



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 19, 2022

AGENDA TITLE

Call-Up Consideration Item: Consideration of a Site and Use Review for redevelopment of the property located at 770 28th St. the former Best Western Plus Boulder Inn, into a mixed-use project that includes a three-story student apartment building with 96, four-bedroom units along with a ground level amenity space, common areas, and below grade parking. The existing five-story office building located on the east end of the site at 777 29th St. will remain. The proposal includes landscape improvements for shared open space between the apartments and the existing office building. The applicant is proposing a 55 percent parking reduction. A solar exception is requested due to topographic variation from the site to the property to the north and resulting in a minor encroachment of shadows on adjacent property within Solar Access Area II, solar fence. Reviewed under case LUR2021-00024.

Applicant: Adrian Sopher, Sopher/Sparr Architects
Owners: Core Boulder 28th Street, LLC

REQUESTING DEPARTMENT / PRESENTERS

Nuria Rivera-Vandermyde, City Manager
David Gehr, Interim Planning Director
Charles Ferro, Development Review Manager / Interim Comprehensive Planning Manager
Elaine McLaughlin, Senior Planner

EXECUTIVE SUMMARY

Site and Use Review application for the redevelopment of the west end of the 3.48 acre site that is comprised of two separate lots (770 28th Street on the west, formerly the Best Western Motel; and 777 29th Street on the east, an existing-to-remain office building). As shown in Figure 1, the site is located one block north of the intersection of Baseline and 28th Street and the University of Colorado main campus is located directly west of the site across 28th Street.



Figure 1: Site Location

On April 7, 2022, the Planning Board unanimously approved the application (7-0) with conditions as provided in the attached Notice of Disposition (**Attachment A**), finding the project consistent with the applicable Site Review criteria of [Section 9-2-14, B.R.C. 1981](#) and the Use Review criteria of Section 9-2-15, B.R.C. 1981 for ground floor residential facing a street in the Business Transition – 1 (BT-1) zoning district. The staff memorandum to Planning Board, meeting audio, and the applicant’s submittal materials along with other related background materials are available at the following link, [Record Archive for the April 7, 2022 Planning Board](#) and the video of the public hearing is found at the following link: [Channel 8 Archive for the April 7, 2022 Planning Board](#).

The Planning Board decision is subject to City Council call-up within 30 days, when the last day of the call-up period falls on a Saturday then the call-up period is extended to the following Monday ([Section 1-1-10\(b\), Computation of Time, B.R.C. 1981](#)). This decision may be called up by the City Council on or before **May 9, 2022**. Because the last day of the 30-day call-up period is on a Saturday, the call-up period is extended to the following Monday. If no call-up occurs, the decision is deemed final on **May 10, 2022**.

A Concept Plan was reviewed by Planning Board on February 4, 2021, subsequently in considering a call-up of the Concept Plan, the City Council chose to not call it up on March 2, 2021. The size of the site necessitates the Site Review and the proposed ground floor residential facing the street necessitates a Use Review within the Business Transition – 1 (BT-1) zoning district. The Design Advisory Board Reviewed the project plans on Sept. 8, 2021. The minutes from that discussion are provided in the staff memorandum to Planning Board within the [Record Archive for the April 7, 2022 Planning Board](#). While the site is not within an area that required DAB review, staff referred the application with specific areas of discussion for DAB to address. The DAB reviewed the plans in a four-hour meeting and the applicant provided responses that addressed staff and DAB comments.

The plans include a new apartment building with a ground floor café, a rooftop amenity space and interior courtyard. The existing office building is intended to remain on the east side of the site with site improvements to open space and drainage. The applicant is requesting a 55 percent parking reduction and to modify number of by-right stories for the east end of the proposed building. There is a request for a solar exception, while not a modification under Site Review it is reviewed herein. No other modification to the standards are proposed.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – none identified
- Environmental – with the proximity to the university and goods and services, and with the intended university student population who are known to utilize alternative modes of transportation, the use of motor vehicles is reduced. This is consistent with Boulder Valley Comprehensive Plan policy 2.24, Commitment to a Walkable City.
- Social – the creation of student apartments near the university relieves pressures on single family residential neighborhoods near the university that experience conversions to

student apartments. This is consistent with Boulder Valley Comprehensive Plan policy 2.10 Preservation & Support for Residential Neighborhoods

OTHER IMPACTS

- Fiscal –no fiscal impacts are anticipated.
- Staff time – the combined Site and Use Review application was completed under standard staff review time.

BOARD AND COMMISSION FEEDBACK

Planning Board

On April 7, 2022, the Planning Board heard staff and applicant presentations along with public comments from one person who expressed concerns about student apartments and development in general. In the discussion of the proposed project the board discussed the proposed parking reduction and the aspect of unbundled parking that is proposed, along with the use of tandem spaces to allow for some students to “store” their car. It was discussed that there is a high percentage of alternative transportation mode usage among CU students and with the close proximity of the site to the campus and nearby services such as grocery stores, restaurants, etc. the criteria for the parking reduction is met.

