



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: February 2, 2023**

**AGENDA TITLE**

Second reading and consideration of a motion to pass and adopt Ordinance 8515, amending Title 9, "Land Use Code," B.R.C. 1981, to update the Site Review criteria as part of the Community Benefit code change project.

**REQUESTING DEPARTMENT / PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Brad Mueller, Director of Planning & Development Services  
Charles Ferro, Senior Planning Manager  
Karl Guiler, Senior Policy Advisor

**EXECUTIVE SUMMARY**

The purpose of this item is for City Council to consider on second reading a revised Ordinance 8515 related to updating the Site Review criteria. Since City Council discussed this ordinance at a study session on Aug. 25, 2022, the ordinance has been updated to address comments from City Council, Planning Board and the Design Advisory Board (DAB) and members of the community. The revised Ordinance 8515 can be found in **Attachment A**.

Planning Board recommended approval of the ordinance on a 6-0 vote on December 20, 2022. If adopted, the effective date of the new criteria would be July 1, 2023 and the Community Benefit project would be completed.

The Site Review update project has been brought before the City Council throughout the duration of the Community Benefit project which commenced in 2018. The most recent discussion on the project was at a study session in August. A link to the memorandum

from that meeting can be found at the link below and a summary of the council discussion is attached in **Attachment D**.

[August 25, 2022 Study Session Memo on the Site Review update project](#) (see page 54)

The ordinance was considered on first reading on Jan. 19, 2023 and there were no first reading questions.

## STAFF RECOMMENDATION

### **Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

*Motion to pass and adopt Ordinance 8515, amending Title 9, "Land Use Code," B.R.C. 1981, to update the Site Review criteria as part of the Community Benefit code change project.*

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – The ordinance will increase predictability in the Site Review process by making it more clear to the community, including applicants, staff and decision authorities, of what is required to meet the criteria. This will reduce risk from ambiguous language and allow for more efficient and effective reviews of development review applications. There is no direct impact to the city economically from the changes identified.
- **Environmental** – The updated criteria include language on environmental preservation and greenhouse gas emission reduction, which will further the goals of the city's Climate Action Plan and environmental goals.
- **Social** – The updated criteria include a number of new criteria that will broaden the ability to provide benefits to the community. Firstly, new language specifying minimum amounts of housing types based on house size has been added. This will more effectively achieve a broader range of housing options in the community. Secondly, the criteria include new Community Benefit related language that enables additional benefits to be considered through development projects including but not limited to, arts, cultural, human services, housing, environmental, or other benefits that are an objective of the Boulder Valley Comprehensive Plan. Lastly, simplification of the criteria and reduction of ambiguous language would also provide flexibility in reviews particularly for applicants of smaller scale projects.

## OTHER IMPACTS

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

## BACKGROUND

Original direction from City Council on the project in 2018 was to clarify and simplify the Site Review criteria to create more predictable and better design outcomes in the Site Review process. Based on feedback from City Council and Planning Board, staff drafted an ordinance in 2021 that drew inspiration from the successful design standards of the Form Based Code (FBC) into the criteria and rewrote the criteria to be more prescriptive rather than discretionary as is the case with the current criteria. As stated in previous memoranda, the current criteria have been criticized by some since the some of the language is so discretionary and different reviewers may have different opinions on whether or not the criteria are met. Terms such as *human-scaled*, *pedestrian friendly*, *visual interest* or *authentic materials* have contributed to a perception of a risk of unpredictability of Site Review decisions.

Feedback from some members of Planning Board in May 2022 and all members of the DAB in June 2022 and all City Councilmembers in August 2022 was that the ordinance, at that time, was too prescriptive and should be revised to be made less prescriptive and simplified.

At a study session on August 25, 2022, staff updated City Council on the Site Review criteria code change project, described the draft Ordinance 8515 to implement the changes, conveyed input from Planning Board and the DAB and requested feedback from City Council before revising the draft ordinance.

The City Council unanimously agreed that the project was consistent with the original goals and objectives outlined for the project in 2018. However, there was consensus that the building design criteria should be modified to be somewhat less prescriptive and made more descriptive like other parts of the proposed criteria. For instance, best practices for architectural and site design, such as form-based code type requirements, should be retained in the criteria as guides for good design, but applied in a more discretionary manner with weight on ensuring good design and innovation. Council agreed with listing design attributes that are considered good quality, but requested that flexibility be preserved, to avoid buildings that all look alike throughout the city.

One council member felt that the Site Review criteria should be more aggressive in attaining key BVCP goals in development projects. The council generally agreed that the criteria requiring compliance with all BVCP criteria, on balance, was too open ended for broad interpretation, but also felt that restricting compliance only to a limited set of policies or key topics of the BVCP would be counter to the purpose of Site Review. Council requested a hybrid between the existing and proposed criterion language that would strike a balance of achieving full BVCP compliance while avoiding language that would result in arbitrary denials of projects based on policies that are not explicitly directed to development projects.

The council was in general agreement that two of the three suggested greenhouse gas emission reductions requirements (i.e., reduce the embodied CO<sub>2</sub>e of concrete materials, and a whole-building life-cycle Assessment) should be incorporated into the Boulder

Energy Code update in 2023, rather than in the Site Review criteria. The council found that the proposed third option in the memorandum, that contained three options for an applicant to choose below, would be appropriate to apply as a Site Review criterion:

- Design an Electric Project
- Design to 10% More Efficient Than Code
- Design to Code and Participate in Outcome Verified Code Path

Council expressed concern over the cost implications of the previously proposed suggestion and requested further analysis and community outreach on this topic.

A summary of Council's discussion is provided in **Attachment D**.

Based on this feedback, staff has since revised the ordinance, as outlined in this memorandum, to be more discretionary than the prior version to address the concerns. Staff has also reached out to the community for feedback and has summarized the feedback within this memorandum.

A comprehensive background section on the Site Review update project can be found in the prior memorandum to City Council from the August 25, 2022 Study Session at this [link](#).

## **BOARD AND COMMISSION FEEDBACK**

Prior feedback from Planning Board from May 2022 and DAB in June 2022 were provided as part of the August 25, 2022 Study Session memo found at this [link](#). Minutes from those meetings are also attached in **Attachment B** (Planning Board) and **Attachment C** (DAB). The most recent Planning Board public hearing on revised Ordinance 8515 is outlined below:

### Dec. 20, 2022 Public Hearing on revised Ordinance 8515:

On Dec. 20, 2022, Planning Board held a public hearing on the revised Ordinance 8515, deliberated for over six hours, recommended changes to the ordinance where the board was in agreement and ultimately recommended approval of the ordinance to City Council on a vote of 6-0 per the following motion:

On a motion by **S. Silver** and Seconded by **m. Robles**, Planning Board voted 6-0 (L. Smith absent) to recommend that City Council adopt Ordinance 8515, amending Title 9, "Land Use Code," to update the Site Review criteria as part of the Community Benefit code change project and that staff, prior to bringing this ordinance to City Council, implement the changes discussed by the board that had general board support, including, in particular, a change to the BVCP plan criterion to remove the limitation to policies related to the built environment.

Changes made to Ordinance 8515 per the board direction are outlined in the "Summary of Proposed Changes to Ordinance 8515" below.

## **PUBLIC FEEDBACK**

There have been ongoing opportunities for public feedback on the Community Benefit project since it started in 2018 through in person and virtual open house meetings, focus groups with the development community and neighborhoods, specific meetings with stakeholders, segments on Channel 8 news, and Be Heard Boulder questionnaires. This [link to the August 25, 2020 study session](#) contains a comprehensive history of the project and summaries of feedback obtained through the course of the project. Stakeholders and interested persons have been notified of the status of the project and the Planning Newsletter has also included regular updates.

The prior memo to Planning Board summarized the public feedback throughout the process and can be found at this [link](#).

This memo will detail feedback of the most recent changes to the ordinance.

Staff met with the Site Review Focus Group on Dec. 1, 2022. The group was largely supportive of the proposed changes in **Attachment A** being less prescriptive. Some noted that the criteria were a large improvement over the May 2022 version and that the criteria read like P&DS comments in a manner that will provide better guidance on how to meet the criteria. The discussion then proceeded into a line-by-line discussion with the following comments/concerns expressed:

- Determination of compliance with the gas emissions reduction criteria cannot be done at Site Review but rather building permit when more detailed energy modeling is done. Would require a condition of approval;
- Add ‘live/work’ as an allowable housing type under the Housing Type Diversity criterion;
- Concerns about the criteria requiring screening of electrical equipment and appurtenances;
- The requirement of one defined entry per every 50 feet is too rigid and not appropriate to all uses;
- Suggestions to be more lenient on height measurements to encourage pitched roofs;
- Concerns about criteria that still include specific numeric or strict prescriptive requirements like minimum amount of window openings, maximum building length, building and roofing materials etc.;
- Concerns about the noise requirement and sentiments that it should not be a requirement of Site Review, and
- Building height and massing requirements are confusing and in some cases, overly strict.

Staff has attempted to address as many of the concerns as possible in the **Attachment A** ordinance within the framework of the project. **Attachment E** contains prior written comments received on the May 2022 version of the ordinance for context. Staff will be distributing the current version of the ordinance for review to the community in advance of the public hearing on the project.

## SUMMARY OF PROPOSED CHANGES TO ORDINANCE 8515

Based on the feedback discussed above, staff has made the following changes to the ordinance:

- **Descriptive Criteria:** The criteria have been rewritten to be less prescriptive as a whole, more descriptive in what the city intent is in terms of design quality and with added flexibility in specific areas like housing diversity and building design.
- **Organization:** Redundancy has been reduced and criteria language has been greatly simplified since the prior draft. Organization continues to be more simplified and understandable than the current Site Review criteria format.
- **Purpose:** The purpose section of the Site Review section (Section 9-2-14(a), B.R.C. 1981) has been updated to correspond to the new sections and criteria of the broader section.
- **BVCP Consistency:** The BVCP criterion has been redrafted to continue to require compliance with the land use map and to, on balance, comply with the goals and policies of the BVCP. In addition, standards have been added for the determination of this on balance finding. This includes, for example, clarification that no project has to comply with any one particular policy and a consideration of how a policy is intended to be implemented. For instance, some policies are intended to be implemented through city programs or code changes. Other policies more directly address or relate to development review projects.
- **Greenhouse Gas Emissions Reduction:** The criterion intended to exceed the City of Boulder Energy Conservation Code (ECC) by required greenhouse gas emissions reduction has been significantly reworked and simplified. The criterion now simply states that a commercial building (which includes residential buildings with attached units) or additions to buildings greater than 30,000 square feet would have to exceed the total building performance requirement of the ECC by at least 10 percent. The other proposed requirements in the prior draft have been removed, but were requested by City Council to be added as standard requirements in the ECC in the 2023 update. Staff is working on the 2023 COBECC update now and is incorporating these elements into the code update project; assuming final adoption by City Council, these criteria would then apply to all projects citywide, not just Site Review projects.
- **Housing Diversity:** The housing diversity language has been updated per comments from the Planning Board such that if a project has only efficiency living units, the site would require one additional housing type. The minimum number of housing types based on property size has been retained from the prior draft; however, a criterion that allows for flexibility in meeting the housing diversity criterion through other compelling community housing needs has been added.

- **Site & Building Design:** All site design and building design criteria have been rewritten with a criterion stating the overall intent and that “*in determining whether this intent is met, the approving agency will consider the following factors*” rather than as a prescriptive standard as previously written. The revised language is how the current criteria are implemented. However, the criteria have been updated to more clearly describe what certain current very discretionary terms discussed earlier mean, such as human scale, pedestrian friendly, authentic materials, providing relief to density, visual interest etc.
- **Alternative Compliance:** Because the proposed criteria would be applied similar to today’s criteria with discretion and less prescription than the May 2022 draft, the alternative compliance section has been completely removed.
- **Open Space:** Much of the open space criteria is similar to the previous draft since those criteria were already written in a more descriptive manner.
- **Public Realm:** The prior “Public Realm” section has been simplified and folded into the landscaping and building design sections. Rather than defining “public realm” in the criteria, a new “Public Realm” definition is proposed to be added to Chapter 9-16, “Definitions,” B.R.C. 1981.
- **Best Practices in Design:** Most of the strict metrics from the form-based code regulations have been removed, but design quality and best practice elements from the FBC (e.g., minimum amount of wall area per floor that should have windows, a list of high quality building materials, amount of landscaping above by-right standards etc.) have been retained in the building design criteria with additional options added for flexibility and to avoid buildings all looking the same. For instance, the strict requirement for expression lines in the prior draft has been changed to a simplified criterion on building detailing that includes expression lines among other design options for meeting the detailing intent.
- **Acoustic Studies:** The requirement for a noise study for residential building near noise sources has been removed and replaced with an existing code requirement that requires special wall construction to reduce noise impacts in specific areas that is already implemented in the residential in industrial zone standards.
- **Design Compatibility:** While somewhat unpredictable in nature and interpretation, similar criteria to existing language related to determining compatibility of a building’s design and massing has been put back into the draft criteria but has been made more specific to existing context, an improved character, or compliance with any adopted area plans as factors to consider.
- **Roof Materials:** A new criterion prohibiting the use of roofing membranes, like Thermoplastic Polyolefin, on sloped roofs has been added since the visibility of such materials on the roof is counter to the design goals of Site Review.
- **Height Modifications or Increased Floor Area:** The criteria applied to buildings associated with height modifications or increased floor area have been reworked.

Basic compatibility criteria would apply to buildings that do not exceed three stories (e.g., requests due to topography, industrial buildings needing high volume manufacturing spaces, buildings raised to flood elevation etc.). Buildings with four or five stories or with increased floor area would have to meet additional criteria that limit massing, avoid large monotonous buildings with flat roofs and respect access to prominent mountain views. One prior criterion for courtyard spaces (which currently applies in the RH-3 zone) applied to any project over one acre is proposed to be moved from the general open space section to only apply to building associated with a height bonus (greater than three stories) or increased floor area as it's largely intended to break the massing of large buildings. The prior restriction of building width along public right-of-way is retained in the new draft but as an important consideration among other factors.

- **Poles and Emergency Operations Antennae:** New language has been added in the ordinance to clarify the height requirements currently applied to poles (generally poles related to public utilities, light and traffic signal poles in the right-of-way and light poles at government-owned recreational facilities) per the City Charter and clarification on the relevant review process for poles. New language includes references to applicable State law on certain major electric or gas public utility facilities and the criteria have been updated to clarify that some poles would require Site Review. Emergency operations antennae have also been added to these standards where there is currently no reference.
- **Planning Board Recommended Changes:** On Dec. 20<sup>th</sup>, Planning Board conducted an additional line by line discussion of the criteria requesting a variety of editorial revisions, organizational changes and corrections. The following is a list of other more substantive changes recommended by the Planning Board that had consensus of the board and have been incorporated into Ordinance 8515:
  - Simplify the language in the “purpose” Section 9-2-14(a), B.R.C. 1981;
  - Create more consistent language between all the references to the adopted area plans and guidelines etc. (Section 9-2-14(h)(1), (2), (3) and (4))
  - Broaden the BVCP policy criterion further to include policies in addition to the built environment section (Section 9-2-14(h)(1), B.R.C. 1981);
  - Revise the open space criteria to ensure that on-site open space is accessible and available to all residents of a development or where not accessible to all residents, open space with equivalent amenities between different parts of a development is provided (Section 9-2-14(h)(2)(B), B.R.C. 1981), and
  - Add “environmental” to the list of additional possible community benefit options in Section 9-2-14(h)(6)(C), B.R.C. 1981.

Staff has incorporated these changes with the exception of the open space criterion in question above, which is currently written more open ended to ensure flexibility in how open space is integrated into the development. If language were added that required shared access or equivalent amenities between buildings or developments in all cases, it would likely raise the cost for affordable housing



developers and as a result, could disincentivize on-site affordable projects or result in fewer on-site units or higher rents. It would also lead to increased costs for affordable market-rate housing. Increased demand, rising building costs, and [other long-term supply constraints](#) in the housing market have led to record-high housing costs. While staff understands the equity concern raised by Planning Board, staff finds that the criterion in the Site Review should remain flexible to projects on a case-by-case basis. Staff also finds that this particular issue of equity would be best handled as part of the upcoming Inclusionary Housing code changes.

