



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: July 13, 2021

AGENDA TITLE: Consideration of a Concept Plan Review for the redevelopment of a 9.27-acre property located at 3320 28th Street, and 3265 and 3267 30th Street as a mixed-use development, which includes ground floor retail along 28th Street and the proposed Street “A”, ground floor amenity space, and upper story workforce and permanently affordable apartments. There are two options proposed: the first option includes 177 workforce apartments within five buildings and with 9,942 square feet of amenity space, a shared deck and a clubhouse, and 58 permanently affordable apartments. The second option matches the first but includes additional residential units with approximately 195 workforce apartments and 64 permanently affordable apartments; it also includes a fourth story on one of the buildings with an additional roof deck. Reviewed under case no. LUR2021-00011.

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Jacob Lindsey, Director of Planning & Development Services
Charles Ferro, Development Review Manager, Planning
Elaine McLaughlin, Senior Planner

EXECUTIVE SUMMARY

The purpose of this item is for City Council to review and comment on the Concept Plan Review application for the properties located at 3320 28th St., and 3265 and 3267 30th Street for redevelopment of the site as mixed use with a range of residential units from 235 to 259, including a range of 58 to 64 on-site permanently affordable residential units. The site is located within the southwest corner of the Diagonal Plaza Shopping Center, as shown in **Figure 1** on the following page.

On May 20, 2021, the Planning Board reviewed the proposal and provided comments to the applicant. The staff memorandum to Planning Board, meeting audio, and the applicant’s submittal materials along with other related background materials are available on the [Records Archive for Planning Board](#).



Figure 1: Site Location

On Jun. 15, 2021, the City Council voted to call-up the Concept Plan to review and comment on the proposal. No action is required on behalf of the City Council. Input and comments by the public, staff, Planning Board, and City Council will be documented for the applicant's use. Concept Plan Review is intended to give the applicant feedback on the proposed development plan and provide the applicant direction for the subsequent Site Review planning efforts.

The applicant's submittal package is provided as Attachment A to the May 20, 2021 staff memorandum to Planning Board, at this link: [Records Archive for Planning Board](#).

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** None identified.
- **Environmental:** None identified.
- **Social:** None identified.

OTHER IMPACTS

- **Fiscal:** None identified.
- **Staff time:** the application was completed under standard staff review time.

BOARD AND COMMISSION FEEDBACK

At the public hearing on May 20, 2021, the Planning Board heard presentations by staff and the applicant, and asked questions following each presentation. At the public hearing, there were 14 members of the public who spoke, with 13 of those indicating support for the proposal.

The Planning Board discussed two key issues at the public hearing:

1. Is there policy direction within the BVCP to support mixed use and higher density residential uses, through potential land use change and rezoning on the site?
2. Does Planning Board have feedback to the applicant on the conceptual site plan and architecture?

In discussing Key Issue 1, the board acknowledged that the opportunity to add residential uses, and in particular on-site permanently affordable residential units with market rate units into the city is important and addresses several [Boulder Valley Comprehensive Plan \(BVCP\) policies](#) including *Policy 1.10 Jobs/Housing Balance*; *Policy 2.16 Mixed Use and Higher Density Development*; and, *Policy 7.11 Balancing Housing Supply with Employment Base*. In the context of Key Issue 1, it was also discussed that the site is part of Diagonal Plaza which, as an underutilized and somewhat deteriorated commercial center, has long been recognized in the BVCP as a redevelopment and revitalization opportunity.

As was discussed in Key Issue 1, a primary reason that the shopping center has not been redeveloped over time is that it is comprised of multiple individual properties each controlled by separate owners. As was also discussed, City Council had directed staff in 2010 to identify approaches to redevelopment through the assistance of an Urban Land Institute Technical Assistance Panel (ULI-TAP). The ULI-TAP concluded that the best opportunity to redevelop the Diagonal Plaza Shopping Center would likely be “incrementally” and “in partnership with a housing entity such as Boulder Housing Partners.” It was noted that the Concept Plan is utilizing that approach.