In addition, the board discussed the Use Review that is necessitated because there are six ground level residential units facing the street and in the Business Transition – 1 (BT-1) zoning district there is a requirement to evaluate the use. Because of the site-specific context where retail is walkable and residential is appropriate, the board found that the ground floor residential in this case to meet the review criteria.

Further, the board discussed the minor solar exception that is requested for the project whereby there would be a six-foot increase in shadow length cast over the hypothetical 25 foot solar fence of Solar Access Area II onto the adjacent property to the north’s parking lot. Findings were made that the slight encroachment meets the standards.

The board unanimously approved the combined Site and Use Review application with the following motion:

On a motion by **S. Silver** seconded by **L. Kaplan** the Planning Board voted 7-0 to approve Site and Use Review case no. LUR2021-00024, including the Solar Exception, incorporating the staff memorandum and the attached Site Review and Use Review Criteria Checklists as findings of fact, and subject to the conditions of approval recommended in the staff memorandum.

The disposition of approval is provided in **Attachment A**. The staff memorandum to Planning Board, meeting audio, and the applicant’s submittal materials along with other related background materials are available at the following link, [Record Archive for the April 7, 2022 Planning Board](#) and the video of the public hearing is found at the following link: [Channel 8 Archive for the April 7, 2022 Planning Board](#).

Previous Planning Board review of the proposal includes the review and discussion of the Concept Plan on Feb. 4, 2021; and Planning Board, staff and members of the public provided comments to the applicant. A link to the applicant submittal and meeting audio from the Planning Board review of the Concept Plan is available online at the following link: [Record Archive for the Feb. 4, 2021 Planning Board](#).

City Council

On March 2, 2021, the City Council considered a call-up of the Concept Plan but did not vote to call up the item and no clarifying questions were asked of staff. The item was not referred to Transportation Advisory Board.

PUBLIC FEEDBACK

Consistent with section 9-4-3, Public Notice Requirements, B.R.C. 1981, staff provided notification to all property owners within 600 feet of the subject location of the application, and signs have been posted by the applicant indicating the review requested. There was one phone call received from a neighbor articulating concerns about students parking within their adjacent parking lot. There was also a written comment received expressing concerns about parking, the use for residential in a business district, and scale of the project. There was one member of the public who spoke at the Planning Board hearing who expressed concerns about student rentals and development in general.

PROCESS

The Site Review threshold was met for the proposed project through both the size of the site, which exceeds the three-acre threshold (3.28 acres), as well as the amount of floor area on the site which exceeds the 30,000 square foot threshold with a proposed total floor area of 133,255 square feet, including the existing approximately 18,841 square foot office building to remain. The process to date includes the Planning Board review of the Concept Plan on Feb. 4, 2021 (refer to [Records Archives for Planning Board](#)), a call up opportunity by the City Council who did not vote to call up the Concept Plan on March 5, 2021; as well as the Design Advisory Board review on Sept. 8, 2021. The Development Review staff reviewed the plans in four submittal/resubmittal application filings.

BACKGROUND

The site is approximately 3.4 acres and is located across 28th Street/Highway 36 from the main campus of the University of Colorado, along the 28th Street Frontage Road. As can be seen in a topography map of the area in Figure 2, there is significant topographic variation in the 28th Street corridor adjacent to the site and where Highway 36 turns north. Approaching the site from the south, the highway is elevated over Baseline and as the



Figure 2: Topographic Context

highway turns north near the site, the topography flattens and ultimately descends to Arapahoe Avenue.

In addition, a significant amount of overlot grading occurred at the time the highway and portions of the university were built, as well as on the site and adjacent properties to the north. The overlot grading established an existing condition where the site is elevated approximately six feet above the property to the southeast. Given the topography, the 28th Street Frontage Road and the site rest approximately 14 to 24 feet below 28th Street and as such, there is a tall highway abutment/retaining wall adjacent to the frontage road in front of the site. Because of the curved geometry of the highway (28th Street) along with the varied topography, views of the site are readily apparent from the highway as shown in Figure 3. In addition, the site's topography from west side to 29th Street drops approximately 18 feet across the site.



Figure 3: Site Visibility from 28th Street / US 36

Since 1970, the western portion of the site has been a motel. Originally built as the Royal Inn and the Jolly King Restaurant the building has been remodeled over the years and most recently was the Best Western Plus Boulder Inn but is now vacant. The east end of the site, there is an existing office building also constructed sometime around 1970 after designs by local architect Hobart Wagener. Drawings for this building are included in the Hobart D. Wagener Collection at Carnegie Library for Local History in Boulder though are not digitized and currently unavailable. While current redevelopment plans do not indicate any proposed exterior alterations to this building, if exterior changes are contemplated that would meet the definition of “Demolition (historic)” in chapter 9-16, B.R.C. 1981, demolition review through the historic preservation program would be required.