On another topic, one board member requested that the criteria related to landmarking older buildings be either removed or reconsidered as it could result in Planning Board or other review authorities forcing the landmarking of a building above the wishes of a property owner. Staff finds that the criterion would not change current practice where staff or the Planning Board may identify buildings considered for landmarking, but that the final say in such a decision would be up to the Landmarks Preservation Advisory Board or City Council. For those reasons, staff has not removed or amended the criterion.

As stated above, Planning Board recommended approval of Ordinance 8515 on a vote of 6 to 0 with the recommendation that staff revise the ordinance to *“implement the changes discussed by the board that had general board support, including, in particular, a change to the BVCP plan criterion to remove the limitation to policies related to the built environment.”*

## ANALYSIS

The original goals and objectives of the Site Review component of the Community Benefit project are listed below:

- *Identify incentives to address the community economic, social and environmental objectives of the comprehensive plan.*
- *Determine additional design standards for projects requesting a height modification.*
- *Identify other aspects of the Site Review criteria to further city goals and create more predictability in projects.*

Staff provided a detailed analysis of the project’s adherence to these goals and objectives in the May 19, 2022 Planning Board memo found at this [link](#). While making the criteria more discretionary and less prescriptive reduces the level of predictability compared to the May 2022 version of the ordinance, staff understands the concerns about applying more rigid standards and how such standards could potentially impact design innovation.

Staff finds that the updated ordinance in **Attachment A** continues to be consistent with the goals and objectives above and addresses the stated concerns of City Council, Planning Board and DAB by striking a balance of implementing BVCP policies and

ensuring important site and building design considerations through discretionary criteria that better specifies how to meet the criteria. The revised ordinance eliminates the very discretionary language in the current criteria and allows for easier implementation of the criteria to meet the purpose of Site Review, which is to result in projects that are:

- Consistent with the BVCP, its policies, and any adopted plans;
- Sustainable and with a diversity of housing types;
- Designed to have enhanced site design and enduring human scale building design, and
- Fulfilling community benefit and increased design requirements for buildings proposed with height modifications and/or requests for increased floor area.

These elements are defined in detail in the ordinance with more descriptive criteria and stricter standards where necessary (e.g., building materials, window areas, building width maximums for larger buildings etc.) to achieve the purpose of Site Review stated above. The updated criteria would set a better-defined baseline for what is considered high quality design that meets the review criteria, but still allow for flexibility in how projects can achieve the criteria.

Below is a staff analysis that highlights how and why staff finds the ordinance consistent with the original goals and objectives of the project and how it addresses previously raised concerns from the prior version of the ordinance:

**BVCP Compliance [Proposed Section 9-2-14(h)(1), B.R.C. 1981]:** The revised criteria would continue to require projects to be consistent with the goals and policies of the BVCP, but new language clarifies that policies unrelated to development review applications would not be considered. Other important BVCP considerations such as minimum requirements for housing diversity and historic preservation proposed in the May 2022 draft would be retained in this version of the criteria. Staff finds these changes would add to the predictability in reviews while also more effectively applying the BVCP to development projects.

**Greenhouse Gas Emissions Reduction and Climate Action goals [Proposed Section 9-2-14(h)(1)(C), B.R.C. 1981]:** The revised criteria would set a new baseline for meeting city climate action goals by requiring larger buildings (buildings greater than 30,000 square feet) to exceed the already rigorous requirements of the City of Boulder Energy Conservation Code (COBECC) by at least 10 percent. The other standards included in the prior iteration will be included in the next COBECC update proposed for 2023. The cost impact on projects is difficult to quantify given the different strategies projects can employ. Using other studies as representative benchmarks, such as the [recent study by New Buildings Institute](#), and past experience with LEED, staff estimates an average incremental first cost of construction of less than 2 percent of the building cost, with an economic payback through operational cost savings of less than 5 years.

**Building Design criteria [Proposed Section 9-2-14(h)(3), B.R.C. 1981]:** As stated above, the building design criteria have retained much of the best practice elements that were previously included in the May 2022 draft, but are rewritten to be more generalized on their intent allowing a broader array of design solutions to meet the intent. The criteria are significantly more descriptive than the current criteria with the intent of making the criteria very clear on the design quality baseline and so that projects can be more evenly and equitably reviewed for consistency rather than applying the current very discretionary standards of measure (e.g., *human-scaled, pedestrian friendly, visual interest or authentic materials* etc.). Making the criteria more discretionary and descriptive will also avoid inadvertently impacting smaller scale projects by making the requirements more flexible and easier to understand to those applicants that do not have as much experience with the Site Review process. Staff finds that more specific, descriptive criteria will increase the level of predictability in projects by providing better guidance to applicants on how to design an approvable project. This will ideally require fewer back and forth revisions to meet the criteria and lesser cost to applicants if a project is more likely to meet the criteria upon submittal.

**Additional Design Standards for Projects subject to a Height Modification or Increase in Floor Area [Proposed Section 9-2-14(h)(4), B.R.C. 1981]:** Adding additional requirements for buildings subject to height modifications or additional floor area was a key goal of this Site Review criteria update. The first part of this endeavor was to add new Community Benefit requirements for any buildings that included more than three-stories or additional floor area over a floor area ratio (FAR) limit in specified zones. This was done in 2019 and included new Site Review criteria for increased permanently affordable housing requirements for such projects either for increased on-site units or increased in lieu or commercial linkage fees (see [prior memo](#) for more explanation on these changes). The changes within **Attachment A** focus on additional design standards for such projects.

To address the concerns about the design impacts of larger, taller buildings, the following criteria have been added to the Site Review criteria and updated based on feedback from the board:

- **Compatibility:** Compatibility criteria has been updated to be more simplified and focused on context based on the character of the area or as specified in an adopted area plan or guidelines;
- **Building Width:** The maximum building length of 150 feet proposed in the May 2022 has been changed to 200 feet in the criteria to apply only to larger, taller buildings to avoid the large, block long buildings that have raised concerns in the past. In addition, it is not a strict requirement but a factor to be considered in the determination of whether the building's form, massing and length are designed to a human scale and to create visual permeability into and through sites.
- **Façade Variation:** A façade variation criterion has also been retained that would require facades have simple variation rather than one large monolithic appearance along a street;

- **Views:** Current Site Review criteria contain vague language about view protection and minimizing impact to views, but does not specify which views are important to preserve or what design solutions should be considered to minimize impact. The proposed criteria more clearly specify prominent views of mountains and specify how design elements or buildings should be designed to take advantage of such views.
- **Courtyards:** A new criterion is proposed to be added that borrows from existing standards for courtyards on high density residential sites (i.e., RH-3 zone) that require a ground level courtyard open space be provided on projects to help break up the massing of taller, larger buildings and provide more meaningful open space on more intensively developed sites. This section was previously included in the open space criteria in the May 2022 draft but found to be more applicable to larger scale projects that are over one acre in size.

## ATTACHMENTS

Attachment A-	Proposed Ordinance 8515
Attachment B-	Minutes from the May 19, 2022 Planning Board meeting
Attachment C-	Minutes from the June 8, 2022 DAB meeting
Attachment D-	Study Session summary from August 25, 2022 City Council discussion
Attachment E-	Public comments

ORDINANCE 8515

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO UPDATE THE SITE REVIEW CRITERIA AS PART OF THE COMMUNITY BENEFIT CODE CHANGE PROJECT AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-2-7, "Development Review Action," B.R.C. 1981, is amended to read as follows:

**9-2-7. Development Review Action.**

No development review application will be accepted unless and until it is determined to be complete. Such determination will be made within five days after the submission of the application. The city manager will review the application and provide the applicant with a list of any deficiencies.

(a) City Manager Review and Recommendation:

- (1) The city manager shall, after acceptance of the application, review the application for compliance with the review criteria. The city manager shall provide the applicant with a written evaluation of the application and whether it meets or does not meet applicable criteria, and what modifications the applicant may wish to consider in order to meet applicable criteria and obtain the city manager's support.
- (2) The applicant shall be afforded a maximum of sixty days to make any corrections or changes recommended by the city manager. If corrections or changes are not submitted in the prescribed time period, the application shall be considered withdrawn.
- (3) The city manager shall approve the application in whole or in part, with or without modifications and conditions, deny the application or may refer the application to the planning board for review or decision, as provided in Sections 9-2-14, "Site Review," 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested.
- (4) The city manager will mail a written disposition of approval or denial with the reasons for denial to the applicant, appeal body and to any person that requested

notification of the final decision. A decision not referred to, appealed to or called-up by the planning board is final fourteen days after the date of approval indicated on the disposition.

(5) The city manager shall review and process an application of a public utility or a power authority providing electric or natural gas service that relates to the location, construction, or improvement of major electrical or natural gas facilities, as defined in state law, consistent with deadlines and requirements for such review set forth in C.R.S. 29-20-108, as applicable at the time of application. Any board or council reviews will also be scheduled to meet the requirements of said law.

(b) Planning Board Review and Recommendation: Development review applications requiring a decision by the planning board shall be reviewed as follows:

(1) Referral: The city manager shall refer to the planning board any application for a development review which requires a board decision as required by Sections 9-2-14, "Site Review," 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, and any other application which the manager deems appropriate.

(2) Decision: Within thirty days of the public hearing provided for in Section 9-2-8, "Public Hearing Requirement," B.R.C. 1981, or within such other time as the agency and the applicant mutually agree, the board will either grant the application in whole or in part, with or without modifications and conditions, or deny it. The board will review the application in accordance with the standards and guidelines established in Sections 9-2-14, "Site Review," 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested. The decision will specifically set forth in what respects the application meets or fails to meet the standards and criteria set forth in Sections 9-2-14, "Site Review," 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested. A planning board decision not called up by the city council is final thirty days after the date of the decision.

(3) Appeal and Call-Ups:

(A) The applicant or any interested person may appeal the city manager's decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(B) A member of the planning board may call-up an application for review pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

- 1 (c) City Council Call-Up: The city council may call-up any planning board decision pursuant  
to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.
- 2
- 3 (d) Building Permit Pending Appeal: A building permit may be applied for after the initial  
approval of a development review application, but no building permit will be issued until  
4 after any and all applicable call-up or appeal periods have expired. An applicant for such  
a permit bears all risks of subsequent disapproval and waives any claims arising from the  
5 permit application.
- 6 (e) Judicial Review: Any person aggrieved by the final decision of the city manager may  
7 seek judicial review pursuant to Subsection 9-4-4(g), B.R.C. 1981.

8 Section 2. Section 9-2-14, "Site Review," B.R.C. 1981, is amended to read as follows:

9 **9-2-14. Site Review.**

- 10 (a) Purpose: The purpose of site review is to allow flexibility ~~and in design, to encourage~~  
11 ~~innovation in land use development. Review criteria are established to promote the most~~  
12 ~~appropriate use of land, improve the character and quality of new development, to~~  
13 ~~facilitate the adequate and economical provision of streets and utilities, to preserve the~~  
14 ~~natural and scenic features of open space, to assure consistency with the purposes and~~  
15 ~~policies of the Boulder Valley Comprehensive Plan and other adopted plans of the~~  
16 ~~community, to ensure compatibility with existing structures and established districts, to~~  
17 ~~assure that the height of new buildings is in general proportion to the height of existing,~~  
18 ~~approved, and known to be planned or projected buildings in the immediate area, to~~  
19 ~~assure that the project incorporates, through site design, elements which provide for the~~  
20 ~~safety and convenience of the pedestrian, to assure that the project is designed in an~~  
21 ~~environmentally sensitive manner, to assure that the building is of a bulk appropriate to~~  
22 ~~the area and the amenities provided and of a scale appropriate to pedestrians, and to set~~  
23 ~~requirements for additional height, density, and intensity that provide additional benefits~~  
24 ~~to the community beyond the underlying zoning-, to promote the most appropriate use of~~  
25 ~~land, to improve the character and quality of new development, to facilitate the adequate~~  
and economical provision of streets and utilities, to preserve the natural and scenic  
features of open space, to ensure compatible architecture, massing and height of buildings  
with existing, approved, and known to be planned or projected buildings in the immediate  
area, to ensure human scale development, to promote the safety and convenience of  
pedestrians, bicyclists and other modes within and around developments and to  
implement the goals and policies of the Boulder Valley Comprehensive Plan and other  
adopted plans of the community. Review criteria are established to achieve the following:

1. Consistency with the Boulder Valley Comprehensive Plan (BVCP): Development  
projects are consistent with relevant goals and policies of the BVCP, while  
recognizing that no project must satisfy one particular goal or policy or all of  
them.

2. Consistency with Adopted Plans: Development projects are consistent with adopted subcommunity and area plans and design guidelines of the city.
3. Sustainability: Projects are designed to be sustainable and reduce greenhouse gas emissions and to prevent or mitigate impacts to the natural environment.
4. Housing Diversity: Residential projects assist the community in producing a variety of housing types and unit sizes.
5. Enhanced Site Design: Projects preserve and enhance the community's unique sense of place through creative design that respects historic character and the project's relationship to the natural environment, public realm, and surrounding area. The project provides multi-modal transportation connectivity and promotes use of modes other than the single-occupant vehicles. Site open space enhances the pedestrian experience, is functional, and incorporates high-quality sustainable landscaping. Open space meets the needs of the users of the project.
6. Enduring Human Scale Building Design: Buildings exemplify high-quality, enduring architecture with facades that are simple and human scaled. Buildings provide pedestrian interest and are consistent with the character established in adopted subcommunity or area plans or design guidelines or, in none apply, are compatible with the character of the surrounding area or improve upon that character.
7. Community Benefit and Enhanced Building and Site Design for Taller, Larger Buildings: Buildings that are built above the by-right zoning district height limits or floor area ratio maximums as may be approved under the standards of this section provide community benefits identified in the BVCP beyond the underlying zoning. These buildings are compatible in form and massing with the surrounding area and preserve and take advantage of prominent views from the site and adjacent public spaces and provide high quality open space that provides relief to the additional height and intensity of the project and the surrounding area.

(b) Scope: The following development review thresholds apply to any development that is eligible or that otherwise may be required to complete the site review process:

(1) Development Review Thresholds:

...

(E) Height Modifications: A development which exceeds the permitted height requirements of Section 9-7-5, "Building Height," or 9-7-6, "Building Height, Conditional," B.R.C. 1981, or of Paragraph 9-10-3(b)(2), "Maximum Height," B.R.C. 1981, to the extent permitted by that paragraph for existing buildings on nonstandard lots, is required to complete a site review and is not subject to the minimum threshold



requirements. No standard other than height may be modified under the site review unless the project is also eligible for site review. A development that exceeds the permitted height requirements of Section 9-7-5 or 9-7-6, B.R.C. 1981, must meet any one of the following circumstances in addition to the site review criteria:

- ...
- (ii) ~~The building is in the Industrial-industrial General~~  
~~Industrial-industrial Service~~service, or ~~Industrial-industrial~~  
~~Manufacturing-manufacturing Zoning-zoning District-district~~ and  
 has two or fewer stories ~~or~~ and the building's height is necessary  
 for a manufacturing, testing, or other industrial process or  
 equipment.
- ...
- (iv) The height modification is to allow up to the greater of two stories  
or the maximum number of stories permitted but no more than five  
feet above the maximum building height under Section 9-7-5(a) or  
9-7-6, B.R.C. 1981, in a building where the height modification is  
necessary because the building has to be elevated to meet the  
required flood protection elevation.
- (ivv) At least forty percent of the dwelling units in the building meet the  
requirements for permanently affordable units in Chapter 9-13,  
"Inclusionary Housing," B.R.C. 1981; at least forty percent of the  
floor area of the building is used for dwelling units that meet the  
requirements for permanently affordable units in Chapter 9-13,  
B.R.C. 1981; all floor area above the first floor of the building is  
used for dwelling units; and the permanently affordable units in the  
building are not used to satisfy inclusionary housing requirements  
under Chapter 9-13, B.R.C. 1981, for dwelling units located in any  
other building.
- (v vi) The height modification is to allow an emergency operations  
antenna or a pole.
- (vii) The height modification is to allow an expansion of an existing  
building that exceeds the permitted height requirements of Section  
9-7-5 or 9-7-6, B.R.C. 1981, if the existing height was approved as  
part of a planned unit development, site review, or height review  
and the expansion is not within a fourth or fifth story.
- (viviii) ~~The building or use is located in an area designated in Appendix J,~~  
~~"Areas Where Height Modifications May Be Considered," and~~  
~~meets the requirements of Paragraph 9-2-14(h)(2)(K), "Additional~~

Criteria for Height Bonuses and Land Use Intensity Modifications for Properties Designated Within Appendix J," B.R.C. 1981. [3] meets the requirements of Subparagraph 9-2-14(h)(6)(C), B.R.C. 1981, for a height bonus, and is not in the RR, RE, RL, RMX-1, MH, or A zoning district.

