



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: January 15, 2019**

**AGENDA TITLE:**

Third reading and consideration of a motion to adopt Ordinance 8296, 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 and other ground floor uses and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Thomas A. Carr, City Attorney  
David Gehr, Chief Deputy City Attorney  
Chris Meschuk, Asst. City Manager/Interim Director of Planning  
Charles Ferro, Development Review Manager, Planning  
Karl Guiler, Senior Planner / Code Amendment Specialist

**EXECUTIVE SUMMARY**

On Dec. 18, 2018, City Council directed staff to update draft Ordinance 8296 relative to preserving commercial retail uses in the Business Community (BC) zoning districts for consideration at third reading as follows:

1. Exempt any projects that had complete Technical Document submitted to the city for review at the time of first reading of the ordinance;
2. Apply any new BC provisions to the following neighborhood centers only: 1) Basemar/Baseline Zero area, 2) Table Mesa Shopping Center, 3) 55<sup>th</sup> and Arapahoe, 4) Ideal Market and Community Plaza (including Alpine Balsam), 5) Meadows Shopping Center and 6) Diagonal Plaza.
3. Prohibit lodging uses (hotels, motels) from the BC zones;

4. Consider other uses for the more restrictive use category as opposed to keeping them as “A” (i.e., Allowed) uses.
5. Cap some non-retail / non-residential uses and only allow expansion above the specified percentage with Use Review approval, and
6. Encourage parking lots for park and ride uses as “by-right” but discourage other “parking as a principal use” applications through a Use Review requirement.

Based on this council direction, staff has prepared an updated ordinance in **Attachment A**, which moves away from the previous approach of creating a new use category of “B” to the more standard use of “conditional” use to specifically regulate uses subject to listed criteria. The ordinance contains a new Appendix N, “Business Community (BC) Areas Subject to Special Use Restrictions”, which specifies the BC areas subject to the new conditional standards. The use table has been revised to show residential uses and other non-neighborhood serving type uses as conditional uses (denoted as “C” in the table) subject to new criteria found in a new code section 9-6-10, “Specific Use Standards for Business Community applications within BC areas designated in Appendix N”. Uses within other BC zones outside the areas shown in Appendix N would be considered “by-right”. A more detailed description of the changes can be found in the “Analysis” section below.

City Council has considered several draft ordinances intended to preserve commercial retail uses in the Business Community – 1 (BC-1) and Business Community -2 (BC-2) zoning districts by restricting residential and other ground floor uses to maintain the generally retail and neighborhood serving character of BC areas. The first ordinance reviewed was on [July 17, 2018](#), which passed on first reading, and the second reading review occurred on [Oct. 2, 2018](#) when council requested changes to the ordinance. The changes were incorporated as a new first reading ordinance presented on [Oct. 16, 2018](#). A newer version of the ordinance was discussed by council at a public hearing on [Dec. 18, 2018](#) where council provided additional feedback for revisions. The attached ordinance within **Attachment A** includes the requested changes by City Council and is proposed for adoption on third reading unless additional changes are requested. **Attachment B** contains a map showing all BC zones throughout the city.

## **BACKGROUND**

In July 2018, two Council members 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 Ordinance 8278 on first reading on July 17, 2018 prohibiting residential uses on the ground floor in the BC-1 and BC-2 zoning districts. Planning Board considered the proposed ordinance 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 – particularly because it would render some residential uses nonconforming. 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 finding that the residential growth pressures of that area may be more so than in other parts of the city.

On Oct. 2, 2018, staff presented several zoning options to the City Council with the intent of preserving ground floor retail and commercial uses in the Business Community (BC) zoning districts with the goal being to allow uses on the ground floor that will not adversely affect the intended function and character of the area as a neighborhood serving business area where retail-type stores predominate. The staff memorandum detailing the different zoning options presented at that time can be found [here](#) (see page 237).

While the council expressed a range of opinions on whether to apply the restrictions citywide or to specific areas within the BC zones, there was consensus that the issue should be addressed based on relevant growth pressures that come from the allowance of doing residential development by right in the BC zones.

After some discussion, the council expressed interest in an option that would apply the ground floor restriction citywide in the BC zones as long as it did not make existing residential uses non-conforming and also incentivized neighborhood serving ground floor retail, personal service uses, and dining and entertainment uses as opposed to other commercial uses like offices or hotels etc.

With that guidance, staff brought forward a new version of the ordinance intended to address the overall goal of preserving neighborhood serving uses on the ground floor in BC retail areas. On Dec. 6<sup>th</sup>, Planning Board reviewed the ordinance and recommended approval of the ordinance on a vote of 6 to 0. A summary of the discussion can be found within the “Board and Commission Feedback” portion of this memorandum.

On Dec. 18, 2018, Council members offered suggestions to limit the percentage of office and similar uses in the BC zones to generally encourage retail over these uses. Council also expressed the sentiment that perhaps lodging uses (e.g., hotels/motels) in these zones should be prohibited as the uses are not necessarily neighborhood serving. There was some discussion about allowing flexibility for percentage of office or allowance for residential uses on the ground floor if a project were to incorporate permanently affordable housing; however, the council was aware that such a change may be more of a complex, longer term change that should be handled with the either the Use Standards project or other code changes anticipated to address the Opportunity Zone concerns rather than an update to the ordinance for council to consider at third reading. There was interest in passing a refined version of the ordinance prior to the interim regulations expiring on Feb. 13, 2019.