Site Surroundings. The surrounding built context includes a number of high density residential apartments; several office buildings as well as retail establishments along Baseline, located one block to the south. The residential buildings include the adjacent U-Club on 28th Apartments to the north; Buffalo Canyon Apartments and Kensington Apartment Homes to the east; and the Spanish Towers Condominiums to the north east. Across 28th Street is the main campus of the University of Colorado.

BVCP Land Use and Zoning: As shown in figures 4 and 5, the BVCP land use designation is Transitional Business and the Zoning is Business Transition – 1 (BT-1) In the BT-1 zoning district, attached residential is considered a “Limited 1” (L1) use with the limitation defined as follows, *“Allowed by right if the use is not located on the ground floor facing a street, with the exception of minimum necessary ground level access, otherwise by use review only.”*

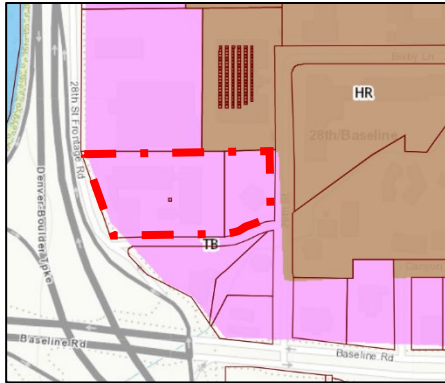


Figure 4: BVCP Land Use Designation

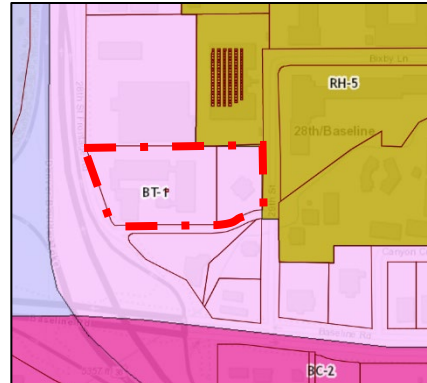


Figure 5: Zoning

There is no FAR maximum defined within the BT-1 zoning district. Intensity for residential projects within the BT-1 zoning district is instead based on the provision of 1,200 square feet of useable open space per dwelling unit, along with application of height and setback standards, and with application of the Site Review criteria when requesting a modification to the standards.

Access and Circulation.

The City of Boulder has an extensive transit network and usage, in particular by students and faculty. The site is located within ¼ to ½ mile walking distance to a number of bus stops and bus routes within the 28th Street, Broadway, and Baseline corridors as shown in Figure 6.

The multi-modal transportation network in this area of the city is governed by the [28th Street Frontage Road Transportation Network Plan](#) (TNP), adopted in April 2010. Based on that, the site is in a location where over the past decade, the city has made significant investments along 28th Street including bike paths, a pedestrian underpass, and walkway connections from 28th Street to 29th Street. All of the improvements were based on the TNP, the improvements were completed in 2006 and greatly enhanced the multi-modal aspects of the corridor including: bike lanes, transit stops, improved roadway lighting, a new sidewalk on the frontage road; and a multi-use path on the west side of 28th Street from Colorado Avenue to Baseline.