**TABLE 2-2: SITE REVIEW THRESHOLD TABLE**

<i><b>Zoning District Abbreviation</b></i>	<i><b>Use</b></i>	<i><b>Form</b></i>	<i><b>Intensity</b></i>	<i><b>Minimum Size for Site Review</b></i>	<i><b>Concept Plan and Site Review Required</b></i>	<i><b>Former Zoning District Abbreviation</b></i>
A	A	a	1	2 acres	-	(A-E)
BC-1	B3	f	15	1 acre	3 acres or 50,000 square feet of floor area	(CB-D)
BC-2	B3	f	19	1 acre	2 acres or 25,000 square feet of floor area or any site in BVRC	(CB-E)
BCS	B4	m	28	1 acre	3 acres or 50,000 square feet of floor area	(CS-E)
BMS	B2	o	17	0	3 acres or 50,000 square feet of floor area	(BMS-X)
BR-1	B5	f	23	0	3 acres or 50,000 square feet of floor area	(RB-E)
BR-2	B5	f	16	0	3 acres or 50,000 square feet of floor area	(RB-D)
BT-1	B1	f	15	1 acre	2 acres or 30,000 square feet of floor area	(TB-D)
BT-2	B1	e	21	0	2 acres or 30,000 square feet of floor area	(TB-E)
DT-1	D3	p	25	0	1 acre or 50,000 square feet of floor area	(RB3-X/E)
DT-2	D3	p	26	0	1 acre or 50,000 square feet of floor area	(RB2-X)
DT-3	D3	p	27	0	1 acre or 50,000 square feet of floor area	(RB2-E)
DT-4	D1	q	27	0	1 acre or 50,000 square feet of floor area	(RB1-E)
DT-5	D2	p	27	0	1 acre or 50,000 square feet of floor area	(RB1-X)

1	IG	I2	f	22	2 acres	5 acres or 100,000 square feet of floor area	<del>(IG-E/D)</del>
2	IM	I3	f	20	2 acres	5 acres or 100,000 square feet of floor area	<del>(IM-E/D)</del>
3	IMS	I4	r	18	0	3 acres or 50,000 square feet of floor area	<del>(IMS-X)</del>
4	IS-1	I1	f	11	2 acres	5 acres or 100,000 square feet of floor area	<del>(IS-E)</del>
5	IS-2	I1	f	10	2 acres	5 acres or 100,000 square feet of floor area	<del>(IS-D)</del>
6	MH	MH	s	-	5 or more units are permitted on the property	-	<del>(MH-E)</del>
7	MU-1	M2	i	18	0	1 acre or 20 dwelling units	<del>(MU-D)</del>
8	MU-2	M3	r	18	0	3 acres or 50,000 square feet of floor area	<del>(RMS-X)</del>
9	MU-3	M1	n	24	5 or more units are permitted on the property	1 acre or 20 dwelling units or 20,000 square feet of nonresidential floor area	<del>(MU-X)</del>
10	MU-4	M4	o	24.5	0	3 acres or 50,000 square feet of floor area	-
11	P	P	c	5	2 acres	5 acres or 100,000 square feet of floor area	<del>(P-E)</del>
12	RE	R1	b	3	5 or more units are permitted on the property	-	<del>(ER-E)</del>
13	RH-1	R6	j	12	0	2 acres or 20 dwelling units	<del>(HR-X)</del>
14	RH-2	R6	c	12.5	0	2 acres or 20 dwelling units	<del>(HZ-E)</del>
15	RH-3	R7	l	14	5 or more units are permitted on the property	2 acres or 20 dwelling units	<del>(HR1-X)</del>
16	RH-4	R6	h	15	5 or more units are permitted on the property	2 acres or 20 dwelling units	<del>(HR-D)</del>
17	RH-5	R6	c	19	5 or more units are	2 acres or 20 dwelling units	<del>(HR-E)</del>

				permitted on the property		
RH-6	R8	j	17.5	5 or more units are permitted on the property	3 acres or 20 dwelling units	-
RH-7	R7	i	14	5 or more units are permitted on the property	2 acres or 20 dwelling units	-
RL-1	R1	d	4	5 or more units are permitted on the property	3 acres or 18 dwelling units	<del>(LR-E)</del>
RL-2	R2	g	6	5 or more units are permitted on the property	3 acres or 18 dwelling units	<del>(LR-D)</del>
RM-1	R3	g	9	5 or more units are permitted on the property	2 acres or 20 dwelling units	<del>(MR-D)</del>
RM-2	R2	d	13	5 or more units are permitted on the property	2 acres or 20 dwelling units	<del>(MR-E)</del>
RM-3	R3	j	13	5 or more units are permitted on the property	2 acres or 20 dwelling units	<del>(MR-X)</del>
RMX-1	R4	d	7	5 or more units are permitted on the property	2 acres or 20 dwelling units	<del>(MXR-E)</del>
RMX-2	R5	k	8	0	2 acres or 20 dwelling units	<del>(MXR-D)</del>
RR-1	R1	a	2	5 or more units are permitted on the property	-	<del>(RR-E)</del>
RR-2	R1	b	2	5 or more units are permitted on the property	-	<del>(RR-E)</del>

- (2) Poles Or Emergency Operations Antennas Above the Permitted Height: The city manager will follow the following procedures for the review, recommendation, and call-up and effective date for the approval of poles or emergency operations antennas above the permitted, as applicable by height.

- 1 (A) Light Poles at Government-Owned Facilities or Emergency Operations  
 2 Antennas: The city manager will determine whether or not to approve an  
 3 application for light poles at government-owned recreation facilities or  
 4 emergency operations antennas between thirty-five and fifty-five feet in  
 height, subject to call-up by the planning board pursuant to the procedures  
 set forth in Subsection 9-2-7(b), B.R.C. 1981.
- 5 (B) All Poles or Antennas Over Fifty-Five Feet in Height: The city manager  
 6 will determine whether or not to approve all applications for poles or  
 7 antennas over fifty-five feet in height, subject to call-up by the city council  
 pursuant to the procedures set forth in Subsection 9-2-7(c), B.R.C. 1981.
- 8 ...
- 9 (c) Modifications to Development Standards: The following development standards of  
 B.R.C. 1981 may be modified under the site review process set forth in this section:
- 10 ...
- 11 (17) Land use intensity modifications pursuant to Paragraphs 9-2-14(h)(6)(2)(I) and  
 12 ~~(h)(2)(J)~~.
- 13 ...
- 14 ~~(22) 9-10-3(c)(4)(B), "No Reduction in Affordable Units."~~
- 15 (22) The height standards in Paragraph 9-10-3(b)(2), "Maximum Height," to the  
 16 extent permitted for existing buildings or structures exceeding the height  
 17 limitation of that paragraph and the number of permanently affordable units  
 18 requirement in Paragraph 9-10-3(c)(4)(B), "No Reduction in Affordable  
 19 Units," pursuant to the standards of that paragraph.
- 20 ...
- 21 (d) Application Requirements: An application for approval of a site plan may be filed by any  
 22 person having a demonstrable property interest in land to be included in a site review on a  
 23 form provided by the city manager that includes, without limitation:
- 24 ...
- 25 (17) Plans for preservation of natural features existing on the site or plans for  
 mitigation of adverse impacts to natural features existing on the site from the  
 proposed development and anticipated uses. Natural features include, without  
 limitation, healthy long-lived trees, significant plant communities, ground and  
 surface water, wetlands, riparian areas, drainage areas and habitat for species on  
 the federal Endangered Species List, "Species of Special Concern in Boulder  
 County" designated by Boulder County, or, if prairie dogs (*Cynomys*  
*ludiovicianus*) are present on the site, a statement of intent that specifies how the

applicant will address the prairie dogs consistent with the applicable standards of Chapter 6-1, "Animals," B.R.C. 1981. ~~which is a species of local concern.~~

(18) A tree inventory that includes the location, size, species, and general health of all trees with a diameter of six inches and over measured fifty-four inches above the ground on the property or in the landscape setback of any property adjacent to the development. The inventory shall indicate which trees will be adversely affected and what if any steps will be taken to mitigate the impact on the trees. The tree inventory shall be prepared by a certified arborist that has a valid contractor license pursuant to Chapter 4-28, "Tree Contractor License," B.R.C.

(19) A three-dimensional, digital model illustrating the project site and surrounding context for view and scale analysis, unless exempted by the city manager due to small project size.

(20) For projects with any new building or addition exceeding 30,000 square feet of floor area, preliminary energy modeling or any other documentation necessary to demonstrate compliance with the greenhouse gas emissions reduction standards of Subparagraph 9-2-14(h)(1)(C), B.R.C. 1981.

(21) A transportation demand management (TDM) plan which outlines strategies to mitigate traffic impacts created by the proposed development and measures that the development will implement to promote alternate modes of travel, in accordance with Section 9-2-14(h)(2)(A), B.R.C. 1981, and Section 2.03(I) of the City of Boulder Design and Construction Standards.

(e) Additional Application Requirements for Height Modification: The following additional application requirements apply if the development proposal includes a request for the modification of the permitted height:

...

(8) Plans and a written statement demonstrating that the development meets the requirements for a height bonus specified in Subparagraph 9-2-14(h)(~~26~~)(~~C~~), B.R.C. 1981.

...

(g) Review and Recommendation: The city manager will review and decide an application for a site review in accordance with the provisions of Section 9-2-6, "Development Review Application," B.R.C. 1981, except for an application involving the following, which the city manager will refer with a recommendation to the planning board for its action:

(1) A reduction in off-street parking of more than fifty percent subject to compliance with the standards of Subsection 9-9-6(f), B.R.C. 1981.

- (2) A reduction of the open space or lot area requirements allowed by Subparagraph (h)(62)(4) of this section.

...  
~~(h) Criteria for Review: No site review application shall be approved unless the approving agency finds that:~~

~~(1) Boulder Valley Comprehensive Plan:~~

~~(A) The proposed site plan is consistent with the land use map and the service area map and, on balance, the policies of the Boulder Valley Comprehensive Plan.~~

~~(B) The proposed development shall not exceed the maximum density associated with the Boulder Valley Comprehensive Plan residential land use designation. Additionally, if the density of existing residential development within a three hundred foot area surrounding the site is at or exceeds the density permitted in the Boulder Valley Comprehensive Plan, then the maximum density permitted on the site shall not exceed the lesser of:~~

~~(i) The density permitted in the Boulder Valley Comprehensive Plan, or~~

~~(ii) The maximum number of units that could be placed on the site without waiving or varying any of the requirements of Chapter 9-8, "Intensity Standards," B.R.C. 1981, except as permitted for building sites with permanently affordable units meeting the requirements of Paragraph 9-10-3(c)(4), "Nonconforming Permanently Affordable Units," B.R.C. 1981.~~

~~(C) The proposed development's success in meeting the broad range of BVCP policies considers the economic feasibility of implementation techniques required to meet other site review criteria.~~

~~(2) Site Design: Projects should preserve and enhance the community's unique sense of place through creative design that respects historic character, relationship to the natural environment, multi-modal transportation connectivity and its physical setting. Projects should utilize site design techniques which are consistent with the purpose of site review in Subsection (a) of this section and enhance the quality of the project. In determining whether this subsection is met, the approving agency will consider the following factors:~~

~~(A) Open Space: Open space, including, without limitation, parks, recreation areas and playgrounds:~~

(i) ~~Useable open space is arranged to be accessible and functional and incorporates quality landscaping, a mixture of sun and shade and places to gather;~~

(ii) ~~Private open space is provided for each detached residential unit;~~

(iii) ~~The project provides for the preservation of or mitigation of adverse impacts to natural features, including, without limitation, healthy long-lived trees, significant plant communities, ground and surface water, wetlands, riparian areas, drainage areas and species on the federal Endangered Species List, "Species of Special Concern in Boulder County" designated by Boulder County, or prairie dogs (Cynomys ludovicianus), which is a species of local concern, and their habitat;~~

(iv) ~~The open space provides a relief to the density, both within the project and from surrounding development;~~

(v) ~~Open space designed for active recreational purposes is of a size that it will be functionally useable and located in a safe and convenient proximity to the uses to which it is meant to serve;~~

(vi) ~~The open space provides a buffer to protect sensitive environmental features and natural areas; and~~

(vii) ~~If possible, open space is linked to an area or city-wide system.~~

(B) ~~Open Space in Mixed Use Developments (Developments That Contain a Mix of Residential and Nonresidential Uses):~~

(i) ~~The open space provides for a balance of private and shared areas for the residential uses and common open space that is available for use by both the residential and nonresidential uses that will meet the needs of the anticipated residents, occupants, tenants and visitors of the property; and~~

(ii) ~~The open space provides active areas and passive areas that will meet the needs of the anticipated residents, occupants, tenants and visitors of the property and are compatible with the surrounding area or an adopted plan for the area.~~

(C) ~~Landscaping:~~

(i) ~~The project provides for aesthetic enhancement and a variety of plant and hard surface materials, and the selection of materials~~



provides for a variety of colors and contrasts and the preservation or use of local native vegetation where appropriate;

(ii) ~~Landscape design attempts to avoid, minimize or mitigate impacts on and off site to important native species, healthy, long lived trees, plant communities of special concern, threatened and endangered species and habitat by integrating the existing natural environment into the project;~~

(iii) ~~The project provides significant amounts of plant material sized in excess of the landscaping requirements of Sections 9-9-12, "Landscaping and Screening Standards," and 9-9-13, "Streetscape Design Standards," B.R.C. 1981; and~~

(iv) ~~The setbacks, yards and useable open space along public rights of way are landscaped to provide attractive streetscapes, to enhance architectural features and to contribute to the development of an attractive site plan.~~

(D) ~~Circulation: Circulation, including, without limitation, the transportation system that serves the property, whether public or private and whether constructed by the developer or not:~~

(i) ~~High speeds are discouraged or a physical separation between streets and the project is provided;~~

(ii) ~~Potential conflicts with vehicles are minimized;~~

(iii) ~~Safe and convenient connections are provided that support multi-modal mobility through and between properties, accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, pedestrian ways and trails;~~

(iv) ~~Alternatives to the automobile are promoted by incorporating site design techniques, land use patterns and supporting infrastructure that supports and encourages walking, biking and other alternatives to the single-occupant vehicle;~~

(v) ~~Where practical and beneficial, a significant shift away from single-occupant vehicle use to alternate modes is promoted through the use of travel demand management techniques;~~

(vi) ~~On-site facilities for external linkage are provided with other modes of transportation, where applicable;~~

(vii) ~~The amount of land devoted to the street system is minimized; and~~

(viii) ~~The project is designed for the types of traffic expected, including, without limitation, automobiles, bicycles and pedestrians, and provides safety, separation from living areas and control of noise and exhaust.~~

(E) ~~Parking:~~

(i) ~~The project incorporates into the design of parking areas measures to provide safety, convenience and separation of pedestrian movements from vehicular movements;~~

(ii) ~~The design of parking areas makes efficient use of the land and uses the minimum amount of land necessary to meet the parking needs of the project;~~