Planning Board discussed the site’s context near multiple services and alternative transportation modes including highly used transit, multi-use paths, and car/bike share facilities. And it was also noted that the Diagonal Plaza area was recently added to [Appendix J Map](#) of the Land Use Code, B.R.C. 1981 that would permit requests for height modifications.

The Board acknowledged that there is interest and support for revitalization of the site, there is a need for housing, and the developer is establishing a partnership with Boulder Housing Partners for the Concept Plan. The Planning Board also discussed the limitations for providing residential uses on the site under the existing, somewhat suburban form and bulk, and density standards under the Business Community – 1 (BC-1) zoning and in turn, the board discussed potential land use changes or rezoning for the property.

In that discussion, the board acknowledged that the existing zoning does not allow for the number of residential units proposed in the Concept Plan. The BC-1 zoning restricts density based on the provision of 1,200 square feet of open space per dwelling unit that necessitates a significant area of the site as required open space for residential uses and,

in effect, limiting the number of residential units that could be placed on this opportunity site.

Instead, the board discussed alternative zoning for the site, and the applicant's submittal suggested that rezoning to the higher intensity Business Community – 2 (BC-2) zoning district would allow for a greater number of units. Under BC-2 zoning density is based on 600 square feet of open space per dwelling unit and through Site Review, that requirement can be reduced to 400 square feet of open space per dwelling thus achieving a greater number of both “workforce” or market rate housing and, in turn, a greater number of on-site permanently affordable residential units.

The challenge in rezoning to BC-2 that was discussed in Planning Board was that it would not be supported in the rezoning criteria of the [Land Use Code Section 9-2-19, B.R.C. 1981](#) since the only criterion that is usually applied is criterion (a)(1), *“that the applicant demonstrates that the rezoning is necessary to come into compliance with the BVCP Map.”*

The reason that there is typically application of only criterion (a)(1) is based on the intent of rezoning defined in [Land Use Code Section 9-2-19, B.R.C. 1981](#) stipulates, *“that zoning is the result of a detailed and comprehensive appraisal of the city’s present and future land use allocation needs.”* Staff has concluded that outside of a more comprehensive planning process to evaluate future needs of an area, other rezoning criteria would not apply. Because the higher intensity BC-2 zoning is considered to already be in compliance with the BVCP map, criterion (a)(1) would not apply. Other criteria, not often used, include criterion (a)(5) that, *“the land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area”* was also not relevant since the area has remained relatively static and unchanged.

Staff noted in the discussion that the proposal represents an unusual circumstance where there is an inability to make findings based on the rezoning criteria solely because the existing zoning is conforming to the BVCP land use designation (BC-1). It was noted that this may reflect a need to add a new rezoning criterion under [Land Use Code Section 9-2-19, B.R.C. 1981](#) that would permit a rezoning from one zoning district to another zoning district when both fall within the same land use category or in the case of the provision of a greater number of residential units through the rezoning.

The other approach Planning Board discussed was that the applicant could consider a request for a BVCP Land Use designation change to a higher intensity land use concurrently with a rezoning request. The applicant expressed interest in a Mixed Use Business Land Use that would include a rezoning to Business Main Street (BMS) or Mixed Use - 4 (MU-4) zoning. Some of the board members expressed concerns that those zoning districts would not create family-friendly residential units such as single family or townhome type units. An example was given by one board member of the RMX-1 zoning of the Holiday Neighborhood. Overall, however, the board noted that the proposed Concept Plan was good and that if the applicant pursues a Land Use Map

designation change and a rezoning, that the future zoning should allow for a mix and range of residential unit types. There was also interest expressed by board members, as well as by members of the public, that the process to achieve additional residential units on the site not be a long or protracted process for this site since it is a good opportunity for redevelopment to address the city-wide need for housing.

Given the timeline to process land use designation changes and rezoning, the board also indicated support for other mechanisms that the city could utilize on the site. Among the approaches discussed was to look at processing code changes that could allow for a reduction in open space per dwelling unit standard for BC-1 zoning districts, similar to what BC-2 allows (as described above); or consideration of density modifications under BC-1 zoning if on-site permanently affordable residential is built. The Planning Board discussed potentially looking at incentives for affordable housing through the Community Benefit code change project. However, since the time of the Planning Board discussion, the scope and schedule for the Community Benefit code change project has become uncertain given that the ordinance was tabled by City Council on June 15, 2021.