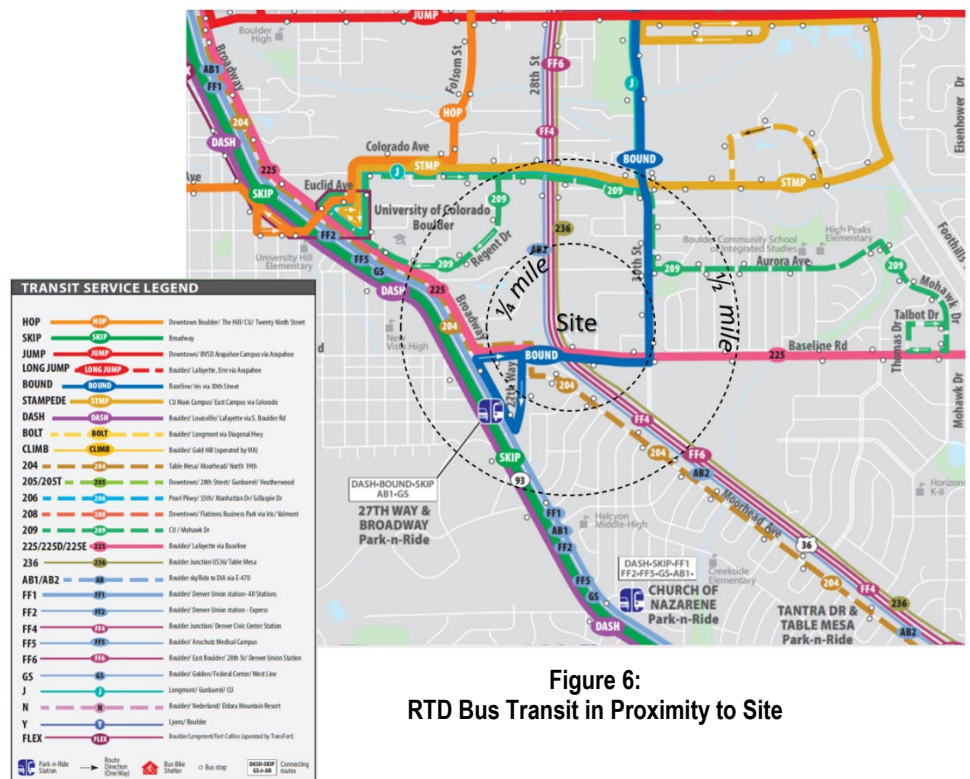


Figure 6: RTD Bus Transit in Proximity to Site

Similarly, guided by the TNP a significant number of connections have been made that enhance the multimodal capability and connectivity of the frontage corridor. The plan describes the city's vision for future improvements in the area bounded by 28th Street on the west, 30th Street on the east, Baseline Road on the south and Colorado Avenue on the north. Consistent with the BVCP and TMP, the plan was developed in conjunction with the existing and proposed area land uses and to support the city's sustainability goals. The objectives of the plan are to *"establish a fine-grained network of multi-modal transportation connections."*

As shown in Figure 7 a number of the connections have been built with the construction of new residential buildings along the 28th Street Frontage. The connection shown on the north side of the property was already constructed with the U-Club.

There is also a required sidewalk connection on the south side of the property as well as continuance of the existing multi-use path, both being shown on the project plans.

PROJECT DESCRIPTION

As shown in Figure 8 and the Project Plans in the Planning Board packet ([Record Archive for the April 7, 2022 Planning Board](#)) the proposed project includes the redevelopment of the property located at 770 28th, the existing Best Western Plus Boulder Inn, into a mixed-use project with 96, four-bedroom student apartment units along with a ground level coffee shop, an interior courtyard, a rooftop deck and below grade parking. Landscape improvements including shared open space for both the student apartments and the existing office building that is planned to remain on east end of the site at 777 29th Street. Proposed uses are student apartments and the existing office building will remain.