(iii) ~~Parking areas and lighting are designed to reduce the visual impact on the project, adjacent properties and adjacent streets; and~~

(iv) ~~Parking areas utilize landscaping materials to provide shade in excess of the requirements in Subsection 9-9-6(d), and Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981.~~

(F) ~~Building Design, Livability and Relationship to the Existing or Proposed Surrounding Area:~~

(i) ~~The building height, mass, scale, orientation, architecture and configuration are compatible with the existing character of the area or the character established by adopted design guidelines or plans for the area;~~

(ii) ~~The height of buildings is in general proportion to the height of existing buildings and the proposed or projected heights of approved buildings or approved plans or design guidelines for the immediate area;~~

(iii) ~~The orientation of buildings minimizes shadows on and blocking of views from adjacent properties;~~

(iv) ~~If the character of the area is identifiable, the project is made compatible by the appropriate use of color, materials, landscaping, signs and lighting;~~

- (v) ~~Projects are designed to a human scale and promote a safe and vibrant pedestrian experience through the location of building frontages along public streets, plazas, sidewalks and paths, and through the use of building elements, design details and landscape materials that include, without limitation, the location of entrances and windows, and the creation of transparency and activity at the pedestrian level;~~
- (vi) ~~To the extent practical, the project provides public amenities and planned public facilities;~~
- (vii) ~~For residential projects, the project assists the community in producing a variety of housing types, such as multifamily, townhouses and detached single family units, as well as mixed lot sizes, number of bedrooms and sizes of units;~~
- (viii) ~~For residential projects, noise is minimized between units, between buildings and from either on-site or off-site external sources through spacing, landscaping and building materials;~~
- (ix) ~~A lighting plan is provided which augments security, energy conservation, safety and aesthetics;~~
- (x) ~~The project incorporates the natural environment into the design and avoids, minimizes or mitigates impacts to natural systems;~~
- (xi) ~~Buildings minimize or mitigate energy use; support on-site renewable energy generation and/or energy management systems; construction wastes are minimized; the project mitigates urban heat island effects; and the project reasonably mitigates or minimizes water use and impacts on water quality;~~
- (xii) ~~Exteriors of buildings present a sense of permanence through the use of authentic materials such as stone, brick, wood, metal or similar products and building material detailing;~~
- (xiii) ~~Cut and fill are minimized on the site, the design of buildings conforms to the natural contours of the land, and the site design minimizes erosion, slope instability, landslide, mudflow or subsidence, and minimizes the potential threat to property caused by geological hazards;~~
- (xiv) ~~In the urbanizing areas along the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the building and site design provide for a well-defined urban edge; and~~

(xv) ~~In the urbanizing areas located on the major streets shown on the map in Appendix A to this title near the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the buildings and site design establish a sense of entry and arrival to the City by creating a defined urban edge and a transition between rural and urban areas.~~

(G) ~~Solar Siting and Construction: For the purpose of ensuring the maximum potential for utilization of solar energy in the City, all applicants for residential site reviews shall place streets, lots, open spaces and buildings so as to maximize the potential for the use of solar energy in accordance with the following solar siting criteria:~~

(i) ~~Placement of Open Space and Streets: Open space areas are located wherever practical to protect buildings from shading by other buildings within the development or from buildings on adjacent properties. Topography and other natural features and constraints may justify deviations from this criterion.~~

(ii) ~~Lot Layout and Building Siting: Lots are oriented and buildings are sited in a way which maximizes the solar potential of each principal building. Lots are designed to facilitate siting a structure which is unshaded by other nearby structures. Wherever practical, buildings are sited close to the north lot line to increase yard space to the south for better owner control of shading.~~

(iii) ~~Building Form: The shapes of buildings are designed to maximize utilization of solar energy. Buildings shall meet the solar access protection and solar siting requirements of Section 9-9-17, "Solar Access," B.R.C. 1981.~~

(iv) ~~Landscaping: The shading effects of proposed landscaping on adjacent buildings are minimized.~~

(h) Criteria: No site review application shall be approved unless the approving agency finds that the project is consistent with the following criteria:

(1) Boulder Valley Comprehensive Plan (BVCP) criteria:

(A) BVCP Land Use Map and Policies: The proposed project is consistent with the BVCP land use map and, on balance, with the goals and policies of the BVCP particularly those that address the built environment. In applying this, the approving authority shall consistently interpret and apply this criterion and consider whether a particular goal or policy is intended to be applied to individual development projects or is to guide city policy decisions, such as regulatory actions. The BVCP does not

1 prioritize goals and policies, and no project must satisfy one particular  
 2 goal or policy or all of them.

3 (B) Subcommunity and Area Plans or Design Guidelines: If the project is  
 4 subject to an adopted subcommunity or area plan or adopted design  
 5 guidelines, the project is consistent with the applicable plan and  
 6 guidelines.

7 (C) Reducing Greenhouse Gas Emissions: Any new commercial building  
 8 greater than 30,000 square feet in floor area and any 30,000 square feet or  
 9 greater addition to a commercial building shall either have a net site  
 10 energy usage index (EUI) of zero or is designed to achieve a net site EUI  
 11 that is 10 percent lower than required under the City of Boulder Energy  
 12 Conservation Code. It shall be a condition of approval that the applicant  
 13 demonstrate compliance with this criterion at time of building permit. For  
 14 the purpose of this requirement, “commercial building” shall have the  
 15 meaning defined in the City of Boulder Energy Conservation Code.

16 (D) Urban Edge Design: If the project is located within the urbanizing areas  
 17 along the boundaries between Area I and Area II or III of the BVCP, the  
 18 building and site design provide for a well-defined urban edge, and, if, in  
 19 addition, the project is located on a major street shown in Appendix A of  
 20 this title, the buildings and site design establish a sense of entry and arrival  
 21 to the city by creating a defined urban edge through site and building  
 22 design elements visible upon entry to the city.

23 (E) Historic or Cultural Resources: If present, the project protects significant  
 24 historic and cultural resources. The approving authority may require  
 25 application and good faith pursuit of local landmark designation.

(F) Housing Diversity and Bedroom Unit Types: Except in the RR, RE and  
RL-1 zoning districts, projects that are more than 50 percent residential by  
measure of floor area, not counting enclosed parking areas, meet the  
following housing and bedroom unit type requirements in (i) through (vi).  
For the purposes of this subparagraph, qualifying housing type shall mean  
duplexes, attached dwelling units, townhouses, live-work units, or  
efficiency living units, and bedroom type shall mean studios, one-bedroom  
units, two-bedroom units, or three-bedroom units.

(i) Projects five acres or less shall include at least one qualifying  
housing type. In projects with efficiency living units, at least one  
additional qualifying housing type shall be provided consistent  
with the requirements of this paragraph;

(ii) Projects greater than five acres shall include at least two qualifying  
housing types;

(iii) Projects ten acres or more shall include at least three qualifying housing types;

(iv) Projects greater than five acres shall include at least five dwelling units of each required qualifying housing type;

(v) Projects with more than 20 attached dwelling units shall include at least two different bedroom types, and;

(vi) If a project does not meet the requirements of subsections (i) through (v) above, the applicant shall demonstrate that the project fulfills another at least equivalent community need related to housing policies identified in the BVCP.

(G) Environmental Preservation:

(i) The project provides for the preservation of or mitigation of adverse impacts to natural features, including, without limitation, healthy long-lived trees, significant plant communities, ground and surface water, wetlands, riparian areas, drainage areas, and species on the federal Endangered Species List and "Species of Special Concern in Boulder County" designated by Boulder County and their habitat.

(ii) Where excavation occurs, the location and design of buildings conforms to the natural contours of the land with tiered floor plates, and the site design avoids over-engineered tabling of land. Slopes greater than 50 percent should be avoided and, to the extent practicable, any such areas shall be stabilized with vegetation.

(2) Site Design Criteria: The project creates safe, convenient, and efficient connections for all modes of travel, promotes safe pedestrian and bicycle travel, and minimizes motor vehicle miles traveled. Usable open space is arranged to be accessible; designed to be functional, encourage use, and enhance the attractiveness of the project; and meets the needs of the anticipated residents, occupants, tenants, and visitors to the project. Landscaping aesthetically enhances the project, minimizes use of water, is sustainable, and improves the quality of the environment. Operational elements are screened to mitigate negative visual impacts. In determining whether this is met, the approving agency will consider the following factors:

(A) Access, Transportation, and Mobility:

(i) The project enables or provides vehicular and pedestrian connectivity between sites consistent with adopted connections

plans relative to the transportation needs and impacts of the project, including but not limited to construction of new streets, bike lanes, on-street parking, sidewalks, multi-use paths, transit stops, streetscape planting strips, and dedication of public right-of-way or public access easements, as applicable considering the scope of the project. Where no adopted connections plan applies, the applicant shall, in good faith, and in coordination with the city manager, attempt to coordinate with adjacent property owners to establish, where practicable, reasonable and useful pedestrian connections or vehicular circulation connections, such as between parking lots on abutting properties, considering existing connections, infrastructure, and topography.

(ii) Alternatives to the automobile are promoted by incorporating site design techniques, land use patterns, and infrastructure that support and encourage walking, biking, and other alternatives to the single-occupant vehicle.

(iii) The transportation demand management (TDM) plan will be complied with that results in a significant shift away from single-occupant vehicle use to alternate modes.

(iv) Streets, bikeways, pedestrian ways, trails, open space, buildings, and parking areas are designed and located to optimize safety of all modes and provide connectivity and functional permeability through the site.

(v) The design of vehicular circulation and parking areas make efficient use of the land and minimize the amount of pavement necessary to meet the circulation and parking needs of the project.

(vi) Where practicable and needed in the area and subject to coordination with the city manager, the project provides curbside parking or loading or both consistent with city policies on curbside management.

(B) Open Space:

(i) Useable open space is arranged to be accessible and designed to encourage use by incorporating quality landscaping, a mixture of sun and shade, hardscape areas and green spaces for gathering.

(ii) The open space will meet the needs of the anticipated residents, occupants, tenants, and visitors of the property. In

mixed-use projects, the open space provides for a balance of private and common areas for the residential uses and includes

common open space that is available for use by residents of the residential uses and their visitors and by tenants, occupants, customers, and visitors of the non-residential uses.

(iii) If the project includes more than 50 dwelling units, including the addition of units that causes a project to exceed this threshold, and is more than one mile walking distance to a public park with any of the amenities described herein, at least 30 percent of the required outdoor open space is designed for active recreational purposes.

(iv) On-site open space is linked to adjacent public spaces, multi-use paths, city parks, or public open space if consistent with Department of Open Space and Mountain Parks or Department of Parks and Recreation plans and planning for the area, as applicable.

(C) Landscaping and Screening:

(i) The project exceeds the minimum landscaping requirements of Section 9-9-12, "Landscaping and Screening Standards," B.R.C. 1981, by at least fifteen percent in terms of planting quantities, includes a commensurate area to accommodate the additional plantings, and, where practical, preserves healthy long-lived trees.

(ii) The landscaping design includes a variety of plants providing a variety of colors and contrasts in terms of texture and seasonality and high-quality hard surface materials, such as stone, flagstone, porous pavers, and decorative concrete.

(iii) The landscaping design conserves water through use of native and adaptive plants, reduction of exotic plant materials, and landscaping within stormwater detention facilities to create bioswales or rain gardens, or other similar design strategies.

(iv) Operational elements, such as electrical transformers, trash storage and recycling areas, parking, and vehicular circulation, are screened from the public realm through design elements, such as landscaping, fencing, or placement of structures, to mitigate negative visual impacts.

(3) Building Siting and Design Criteria: Building siting and design are consistent with the character established in any adopted plans or guidelines applicable to the site or, if none apply, are compatible with the character of the area or improves upon that character, consistent with the intent specified in this paragraph. Buildings are positioned and oriented towards the public realm to promote a safe and vibrant pedestrian experience including welcoming, well-defined entries and



1 facades. Building exteriors are designed with a long-lasting appearance and high-  
 2 quality materials. Building design is simple and to a human scale, it creates visual  
 3 interest and a vibrant pedestrian experience. Building roof design contributes to a  
 4 city skyline that has a variety of roof forms and heights. In determining whether  
 5 this is met, the approving agency will consider the following factors:

6 (A) Building Siting and Public Realm Interface:

- 7 (i) New buildings and, to the extent practicable, additions to existing  
 8 buildings are positioned towards the street, respecting the existing  
 9 conditions or the context anticipated by adopted plans or  
 10 guidelines. In urban contexts, buildings are positioned close to the  
 11 property line and sidewalk along a street; whereas, in lower  
 12 intensity contexts, a greater landscaped setback may be provided to  
 13 match the surrounding context.
- 14 (ii) Wherever practical considering the scope of the project, parking  
 15 areas are located behind buildings or set back further from the  
 16 streetscape than the building façade.
- 17 (iii) Along the public realm, building entries are emphasized by  
 18 windows and architectural features that include one or more of the  
 19 following: increased level of detail, protruding or recessed  
 20 elements, columns, pilasters, protruding bays, reveals, fins, ribs,  
 21 balconies, cornices, eaves, increased window glazing, or changes  
 22 in building materials or color.
- 23 (iv) Defined entries connect the building to the public realm. Unless  
 24 inconsistent with the context and building's use, along the public  
 25 realm, one defined entry is provided every 50 feet. Buildings  
designed for residential or industrial uses may have fewer defined  
entries.
- (v) If the project is adjacent to a zoning district of lower intensity in  
terms of allowable use, density, massing, or scale, the project is  
designed with an appropriate transition to the adjacent properties  
considering adopted subcommunity and area plans or design  
guidelines applicable to the site, and, if none apply, the existing  
development pattern. Appropriate transitions may be created  
through design elements such as building siting and design or open  
space siting and design.
- (vi) The building's siting and relationship to the public realm is  
consistent with the character established in any adopted plans or  
guidelines applicable to the site or, if none apply, is compatible  
with the character of the area or improves upon that character,

consistent with the intent of paragraph (3), Building Design Criteria.

(B) Building Design:

- (i) Larger floor plate buildings and projects with multiple buildings have a variety of forms and heights.
- (ii) To the extent practical considering their function, mechanical appurtenances are located within or concealed by the building. If they cannot be located within or concealed by the building, their visibility from the public realm and adjacent properties is minimized.
- (iii) On each floor of the building, windows create visual interest, transparency, and a sense of connection to the public realm. In urban, pedestrian main street-built environments, it is a best practice to design at least 60 percent of each ground floor façade facing the street as window area. Otherwise, it is a best practice to design at least 20 percent of the wall on each floor of a building as window area. Blank walls along the most visible portions of the building are avoided.
- (iv) Simple detailing is incorporated into the façades to create visual interest, without making the façade overly complicated. This detailing may include cornices, belt courses, reveals, alternating brick or stone patterns, expression line offsets, window lintels and sills, and offsets in window glass from surrounding materials.
- (v) Balconies on buildings with attached dwelling units are integrated into the form of the building in that exterior walls partially enclose the balcony. Balcony platform undersides are finished.
- (vi) The building's design, including but not limited to use of materials, color, roof forms, and style, is consistent with the character established in any adopted plans or guidelines applicable to the site or, if none apply, is compatible with the character of the area or improves upon that character, consistent with the intent of paragraph (3), Building Design Criteria.

(C) Building Materials:

- (i) Building facades are composed of high-quality, durable, human-scaled materials. High-quality materials include brick, stone, polished concrete masonry units, wood, architectural high pressure laminate panels, cementitious or composite siding, architectural

metal panels, or any combination of these materials. Split-faced concrete masonry units, stucco, vinyl siding, EIFS, and unfinished or untreated wood are not considered durable, high-quality materials, but may be used on a limited basis and not on facades facing the public realm. High quality materials are focused on the ground floor facades on all sides of a building and on all floors of facades facing the public realm, and, overall, comprise the vast majority of all building facades.

(ii) Roofing membranes, like Thermoplastic Polyolefin are not used on sloped roofs, including but not limited to gable, shed, hipped, and butterfly styles. Roofing membranes may be used on flat roofs provided they are screened by parapets or other methods that conceal the roof surface.