Regarding Key Issue 2, the board provided feedback to the applicant team regarding the site plan and architecture. Regarding the site plan, the board concurred with staff's recommendations that the applicant look for ways to better frame the large community garden and park with residential units rather than parking and roadways, and in turn better knit the existing BHP Diagonal Court townhomes site into the planned community garden and park.

In terms of the architecture, the board acknowledged that the renderings illustrated an attractive albeit preliminary design concept. They noted that with the recent inclusion of the site into the Land Use Code Appendix J map, that opportunities for varied or pitched roof forms for some of the buildings, as well as height modifications could be supportable.

PUBLIC FEEDBACK

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property. A sign was posted on the property a minimum of 10 days prior to the hearing. Staff has received one emailed comment, not specific to the Concept Plan but related to a concern about height modifications at Diagonal Plaza. At the Planning Board hearing, there were 14 members of the public who spoke on the subject. Of those who spoke 13 appeared to be in support of the Concept Plan, particularly with regard to the provision of additional residential (above the zoning allowance) and the need for revitalization of Diagonal Plaza. In addition, a spokesperson for Community Cycles noted that the site is located in a good multi-use context and acknowledged the consistency of the proposed plan with the [North 28th Street Transportation Network Plan](#).

BACKGROUND & ANALYSIS

For the background and analysis of the proposed project, refer to the Concept Plan Review Memorandum to the Planning Board and Project Plans contained within the May 20, 2021 [Records Archive for Planning Board](#). The link also includes public comments received

and a link to the meeting audio. In addition, council may access the recorded on-line discussion via the [May 20, 2021 Boulder Channel 8 Planning Board video](#). Refer to **Attachment A** of this memo for the draft minutes from that hearing.

MATRIX OF OPTIONS

No action is required on behalf of the City Council. Input and comments by the public, staff, Planning Board, and City Council will be documented for the applicant's use. Concept Plan review and comment is intended to give the applicant feedback on the proposed development plan and provide the applicant direction on submittal of the site review plans.

ATTACHMENTS

- A. Draft Planning Board Minutes dated May 20, 2021

**CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
May 20, 2021
Virtual Meeting**

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

PLANNING BOARD MEMBERS PRESENT:

Jorge Boone
David Ensign, Chair
Lupita Montoya
Sarah Silver
Lisa Smith
Peter Vitale

PLANNING BOARD MEMBERS ABSENT:

John Gerstle

STAFF PRESENT:

Jacob Lindsey, Director of Planning & Development Services
Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Jean Gatza, Meeting Moderator
Cris Jones, Deputy Director of Community Vitality
Chris Hagelin, Senior Transportation Planner
Philip Kleisler, Senior Planner
Elaine McLaughlin, Senior Planner
Yvette Bowden, Director of Community Vitality

1. CALL TO ORDER

Chair, **D. Ensign**, declared a quorum at 5:37 p.m. and the following business was conducted.

2. PUBLIC PARTICIPATION

- a) **Kurt Nordback** spoke regarding AMPS and supported staff's proposal as a good first step. He added that it appeared to be undervaluing land in the city and subsidizing parking. He supported staff's recommendation of incremental change. He would like to see the option for people to rent space on the street for not just storing vehicles but bike corrals or rain gardens for example.
- b) **Lynn Segal** spoke regarding the homeless issue within Boulder.

3. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

- A. AGENDA TITLE: AMPS Implementation and Progress: Revitalizing Access in Boulder

Staff Presentation:

C. Hagelin and C. Jones presented the item to the board.

Board Questions:

C. Hagelin and C. Jones answered questions from the board.

Board Comments:

Key Issue #1: What is the Board's feedback on the refined strategies, the process used to develop them, and whether the refined strategies are appropriate for Boulder and the community's desired direction?

