitional housing facility shall be the same as is permitted within the underlying zoning district, except that for any zoning district that is classified as an industrial zoning district pursuant to Section 9-5-2, "Zoning Districts," B.R.C. 1981, the number of dwelling units permitted shall not exceed one dwelling unit for each one thousand six hundred square feet of lot area on the site.

(2) Occupancy: No person shall occupy such dwelling unit within a transitional housing facility except in accordance with the occupancy standards set forth in Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, for dwelling units.

(3) Parking: The facility shall provide one off-street parking space for each dwelling unit on the site. The approving authority may grant a parking deferral of up to the higher of fifty percent of the required parking or what otherwise may be deferred in the zoning district if the applicant can demonstrate that the criteria set forth in Subsection 9-9-6(e), B.R.C. 1981, have been met.

(4) BC-2 Zoning District: In the BC-2 zoning district in the area south of Baseline Road shown in Appendix N, the use shall not be located on the ground floor, with the exception of minimum necessary ground level access, otherwise by use review only.

...

- (k) Residential Uses in the BC Zoning Districts: In the BC zoning districts, the following standards and criteria apply to detached dwelling units, duplexes, attached dwellings, townhouses, efficiency living units, congregate care facilities, fraternities, sororities, dormitories and boarding houses:

(1) In the BC-1 zoning district and in the BC-2 zoning district outside of the area south of Baseline Road shown in Appendix N, "Areas in the BC-2 Zone Where Residential Uses are Prohibited on the Ground Floor Except by Use Review," the uses are permitted by right.



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1                   (2) In the BC-2 zoning district within the area south of Baseline Road shown in Appendix  
2                   N, "Areas in the BC-2 Zone Where Residential Uses are Prohibited on the Ground  
3                   Floor Except by Use Review," the uses are permitted by right so long as they are not  
4                   be located on the ground floor, with the exception of minimum necessary ground level  
5                   access. The uses may be located on the ground floor only if approved pursuant to  
6                   Section 9-2-15, "Use Review," B.R.C. 1981. In addition to meeting the use review  
7                   criteria, the applicant shall demonstrate that the residential use on the ground floor will  
8                   not adversely affect the intended function and character of the area as a neighborhood  
9                   serving business area where retail-type stores predominate. In determining whether  
10                  this criterion is met, the reviewing authority shall consider the location and design of  
11                  the proposed use and the existing and approved uses on the property and in the area.

12                  ...

13                  Section 4. The city council adopts Attachment A, titled "Appendix N – Areas in the BC-  
14                  2 Zone Where Residential Uses are Prohibited on the Ground Floor Except by Use Review," as  
15                  an amendment to Title 9, "Land Use Code," B.R.C. 1981.

16                  Section 5. This ordinance is necessary to protect the public health, safety, and welfare of  
17                  the residents of the city, and covers matters of local concern.

18                  Section 6. The city council deems it appropriate that this ordinance be published by title  
19                  only and orders that copies of this ordinance be made available in the office of the city clerk for  
20                  public inspection and acquisition.

Alternate Version

1 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 17<sup>th</sup> day of July 2018.

\_\_\_\_\_  
Suzanne Jones  
Mayor

6 Attest:

\_\_\_\_\_  
Lynnette Beck  
City Clerk

9 READ ON SECOND READING, AMENDED, PASSED AND ORDERED PUBLISHED  
10 BY TITLE ONLY, this 2<sup>nd</sup> day of October 2018.