(iii) The number of building material types is limited, and the building materials are applied to complement the building form and function. The organization of the building materials logically expresses primary building features, such as the spatial layout, building entries, private and common spaces, anchor corners, stairwells, and elevators.

(iv) Building cladding materials turn convex corners and continue to the inset wall. This criterion does not apply to changes that occur at an interior corner nor to detailing elements, such as cornices, belt courses, reveals, offsets in expression lines, lintels, and windowsills. Building cladding materials do not change in-plane unless there is at least a 12-inch wall offset.

(v) Any newly constructed building that includes residential units and is located within 200 feet of a railroad, freeway, or expressway is designed to achieve an interior day-night average noise level of no more than forty-five decibels. Noise shall be measured in a manner that is consistent with the federal Housing and Urban Development's standards in Sections 24 CFR §§ 51.100 to 51.106 for the "measure of external noise environments," or similar standard adopted by the city manager in the event that such rule is repealed. The applicant shall provide written certification prior to the issuance of a certificate of occupancy that the sound abatement and attenuation measures were incorporated in the construction and site design as recommended by a professional engineer.

(4) Additional Criteria for Buildings Requiring Height Modification or Exceeding the Maximum Floor Area Ratio: Any building exceeding the by-right or conditional zoning district height as permitted by Section 9-2-14(b)(1)(E), B.R.C. 1981, and

1 any building exceeding the by-right floor area limits as permitted by Section 9-2-  
 2 14(h)(6)(B), B.R.C. 1981, shall meet the following requirements:

3 (A) Building Form and Massing: The building's form and massing are  
 4 consistent with the character established in any adopted plans or  
 5 guidelines applicable to the site or, if none apply, are compatible with the  
 6 character of the area or improves upon that character, consistent with the  
 7 intent of paragraph (3), Building Design Criteria. The building's form,  
 8 massing and length are designed to a human scale and to create visual  
 9 permeability into and through sites. In determining whether this is met, the  
 10 approving authority will consider the following factors:

11 (i) The building does not exceed 200 feet in length along any public  
 12 right-of-way.

13 (ii) All building facades exceeding 120 feet in length along a public  
 14 street, excluding alleys, are designed to appear as at least two  
 15 distinct buildings. To achieve this, façade segments vary in at least  
 16 two of the following design elements:

17 a. Type of dominant material or color, scale, or orientation of  
 18 that material;

19 b. Facade recessions and projections;

20 c. Location of entrance and window placements;

21 d. Roof forms; and

22 e. Building height.

23 (B) Building and Site Design Requirements for Height Modifications:

24 (i) Buildings requiring a height modification shall meet the following  
 25 requirements:

a. Height Modification Other than Height Bonus: For  
buildings no taller than three stories and subject to a height  
modification pursuant to Subparagraph 9-2-14(b)(1)(E)(i)  
through (vii), the building's height, mass, and scale is  
compatible with the character of the surrounding area.

b. Height Bonus: For buildings taller than three stories subject to a height modification pursuant to Subparagraph 9-2-14(b)(1)(E)(viii), B.R.C. 1981:

1. Guidelines or Plan: The building's height is consistent with the building heights anticipated in adopted design guidelines or subcommunity or area plans for the area; or

2. No Guidelines or Plan: If no such guidelines or plans are adopted for the area or if they do not specify anticipated heights for buildings, the building height is compatible with the height of buildings in the surrounding area and the building is located near a multi-modal corridor with transit service or an area of redevelopment where a higher intensity of use and similar building height is anticipated; and

3. Additional Requirements for a Height Bonus - Views: The project preserves and takes advantage of prominent mountain views from public spaces and from common areas within the project. In determining whether this is met, the approving authority will consider the following factors:

i. If there are prominent mountain views from the site, usable open spaces on the site or elevated common areas on the building are located and designed to allow users of the site access to such views;

ii. If the proposed building is located adjacent to a city managed public park, plaza, or open space, buildings are sited or designed in a manner that avoids or minimizes blocking of prominent public views of the mountains from these spaces;

4. Additional Requirements for a Height Bonus – Open Space:

i. If the project site is greater than one acre in size, an inviting grade-level outdoor garden

or landscaped courtyard is provided, designed as a gathering space for the building users. The following are considered elements of successful design for such a space, as practicable considering site conditions and location:

- ii. The width of the space is no less than the height of building walls enclosing the space;
- iii. Seating and other design elements are integrated with the circulation pattern of the project;
- iv. The space has southern exposure and sunlight;
- v. Hard surface areas are paved with unit pavers, such as bricks, quarry tiles, or porous pavers, or poured-in-place materials. If poured-in-place materials are used, they are of decorative color or textures;
- vi. Amenities, such as seating, tables, grills, planting, shade, horseshoe pits, playground equipment, and lighting are incorporated into the space;
- vii. The space is visible from an adjoining public sidewalk; and
- viii. At least one tree is planted per 500 square feet of space. The trees are planted in the ground or, if over parking garages, in tree vaults.

(5H) Additional Criteria for Poles or Emergency Operations Antennas Above the Permitted Height: No site review application for a pole or for an emergency operations antenna above the permitted height will be approved unless the approving agency finds all of the following:

(A) Poles: Poles meet all the following:

- (i) The light pole is a light pole that is required for nighttime recreation activities which are compatible with the surrounding neighborhood, or is a light or traffic signal pole that is required

for safety, or ~~is the~~ an electrical utility pole ~~is that is~~ required to  
serve the needs of the City; ~~and~~

(ii) The pole is sited in a manner that minimizes visual impacts and  
preserves public view corridors, and

(iii) The pole is at the minimum height appropriate to accomplish the  
purposes for which the pole ~~was~~ is erected and is designed and  
constructed ~~so as to~~ minimize light and electromagnetic pollution.  
or

(B) Emergency Operation Antennas: Emergency operations antennas meet the  
following:

(i) The emergency operations antenna will serve a critical health and  
safety need for the city, surrounding communities, or both and is  
sited and designed in a manner that respects its context to the  
highest degree possible and minimizes visual impacts. The  
antenna is at the minimum height necessary to accomplish its  
purpose.

(6) Land Use Intensity and Height Modifications: Modifications to minimum open  
space on lots, floor area ratio (FAR), maximum height, and number of dwelling  
units per acre requirements will be approved pursuant to the standards of this  
subparagraph:

(A) (i) General Land Use Intensity Modifications with Open Space Reduction:

a. The density of a project may be increased in the BR-1  
district through a reduction of the lot area requirement or in  
the Downtown (DT), BR-2 or MU-3 districts through a  
reduction in the open space requirements.

(b.i) The open space requirements in all Downtown (DT) districts may  
be reduced by up to one hundred percent. In the DT, BMS, BR-2,  
and MU-3 Zoning Districts: The open space requirements in  
Chapter 9-8, "Intensity Standards," B.R.C. 1981, may be reduced  
in all DT districts and the BR-2, BMS, and MU-3 districts subject  
to the following standards:

c. The open space per lot requirements for the total amount of

open space required on the lot in the BR-2 district may be reduced by up to fifty percent.

d. ~~Land use intensity may be increased up to twenty-five percent in the BR-1 district through a reduction of the lot area requirement.~~

(ii) ~~Additional Criteria for General Land Use Intensity Modifications: A land use intensity increase pursuant to Subparagraph (i) above will be permitted up to the maximum amount set forth below if the approving agency finds that the criteria in Paragraph (h)(1) through Subparagraph (h)(2)(H) of this section and following criteria have been met:~~

a. ~~Open Space Needs Met: The needs of the project's occupants and visitors for high quality and functional useable open space can be met adequately;~~

b. ~~Character of Project and Area: The open space reduction does not adversely affect the character of the development or the character of the surrounding area; and~~

e. ~~Open Space and Lot Area Reductions: The specific percentage reduction in open space or lot area requested by the applicant is justified by any one or combination of the following site design features not to exceed the maximum reduction set forth above:~~

1. ~~Close proximity to a public mall or park for which the development is specially assessed or to which the project contributes funding of capital improvements beyond that required by the parks and recreation component of the development excise tax set forth in Chapter 3-8, "Development Excise Tax," B.R.C. 1981: maximum one hundred percent reduction in all Downtown (DT) districts and ten percent in the BR-1 district;~~

2. ~~Architectural treatment that results in reducing the apparent bulk and mass of the structure or structures and site planning which increases the openness of the site: maximum five percent reduction;~~

3. ~~A common park, recreation or playground area functionally useable and accessible by the development's occupants for active recreational purposes and sized for the number of inhabitants of the development, maximum five percent reduction; or developed facilities within the project designed~~



~~to meet the active recreational needs of the  
occupants: maximum five percent reduction;~~

~~4. Permanent dedication of the development to use by  
a unique residential population whose needs for  
conventional open space are reduced: maximum  
five percent reduction;~~

a. In the DT, BMS, or MU-3 zoning districts, the reduction in  
open space is necessary to avoid siting of open space that is  
inconsistent with the urban context of neighborhood  
buildings or the character established in adopted design  
guidelines or plans for the area, such as along a property  
line next to zero-setback buildings or along alleys:  
maximum fifty percent reduction.

b. In the BR-2 zoning district, at least one of the following  
shall be met:

51. The reduction in open space is part of a  
development with a mix of residential and  
nonresidential uses ~~within a BR-2 zoning district~~  
that, due to the ratio of residential to nonresidential  
uses and because of the size, type and mix of  
dwelling units, ~~the~~ has a reduced need for open  
space-is reduced: maximum fifteen percent  
reduction; and

62. The reduction in open space is part of a  
development with a mix of residential and  
nonresidential uses ~~within a BR-2 zoning district~~  
~~that provides with~~ high quality urban design  
elements. This open space that will meet the needs  
of anticipated residents, occupants, tenants, and  
visitors of the property or will accommodate public  
gatherings, important activities or events in the life  
of the community and its people, that may include,  
and may include, without limitation, recreational or  
cultural amenities, intimate spaces that foster social  
interaction, street furniture, landscaping, gardens,  
sculptures, and hard surface treatments ~~for the open  
space:~~ maximum twenty-five percent reduction.

~~(B)~~ Land Use Intensity and Density Modifications with Height Bonus: In the  
BMS, BR-1, IMS, IS, MU-1 and MU-2 zoning districts if associated with  
a request for a height bonus, the density and floor area of a building may

be increased above the maximum allowed in Chapter 9-8, "Intensity Standards," B.R.C. 1981, as follows, provided the building meets the requirements for a height bonus under Subparagraph 9-2-14(h)(6)(C)(h)(2)(K), B.R.C. 1981:

a.(i) In the BMS zoning district outside a general improvement district providing off-street parking, and in the IMS, IS, MU-1, and MU-12 zoning districts, the base floor area ratio (FAR) in Table 8-2, Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, may be increased by up to 0.5 FAR.

b.(ii) In the BR-1 zoning district, the allowed number of dwelling units per acre in Table 8-1, Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, may be increased by up to fifty percent and the maximum allowable floor area ratio (FAR) may be increased up to a 3.0 FAR.

~~(J) Additional Criteria for Floor Area Ratio Increase for Buildings in the BR-1 District:~~

~~(i) Process: For buildings in the BR-1 district, the floor area ratio ("FAR") permitted under Table 8-2, Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, may be increased by the city manager under the criteria set forth in this subparagraph.~~

~~(ii) Maximum FAR Increase: The maximum FAR increase allowed for buildings thirty five feet and over in height in the BR-1 district shall be from 2:1 to 4:1.~~

~~(iii) Criteria for the BR-1 District: The FAR may be increased in the BR-1 district to the extent allowed in Subparagraph (h)(2)(J)(ii) of this section if the approving agency finds that the following criteria are met:~~

~~a. Site and building design provide open space exceeding the required useable open space by at least ten percent: an increase in FAR not to exceed 0.25:1.~~

~~b. Site and building design provide private outdoor space for each office unit equal to at least ten percent of the lot area for buildings twenty five feet and under and at least twenty percent of the lot area for buildings above twenty five feet: an increase in FAR not to exceed 0.25:1.~~

~~c. Site and building design provide a street front facade and an alley facade at a pedestrian scale, including, without limitation, features such as awnings and windows, well-~~

defined building entrances and other building details: an increase in FAR not to exceed 0.25:1.

d. ~~For a building containing residential and nonresidential uses in which neither use comprises less than twenty-five percent of the total square footage: an increase in FAR not to exceed 1:1.~~

e. ~~The unused portion of the allowed FAR of historic buildings designated as landmarks under Chapter 9-11, "Historic Preservation," B.R.C. 1981, may be transferred to other sites in the same zoning district. However, the increase in FAR of a proposed building to which FAR is transferred under this subparagraph may not exceed an increase of 0.5:1.~~

f. ~~For a building which provides one full level of parking below grade, an increase in FAR not to exceed 0.5:1 may be granted.~~

(KC) Additional Criteria for a Height Bonuses and Land Use Intensity Modifications ~~for Properties Designated within Appendix J:~~ A building proposed with a fourth or fifth story or addition thereto that exceeds the permitted height requirements of Section 9-7-5, "Building Height," or 9-7-6, "Building Height, Conditional," B.R.C. 1981, together with any additional floor area or residential density approved under Subparagraph ~~(h)(6)(B)(h)(2)(I)(iii)~~, may be approved if it meets the requirements of this Subparagraph ~~(h)(6)(C)(h)(2)(K)~~. For purposes of this Subparagraph ~~(h)(6)(C)(h)(2)(K)~~, bonus floor area shall mean floor area that is on a fourth or fifth story and is partially or fully above the permitted height and any floor area that is the result of an increase in density or floor area described in Subparagraph ~~(h)(6)(B)(h)(2)(I)(iii)~~. The approving authority may approve a height up to fifty-five feet if ~~the building is in an area designated in Appendix J, "Areas Where Height Modifications May Be Considered," and~~ one of the following criteria is met:

(i) Residential Developments: If the development is residential, it will exceed the requirements of Subparagraph 9-13-3(a)(1)(A), B.R.C. 1981, as follows:

a. For bonus units, the inclusionary housing requirement shall be increased as follows: Instead of twenty-five percent, at least thirty-six percent of the total number of bonus units shall be permanently affordable units. If the building is a for-sale development, at least fifty percent of all the permanently affordable units required for the building shall be built in the building; this fifty percent on-site

requirement may not be satisfied through an alternative means of compliance. A minimum of one bonus unit shall be assumed to be provided in the building if any bonus floor area is in the building.

b. For purposes of this Subparagraph (i), bonus units shall mean a number of units that is determined as follows: A percentage of all the units in the building that equals in number the percentage of bonus floor area in the building. For example, if twenty percent of the building's floor area is bonus floor area and the building has one hundred units, twenty percent of those one hundred units are bonus units, resulting in twenty bonus units.

c. The city manager shall review the development's compliance with this increased inclusionary housing requirement pursuant to the standards and review procedures of Chapter 9-13, "Inclusionary Housing," B.R.C. 1981.

(ii) Non-Residential Developments:- For non-residential developments, the applicant shall pay the affordable housing portion of the capital facility impact fee in Section 4-20-62, B.R.C. 1981, at a rate of 1.43 above the base requirement for the bonus floor area. In a building with several types of non-residential uses, the bonus floor area of each type identified under Section 4-20-62, B.R.C. 1981, shall be a percentage of the bonus floor area that equals in number the percentage of the total floor area in the building of such use type. For nonresidential uses with a fee that is calculated per room or bed under Section 4-20-62, B.R.C. 1981, the increased rate for the affordable housing portion of the fee shall apply to bonus rooms or bonus beds as applicable under that section; the number of bonus rooms or bonus beds shall be determined consistent with the methodology for bonus units in Subparagraph (i)b. above.

(iii) Mixed Use:- If the development is a residential mixed-use development, the requirements of Subsections (i) and (ii) above shall apply to the bonus floor area according to the percentage of the total building floor area of each use.