- **S. Silver** questioned the large increase in NPP rates and said it may become something that could push people out of the city. More and more projects come in front of Planning Board asking for parking reductions, which push cars onto the streets, but a cost would be created and associated with that. This could ultimately increase the cost of houses with garages or if people lived where there may not be enough parking, the NPP would become an added cost. This would have to be kept in the board members' minds.
- **L. Montoya** wanted AMPS to address the issue of people that have vehicles that need to perform work out of that vehicle as opposed to leisure.
- **L. Smith** said it would be beneficial to include impediments within traffic and to call out ADA.

Key Issue #2: What is the Board's feedback on whether the strategies most aligned with goals from the Alternatives Analysis process should be implemented?

- The board had no feedback.

Key Issue #3: What is the Board's feedback on the proposed key next steps in implementation for each of the strategies?

- **D. Ensign** said the gradual increases are good. He agreed that the city may be underpricing from a real estate perspective, but it would be difficult for the public to adjust to dramatic increases. He supported staff's approach and said it should give the city flexibility as it attempts to move away from single-car dependency. When Planning Board reviews development projects, transportation, traffic and parking issues for people living near the project are the number one concern. Getting NPP nimbler and something that the board could work out during Concept Plans would be beneficial. The proposed technology could make parking easier for people.
- **S. Silver** said that having the requirement for neighborhoods to petition for an NPP creates a barrier for better parking management or neighborhood ECO passes.
- **L. Smith** said there would always be neighbors opposed to having an NPP. Therefore, perhaps having a petition provides proof as to what percentage of the neighborhood want the NPP. She agreed with the technology presented and the ability to perform surge pricing. She asked to continue collecting data regarding the amount of parking past 7:00 p.m. and build into later changes if warranted.

4. PUBLIC HEARING ITEMS

- A. AGENDA TITLE:** Concept Plan Review and Comment for the redevelopment of a 9.27-acre property located at 3320 28th St., and 3265 and 3267 30th Street as a mixed-use development that includes ground floor retail along 28th Street and the proposed Street "A" along with ground

floor amenity space with upper story workforce and permanently affordable apartments. There are two options proposed: the first option includes 177 workforce apartments within five buildings and with 9,942 sf of amenity space, a shared deck and a clubhouse, and 58 permanently affordable apartments. The second option matches the first but includes additional residential units with approximately 195 workforce apartments and 64 permanently affordable apartments; it also includes a fourth story on one of the buildings with an additional roof deck. Reviewed under case no. LUR2021-00011.

Board members were asked to reveal any ex-parte contacts they may have had on this item.

- **J. Boone, D. Ensign** and **S. Silver** had performed site visits.
- **P. Vitale** had a fund raiser at the site years ago, but it was not on this exact parcel or involving any of these owners or anyone involved with this project.
- The other board members did not have any ex-parte contacts.

Staff Presentation:

C. Ferro introduced the item.

E. McLaughlin presented the item to the board.

Board Questions:

E. McLaughlin answered questions from the board.

Applicant Presentation:

Jarvie Worcester, with TCR, **Laura Sheinbaum**, with Boulder Housing Partners, **Bill Holicky**, with Coburn Architecture, and **Danica Powell**, with Trestle Strategy Group, presented the item to the board.

Board Questions:

Jarvie Worcester, Laura Sheinbaum, Bill Holicky, and Danica Powell, representing the applicant, answered questions from the board.

Public Hearing:

- 1) **Ginger Zukowski** spoke in support of the project.
- 2) **Kurt Nordback** spoke in support of the project.
- 3) **Macon Cowles** spoke in support of the project.
- 4) **Evan Freirich** spoke in support of the project.
- 5) **ML Robles** spoke in support of the project.
- 6) **Don Price** spoke in support of the project.
- 7) **Lisa Spaulding** spoke in support of the project.
- 8) **Claudia Hanson Thiem** spoke in support of the project.
- 9) **Phil Michael** spoke in support of the project.
- 10) **Lynn Segal** spoke in opposition of the project.
- 11) **Gary Sprung** spoke in support of the project.
- 12) **Rebecca Davies** spoke in support of the project.
- 13) **David Adamson** spoke in support of the project.
- 14) **Chelsea Castellano** spoke in support of the project.