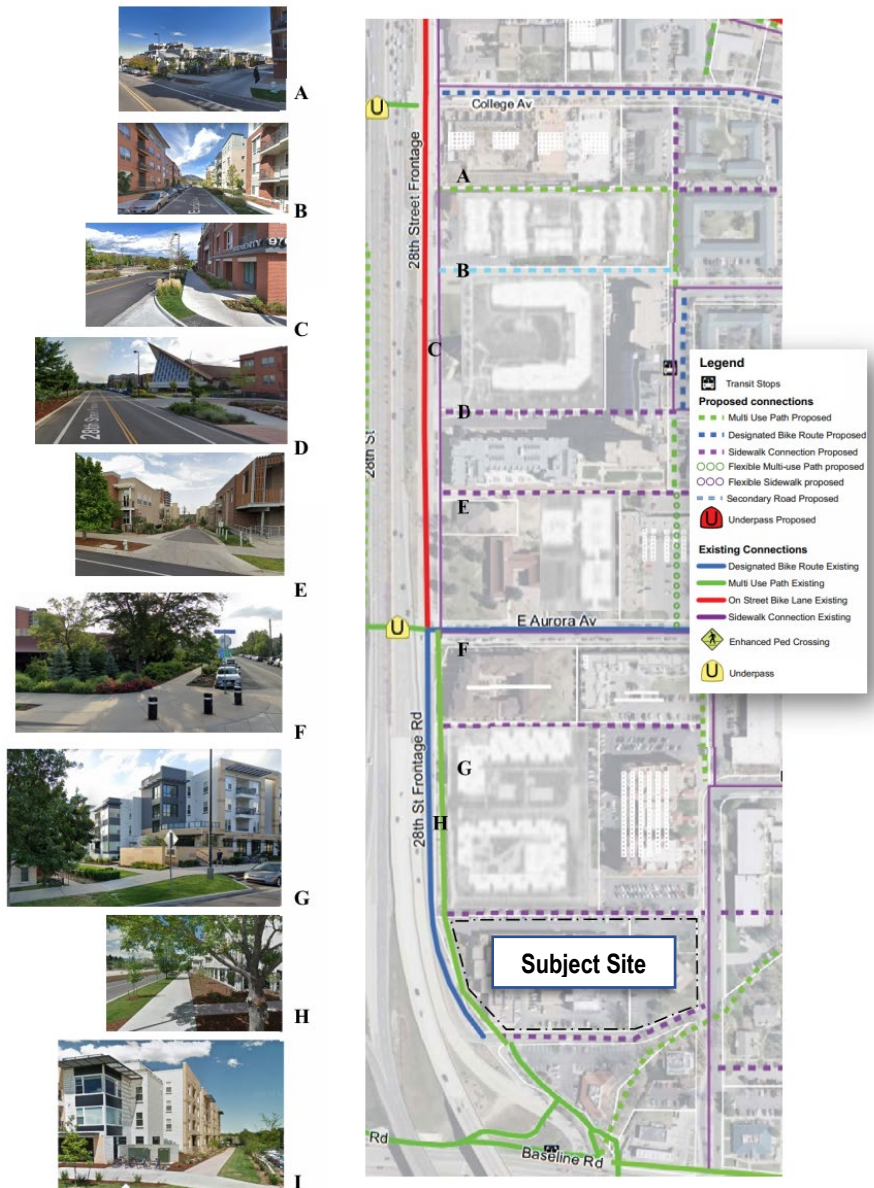


Figure 7: Multi-Modal Improvements per TNP

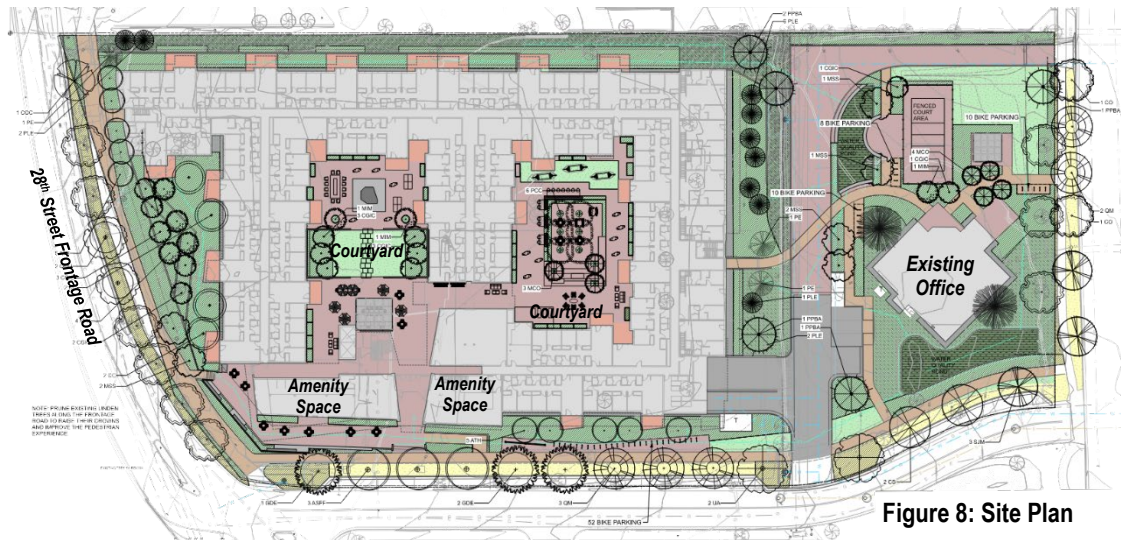


Figure 8: Site Plan

The project is designed to replace the existing motel building on the west with the student apartment building with the existing office building on the east to remain. The existing five access points on the site will be consolidated into one access off of the south side of the site with fire access only provided off of 29th Street on the east. New detached sidewalks are planned on three sides, with internal walkways also proposed. The applicant is requesting a solar exception for an approximately 436 square foot encroachment onto the property to the north that is within Solar Access Area II.

Figures 9a and 9b illustrate renderings of the proposed residential building is planned at the height standard of 35 feet and the ground floor of the corner is planned as shared amenity space. As can be seen, the building has contemporary forms with the emphasis placed on the southwest corner along with a distinct pattern of building bays, and window and material patterns. Primary building finish materials include brick as a base material along with composite panels in a wood finish and metal panel with accent materials of a bronze metal finish composite and perforated metal screen in dark bronze.



SOUTHWEST CORNER FROM 28TH ST FRONTAGE ROAD



NORTHWEST CORNER FROM U-CLUB APARTMENTS

Figures 9a and 9b: Perspectives

The planned below grade parking structure is proposed with shared parking for the site and a 55 percent parking reduction, or 158 parking spaces where 350 spaces are required for the 96, four-bedroom residential units and the 18,612 square foot office building. The applicant is proposing 50 tandem parking spaces intended for use by students who share apartments. While tandem spaces do not “count” toward standard parking within the Land Use Code, the applicant is utilizing the approach to provide additional spaces. Management of the tandem spaces is not uncommon for the operator of the apartments.

ANALYSIS

In approving the Site and Use Review applications, the Planning Board made findings that the proposed project meets the applicable Site Review criteria in Section [9-2-14\(h\)](#), and [Section 9-2-15\(e\)](#), B.R.C. 1981 including findings that the project meets the standards for a solar exception per [Section 9-9-17\(f\)](#), B.R.C., 1981.

Site Review Analysis. In finding the application meets the Site Review criteria, the Planning Board noted that the proposed mixed use project includes an attractively designed and compatibly-scaled residential building adjacent to an existing office building that supports policies for higher density residential in a walkable context to the University and nearby services.

Regarding the request for a 55 percent parking reduction, the findings were made for the Use Review that include “adequate accommodation” of parking needs of the uses through implementation of SUMP principles: Shared, Unbundled, Managed, and Paid parking. In addition, given the location of the site across from the campus and in walkable/bikeable proximity to a significant number of services, as well as the high use of alternative modes of travel including walking, biking, bus ridership of students, the need for daily parking and vehicle use can be reduced.