(iv) Alternative Community Benefit:- Pursuant to the standard in this Subparagraph (iv), the approving authority may approve an alternative method of compliance to provide additional benefits to the community and qualify for a height bonus together with any additional floor area or density that may be approved under

Subparagraph (h)(6)(B)(2)(H). The approving authority will approve the alternative method of compliance if the applicant proposes the alternative method of compliance and demonstrates that the proposed method:

- a. ~~Will~~ Will improve the facilities or services delivered by the city, including without limitation any police, fire, library, human services, parks and recreation, or other municipal facility office, or land or service, or will provide an arts, cultural, human services, housing, environmental or other benefit that is a community benefit objective in the BVCP, and
- b. ~~Is~~ Is of a value that is equivalent to or greater than the benefits required by this Subparagraph (h)(26)(C).

(E7) Additional Criteria for Parking Reductions: The off-street parking requirements of Section 9-9-6, "Parking Standards," B.R.C. 1981, may be modified as follows:

(A) Process: The city manager may grant a parking reduction not to exceed fifty percent of the required parking. The planning board or city council may grant a reduction exceeding fifty percent.

(B) Criteria: Upon submission of documentation by the applicant of how the project meets the following criteria, the approving agency may approve proposed modifications to the parking requirements of Section 9-9-6, "Parking Standards," B.R.C. 1981 (see Tables 9-1, 9-2, 9-3 and 9-4), if it finds that:

(i) ~~a.~~ For residential uses, the probable number of motor vehicles to be owned by occupants of and visitors to dwellings in the project will be adequately accommodated;

(ii) ~~b.~~ The parking needs of any nonresidential uses will be adequately accommodated through on-street parking or off-street parking;

(iii) ~~c.~~ A mix of residential with either office or retail uses is proposed, and the parking needs of all uses will be accommodated through shared parking;

(iv) ~~d.~~ If joint use of common parking areas is proposed, varying time periods of use will accommodate proposed parking needs; and

(v)e- If the number of off-street parking spaces is reduced because of the nature of the occupancy, the applicant provides assurances that the nature of the occupancy will not change.

(M8) Additional Criteria for Off-Site Parking: The parking required under Section 9-9-6, "Parking Standards," B.R.C. 1981, may be located on a separate lot if the following conditions are met:

(A+) The lots are held in common ownership;

(B+) The separate lot is in the same zoning district and located within three hundred feet of the lot that it serves; and

(C++) The property used for off-site parking under this subparagraph continues under common ownership or control.

...

(I) Minor Amendments to Approved Site Plans:

(1) Standards: Changes to approved building location or additions to existing buildings, which exceed the limits of a minor modification, may be considered through the minor amendment process if the following standards are met:

...

(2) Amendments to the Site Review Approval Process: Applications for minor amendment shall be approved according to the procedures prescribed by this section for site review approval, except:

(A) If an applicant requests approval of a minor amendment to an approved site review, the city manager will determine which properties within the development would be affected by the proposed change. The manager will provide notice pursuant to Subsection 9-4-3(b), B.R.C. 1981, of the proposed change to all property owners so determined to be affected, and to all property owners within a radius of 600 feet of the subject property.

(B) Only the owners of the subject property shall be required to sign the application.

(C) The minor amendment shall be found to comply with the review criteria of Subparagraphs (h)(2)(A), (h)(32)(C), and (h)(42)(F) of this section.

(D) The minor amendment is found to shall be substantially consistent with the intent of the original approval, including conditions of approval, the intended design character, and site arrangement of the development, and specific limitations on additions or total size of the building which were

required to keep the building in general proportion to others in the surrounding area or minimize visual impacts.

(E) The city manager may amend, waive, or create a development agreement.

...

Section 3. Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, is amended to read as follows:

### **9-7-1. Schedule of Form and Bulk Standards.**

The purpose of this chapter is to indicate the requirements for lot dimensions and building form, bulk, location and height for all types of development. All primary and accessory structures are subject to the dimensional standards set forth in Table 7-1 of this section with the exception of structures located in an area designated in Appendix L, "Form-Based Code Areas," subject to the standards of Appendix M, "Form-Based Code." No person shall use any land within the City authorized by Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following form and bulk requirements unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or as approved under the provisions of Section 9-2-16, "Form-based code review," B.R.C. 1981.

**TABLE 7-1: FORM AND BULK STANDARDS**

Zoning District	AR-1	RR-2	RH-2	RL-1 RM-2 RM-X-1	B-T-2	B-T-1	RL-2 RM-1	RH-4	MU-1	RM-3 RH-1 RH-6	RMX-2	RH-3 RH-7	BCS	MU-3	BMS MU-4	DT-1 DT-2 DT-3 DT-5	DT-4	MU-2 IMS	MH

Form mod ule	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s
<b>SETBACK AND SEPARATION REQUIREMENTS<sup>(n)</sup></b>																			
<i>Principal Buildings and Uses<sup>(n)</sup></i>																			
Mini mum front yard lands cape d setba ck (e), (h)	25' (k)		20'		15'		10'		0' (k)		See sec tio n 9- 7- 13								
Mini mum front yard setba ck for all cover ed and unco vered parki ng areas	25' (k)		20'		20'		20'	1 0'	20' (k)		See sec tio n 9- 7- 13								
Maxi mum front yard lands cape d setba ck for corne r lots and side yards adjac ent a stree t	n/a		n/a		n/a		10'	n / a	n/ a	10'	15' (k)	n / a	10'	n/a					



Maximum front yard landscape setback for an interior lot	n/a			n/a			n/a			15'	n / a	n/ a	15'	15'	n / a	15'	n/a
Minimum side yard landscape setback from a street (a)	25'	12.5' (k)		15'	10'	1' per 2' of bldg. height, 10' min. (i)	0' or 5' (b)	1' per 2' of bldg. height, 10' min. (i)	0' (attached DUs) ; 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 2' of bldg . height, 10' min. (i)	10'	0' for first and second stories 12' for third story and above		0' (k)	0'	0'	n/a
Minimum side yard setback from an interior lot line	15'	10'		5'	10'	0' or 12'	1' per 2' of bldg. height, 5' min. (i)	0' or 3'	0' (attached DUs) ; 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 3' of bldg . height, 5' min. (i)	0' or 12'	0' or 5'	0' or 5'	0' or 12'	0' or 12'	0' or 5'	See section 9-7-13
Minimum total for both side yard setbacks	40'	25'	20'	15'	20'	n/a		n/a		n/a	n/a						n/a

Minimum rear yard setback (f)	25'		25'	20'			10'	15'	20'	15'	20'	15'	20'	15'	15'	10'	See section 9-7-13	
Minimum side yard bulk plane	See Section 9-7-9			n/a														
Minimum front yard setback from a street for all principal buildings and uses for third story and above	n/a		n/a			n/a			n/a		20'		15' (m)		15'		20'	20'
Accessory Buildings and Uses <sup>(n)</sup>																		
Minimum front yard setback uses (e)	55'		55'			Behind rear wall of principal structure	55'	Behind rear wall of principal structure	Behind rear wall of principal structure	55'	55'	Behind rear wall of principal structure	55'	55'	Behind rear wall of principal structure	55'	See Section 9-7-13	
Minimum side yard lands	25'	12.5' (k)	15'	10'	1' per 2' of bld	0' or 5'(b)	1' per 2' of bld	0' (attached DUs) ; 1'	1' per 2' of bldg .	10'	0'		0' (k)		0'	0'	n/a	

1	cape					g. height		g. height	per	height,					
2	d					, 10'		, 10'	2' of	10'					
3	setba					mi		mi	bldg.	min.					
4	ck					n.		n.	height, 5'	(i)					
5	from					(i)		(i)	ht, 5'						
6	a								min. (det						
7	stree								ache						
8	t (a)								DUs)						
9									(i)						
10															
11	Mini	1	1	0' or 3'	0' or 3' (b)			0' or 3' (b)	0' or 3' (b)	0' or 3' (b)		0' or 3' (b)		See	
12	mum	5	0	(b)										Sec	
13	side	'	'											tio	
14	yard													n	
15	setba													9-	
16	ck													7-	
17	from													13	
18	an														
19	interi														
20	or lot														
21	line														
22															
23	Mini	0' or 3' (b)		0' or 3' (b)	0' or 3' (b)	0' or 3' (b)	0' or 3' (b)	0' or 3' (b)	0' or 3' (b)	0' or 3' (b)		0' or 3' (b)		See	
24	mum													Sec	
25	rear													tio	
26	yard													n	
27	setba													9-	
28	ck (f)													7-	
29														13	
30															
31	Mini	6'		6'	6'	6'	6'	6'	6'	6'		6'		6'	
32	mum														
33	separ														
34	ation														
35	betw														
36	een														
37	acce														
38	sory														
39	buildi														
40	ngs														
41	and														
42	any														
43	other														
44	buildi														
45	ng														
46		<b>BUILDING SIZE AND COVERAGE LIMITATION (Accessory and Principal Buildings)<sup>(n)</sup></b>													
47		See Section 9-8-2 (FAR Requirements)				15,000 sq. ft.	See Section 9-8-2 (FAR Requirements)				15,000 sq. ft.	See Section 9-8-2 (FAR Requirements)	15,000 sq. ft.	n/a	
48	Maxi														
49	mum														
50	floor														
51	area														
52	of														
53	any														
54	princi														

1	pal buildi ng perm itted by Chap ter 9- 8												
2													
3													
4													
5	Maxi mum acces sory buildi ng cover age withi n princi pal buildi ng rear yard setba ck (9- 7-8)	500 sq. ft.	n / a	500 sq. ft.	n/a	500 sq. ft.	n/a	n/a	n/a	n/a	n/a	n/a	n/a
6													
7													
8													
9													
10													
11													
12													
13													
14	Maxi mum cumu lative cover age of all acces sory buildi ngs regar dless of locati on (m)	For residential uses - no greater than coverage of the principal building											
15													
16													
17													
18													
19													
20													
21													
22	Maxi mum total buildi ng cover age	See Sectio n 9-7- 11	n / a	See Sec tio n 9- 7- 11	n/a	See Section 9-7-11	n/a						
23													
24													
25													

PRINCIPAL AND ACCESSORY BUILDING HEIGHT <sup>(n)</sup>											
Maximum height for principal buildings and uses (c), (d), (g), and (l)	35'	35'; 40' (in I-zones)	35'	35'	40'	35'	38'	38'	35'	35'	
Conditional height for principal buildings and uses	See Section 9-7-6 for conditional height standards										
Maximum number of stories for a building	3	3	n/a	n/a	2	3	3	2	3	2 (3 on DT-5 corner lots)	3
Maximum wall height for detached dwelling units at zero lot line setback (9-7-	12'	12'	12'	12'	12'	12'	12'	12'	12'	n/a	

2(b)(3))						
Maximum height for all accessory buildings, structures and uses (g)	20' (30' in agricultural zone)	20' (25' in industrial zones)	20'	20'	20'	20'
<b>FENCES, HEDGES and WALLS (for additional standards see Section 9-9-15)</b>						
Maximum height of fences, hedges, or walls	7'	7'	7'	7'	7'	7'
Minimum height of fence on top of retaining wall	42"	42"	42"	42"	42"	42"
Maximum combined height of fence / retaining wall in side yard withi	12'	12'	12'	12'	12'	12'

n 3' of lot line with neigh bor appr oval											
<b>BUILDING DESIGN REQUIREMENTS<sup>(n)</sup></b>											
Mini mum grou nd floor wind ow area facin g a publi c stree t (9- 9-3)	n/a	n/a	n/a	n/a	n/a	6 0 %	60%	n/a	n/a		
Prim ary buildi ng entra nce locati on facin g stree t	n/a	n/a	yes	yes	yes	yes	n / a	y es	yes	yes	n/a
Mini mum perce nt of lot front age that must conta in a buildi ng or buildi ngs	n/a	n/a	n/a	n/a	n/a	n/a	7 0 %	70%	50%	n/a	

Maximum % of 3 <sup>rd</sup> story floor area that can be in a 4 <sup>th</sup> story	n/a	n/a	n/a	70% (j)	n / a	n/ a	n/a	n/a	n/a
Wall length articu- lation stand- ards for side walls over 14' in height withi- n 20' of side prop- erty line	See Section 9-7- 10	n / a	See Section 9-7- 10	n/a	See Section 9-7- 10	n/a			

## Footnotes to Table 7-1, Form and Bulk Standards:

In addition to the foregoing, the following miscellaneous form and bulk requirements apply to all development in the city:

- (a) On corner lots, use principal building front yard setback where adjacent lot fronts upon the street.
- (b) For zero lot line development, see Subsection 9-7-2(b), B.R.C. 1981.
- (c) The permitted height limit may be modified only in certain areas and only under the standards and procedures provided in Sections 9-2-14, "Site Review," and 9-7-6, "Building Height, Conditional," B.R.C. 1981.
- (d) For buildings over 25 feet in height, see Subsection 9-9-11(c), B.R.C. 1981.
- (e) For other setback standards regarding garages, open parking areas, and flagpoles, see Paragraph 9-7-2(b)(8), B.R.C. 1981.
- (f) Where a rear yard backs on a street, see Paragraph 9-7-2(b)(7), B.R.C. 1981.
- (g) ~~Not including light poles at government owned facilities. For additional height standards regarding light poles at government facilities, see Section 9-2-14, "Site Review," B.R.C. 1981. This maximum height limit applies to poles that are light poles at government-owned recreation facilities but not to other poles. Other poles have a maximum height of 55 feet in all zones. For additional criteria regarding poles, see Section 9-2-14, "Site Review," B.R.C. 1981.~~
- (h) For front yard setback reductions, see Subsection 9-7-2(a), B.R.C. 1981.
- (i) For side yard setback requirements based on building height, see Appendix B, "Setback Relative to Building Height," of this title.
- (j) The maximum percentage of the third floor area that can be in a fourth story standard may not be modified as part of a site review.
- (k) For properties located in the DT-5 and P zoning districts and shown in Appendix I, the minimum setback shall be as required by Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, Table 7-1, Form and Bulk Standards or sixty-five feet measured from the centerline of Canyon Boulevard right-of-way.
- (l) For buildings on nonstandard lots within the RMX-1, RL-1, RE, RR-1, and RR-2 zoning districts, refer to Table 10-1, Maximum Height Formulas, within Section 9-10-3, "Changes to Nonstandard Buildings, Structures and Lots and Nonconforming Uses."
- (m) For setback requirements on corner lots in the DT-5 zoning district, refer to Subsection 9-7-6(c), B.R.C. 1981.



- (n) For principal and accessory buildings or structures located on a lot or parcel designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," refer to Appendix M, "Form-Based Code," for design standards applicable to such lot or parcel. With the exception of Charter Section 84, "Height limit," and Sections 9-7-3, "Setback Encroachments," and 9-7-5, "Building Heights," 9-7-7, "Building Height, Appurtenances," B.R.C. 1981, the form and bulk standards of this chapter are superseded by the requirements of Appendix M, "Form-Based Code." Building heights in areas designated in Appendix L are not subject to the height limits of Table 9-7, Form and Bulk Standards.

Section 4. Section 9-7-7, "Building Height, Appurtenances," B.R.C. 1981, is amended to read as follows:

**9-7-7. Building Height, Appurtenances.**

- (a) Appurtenances: Appurtenances may be added under the following circumstances:

- (1) The addition of an appurtenance to a building is permitted if it does not cause the building height to exceed the height allowed in ~~this in~~ Sections 9-7-5, "Building Height," and 9-7-6, "Building Height, Conditional," B.R.C. 1981, considering, for this purpose only, the uppermost point of the appurtenance to be the uppermost point of the roof.

...

- (3) No appurtenance may have useable floor area except for mechanical equipment installations; ~~have more than twenty-five percent coverage of the roof area of the building;~~ or be more than sixteen feet in height. Mechanical equipment, considered cumulatively, may not cover more than twenty-five percent of the roof area of the building. For the purposes of this paragraph, *coverage* means the total area enclosed by the screening and *roof area* means the outside top covering of a building which is parallel to the ground.

...