Staff has attempted to incorporate the council's suggestions and has prepared an updated ordinance that narrows the scope of the changes to areas that council specified and also places more restrictions on specified uses. These changes are found within the updated ordinance in **Attachment A** and discussed in more detail in the "Analysis" section below.

## STAFF RECOMMENDATION

*Suggested Motion Language:*

*Motion to adopt Ordinance 8296 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 and other ground floor uses and setting forth related details.*

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic –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)."

Sales tax is largely generated by retail-type stores and is a significant source of revenue that funds ongoing core city services. 2017 sales tax revenue was flat and through October 2018, year-to-date sales tax revenue increased 2.64% over the same period in 2017. While total year-to-date sales and use tax revenue increased 9.20%, much of that increase is considered one-time revenue because it is attributable to strength in business use tax, construction use tax and audit revenue which is very volatile. One-time revenue is important to fund one-time expenses, but is not considered to be available to fund ongoing expenses. Total 2018 annual sales and use tax revenue will be known mid-February. Total annual revenue results are significantly impacted by December, the largest collection month, as it includes holiday spending and has monthly, quarterly and annual tax return filings.

- 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 – Staff plans to review new conditional use review applications with existing staff resources but depending on volume, additional staff may be necessary in the future.

### **BOARD AND COMMISSION FEEDBACK**

The Planning Board has reviewed and made recommendations on two ordinances related to BC zoning. The first review was on Sept. 6, 2018, where Planning Board discussed several zoning 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 Planning Board reviewed the current ordinance (**Attachment A**) on Dec. 6, 2018 and recommended approval on a vote of 6 to 0. The motion is below:

On a motion by **C. Gray** seconded by **B. Bowen** the Planning Board voted 6-0 (**P. Vitale** absent) to recommend approval of Ordinance 8296 subject to the findings within the staff memorandum.

While the board members supported the ordinance, some board members felt that a reactionary approach to the BC zones was not preferable and that such changes should

occur only after more deliberative planning effort with community outreach. Another board member felt that the ordinance was important in light of impacted retail revenues and residential growth pressures and found that it should be promptly passed. One board member found that the proposed additional criteria on surrounding use context (see 'Proposed Language' on page 6) applied to projects requesting a Use Review was redundant based on other Use Review criteria and should be removed. The board member proposed an amendment that would have removed the extra language and the motion failed on a 3 to 3 vote (see below):

Amendment to the Motion by **H. Zuckerman**, seconded by **B. Bowen**, to remove the language after "B.R.C. 1981" where all underlined language appears in the draft Ordinance 8296. 3-3 (**L. Payton, J. Gerstle** and **C. Gray** opposed; **P. Vitale** absent). Motion failed.

Planning Board comments on the ordinance are based on the previous version of the ordinance and not the updated ordinance in **Attachment A**. These comments can be accessed as an attachment to the [Dec. 18, 2018 staff memorandum](#).

## **PUBLIC FEEDBACK**

Previous public comments on the prior changes are included in the attachments to the prior memoranda to council on the BC zoning district changes. Written public comment received since the previous memo are found in **Attachment C**.

One speaker at the Dec. 18, 2018 public hearing expressed concern about how a current by-right project submitted for Technical Documents review may be impacted if any additional provisions beyond just restrictions on ground floor uses are adopted by City Council. The representative of Coburn Development, which is working on the project, spoke to council about this concern on Dec. 18<sup>th</sup> and also expressed caution about the proposed changes to the BC zones being too restrictive and potentially damaging to properties that are trying to respond to market conditions.

Staff continues to inform property owners that have expressed interest in the proposed code change of any upcoming City Council meetings.

## ANALYSIS

### Updated Ordinance 8296

On Dec. 18, 2018, City Council directed staff to update Ordinance 8296 for consideration at third reading as follows:

1. Exempt any projects that had complete Technical Document submitted to the city for review at the time of first reading of the ordinance;
2. Apply any new BC provisions to the following neighborhood centers only: 1) Basemar/Baseline Zero area, 2) Table Mesa Shopping Center, 3) 55<sup>th</sup> and Arapahoe, 4) Ideal Market and Community Plaza (including Alpine Balsam), 5) Meadows Shopping Center and 6) Diagonal Plaza.
3. Prohibit lodging uses (hotels, motels) from the BC zones;
4. Consider other uses for the more restrictive use category as opposed to keeping them as “A” (i.e., Allowed) uses.
5. Cap some non-retail / non-residential uses and only allow expansion above the specified percentage with Use Review approval, and
6. Encourage parking lots for park and ride uses as “by-right” but discourage other “parking as a principal use” applications through a Use Review requirement.

As stated earlier in the memorandum, council members discussed the possibility of requiring permanently affordable housing on site, allowing residential on the ground floor or maximum bedroom requirements in exchange for relaxed provisions above related to maximum percentages. Staff has listened to the discussion several times and determined that the council felt that these options should be considered, but not necessarily in the short-term changes intended for the attached ordinance in **Attachment A**.