Use Review Analysis. In finding the application meets the Use Review criteria, the Planning Board noted that the six, ground floor residential dwelling units facing the 28th Street Frontage Road would be compatible in the context and would create a transition from higher intensity office and retail uses to the south and west to the lower intensity residential uses to the north and east.

MATRIX OF OPTIONS

Consistent with [Section 9-4-4, Appeals, Call-ups and Public Hearings, B.R.C. 1981](#), the Planning Board decision is subject to City Council call-up within 30 days and when the last day of the call-up period falls on a Saturday then the call-up period is extended to the following Monday ([Section 1-1-10\(b\), Computation of Time, B.R.C. 1981](#)). This decision may be called up by the City Council on or before **May 9, 2022**. Because the last day of the 30-day call-up period is on a Saturday, the call-up period is extended to the following Monday. If no call-up occurs, the decision is deemed final on **May 10, 2022**.

ATTACHMENTS

- A. Planning Board Notice of Disposition for Site Review (LUR2021-00024)
dated April 7, 2022



City of Boulder Planning & Development Services

CITY OF BOULDER PLANNING BOARD NOTICE OF DISPOSITION

You are hereby advised that on April 7, 2022 the following action was taken by the Planning Board based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C.1981, as applied to the proposed development.

DECISION:	APPROVED WITH CONDITIONS
PROJECT NAME:	The Hub
DESCRIPTION:	SITE and USE REVIEW for redevelopment of the property located at 770 28th St. the former Best Western Plus Boulder Inn, into a mixed-use project that includes a three-story student apartment building with 96, four-bedroom units along with a ground level amenity space, common areas, and below grade parking. The existing five-story office building located on the east end of the site at 777 29th St. will remain. The project includes landscape improvements for shared open space between the apartments and the existing office building.
LOCATION:	770 28th and 777 29th Street
LEGAL DESCRIPTION:	See Exhibit A
APPLICANT:	Adrian Sopher, Sopher/Sparr Architects
OWNER:	Core Boulder 28th Street, LLC
APPLICATION:	Site Review, LUR2021-00024
ZONING:	Business Transition - 1 (BT-1)
CASE MANAGER:	Elaine McLaughlin
VESTED PROPERTY RIGHT:	No; the owner has waived the opportunity to create such right under Section 9-2-20, B.R.C. 1981.

APPROVED MODIFICATIONS FROM THE LAND USE REGULATIONS:

Modification to 9-9-6(b) "*Off-Street Parking Requirements*," B.R.C. 1981 approving a 55 percent parking reduction.

Solar Exception, per 9-9-17(f), B.R.C. "*Solar Exception*," B.R.C. 1981.

This decision may be called up by the City Council on or before **May 9, 2022**. Because the last day of the 30-day call-up period is on a Saturday, the call-up period is extended to the following Monday. If no call-up occurs, the decision is deemed final on **May 10, 2022**.

FOR CONDITIONS OF APPROVAL SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED FINAL PLANS MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS. IF THE DEVELOPMENT AGREEMENT IS

NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the Applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12) the development within three years shall cause this development approval to expire.

On April 7, 2022, the Planning Board approved the request with the following motion:

On a motion by **S. Silver** seconded by **L. Kaplan** the Planning Board voted **7-0** to approve Site and Use Review case no. LUR2021-00024, including the Solar Exception, incorporating the staff memorandum and the attached Site Review and Use Review Criteria Checklists as findings of fact, and subject to the conditions of approval recommended in the staff memorandum.

CONDITIONS OF APPROVAL SITE REVIEW

1. The Applicant shall ensure that the **development shall be in compliance with all plans prepared by the Applicant** on March 25, 2022 and the Transportation Demand Management ("TDM") Plan dated February 1, 2022, all on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval.
2. Prior to a building permit application, the Applicant shall submit, and obtain City Manager approval of, a Technical Document Review application for the following items:
 - a. **Final architectural plans**, including material samples and colors, to ensure compliance with the intent of this approval and compatibility with the surrounding area. The architectural intent shown on the plans prepared by the Applicant on March 25, 2022 is acceptable. The final plans shall include construction details that demonstrate that the building will be pre-wired for future photovoltaic systems, from the roof-top to the primary electrical panel. Planning staff will review plans to assure that the architectural intent is performed.
 - b. A **final site plan** which includes detailed floor plans and section drawings.
 - c. A **final utility plan** meeting the City of Boulder Design and Construction Standards.
 - d. A **final storm water report and plan** meeting the City of Boulder Design and Construction Standards.
 - e. **Final transportation plans** meeting the City of Boulder Design and Construction Standards and CDOT Access Code Standards, for all transportation improvements. These plans must include, but are not limited to: plan and profile drawings for the 28th Street Frontage Road improvements, plan and profile drawings

for the 28th Street Frontage Road multi-use path improvements, street cross-sectional drawings for the street widening on the 28th Street Frontage Road, signage and striping plans in conformance with Manual on Uniform Traffic Control Devices (MUTCD) standards, transportation detail drawings, geotechnical soils report, and pavement analysis.