Section 5. Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, is amended to read as follows:

**9-8-1. Schedule of Intensity Standards.**

The purpose of this chapter is to indicate the requirements for the allowed intensity of all types of development, including maximum density for residential developments based on allowed number of units and occupancy. All primary and accessory structures are subject to the standards set forth in Table 8-1 of this section except that developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Appendix M, "Form-Based Code," are exempt from Table 8-1 and Sections 9-8-1 through 9-8-4, B.R.C. 1981.

Developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Appendix M, "Form-Based Code-," are subject to the standards of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Occupancy Equivalencies for Group Residences," and 9-8-7, "Density and Occupancy of Efficiency Living Units," B.R.C. 1981. No person shall use any land within the city authorized by Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following requirements unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or approved through a form-based code review under Section 9-2-16, "Form-Based Code Review," B.R.C. 1981.

**TABLE 8-1: INTENSITY STANDARDS**

Zoning District	Intensity Module	Minimum Lot Area (in square feet unless otherwise noted)	Minimum Lot Area Per Dwelling Unit (square feet) <sup>(c)</sup>	Number of Dwelling Units Per Acre <sup>(c)</sup>	Minimum Open Space Per Dwelling Unit (square feet) <sup>(c)</sup>	Minimum Open Space on Lots (Residential Uses) <sup>(c)</sup>	Minimum Open Space on Lots (Nonresidential Uses) <sup>(a), (c)</sup>	Minimum Private Open Space (Residential Uses) (square feet) <sup>(c)</sup>	Maximum Floor Area Ratio <sup>(c)</sup>
					Mixed-use developments require the greater amount of the residential or nonresidential standard for open space. See Section 9-9-11 for additional open space requirements.				
A	1	5 acres	5 acres	0.2	-	-	10-20%	-	-
RR-1, RR-2	2	30,000	30,000	1.4	-	-	10-20%	-	See Table 8-3
RE	3	15,000	15,000	2.9	-	-	10-20%	-	See Table 8-3
RL-1	4	7,000	7,000	6.2	-	-	10-20%	-	See Table 8-3
P	5	7,000	7,000	6.2	-	-	10-20%	-	-
RL-2	6	-	-	-	6,000	-	10-20%	-	See Table 8-3
RMX-1	7	6,000	6,000	7.3	600	-	10-20%	-	See Table 8-3
RMX-2	8	-	-	10 (up to 20 by site review)	-	15%	15%	60	-
RM-1	9	-		-	3,000	-	10-20%	-	-
IS-2	10	-	-	-	600	-	10-20%	60	0.5:1
IS-1	11	7,000	-	-	-	-	10-20%	60	0.5:1

RH-1	12	-	-	-	1,600	-	10-20%	-	-
RH-2	12.5	6,000	3,000 (down to 1,600 by Site review)	14 (up to 27.2 by site review)	600	-	10-20%	-	-
RM-2, RM-3	13	6,000	3,500	12.4	-	-	10-20%	-	-
RH-3, RH-7	14	-	-	-	-	60% <sup>(b)</sup>	60% <sup>(b)</sup>	60	-
RH-4, BT-1, BC-1	15	-	-	-	1,200	-	10-20%	-	-
BR-2	16	-	-	-	-	40% <sup>(d)</sup>	10-20% <sup>(d)</sup>	60	-
BMS	17	-	-	-	-	15% <sup>(d)</sup>	15% <sup>(d)</sup>	60	0.67 (1.85 if within CAGID or UHGD ) <sup>(d)</sup>
RH-6	17.5	-	1,800	-	600	-	-	-	-
MU-1, MU-2, IMS	18	-	-	-	-	15% <sup>(d)</sup>	15% <sup>(d)</sup>	60	0.6:1 <sup>(d)</sup>
RH-5, BC-2	19	6,000	1,600 <sup>(d)</sup>	27.2	600 (400 by site review if in a mixed use developm ent)	-	10-20%	-	-
IM	20	7,000	1,600	27.2	600	-	10-20%	60	0.4:1
BT-2	21	6,000	1,600	27.2	600	-	10-20%	-	0.5:1
IG	22	7,000	1,600	27.2	600	-	10-20%	60	0.5:1
BR-1	23	6,000	1,600	27.2 <sup>(d)</sup>	-	-	10-20%	-	2.0:1 <sup>(d)</sup>
MU-3	24	-	-	-	-	15% <sup>(d)</sup>	15% <sup>(d)</sup>	60	1.0:1
MU-4	24.5	-	-	-	-	15%	15%	60	2.0
DT-1	25	-	-	-	-	-	10-20% <sup>(d)</sup>	60	1.0:1
DT-2	26	-	-	-	-	-	10-20% <sup>(d)</sup>	60	1.5:1
DT-3, DT-4, DT-5	27	-	-	-	-	-	10-20% <sup>(d)</sup>	60	1.7:1
BCS	28	-	-	-	-	-	10-20%	-	-

## Footnotes:

(a) This requirement may increase based on building height pursuant to Subsection 9-9-11(c), B.R.C. 1981.

(b) Open space may be reduced using the standards in Sections 9-8-3, "Density in the RH-1, RH-2, RH-3 and RH-7 Districts," and 9-9-11, "Useable Open Space," B.R.C. 1981.

(c) For properties within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," the footnoted requirement is not applicable. Refer to Appendix M, "Form-Based Code," for specific form, bulk, intensity, and outdoor space requirements.

(d) This requirement may be modified pursuant to Section 9-2-14(h)(6)(C), B.R.C. 1981, for specified zoning districts.  
(-) No standard.

**Section 6.** Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, is amended to read as follows:

**9-8-2. Floor Area Ratio Requirements.**

...

**TABLE 8-2: FLOOR AREA RATIO ADDITIONS**

	<i>DT-1</i>	<i>DT-2</i>	<i>DT-3</i>	<i>DT-4</i>	<i>DT-5</i>	<i>MU-1</i>	<i>MU-2</i>	<i>MU-3</i>	<i>BT-2</i>	<i>BM-S</i>	<i>IS- 1, 2</i>	<i>IG</i>	<i>IM</i>	<i>IM-S</i>	<i>BR-1<sup>(c)</sup></i>
Base FAR	1.0	1.5	1.7	1.7	1.7	0.6	0.6	1.0	0.5	0.6 7 <sup>(a)</sup>	0.5	0.5	0.4	0.6	-
Maximum total FAR additions (FAR) <sup>(d)</sup>	1.0	0.5	1.0	0.5	1.0	0.0 7	-	-	-	0.3 3	-	-	-	-	-
FAR additional components:															
1) Residential floor area (FAR)	0.5	0.5	0.5	0.5	1.0 (b)	-	-	-	-	-	-	Not counted	Not counted	-	-
2) Residential floor area if at least 35% of units are permanently affordable and at least 50% of total floor	-	-	-	-	-	0.0 7	-	-	-	-	-	-	-	-	-

1	area is resident ial (FAR)															
2																
3	3) Reside ntial floor area for a project NOT located in a general improv ement district that provide s off- street parking	-	-	-	-	-	-	-	-	-	0.3 3	-	-	-	-	-
4																
5																
6																
7																
8																
9																
10																
11																
12	4) Floor area used as off- street parking and circulat ion that is above grade and provide d entirely within the structur e	0.5	0.5	0.5	0	0.5	Not cou nted	Not cou nted	Not cou nted	-	Not cou nted	Not cou nted	Not cou nted	Not cou nted	Not cou nted	-
13																
14																
15																
16																
17																
18																
19																
20																
21	5) Below grade area used for occupa ncy	Not cou nted	Not cou nted	Not cou nted	Not cou nted	Not cou nted	-	-	-	Not cou nted	Not cou nted	-	-	-	-	-
22																
23																
24																
25	6) Nonresi dential	-	-	-	-	1.0 <sup>(b)</sup>	-	-	-	-	-	-	-	-	-	-

1	floor area (FAR) (see Paragra ph 9-8- 2(e)(3) and Section 4-20- 62, Table 4)														
2															
3															
4															
5															
6															
7	Maxim um allowab le FAR (sum of base plus all availabl e additio ns)	2.0 + row 5	2.0 + row 5	2.7 + row 5	2.2 + row 5	2.7 + row 5	0.6 7 + row 4 abo ve	0.6 + row 4 abo ve	1.0 + row 4 abo ve	0.5 + row 5 abo ve	1.0 + row s 4 and 5 abo ve	0.5 + row 4 abo ve	0.5 + row s 1 and 4 abo ve	0.4 + row s 1 and 4 abo ve	0.6 + row 4 abo ve
8															43. 0 <sup>(c)</sup>
9															
10															
11															

## Footnotes:

- (a) FAR up to 1.85:1 if property is located in a general improvement district providing off-street parking.  
 (b) The maximum additional FAR component is 1.0. FAR additional components may be combined, but shall not exceed the 1.0 maximum total floor are ratio limit.  
 (c) See Subparagraph 9-2-14(h), ~~(2)(d6)(C)~~, B.R.C. 1981.  
 (d) For properties located in an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," the floor area and floor area ratio (FAR) requirements do not apply. Refer to Appendix M, "Form-Based Code," for specific form, bulk, intensity, and outdoor space requirements.  
 (-) Not applicable.

Section 7. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read as

follows:

**9-16-1. General Definitions.**

- (a) The definitions contained in Chapter 1-2, "Definitions," B.R.C. 1981, apply to this title unless a term is defined differently in this chapter.
- (b) Terms identified with the references shown below after the definition are limited to those specific sections or chapters of this title:
- (1) Airport influence zone (AIZ).
  - (2) Floodplain regulations (Floodplain).
  - (3) Historic preservation (Historic).
  - (4) Inclusionary housing (Inclusionary Housing).

- (5) Residential growth management system (RGMS).
- (6) Solar access (Solar).
- (7) Wetlands Protection (Wetlands).
- (8) Signs (Signs).

(c) The following terms as used in this title have the following meanings unless the context clearly indicates otherwise:

...

BVCP means Boulder Valley Comprehensive Plan.

...

Expression line means a slight change in the layup of a building material through an offset, indentation, or protrusion of a building material by at least two inches to create detail, shadow lines, and variation.

...

Public realm means public streets (not including alleys), greenways, sidewalks, paths, plazas, courtyards, urban outdoor public spaces and open space on a development site designed to function like a plaza, courtyard or other urban outdoor public space for the use of residents, occupants, tenants, or visitors.

...

Section 6. This ordinance repeals Appendix J to Title 9, “Areas Where Height Modifications May be Considered,” and reserves Appendix J to read: APPENDIX J: Reserved.

Section 7. For the limited purpose of adopting this ordinance, city council suspends the provisions of Subsection 9-1-5(a), “Amendments and Effect of Pending Amendments,” B.R.C. 1981.

Section 8. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

Section 9. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

Section 10. This ordinance shall become effective on July 1, 2023. It shall be applied to site review applications submitted on or after the effective date. Complete site review applications submitted before the effective date shall be considered under the standards in effect at the time of application.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 19<sup>th</sup> day of January 2023.

Aaron Brockett, Mayor

Attest:

Elesha Johnson, City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 2<sup>nd</sup> day of February 2023.

Aaron Brockett, Mayor

Attest:

Elesha Johnson, City Clerk



**CITY OF BOULDER  
PLANNING BOARD ACTION MINUTES  
May 19, 2022  
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  
John Gerstle, Chair  
Laura Kaplan  
Mark McIntyre  
ml Robles  
Sarah Silver  
Lisa Smith

**PLANNING BOARD MEMBERS ABSENT:**

**STAFF PRESENT:**

David Gehr, Interim Director for Planning & Development Services  
Charles Ferro, Planning Senior Manager  
Hella Pannewig, Assistant City Attorney  
Cindy Spence, Planning & Zoning Specialist  
Sarah Huntley, Meeting Moderator  
Karl Guiler, Policy Senior Advisor  
Lisa Houde, City Senior Planner

**1. CALL TO ORDER**

Chair, **J. Gerstle**, declared a quorum at 6:04 p.m. and the following business was conducted.

**2. APPROVAL OF MINUTES**

On a motion by **M. McIntyre** and seconded by **L. Kaplan** the Planning Board voted 7-0 to approve the March 31, 2022 and April 21, 2022 minutes as amended.

**3. PUBLIC PARTICIPATION**

a) Lynn Segal

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

There were no items to review.

## 5. PUBLIC HEARING ITEMS

- A. AGENDA TITLE: Public hearing and recommendation to City Council regarding proposed Ordinance 8515, amending Title 9, "Land Use Code," B.R.C. 1981, to update the Site Review criteria as part of the Community Benefit code change project.

### Staff Presentation:

C. Ferro introduced the item.

K. Guiler presented the item to the board.

### Board Questions:

K. Guiler answered questions from the board.

### Public Hearing:

- 1) Kurt Nordback
- 2) Macon Cowles
- 3) Lynn Segal

### Board Comments:

**Key Issue #1:** Does Planning Board find that the updated Site Review criteria meet the goals and objectives outlined for the project (see goals and objectives below)?

- ❖ *Identify incentives to address the community economic, social and environmental objectives of the comprehensive plan.*
- ❖ *Determine additional design standards for projects requesting a height modification.*
- ❖ *Identify other aspects of the Site Review criteria to further city goals and create more predictability in projects.*
- **L. Kaplan** suggested having a working group consisting of current and past Planning Board members to think about how the BVCP policies should be included in the Site Review Criteria in the future because this could be a bigger question than the Board could handle in real time during a meeting. If we are going to significantly change the way the Planning Board uses the BVCP, all areas of the BVCP need to be thought about and discussed. The current staff proposed revisions to the Site Review criteria significantly narrow the BVCP policies that the Planning Board would be able to apply. She agreed that better defining which BVCP policies apply would be a positive change.
- **J. Boone** said the board's purview goes beyond building and site design. It is detailed planning for the future of Boulder therefore it would be appropriate for us to discuss as a current Planning Board and run through this criterion and how it relates to the BVCP. The jobs housing imbalance is a material planning issue in Boulder which he said he did not see represented and should be considered.
- **S. Silver** disagreed with having a working group. She suggested giving the staff guidance on where there are challenges on what has been presented. She supported the additional design criteria that had been taken from the Form Based Code. She said the conversations had a Site Review about BVCP goals turn out to be valuable because the board needs to prioritize the city priorities. She said there are six or seven that have been left out of this current proposal that may need to be part of the conversation that are priorities to the community. She said she understood

why staff focused the BVCP priorities from a Site Review process, but she thought it was limiting.

- **ml. Robles** said she found the BVCP a powerful and useful tool. The community benefit program intends its outcome to be accountable to sustainability and resilience parameters that the BVCP has put out there. Sustainability and resiliency are big and reduce either to a particular stratum would be a disservice to the board members' roles. She liked that the community benefit program has given direction and has done so in a comprehensive way. Climate considerations need to be inserted and reviewed in policy.
- **L. Smith** said she enjoys the long-range goals within the Comp Plan. She appreciates staff's work trying toward trying to be honest about how decisions are actually made and how the process works.
- **M. McIntyre** acknowledged the work of staff under difficult circumstances. He thought this project has crept beyond its original intent and has morphed into a project that has concerns about preventing a building from being built that we may not like rather than encouraging a vision for where we want to go. This is a plan that was developed under a different Council and Planning Board. He said he had concerns about creating new height limitations. We currently have height limitations, but now there are one-thousand-foot radius zones of varying height restrictions based on existing building. He said that should not be included in this new plan and new ordinance. Universal sound studies required in every instance and every industrial area; we should be cognizant of increased costs. Prescriptive elements cannot work in a number of cases. The alternative criteria would make the process more difficult and more expensive for applicants. He said that difficulty and expense would create a small pool of people who would have the wherewithal, money and knowledge to navigate a project through the process. He said that would speak poorly of us achieving our equity goals. He would like to see an ordinance that allowed for someone other than major developers to bring forth a commercial or housing project that could go through Site Review without having to hire those sorts of consultancies. Finally, he was in support of the idea of a working group, not a focus group, because those people live with the code and they would produce the product we would like to see. While there are a lot of positive aspects of what has been presented, the number of negatives, the importance and time frame mean this should not be approved tonight.
- **J. Gerstle** said the primary objective was to improve the design quality of the buildings that are being built is excellent. He approved of the manner in which this is being done. After learning more about Form Based Code, he would find it a reasonable approach becoming more efficient and to achieve a more aesthetically pleasing outcome. However, he was not in favor of diminishing the Planning Board's ability to deal with BVCP compliance and to decide which elements would be appropriate to consider. He said if the board were to move ahead with the proposed, the discretion of the Planning Board would be lost. He agreed with **S. Silver** and **ml. Robles'** comments.
- **L. Kaplan** said she understood the work of the Planning Board was linked to the BVCP and all plans that tier from it. She was sympathetic to staff's and the development community's perspectives of the barrier that it poses to a developer or applicant to have to look through the BVCP and guess what sections would be relevant to their site design and building as it is going through Site Review. Therefore, she suggested a working group, not a general public outreach or

community focus group, but a specifically on the idea of what policies in the BVCP should be relevant to the specific task of Site Review. The people specific to that would be current and former Planning Board members who have had to make the decision of what within the BVCP would be relevant to Site Review. She would like to see that conversation happen. When something comes for Site Review, we would like to hold it to a higher standard than just a by-right project. She would not be ready to approve this tonight. It should be sent back for some changes, one about the BVCP and the other about the prescriptive metrics. There should be more flexibility built in.