Based on the council direction on Dec. 18, staff has prepared an updated ordinance, which moves away from the previous approach of creating a new use category of “B” to the more standard use of “conditional” use to specifically regulate uses subject to listed criteria. The ordinance contains a new Appendix N, “Business Community (BC) Areas Subject to Special Use Restrictions”, which specifies the BC areas subject to the new conditional standards. Given the extent of criteria and the need for an additional level of review prior to building permit, the conditional use approach would be appropriate and follows the current code structure of requiring staff level conditional use review applications for uses that have to meet specific criteria. Conditional use applications are staff level and a fee of \$274 is proposed for any change or modification of use in the BC areas subject to the regulations.

Therefore, the use table has been revised to show residential uses and other non-neighborhood serving type uses as conditional uses (denoted as “C” in the table) subject to new criteria found in a new code section 9-6-10, “Specific Use Standards for Business Community applications within BC areas designated in Appendix N”. Uses within other BC zones outside the areas shown in Appendix N would be considered “by-right”. Below is a list of other changes in response to council requests:



<b>Request Number(s)*</b>	<b>Description/Title</b>	<b>Solution</b>
1	Exempt Technical Document projects	Section 4 of the proposed ordinance would exempt any project that had a complete Technical Documents application submitted within the BC zone prior to the first reading of the latest ordinance on Oct. 16, 2018.
2	Apply the new regulations to specified BC areas	A new “Appendix N – Business Community areas subject to special use restrictions” has been added and includes a map that includes the areas specified in #2 above.
3	Prohibit lodging uses in BC zones	Lodging uses (e.g., hotels, motels, and hostels) have been changed from an allowed use (“A”) to a prohibited use (“*”). Existing lodging uses in the BC zones would be considered legal non-conforming uses with limited expansion potential.
4	Consider other uses to be in the conditional use category	Based on City Council feedback, staff has added additional uses to the conditional use category including, museums, government facilities, adult education, business support services and parking lots/garages. Other educational uses were discussed at the Dec. 18, 2018 hearing, such as public and private schools. Staff considers schools as integral to neighborhoods and has left the uses as “allowed”; however, staff could change such uses to “C” if desired by council.
5	Limit non-residential to 10 percent. Exceptions could be requested through Use Review	Non-residential uses would be limited to 10 percent of the total floor area of a site or area combined by Site Review or Planned Unit Development (PUD), otherwise by Use Review. Ten percent was suggested by council, but other percentage limitations could also be considered. Neighborhood serving uses and retail etc. will continue to be incentivized “A” uses (Allowed uses)
6	Encourage parking lots for park and ride uses as “by-right” but discourage other “parking as a principal use”	Automobile parking is by-right if used for park and ride uses, but otherwise through Use Review is not serving uses on the site. This issue was raised at the Dec. 18, 2018 public hearing where some council members inquired as to why automobile parking as a principal use remained an allowed use. Staff has modified it to a conditional use, but has incentivized park and ride use to encourage accessibility to transit.

\*Correlates to the numbers above



## **NEXT STEPS ON ADDITIONAL BC CHANGES**

At the Dec. 18 council meeting, some council members expressed interest in more substantial changes to the Business Community zones. At the meeting, staff suggested that it return to council with a scope of work for the more significant work items. Those changes include:

- The possibility of requiring permanently affordable housing on site, allowing residential on the ground floor or maximum bedroom requirements in exchange for relaxed provisions above related to maximum percentages.
- Creation of new BC zoning districts based on a typology of strip retail, neighborhood centers, and scattered BC zones.

Based on the adoption of the opportunity zone moratorium, staff would like to consider these potential changes in the context of the other code updates related to the opportunity zone, and will be prepared with options for the council retreat.

## **ATTACHMENTS**

- A: Updated Ordinance 8296 including a new Appendix N - Business Community areas subject to special use restrictions
- B: Map showing location of the BC zoning districts
- C: Public comment

## ORDINANCE 8296

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO PRESERVE COMMERCIAL RETAIL USES BY RESTRICTING OTHER GROUND FLOOR USES IN THE BUSINESS-COMMUNITY 1 (BC-1) AND BUSINESS-COMMUNITY 2 (BC-2) ZONING DISTRICTS 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 REVIEWS</b></i>	<i><b>II. ADMINISTRATIVE REVIEWS - CONDITIONAL USES</b></i>	<i><b>III. DEVELOPMENT REVIEW AND BOARD 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 Buildings Not Designated,"	Cooperative Housing Units	
Buildings Not Designated,"	Daycare Centers	