Applicant Rebuttal:

Jarvie Worcester, Laura Sheinbaum, and Bill Holicky addressed some of the questions and concerns brought up during public comments.

Board Comments:

Key Issue #1: Is there policy direction within the BVCP to support mixed use and higher density residential uses, through potential land use change and rezoning on the site?

- **S. Silver** said the staff memo referenced the need for housing for in-commuters and said that would be a key argument around higher density. She pointed to the research done in the *2014 In-commuter Study* which stated that in-commuters have the same socio-economic status as people who live in Boulder, therefore they match the range of incomes and family types. Those in-commuters would be looking for a range of housing types. In her opinion the proposals do not serve the broad spectrum of in-commuters or housing goals in BVCP policies 7.06, 7.09, 7.10, 7.16. In addition, within the 2014 study, people with children were not interested in apartments rentals. They were more interested in homes or townhomes for purchase. She said the task would be to find out if a zoning change might produce a housing mixture to serve a broad range of needs. She would like to have a discussion around an *RMX-2* style of zoning which could allow for density and intensity as well as housing diversity.
- **D. Ensign** said that if an area plan could be done, then he would support a section of the property as an *RMX-2* zone. That could be done with a larger scale planning. He would support more diverse housing when this project returns for Site Review. He said this was an attractive proposal and a good way to be moving forward for this site. The four-story option would be reasonable given the location and the need for more housing. It would seem like there would be challenges getting around the Open Space requirements for a *BC-1* zone. He said it would be preferable adjusting to *BC-2*. It would be ideal to pick a land use and zoning that would provide this plan a more logical fit, but that may take too much time to do. If there were a land use and rezoning change, he would not make it a single zoning district. If that were to happen, he would pick zoning that would let the businesses face outward to the street, have higher density residential where desired, and have *RMX*. He said he did not want the desire for perfection to cut off the opportunity have this project.
- **P. Vitale** agreed with the comments of **S. Silver** and **D. Ensign**. He like the U-shape facing 28th Street. He was wondering about the affordability at this site and how to balance it with the single-family home need. He questioned how to get diversity on the site. He approved of what he had seen so far.
- **L. Smith** agreed with **S. Silver** regarding a density bonus to trade. This is such a large parcel on this site and overall moving in the right direction. She was not concerned by this being just a piece of the parcel. While appropriate zoning has been applied, there are other tools available, and she hoped that they might be used, and opportunities would not be lost. She would be okay with higher buildings particularly if it could be exchanged for affordable housing and geared toward middle income. She like linking open space and making it continuous. Placing solar above the parking and incorporating as much green features as possible should be done to make the density appealing.
- **J. Boone** agreed with previous comments especially **S. Silver's** regrading diversity of housing. He said the applicant currently has no plans for any for-sale component due to the opportunity zone. He said the board should be aware of this and the developer will maximize the rents on the site. He would like to hold the developer to an eighty to one hundred percent AMI in some way

to make this project affordable for the middle-income families. If this were done, he would be in favor of bonus density and height. He said that this property will ultimately be bundled and flipped to investors outside of this developer due to the opportunity zone.

- **L. Montoya** was concerned with how to provide opportunities for all kinds of families to live at this site. She would encourage the applicant to reflect the types of families we would like to see living there.
- **S. Silver** said we should be creative in the recommendations offered to meet multiple needs. This is a huge site so we should be creative and use leverage to move forward on different elements of the BVCP. She suggested height in some spots, family diversity in others for example and perhaps creating some for-sale properties.
- **D. Ensign** said a mixed-use development is something we would want to see on the site. Creative solutions with the zoning process would be something that the board would like to see.
- **L. Smith** would like to see townhomes in addition to apartments and affordable housing. In addition, she would recommend parking be pushed underground. If the zoning were changed, perhaps these could be more attainable and beneficial.
- **L. Montoya** said this would be a prime opportunity to look at desegregating residents within the city.

Key Issue #2: Does Planning Board have feedback to the applicant on the conceptual site plan and architecture?