\_\_\_\_\_  
Suzanne Jones  
Mayor

15 Attest:

\_\_\_\_\_  
Lynnette Beck  
City Clerk

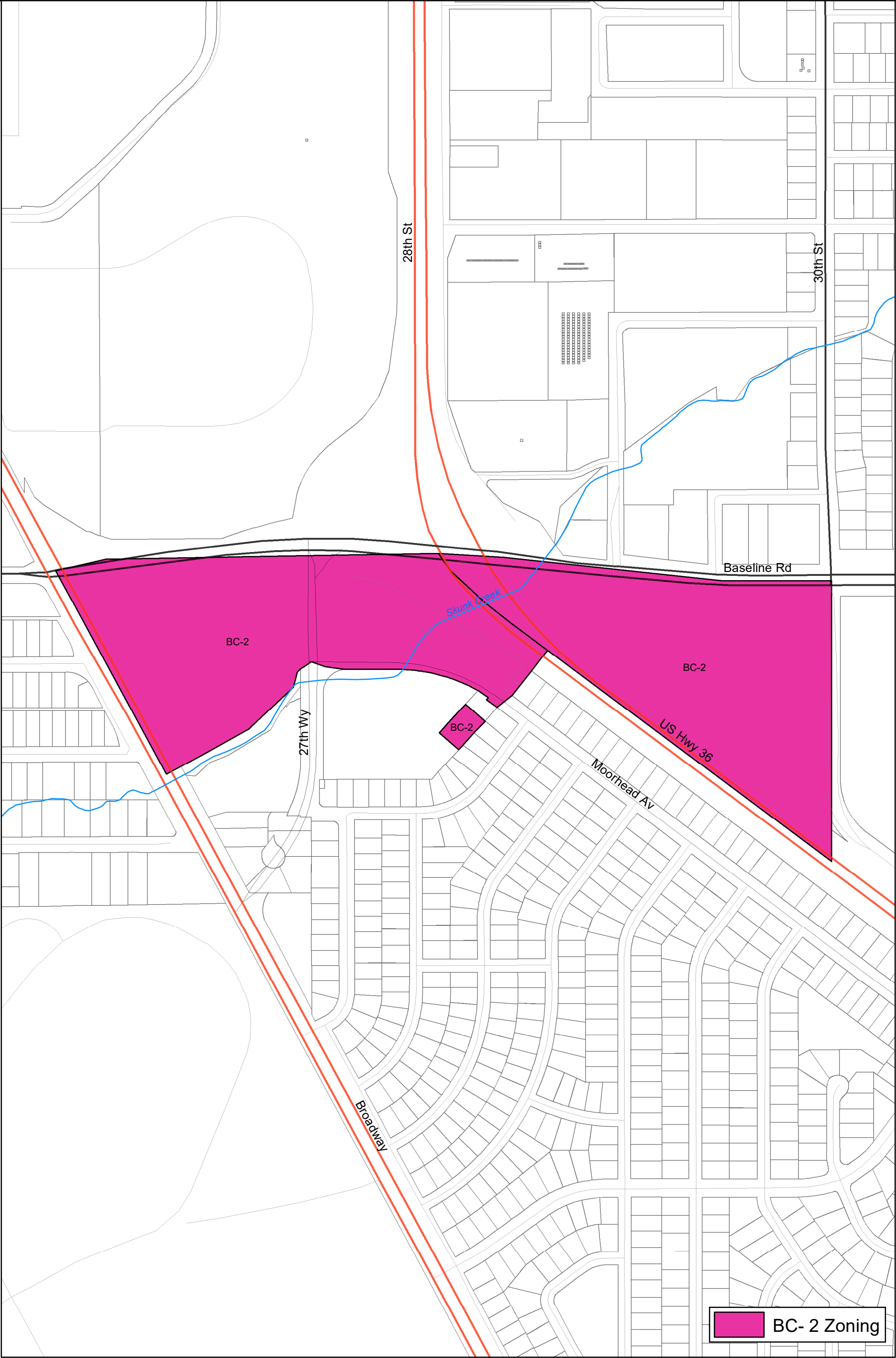
18 READ ON THIRD READING, PASSED AND ADOPTED, this \_ day of \_\_2018.

\_\_\_\_\_  
Suzanne Jones  
Mayor

23 Attest:

\_\_\_\_\_  
Lynnette Beck  
City Clerk

Appendix N - Areas in the BC-2 Zone Where Residential Uses are Prohibited on the Ground Floor Except by Use Review



Add the following section to the proposed ordinance 8278 (Attachment A) and reorder remaining sections.

Section 4. This ordinance shall apply to any building permit applied for after July 17, 2018. Any project for which a complete site review application has been submitted to the city prior to July 17, 2018, that proposes a residential use on the ground floor in the BC-1 or BC-2 zoning district will be permitted to establish the proposed residential use on the ground floor under the use standards of Chapter 9-6, B.R.C. 1981, in effect at the time the site review application was submitted. Such applicants shall be required to pursue such development approvals and meet all requirements deadlines set by the city manager and the Boulder Revised Code necessary to establish the proposed residential use. The applications for such project shall demonstrate compliance with all applicable laws. Any failure to meet requirements of the city manager or this ordinance will result in a denial of such application. Any subsequent application shall meet the requirements in place at the time of the application.



**Scott Sarbaugh  
SK4 Properties LLC  
737 8<sup>th</sup> Street  
Boulder, CO 80302  
303-995-1618 or scott@sarbaugh.com**

September 6, 2018

City of Boulder  
Planning Board  
1777 Broadway  
Boulder, CO 80302

Dear Planning Board:

I just received yesterday, (enough notice?) a notice of public hearing for tonight concerning the BC zoning change eliminating ground floor residential.

Although I understand the intent of preserving retail neighborhood shopping, the unintended consequences ripple through our community. I am speaking specifically to the East Whittier neighborhood on the east side of 27<sup>th</sup> street where the underdeveloped parcels of land contain single family houses, currently used for residential use.