1	B.R.C. 1981		Form-based code review
2	Easement vacation	Detached Dwelling Units with Two Kitchens	
3	Extension of development approval/staff level	Drive-Thru Uses	Landmark alteration certificates other than those that may be approved by staff per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981
4		Group Home Facilities	
5	Landmark alteration certificates (staff review per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981)	Home Occupations	
6		Manufacturing Uses with Off-Site Impacts	Lot line adjustments
7			
8	Landscape standards variance	Medical or Dental Clinics or Offices or Addiction Recovery Facilities in the Industrial General Zoning District near the Boulder Community Health Foothills Campus	Lot line elimination
9			Minor Subdivisions
10	Minor modification to approved site plan		Out of city utility permit
11			Rezoning
12	Minor modification to approved form-based code review	Neighborhood Service Centers	Site review
13			Subdivisions
14	Nonconforming use (extension, change of use (inc. parking))	Offices, Computer Design and Development, Data Processing,	Use review
15		Telecommunications, Medical or Dental Clinics and Offices, or Addiction Recovery Facilities in the Service Commercial Zoning Districts	
16	Parking deferral per Subsection 9-9-6(e), B.R.C. 1981		Vacations of street, alley, or access easement
17	Parking reduction of up to fifty percent per Subsection 9-9-6(f), B.R.C. 1981	Recycling Facilities	
18			
19	Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), B.R.C. 1981	Religious Assemblies	
20			
21		Residential Care, Custodial Care, and Congregate Care Facilities	
22	Parking stall variances		
23	Public utility	Residential Development in Industrial Zoning Districts	
24	Rescission of development approval		
25			

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

Section 2. Section 9-6-1 "Schedule of Permitted Land Uses," B.R.C. 1981, and that portion of Table 6-1 labeled "Use Table" related to the BC-1 and BC-2 zones in Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, is amended 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 9-6-109, 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 9-6-109, 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) 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.
- (6) 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.
- (7) Prohibited Uses: An asterisk symbol ("\*") in a cell indicates that the use type is prohibited in the zoning district.
- (8) 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 9-6-109, 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."
- (9) n/a: Not applicable; more specific use applications apply.
- (b) Interpretation: The city manager may decide questions of interpretation as to which category uses not specifically listed are properly assigned to, based on precedents, similar situations, and relative impacts. Upon written application, the BOZA may determine whether a specific use not listed in Table 6-1 of this section is included in a specific use category. Any use not specifically listed in Table 6-1 of this section is not allowed unless it is determined to be included in a use category as provided by this section.
- (c) Multiple Uses of Land Permitted: Permitted uses, conditional uses, and uses permitted by use review may be located in the same building or upon the same lot.
- (d) Use Table:

**TABLE 6-1: USE TABLE**

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Form Based Code Areas Uses		Appendix M
<b>Residential Uses</b>		
Detached dwelling units	<u>AC</u>	9-8-4 9-6-3(j) <u>9-6-10</u>
Detached dwelling unit with two kitchens	*	9-6-3(b)
Duplexes	<u>AC</u>	9-8-4 9-6-3(j) <u>9-6-10</u>
Attached dwellings	<u>AC</u>	9-8-4 9-6-3(j) <u>9-6-10</u>
Mobile home parks	*	
Townhouses	<u>AC</u>	9-8-4 9-6-3(h) <u>9-6-10</u>
Live-work	*	
Attached dwelling units outside of the University Hill general improvement district	n/a	
Attached dwelling units and efficiency living units in the University Hill general improvement district	n/a	9-6-3(i)
Efficiency living units outside of the University Hill general improvement district:		

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
A. If <20% of total units	<u>AC</u>	<u>9-6-10</u>
B. If ≥20% of total units	U	<u>9-6-10</u>
Accessory units:		
A. Accessory dwelling unit	*	9-6-3(a)
B. Owner's accessory unit	*	9-6-3(a)
C. Limited accessory unit	*	9-6-3(a)
Caretaker dwelling unit	*	
Group quarters:		
A. Congregate care facilities	<u>AC</u>	9-3-2(i) 9-6-3(e)
B. Custodial care	U	<u>9-6-3(e)</u>
C. Group homes	C	9-3-2(i) 9-6-3(c)
D. Residential care facilities	C	9-6-3(e)
E. Fraternities, sororities and dormitories	<u>AC</u>	9-3-2(i) <u>9-6-10</u>
F. Boarding houses	<u>AC</u>	<u>9-6-10</u>
Fraternities, sororities, dormitories, and boarding houses outside the University Hill general improvement district	n/a	



<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Fraternities, sororities, dormitories, and boarding houses in the University Hill general improvement district	n/a	
Home occupation	C	9-6-3(d)
Transitional housing	C	9-6-3(g)
<b>Dining and Entertainment</b>		
Art or craft studio space ≤2,000 square feet	A	
Art or craft studio space >2,001 square feet	A	
Breweries, distilleries or wineries <15,000 square feet and with a restaurant	*	9-6-5(b)(3.5)
Breweries, distilleries or wineries <15,000 square feet and without a restaurant	*	
Breweries, distilleries or wineries with or without a restaurant >15,000 square feet	*	9-6-5(b)(3.5)
Commercial kitchens and catering	*	
Indoor amusement establishment	U	

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Mobile food vehicle on private property	C	9-6-5(d)
Mobile food vehicle on public right-of-way	*	9-6-5(d)
Museums	<u>AC</u>	<u>9-6-10</u>
Restaurants (general)	n/a	9-6-5(b)
Restaurants, brewpubs, and taverns no larger than 1,000 square feet in floor area, which may have meal service on an outside patio not more than 1/3 the floor area, and which close no later than 11 p.m.	n/a	
Restaurants, brewpubs, and taverns outside the University Hill general improvement district - no larger than 1,500 square feet in floor area, which may have meal service on an outside patio not more than 1/3 the floor area, and which close no later than 11 p.m.	A	9-6-5(b)
Restaurants, brewpubs, and taverns over 1,000 square feet in floor area, or which close after 11 p.m., or with	n/a	