- **D. Ensign** said the proposal appeared as an appropriately sized solution for this property. If the zoning could be adjusted, he could have some flexibility surrounding the ground floor in areas where residential could be used rather than commercial, if there was commercial along the major arteries. In these economic times, there may not be as much demand for ground floor commercial. Regarding workforce housing, it was appropriate that this was identified. He said there was nothing that was criteria-based that would keep things affordable outside of the affordable housing units. Perhaps the applicant could think of ways to condition their own Site Review and help control costs. He approved of the transportation opportunities, the new corridors, and the street-facing items. The design has good bike and pedestrian permeability. The view corridor does not appear to be an issue. The height standards should be loosened in a rational way. The shaped roofs could be better. He suggested the Design Advisory Board should look at this. He agreed with staff's concerns regarding Buildings 6 and 7 (the affordable buildings) and like to see the green space addressed.
- **S. Silver** said the internal grid solutions proposed are positive and lay the groundwork for future development which would not to be massive in scale. The architectural and site plans are currently vague. Building 5 appears massive. She hoped the ultimate design of the development would not feel crowded. She would like to see more green space at the Boulder Housing Partners' buildings. She proposed connecting the BHP developments with greenspace and finding parking elsewhere. Regarding the proposed Building 5, she was unable to tell if parking was underground or ground level. She recommended not having the parking area open.
- **P. Vitale** said he was comfortable with the proposed building size. Regarding the sustainability piece, the applicant could and should take a leadership role with this project.
- **S. Silver** suggested creating a tree lawn in which the trees would not be planted in tree boxes but free range. She would prefer creating an urban canopy and getting as much green and trees as possible.

- **D. Ensign** recommended amenities that would encourage community gatherings and flexible space which small performances would occur.
- **L. Montoya** mentioned bringing the open space in combination with the housing to integrate with other communities.

Motion:

Since this is a Concept Review, no action is required on behalf of the Planning Board.

5. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

- A. AGENDA TITLE:** Possible Recommendation to City Council to create additional mechanisms to provide protections for our most vulnerable community members such as an emergency resident relief fund

Board Comments:

- **J. Boone** said the this did not appear to be a Planning Board topic.
- **L. Montoya** said there are dire needs for affordable housing in Boulder. Currently the affordable housing that is available is not up to standards. The city does not currently have something that works. While the city has a program to assist with some repair costs, it was managed by the county. And a times, these residents, who are the poorest city residents, do not receive any help and or support. She asked at the very least that the board bring up the topic so the city can decide what to do next and that this board deals with the words “affordable housing” on a regular basis and should know what it means.
- **S. Silver** said there are two BVCP goals that are related specifically to the components of the physical housing stock (7.08 and 7.07). She said that these may be a platform in a letter to Council to say that Planning Board urge using funds to provide protections for our most vulnerable community members.
- **D. Ensign** agreed to add BVCP justification. In addition, he suggested adding a preamble that the board realizes this is not necessarily the Planning Board’s purview.
- **J. Boone** agreed.
- **L. Montoya made a motion to move forward to make a request to Council. J. Boone seconded. Passed 6-0 (J. Gerstle absent)**

- B. AGENDA TITLE:** CU South Annexation Update

L. Montoya and L. Smith recused themselves.

Staff Presentation:

P. Kleisler presented the item to the board.

Board Comments:

- **S. Silver** questioned if this could be an opportunity to begin a discussion and put in place a cap on the student body in Boulder at CU.

- The board discussed the recusals of two Planning Board members for the upcoming meeting and to consider asking City Council to appoint alternates for the future CU South recommendations.
- On a motion by **D. Ensign** seconded by **S. Silver** the Planning Board voted 4-0 (**J. Gerstle** absent, **L. Montoya** and **L. Smith** recused) that it is necessary to appoint two alternate board members for consideration of the CU South annexation and initial zoning applications as the recusal of two of its members may otherwise prevent the board from taking an affirmative action on these applications.

6. DEBRIEF MEETING/CALENDAR CHECK

7. ADJOURNMENT

The Planning Board adjourned the meeting at 10:41 p.m.

APPROVED BY

Board Chair

DATE