Many of these homes are over 50 years old, and although not landmarked, would be considered having historic significance. The most anticipated change in this area for the future, would be to convert the residential use to offices, or possibly some service retail. In doing so, the most likely development is to move the residential component to the rear of the lots and utilize parking off the alley.

Because these lots are approximately 7,000 square feet and the existing bungalows are approximately 1,000 square feet, none of the properties meet the threshold for a site review. If the residential component is limited to second floor only, it will produce developed product that is essentially residential over covered parking on the rear of the lots, which in my opinion is not a desirable outcome for this neighborhood. Relocating the existing residential into one or two "at grade" alley homes, such as has been done in the Whittier historic district, and converting the front homes to commercial would be the most ideal outcome of this area. This option would be eliminated under this ordinance.

In review of the staff memo of the other BC zoning options stated on page 5 and 6 of the staff report, number 4 allows these unintended consequences to be further studied while allowing the intent of the ordinance to move forward.

Based upon the information presented the following would be recommendations to consider:

- 1) Choose item 4 and only change zoning around the Basemar Shopping center which is closer to the University and not have a citywide ordinance.
- 2) Allow main floor existing residential to be relocated on the same lot on the rear at the ground level as a "by right".



September 6, 2018  
Planning Board  
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3) Because the desire of mixed-use is popular, change the minimum site review threshold to 6,000 square feet in the BC zone as opposed to the 1 acre minimum that currently exists. This allows Staff, Planning Board, and potentially Council to review small infill projects that would be beneficial to the community, without arbitrarily stating the massing and the allowable uses which have no mechanism of being able to be modified on small fill lots.

4) Allow "by right" parking reductions of up to 40% for a mixed use project utilizing existing residential housing within the BC zones. This would promote the development of mixed use and commercial as the intent of the zone while accommodating existing residential opportunities in core downtown locations.

I look forward to hearing the discussion tonight and hope these ideas make their way into your recommended ordinance to City Council for second reading. Please do not hesitate to call for further conversation, 303-995-1618.

Sincerely,



Scott Sarbaugh, Manager  
SK4 Properties LLC  
Property Owner  
2738 Pine Street  
Boulder, CO 80302  
scott@sarbaugh.com  
cc: City Council





**From:** Kurt Nordback <[knordback@yahoo.com](mailto:knordback@yahoo.com)>  
**Sent:** Thursday, September 20, 2018 3:36 PM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Cc:** boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>  
**Subject:** Development in BC zones

Dear Council,

Planning Board has on its agenda for tonight two call-up items for use reviews in BC zones. One is a proposed Starbucks to replace the existing gas station at 30th and the Diagonal; the other is a rebuild of the existing McDonald's on Baseline between 28th and 30th. In both cases, at least part of the trigger for use review is the request for a drive-thru.

By my reading, both proposals meet the use review requirements, and therefore they should be approved. However, this is in no way an endorsement of the projects. Rather, it's an indictment of the code that allows this kind of development. (That's why this is addressed to you rather than Planning Board.)

Here are my objections:

1. Both are commercial-only projects when we have a crisis-level shortage of housing. In my view most new developments today should be including housing, especially in locations like these where housing could probably be added with relatively little pushback.
2. Both make very inefficient use of land, arguably our most constrained resource. The FAR for the Starbucks is about 0.07; for McDonald's it's about 0.14. In both cases the bulk of the developed area will be devoted to cars, in the form of parking, driveways, and the drive-thrus. Is this really how we want to use land in Boulder?
3. I get that people like drive-thrus, and they may be appropriate in some instances, but they don't seem to square with Boulder's values as expressed in the TMP and BVCP. Yet the use-review standards for drive-thrus don't take the bigger picture into account.
4. Given trends and city goals in transportation and land use, both projects' designs will become less appropriate over time. And yet they will have significant embodied energy and useful building lifespans of 50 years or more. So we'll be stuck with them for a long time unless we want to throw away that embodied energy and carbon. Given building lifespans, we should be constructing for projected needs and desires at least a decade in the future, not the present and certainly not for the past -- as we arguably are in these cases.
5. Both of course are being built for multinational chains, the antithesis of the local businesses we'd like to encourage. This is not directly a land-use issue, but indirectly it is, because chain businesses tend to thrive in auto-oriented areas with large lots, lots of parking, and human-unfriendly streets. (I recently sent you a blog post from Strong Towns that discussed this.) Local businesses tend to compete better in small, flexible commercial spaces built in pedestrian-oriented mixed-use areas, and where diversity of age, size, and quality of buildings means a mix of inexpensive and pricier spaces.

I know you have a lot on your plate. But I think it would be great if you used the impetus from these two projects to begin to adjust our code, at least in the BC zones, to encourage development that's more compatible with Boulder's ideals.

Thanks for reading, and as always for your service to the community.

-- Kurt