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
an outdoor seating area of 300 square feet or more		
Restaurants, brewpubs, and taverns outside of the University Hill general improvement district that are: over 1,500 square feet in floor area or which close after 11 p.m.	A	
Restaurants, brewpubs, and taverns in the University Hill general improvement district	n/a	9-6-5(b)(2)
Restaurants, brewpubs, and taverns with an outdoor seating area of 300 square feet or more within 500 feet of a residential zoning district	U	
Small theater or rehearsal space	U	
Taverns (general)	n/a	
Temporary outdoor entertainment	C	9-6-5(c)
<b>Lodging uses:</b>		
Hostels	<u>A*</u>	9-3-2(i)

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Bed and breakfasts	*	9-3-2(i) 9-6-5(a)
Motels and hotels	<del>A</del> *	9-3-2(i)
<b>Public and Institutional Uses</b>		
Airports and heliports	*	9-3-2(i)
Cemeteries	*	
Daycare, home	*	
Daycare center with ≤50 children or adults (excluding employees)	A	9-3-2(i) 9-6-6(a)
Daycare center with >50 children or adults (excluding employees)	A	9-3-2(i) 9-6-6(a)
Day shelter	C	9-6-6(b)
Emergency shelter	C	9-3-2(i) 9-6-6(b)
Essential municipal and public utility services	<del>A</del> C	9-3-2(i) <u>9-6-10</u>
Governmental facilities	<del>A</del> C	9-3-2(i) <u>9-6-10</u>
Mortuaries and funeral chapels	U	
Nonprofit membership clubs	A	

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Overnight shelter	C	9-3-2(i) 9-6-6(b)
Private elementary, junior and senior high schools	A	9-3-2(i)
Public elementary, junior and senior high schools	A	9-3-2(i)
Public colleges and universities	A	
Private colleges and universities	A	
Public and private office uses providing social services	<u>AC</u>	<u>9-6-10</u>
Religious assemblies	A	
Adult educational facility with <20,000 square feet of floor area	<u>AC</u>	<u>9-6-10</u>
Adult educational facilities with ≥20,000 square feet or more of floor area	<u>AC</u>	<u>9-6-10</u>
Vocational and trade schools	<u>AC</u>	<u>9-6-10</u>
<b>Office, Medical and Financial Uses</b>		
Data processing facilities	<u>AC</u>	9-6-7 <u>9-6-10</u>
Financial institutions	<u>AC</u>	9-6-7 <u>9-6-10</u>

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Hospitals	*	9-3-2(i)
Medical or dental clinics or offices or addiction recovery facilities	<u>AC</u>	9-3-2(i) 9-6-7 <u>9-6-10</u>
Medical and dental laboratories	<u>AC</u>	<u>9-6-10</u>
Offices, administrative	<u>AC</u>	9-6-7 <u>9-6-10</u>
Offices, professional	<u>AC</u>	9-6-7 <u>9-6-10</u>
Offices, technical; with <5,000 square feet of floor area	<u>AC</u>	9-6-7 <u>9-6-10</u>
Offices, technical; with >5,000 square feet of floor area	<u>AC</u>	9-6-7 <u>9-6-10</u>
Offices - other	<u>AC</u>	9-6-7 <u>9-6-10</u>
<b>Parks and Recreation Uses</b>		
Camp-grounds	*	
Outdoor entertainment	U	
Park and recreation uses	A	
Indoor recreational or athletic facilities	A	

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
<b>Commercial, Retail and Industrial Uses</b>		
Service Uses:		
Animal hospital or veterinary clinic	A	
Animal kennel	U	
Broadcasting and recording facilities	<u>AC</u>	9-3-2(i) <u>9-6-10</u>
Business support services <10,000 square feet	<u>AC</u>	<u>9-6-10</u>
Business support services ≥10,000 square feet	<u>AC</u>	<u>9-6-10</u>
Industrial service center	*	9-6-9(j)
Non-vehicular repair and rental services without outdoor storage	U	
Neighborhood business center	*	9-6-9(f)
Personal service uses	A	
Wireless communications facilities	C	9-6-9(a)
<b>Retail Sales Uses:</b>		



1	<b>Zoning District</b>	<b>BC-1, BC-2</b>	
2	<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
3	Accessory sales	C	9-16
4	Convenience retail sales ≤2,000 square feet	A	
5	Convenience retail sales >2,000 square feet	A	
6	Retail fuel sales (not including service stations)	C	9-6-9(d)
7	Retail sales ≤5,000 square feet	A	
8	Retail sales >5,000 square feet but ≤20,000 square feet	A	
9	Retail sales >20,000 square feet	U	
10	Building material sales ≤15,000 square feet of floor area	*	
11	Building material sales >15,000 square feet of floor area	U	
12	Temporary sales	C	9-6-5(c)
13	<b>Vehicle-Related Uses:</b>		
14	Automobile parking lots, garages or car pool lots as a principal use	<u>AC</u>	9-6-9(b) <u>9-6-10</u>