- f. A **CDOT access permit** meeting the CDOT Access Code Standards, for each of the two existing access points to be closed along the 28th Street Frontage Road that is within the CDOT right-of-way for U.S. Highway 36.
 - g. A **detailed landscape plan**, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to ensure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in City right of way must also receive prior approval of the City Forester.
 - h. A **detailed outdoor lighting plan** showing location, size, and intensity of illumination units, indicating compliance with section 9-9-16, B.R.C.1981.
 - i. A **detailed shadow analysis** to ensure compliance with the City's solar access requirements of section 9-9-17, B.R.C. 1981.
 - j. An **address plat** following the city's addressing policy to create a new address.
3. Prior to a building permit application, the Applicant shall dedicate to the City, at no cost, the rights-of-way and easements necessary to serve the development, including but not limited to the following rights-of-way and easements as shown on the plans prepared by the Applicant on March 25, 2022, meeting the City of Boulder Design and Construction Standards, as part of Technical Document Review applications, the form and final location of which shall be subject to the approval of the City Manager:
- a. Two stormwater quality and drainage easements located on 777 29th Street to the City and to the City for the benefit of 770 28th Street.
 - b. A utility easement for a water meter to be relocated along the west property line of 770 28th Street.
 - c. A 30-foot wide emergency access, utility, and drainage easement along the north property line of 777 29th Street.
 - d. An approximate 26-foot wide north/south emergency access easement along the 777 29th Street and 770 28th Street property line
 - e. A public access easement which varies in width and runs along the west and south property lines of 770 28th Street and the south property line of 777 29th Street to

accommodate the public improvements that include, but not limited to, the multi-use path, sidewalk improvements, and street planting strip.

- f. A deed of dedication for an approximately 15-foot wide portion of public right-of-way along the east/west segment of the 28th Street Frontage Road to accommodate the public improvements to be constructed along this segment of the 28th Street Frontage Road.
4. Prior to a building permit application, and subsequent to construction of the sanitary sewer main extension, the Applicant shall submit an Administrative Review application to vacate the following existing easement, the form and final location of the vacation shall be subject to the approval of the City Manager.
 - a. A **15-foot wide sewer easement** along the west property line of 777 29th Street.
6. Prior to a building permit application, the Applicant **shall demonstrate** subject to city manager approval that the private Public Service Company easement located along the north property line of 770 28th Street and recorded in the records of the Boulder County Clerk and Recorder at Film No. 1007, Reception No. 00276484 on April 28, 1978 has been extinguished.
7. Prior to issuance of a building permit for the Project, the Applicant shall submit a **financial guarantee**, in a form acceptable to the Director of Public Works, in an amount equal to the cost of providing eco-passes to the employees of the office building and residential building for three years after the issuance of a certificate of occupancy as proposed in the Applicant's Transportation Demand Management (TDM) plan.
8. The Property consists of two parcels generally known as 770 28th Street ("Parcel A") and 777 29th Street ("Parcel B"), each more particularly described in the Disposition and each hereafter referred to as a "Parcel." Both Parcels are served by stormwater quality facilities ("Stormwater Quality Facilities") located on Parcel B. The owner of each Parcel is hereafter referred to as a "Parcel Owner". The Parcel Owner of Parcel B shall own the Stormwater Quality Facilities.

The maintenance of said Stormwater Quality Facilities shall be the responsibility of both the individual Parcel Owners within the Property, jointly and severally, and each Parcel Owner shall have the right to access, inspect, and maintain the Stormwater Quality Facilities.

The City may require the Parcel Owners, jointly and severally, to correct any deficiencies in the maintenance or repair any damages to the Stormwater Quality Facilities within the boundaries of the Property.

Prior to a building permit application, the Parcel Owners shall grant to the City an easement (1) for rights of entry to the Property for inspection of the Stormwater Quality Facilities to assure that they are being properly maintained and, if the City determines that the Stormwater Quality Facilities are not being properly maintained, the right to perform the appropriate maintenance, without the City having any requirement to maintain, and (2), for

the benefit of the Parcel Owner of Parcel A, for rights of entry to the Property and for inspection, construction, maintenance, and reconstruction of the Stormwater Quality Facilities. The Applicant agrees that the City may assess each Parcel Owner or their successors and assigns, jointly and severally, for the cost of the maintenance performed by the City. In the event that the City determines, in its sole discretion, that there is a threat to the public health, safety, or general welfare, the City may immediately perform such work or maintenance and charge the Parcel Owners for the same.


The Parcel Owners shall perform such maintenance work within 30 days of the city's mailing of written notice to cure any deficiencies.

If the Parcel Owners fail to perform such work within 30 days after having been provided written notice from the City to cure, the City may perform the work or cause it to be performed and charge back the Parcel Owners, jointly and severally, all costs of so curing same.