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Car washes	U	
Drive-thru uses	U	9-6-9(c)
Fuel service stations or retail fuel sales	C	9-6-9(d)
Sales and rental of vehicles	U	
Sales and rental of vehicles within 500 feet of a residential use module	U	9-6-9(i)
Service of vehicles with no outdoor storage	U	
Service of vehicles with limited outdoor storage	U	
<b>Industrial Uses:</b>		
Building and landscaping contractors	*	
Cleaning and laundry plants	*	
Cold storage lockers	*	
Computer design and development facilities	<u>AC</u>	9-6-7(a) <u>9-6-10</u>
Equipment repair and rental with outdoor storage	U	
Lumber yards	*	

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Manufacturing uses ≤15,000 square feet	*	
Manufacturing uses >15,000 square feet	*	
Manufacturing uses with potential off-site impacts	*	9-6-9(e)
Outdoor storage	*	
Outdoor storage of merchandise	C	9-6-9(g)
Printers and binders	*	
Recycling centers	*	
Recycling collection facilities - large	U	9-6-9(h)
Recycling collection facilities - small	C	9-6-9(h)
Recycling processing facilities	*	9-6-9(h)
Self-service storage facilities	*	
Telecommunications use	<u>AC</u>	<u>9-6-10</u>
Warehouse or distributions facilities	*	

<b>Zoning District</b>	<b>BC-1, BC-2</b>	
<b>Use Modules</b>	<b>B3</b>	<b>Specific Use Standard</b>
Wholesale business	*	
<b>Agriculture and Natural Resource Uses</b>		
Open space, grazing and pastures	*	
Community gardens	C	9-6-4(a)
Crop production	*	
Mining industries	*	
Firewood operations	*	
Greenhouse and plant nurseries	*	
<b>Accessory</b>		
Accessory buildings and uses	A	9-16

**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.

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

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

4 Section 3. Section 9-6-3, "Specific Use Standards – Residential Uses," B.R.C. 1981, is  
5 amended by adding the following paragraphs:

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

7 ...

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

9 ...

10 (5) Group home uses allowed in the BC-1 and BC-2 districts shall not be located on the  
11 ground floor, with the exception of minimum necessary ground level access. The use may  
12 be located on the ground floor only if approved pursuant to Section 9-2-15, "Use  
13 Review," B.R.C. 1981. In addition to meeting the use review criteria, the applicant shall  
14 demonstrate that the use on the ground floor will not adversely affect the intended  
15 function and character of the area as a neighborhood serving business area where retail-  
16 type stores predominate. In determining whether this criterion is met, the reviewing  
17 authority shall consider the location and design of the proposed use and the existing and  
18 approved uses on the property and in the area.

19 ...

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

22 ...

23 (4) In the BC-1 and BC-2 districts, the use shall not be located on the ground floor, with the  
24 exception of minimum necessary ground level access. The use may be located on the  
25 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 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.

26 ...

27 (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. The use 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 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.

...

Section 4. A new Section 9-6-10, "Specific Use Standards for Business Community

Areas Designated in Appendix N," B.R.C. 1981, is added to read:

**9-6-10. – Specific Use Standards for Business Community Areas Designated in Appendix N.**

- (a) In the BC zoning districts, detached dwelling units, duplexes, attached dwellings, townhouses, efficiency living units, fraternities, sororities, dormitories, boarding houses, museums, essential municipal and public utility services, governmental facilities, public and private office uses providing social services, adult educational facilities, vocational and trade schools, data processing facilities, financial institutions, medical or dental clinics or offices, addiction recovery facilities, medical and dental laboratories, administrative offices, professional offices, technical offices, offices – other, broadcasting and recording facilities, business support services, computer design and development facilities, telecommunication uses, and automobile parking lots, garages or car pool lots as a principal use are permitted by right, provided that, if the use is located within an area designated in Appendix N "Business Community (BC) Areas Subject to Special Use Restrictions," the use is a conditional use, unless in a use review process, and the following conditional use standards apply:
  - (1) The use shall not be located on the ground floor, with the exception of minimum necessary ground level access.

- (2) The combined floor area of any non-residential uses subject to this section shall be limited to ten percent of the total floor area on the lot or parcel except that if the use is located within an approved site review or planned unit development, the combined floor area of any non-residential uses subject to this section shall be limited to ten percent of the total floor area within the boundaries of the site review or planned unit development approval.
- (3) A principal use of automobile parking lot or garage shall be a park and ride facility.
- (4) The standards of paragraphs (1), (2), and (3) do not apply if the use is 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 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 lot or parcel and in the area.

Section 5. Section 4-20-43, "Development Application Fees," B.R.C. 1981, is amended and a new subparagraph (b)(21) is added (below the fee for an applicant for a group home facility) and subsequent subparagraphs are renumbered, to read:

**Section 4-20-43.- Development Application Fees.**

...

(b) Land use regulation fees:

...

(21) An applicant for a conditional use in a BC zoning district pursuant to Section 9-6-10, "Specific Use Standards for Business Community Areas Designated in Appendix N," B.R.C. 1981.....\$274

...

Section 6. The Council adopts Attachment A titled "Appendix N – Business Community (BC) Areas Subject to Special Use Restrictions," as an amendment to Title 9, "Land Use Code," B.R.C. 1981.

Section 7. This ordinance shall apply to any building permit applied for after October 16, 2018. Any project for which a complete site review or technical document review application has been submitted to the city prior to October 16, 2018, that proposes a use in the BC-1 or BC-2 zoning district inconsistent with the provisions of this ordinance will be permitted to establish the



1 proposed use under the use standards of Chapter 9-6, "Use Standards," B.R.C. 1981, in effect at  
2 the time the site review or technical document review application was submitted. Technical  
3 document review applications are administrative in nature and the application date shall be the  
4 date that the fee required by Section 4-20-43, B.R.C. 1981, has been paid. Such applicants shall  
5 be required to pursue such development approvals and meet all requirements deadlines set by the  
6 city manager and the Boulder Revised Code necessary to establish the proposed use. The  
7 applications for such project shall demonstrate compliance with all applicable laws. Any failure  
8 to meet requirements of the city manager or this ordinance will result in a denial of such  
9 application. Any subsequent application shall meet the requirements in place at the time of the  
10 application.  
11

12 Section 8. The city council orders the city manager to adjust, as necessary, formatting  
13 and numbering conventions of this ordinance to be inconsistent with the current Boulder Revised  
14 Code.

15 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of  
16 the residents of the city, and covers matters of local concern.

17 Section 10. The city council deems it appropriate that this ordinance be published by title  
18 only and orders that copies of this ordinance be made available in the office of the city clerk for  
19 public inspection and acquisition.  
20  
21  
22  
23  
24  
25

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 16<sup>th</sup> day of October 2018.

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

6 Attest:

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

9 READ ON SECOND READING, AMENDED AND PASSED this 18<sup>th</sup> day of December  
10 2018.

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

15 Attest:

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

1 READ ON THIRD READING, AMENDED AND PASSED this 15<sup>th</sup> day of January 2019.

2  
3  
4 \_\_\_\_\_  
Suzanne Jones  
Mayor

5 Attest:

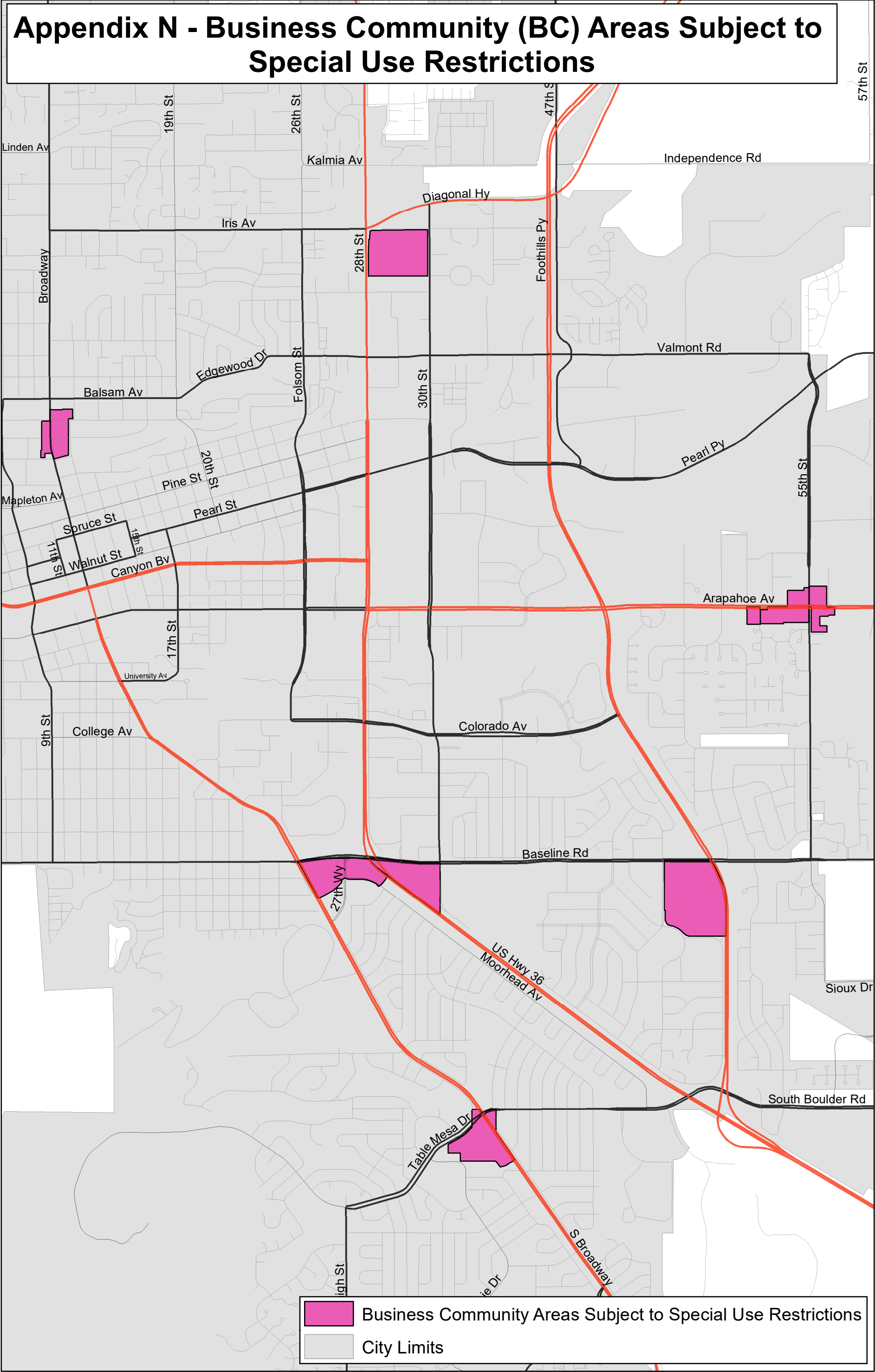
6  
7 \_\_\_\_\_  
Lynnette Beck  
City Clerk