If the Parcel Owners fail to pay any monies due under these conditions of approval for curing deficiencies in maintenance of the Stormwater Quality Facilities, the Applicant and Parcel Owners agree that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if said monies were due and owing pursuant to a duly adopted ordinance of the City. The Applicant and Parcel Owners agree to waive any rights they may have under Section 31-20-105, C.R.S., based on the City's lack of an enabling ordinance authorizing collection of this specific debt.

CONDITIONS OF APPROVAL FOR USE REVIEW

1. The Applicant shall ensure that the **development shall be in compliance with all plans prepared by the Applicant** on March 25, 2022 and the Transportation Demand Management ("TDM") Plan dated February 1, 2022 all on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval.
2. The Applicant **shall not expand or modify the approved use**, except pursuant to Subsection 9-2-15(h), B.R.C. 1981.

By: 

Charles Ferro, Secretary of the Planning Board

Exhibit A: Legal Description

Parcel: 146332300016

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 32; THENCE NORTH 89°57'30" EAST, 30.00 FEET ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 32 TO THE EASTERLY LINE OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED IN BOOK 1198 AT PAGE 566 OF THE RECORDS OF BOULDER COUNTY, COLORADO, AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89°57'30" EAST, 439.72 FEET ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 32 TO THE NORTHWEST CORNER OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED ON FILM 1134 AT RECEPTION NO. 413923 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE SOUTH 00°01'37" WEST, 275.00 FEET ALONG THE WEST LINE OF THE TRACT OF LAND AS DESCRIBED ON SAID FILM 1134 AT RECEPTION NO. 413923 TO THE SOUTHWEST CORNER THEREOF AND THE NORTH LINE OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED ON FILM 979 AT RECEPTION NO. 244307 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE SOUTH 89°57'30" WEST, 285.88 FEET ALONG THE NORTH LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 979 AT RECEPTION NO. 244307 TO THE NORTHWEST CORNER THEREOF AND THE EASTERLY LINE OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED ON FILM 979 AT RECEPTION NO. 244308 OF THE RECORDS OF BOUNTY COUNTY, COLORADO;

THENCE NORTHWESTERLY 44.04 FEET ALONG THE EASTERLY LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 979 AT RECEPTION NO. 244308 AND ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST, SAID ARC HAVING A RADIUS OF 305.31 FEET, A CENTRAL ANGLE OF 8°15'52" AND BEING SUBTENDED BY A CHORD THAT BEARS NORTH 83°31'00" WEST, 44.00 FEET;

THENCE NORTH 38°30'15" WEST, 65.00 FEET ALONG THE EASTERLY LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 979 AS RECEPTION NO. 244308 TO THE MOST NORTHERLY CORNER THEREOF AND THE EASTERLY LINE OF THAT TRACT OF LAND AS DESCRIBED IN SAID BOOK 1198 AT PAGE 566;

THENCE NORTH 17°36'30" WEST, 229.83 FEET ALONG THE EASTERLY LINE OF THAT TRACT OF LAND AS DESCRIBED IN SAID BOOK 1198 AT PAGE 566 TO THE TRUE POINT OF BEGINNING. COUNTY OF BOULDER, STATE OF COLORADO.

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ALL THAT PORTION OF THE SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ OF SECTION 32, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, THENCE NORTH 89°57'30" EAST ALONG THE NORTH LINE OF SAID SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, 469.72 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°57'30" EAST ALONG THE NORTH LINE OF SAID SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, 165.22 FEET TO THE WEST LINE OF THAT TRACT OF LAND CONVEYED BY WAYNE D. PHIPPS TO THE CITY OF BOULDER IN DEED RECORDED JANUARY 11, 1972 ON FILM 757 AS RECEPTION NO. 003718; THENCE SOUTH 00°01'37" WEST ALONG THE WEST LINE OF SAID TRACT DESCRIBED ON FILM 757 AS RECEPTION NO. 003718, A DISTANCE OF 228.02 FEET TO THE NORTH LINE OF THAT TRACT OF LAND CONVEYED BY WAYPHIPPS CO. TO THE CITY OF BOULDER IN DEED RECORDED SEPTEMBER 29, 1977 ON FILM 979 AS RECEPTION NO. 244307; THENCE WESTERLY AND SOUTHERLY ALONG THE NORTHERLY LINE OF SAID TRACT DESCRIBED ON FILM 979 AS RECEPTION NO. 244307 BY THE FOLLOWING COURSES AND DISTANCES:
SOUTH 89°57'30" WEST 1.97 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT 75.26 FEET, SAID CURVE HAVING A RADIUS OF 161.32 FEET AND A CHORD WHICH BEARS SOUTH 76°35'38" WEST 74.57 FEET; THENCE SOUTH 63°13'45" WEST 34.48 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT 62.20 FEET, SAID CURVE HAVING A RADIUS OF 133.32 FEET AND A CHORD WHICH BEARS SOUTH 76°35'38" WEST 61.63 FEET; THENCE LEAVING THE NORTH LINE OF SAID TRACT DESCRIBED ON FILM 979 AS RECEPTION NO. 244307, NORTH 00°01'37" EAST 275.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF BOULDER, STATE OF COLORADO.