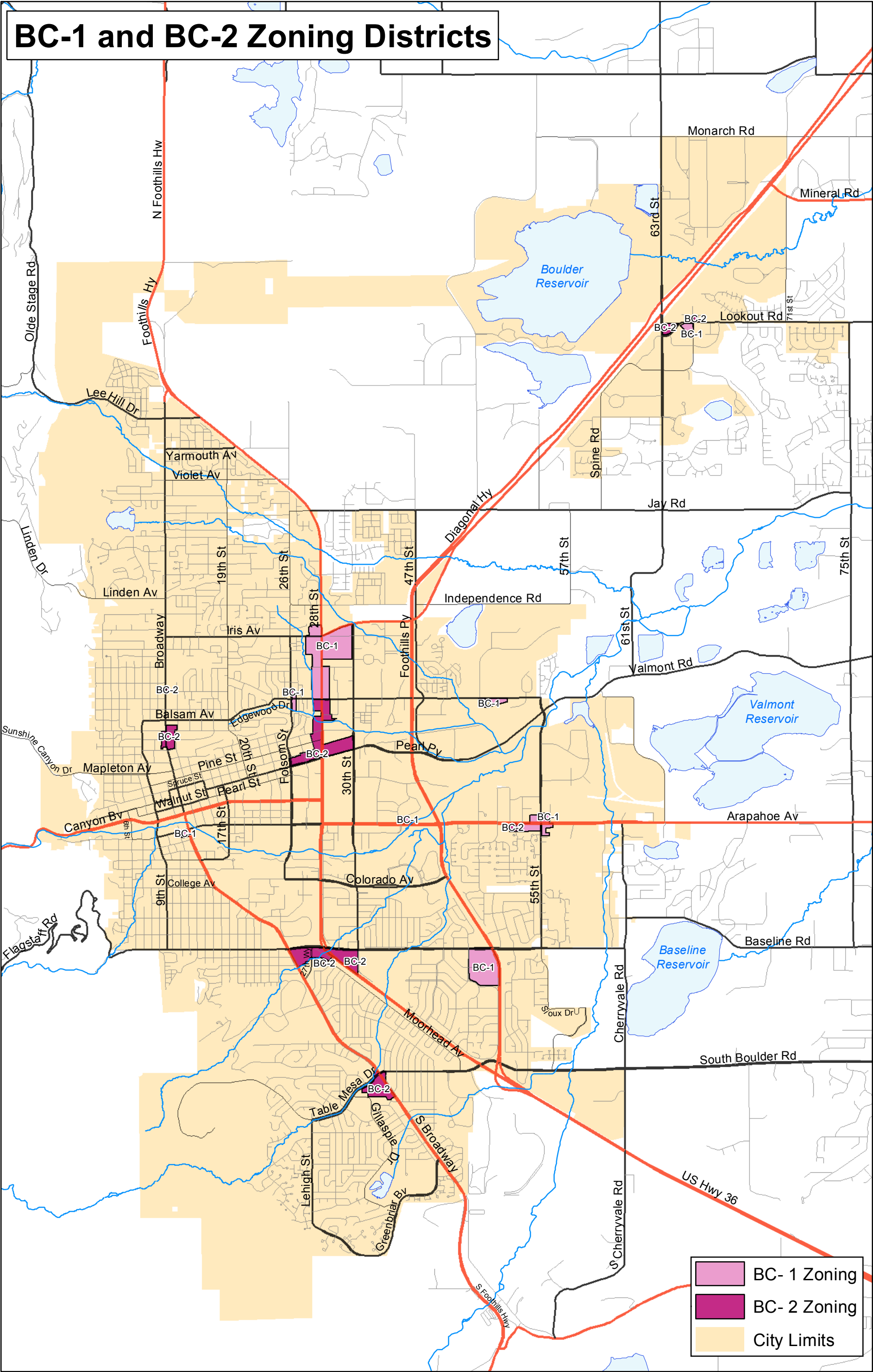
8  
9 READ ON FOURTH READING, PASSED AND ADOPTED this 5<sup>th</sup> day of February  
10 2019.

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

14 Attest:

15  
16 \_\_\_\_\_  
Lynnette Beck  
City Clerk





**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  
Page 2

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