- **ml. Robles** said she was not clear if a working group should be implemented and taken out of staff's hands would be a good idea. Staff has put a lot of focus on this.
- **J. Boone** disagreed that it would be the same group developers coming through this process. The projects would be around thirty thousand square feet or more and Boulder is extremely competitive. Planning Board and staff are extremely busy due to the number of projects coming through and we do not have to try to make things simpler to try and get more development or more people involved. In his opinion, asking for the extra costs or studies are equity issues and making sure the buildings would be built appropriately for that environment. They would not be barriers and keep anyone from building in Boulder or keep developers from building with prescriptive high-quality materials. Secondly, as it relates to creating an environment where BVCP would not be used as a lens, there would be a lot of people that would like the Planning Board to look at this only on a project-by-project basis. But the board must also have a macro lens as they review projects and understand where an individual project might fit into the fabric of Boulder. Overall, he appreciated where this project has been and where it would be going and he would like to see more of the BVCP put into it, but he would not like to see it sent to a working group when the Planning Board should be tasked with moving it forward.
- **S. Silver** agreed with **J. Boone**. She suggested focusing on Site Design within the draft ordinance, moving through the document, address some of the concerns regarding the BVCP component, and giving feedback to staff. Regarding the question of a working group, she said the Planning Board would be the working group and out task to figure out the challenges.
- **L. Kaplan** said that she would like to have the criteria modified to be less prescriptive and she would like to see a rewrite of what that would look like in line with that comment about changing it from "*you will meet this standard*" to "*the project will fulfill this intent and here are some ways to do it*". She said she has heard this from many people who have come before Planning Board, traditional developers and affordable housing advocates, that the prescriptive criteria were going too far. She said by doing that there would be less back and forth, less cost, less onerous than meeting the prescriptive standard or going through alternative compliance. Secondly, she suggested that Design Advisory Board (DAB) weigh in on the question of whether the elements which were pulled out of the Form Based Code would be universally applicable everywhere there would be a Site Review project or if some would be more applicable than others. Finally, she was concerned with the removal of the density bonus provisions from Site Review. She understood there were other work plan components which may replace the density bonus however, if we do not get the outcomes expected from those other work plan items, she questioned what would happen to the idea of a density bonus through Site Review. She suggested the board recommend that if the density bonus were removed from the Site Review,

then we make sure that option would not drop off the table and it would be carried through the consideration of all the other alternatives to see which one would be best. If the density bonus would turn out to be viable, then it would come back to Planning Board. She would like to tie it to the other work plan items.

**Key Issue #2: Does Planning Board recommend any modifications to the criteria in the draft ordinance? Does the Planning Board find that the criteria should be modified to be less prescriptive?**

- **M. McIntyre** agreed that the criteria were too prescriptive.
- **S. Silver** said in certain sections, particularly in the Site Design and Building Design, combined with the alternative compliance, it was not too prescriptive. The alternative compliance would give an applicant a tool by which they can say a particular component would not work for them and here is why. Then they would be able to go into discussion with staff to figure out if it would work or not. It would eliminate the subjectiveness of the Site Review.
- **J. Boone** agreed with **S. Silver**.
- **L. Kaplan** said making it less prescriptive and being more descriptive would be more conducive to innovation, creativity and separate neighborhood character rather than have every building coming through Site Review have the same elements. She agreed that the level of detail should be retained in the Site Review criteria so people know what it would take to get a project through, however it could leave more room for creativity without people having to go through alternative compliance.
- **L. Smith** agreed with **J. Boone** and **S. Silver** that it was not too prescriptive.
- **J. Gerstle** agreed with **J. Boone** and **S. Silver**. He agreed because there would be an alternative compliance method for people who would not want to follow the prescriptions. He also added that the job of the Planning Board was to make sure that people are designing and creating things which we would be happy with for the long term. The primary concern is not to speed up a developer's application time and effort.
- The Planning Board did a straw poll to ask the question if they found the criteria should be modified to be less prescriptive. (3-4)
- The board reviewed the proposed Site Review Criteria in the draft ordinance and proposed modifications within specific sections.
  - **9-2-14 (h)(1) Boulder Valley Comprehensive Plan**
    - Straw poll to keep the BVCP "on balance" compliance and no need to start identifying within the BVCP which policies should be explicitly considered. The board agreed staff still needs to review this section but not enough time. (4-3)
  - **9-2-14 (h)(1)(B) Subcommunity and Area Plans or Design Guidelines**
    - **L. Kaplan** suggested to add the language to "the project is consistent with the applicable plan and guidelines".
  - **9-2-14 (h)(1)(C) Energy Conservation and Building Life-Cycle Impact Carbon Reduction**

- **ml. Robles** suggested this to be modified so that all three options would be required. To be a truly robust community benefit, then we should not diminish the opportunity to put climate action within this in as comprehensive manner as possible.
- **L. Kaplan** noted that she is not certain of the feasibility of requiring all three elements for every project and asked staff to consider this. In addition, she said she was interested in exempting buildings that meet the inclusionary housing requirements. More information would be helpful about the costs involved if all three of the criteria were required.
- **9-2-14 (h)(1)(F)(i) Housing Diversity and Bedroom Unit Types**
- **S. Silver** proposed that staff consider two qualifying housing types in projects that include only efficiency living units (ELUs) so we do not end up with a building that would be nothing but efficiencies. She said more diverse housing is needed.
- **M. McIntyre** opposed.
- Other board members supported her comment.
- **L. Kaplan** noted that the way staff have defined qualifying housing types would make it difficult to have two qualifying housing types including ELUs.
- **9-2-14 (h)(2)(A)(i) Access, Transportation, and Mobility**
- **S. Silver** said she would like to make sure staff would be a part of the discussion. Perhaps staff already is, but she was unsure if it was an implied part to staff participation. She said it would be important to make sure that city interests are part of the discussion.
- **9-2-14 (h)(2)(A)(iv) Access, Transportation, and Mobility**
- **S. Silver** said, regarding the possibility of wider sidewalks, she would like for staff to consider that. She said the more we encourage pedestrian and bicycle use, the more we would want to have wider sidewalks.
- **9-2-14 (h)(2)(A)(v) Access, Transportation, and Mobility**
- **M. McIntyre** said the number of curb cuts and access has not been addressed. He questioned if this should be addressed in the Site Review criteria vs. DCS.
- **9-2-14 (h)(2)(B)(iii) Open Space**
- **S. Silver** mentioned the language “*minimum dimension of at least twenty feet*” is not a dimension. It would be a length. She suggested looking at it.
- **9-2-14 (h)(2)(B)(iii)(b) Open Space**
- **ml. Robles** questioned the specificity around the materials mentioned and why that was placed in this section. In addition, she questioned where a pervious ground requirement would be located within the criteria.
- **L. Kaplan** would like to have language to specify that if it counts towards open space for the whole project, then it has to be open to all of the users / residents of the whole project.
- **J. Gerstle and J. Boone** said they would support **L. Kaplan’s** suggestion.
- **9-2-14 (h)(2)(B)(iii)(e) Open Space**
- **M. McIntyre** said one tree per thousand square feet seemed to be too few. He suggested a doubling of the number.

- **S. Silver** and **J. Boone** were in favor.
- **9-2-14 (h)(2)(D) Public Realm and Building Locations**
- **ml. Robles** said that she thought there was an unnecessary amount of prescriptive burden placed into the process. She understood that we are trying to have control over an outcome however, overly prescribing design criteria does not result in a better building or better aesthetics. She said she would be opposing many of the prescriptive directives for design. She said we would like a performance outcome and it cannot be done by telling people what windows to put in. It can be accomplished by putting parameters in that say a building should function in an environmentally sustainable and resilient manner and describe that. She said this would not meet the goal.
- **D. Gehr** summarized by stating that the standards of this section of the code are overly prescriptive, that we need to have more of a performance-based approach, and to add some level of flexibility based on context in terms of what we bring back to the board.
- **9-2-14 (h)(2)(D)(i) & (ii) Public Realm and Building Locations**
- **M. McIntyre** said that he understood the intent of this, however he thought this could be abused could be detrimental in certain circumstances.
- **D. Gehr** summarized by stating that while this may be a generally good design standard, however it is not a good design standard in all instances and staff should figure out the flexibility associated with how it might be applied in different contexts.
- **J. Boone** said he did not believe this was too prescriptive. He said what staff has developed here, while not perfect, it makes sense to him but he wanted to acknowledge what **ml. Robles** said regarding sustainability and performance. He was not sure if what she outlined would belong in this section, but perhaps in environmental energy parameters.
- **9-2-14 (h)(3)(A)(i) & (ii) Building Materials**
- **ml. Robles** said she did not need the level of prescription which was included. She said her previous comments would apply to this section. She said she saw some redundancies within these sections.
- **D. Gehr** summarized by stating that these are overly specific as general standards and they should be more context specific.
- **L. Kaplan** said there were several locations where exemptions were made for smaller projects such as single-family homes, duplexes, townhouses and mobile home parks and the prescriptive requirements would not be a deterrent. She was supportive of exempting out the uses from the requirements. She would like to expand the kinds of units included in these exemptions. She said she would peg it to the definition of “*core missing middle housing*” from Daniel Parolek’s book “Missing Middle Housing”.
- **L. Kaplan** proposed DAB review the building characteristics to weigh in if they feel they are generally applicable to Site Review situations across the city. Staff agreed to commit to that.
- **9-2-14 (h)(3)(B)(iii) Recessed Windows**
- **L. Smith** said it might be useful to look back at past presentations of what had been happening in developments and what led to these code changes.

- **D. Gehr** summarized by stating that staff would focus with DAB and find the appropriate standard and where it should be applied.
- **ml. Robles** said it would be useful if there could be some evidence that these kinds of codes actually lead to a shift in the building results.
- **D. Gehr** said that this would be more aesthetics as opposed to functionality. What would be helpful for staff would be for either the Planning Board or DAB to help sort out the aesthetic issue.
- **9-2-14 (h)(3)(B)(iv) Balconies**
  - **M. McIntyre** said he understood the intent but found it to be too prescriptive.
  - **D. Gehr** said that this would one of the issues that DAB would help sort out the appropriate standard.

**L. Smith** left the meeting at 11:00 p.m.

- **9-2-14 (h)(4) Building Design, Massing, and Height Requirements for Buildings Proposed Above the Zoning District Permitted Height and/or Maximum Floor Area Ratio**
  - **ml. Robles** suggested eliminating “high quality” and adding “that are compatible with the context” and add “environmental considerations in human scale”. She would like for this to give some direction which could bring it back toward the BVCP values.
  - **J. Boone** said “human scale” has no definition when it comes to trying to direct someone to do something. He said no one really knows what that means.
  - **D. Gehr** said that this would one of the issues that DAB would help sort out the appropriate standard.
- **9-2-14 (h)(4)(B)(iii)(b)(1) Special Building Massing, Height, and Siting Requirements**
  - **L. Kaplan** said she supported.
- **9-2-14(h)(4)(B)(iii)(b)(2) Special Building Massing, Height, and Siting Requirements**
  - **L. Kaplan** said she would strike entirely. She did not believe we needed to limit where buildings could ask for extra height in exchange for the community benefits that are in the appropriate zones. Height exemptions should not be just limited to the transit corridors within those zones or where another tall building already exists. If more language should be added to make that clear rather than striking this section, then she would propose that.
  - **M. McIntyre** agreed. He said that adding on the overlay of one-thousand-foot circles would be unnecessary. He would prefer to have this stricken and return to context.
  - **J. Boone** said he was fine with sticking with what we currently have which is context, which means Planning Board would be able to look at the surrounding area, the community would be able to be involved with the decision and look at context before it would be approved. He said what has been proposed would be less of a barrier to context that what currently exists and would be more aggressive. He said what L. Kaplan was suggesting would take context, the discretion of Planning Board and community input away and would become only community benefit.
  - **S. Silver** said context would matter. How staff would define that would be up to them.
  - **J. Gerstle** agreed and said the existing language would be satisfactory.



- **L. Kaplan** amended her earlier suggestion. She suggested keeping the last portion of the sentence “*the building’s height, mass and scale is compatible with other buildings and the character of the surrounding area*”. The language “*being near a high frequency transit corridor or being within another building that is one thousand feet*” should be examples of where height might be appropriate rather than being a requirement. She would not like to see additional restrictions layered on.
- **K. Guiler** summarized the discussion. Subsection one would remain and perhaps combine with subsection two but eliminate the specific limitation of the one thousand feet and the specific of being near a high frequency transit corridor. The context language would remain related to height, mass and scale. It would not necessarily need to be located near a corridor, but we could potentially it could be inserted as areas which would be more appropriate for taller buildings. All height modifications would still have to come before Planning Board.
- **D. Gehr** added that what he has heard was that context would be more important than distance, the standard would be tied to however we define that context and that context would probably be something we could have an exploration with DAB.
- **9-2-14(h)(4)(C)(i) Roof Cap Types**
  - **J. Gerstle** said he found it odd to completely prohibit the gambrel and mansard roofs.
  - **S. Silver** said the elements of the Form Based Code which were brought over regarding the windows and brickwork are awesome. This Form Based Code appeared specifically for Transit Village. While the other components would be valuable, the roofs indicated may be more appropriate. She suggested staff think through if it was the right thing to do despite coming from Form Based Code.
  - **L. Kaplan** would like to have DAB give input if it would be applicable across the city.
- **9-2-14(h)(4)(G) Solar Siting and Construction**
  - **ml. Robles** questioned why this section had been removed. She suggested staff review this section again to see if part of this could be valuable to help us meet some climate goals. She said this could help buildings to accommodate the sun and its energy via its orientation.
- **9-2-14(h)(5) Alternative Compliance for Site Review Projects**
  - **S. Silver** said she would appreciate some clarification about what would trigger alternative compliance and an explanation that it would not have to be alternative compliance for the entire project but it might be for components of the project. She said to make it clear that it would not be an alternative to going through Site Review and perceived to be a completely separate process for the entire project.
- **9-2-14(h)(7)(C)(iv)(a) Alternative Community Benefit**
  - **ml. Robles** suggested including “*climate action*” after housing.
  - **L. Kaplan** suggested adding “affordable commercial” in the list.

**Motion:**

There was no action by the board. The board provided feedback to staff. The staff will revise the draft ordinance and bring it in front of the board for review at a future meeting.

**6. ADDITIONAL MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY**

**A. AGENDA TITLE:** City ROW and Transportation Circulation Near CU Conference Center

**Staff Presentation:**

**H. Pannewig** provided the board with background information.

**Board Comments:**

- **M. McIntyre** will draft a letter for review by the board.

**7. DEBRIEF MEETING/CALENDAR CHECK**

**8. ADJOURNMENT**

The Planning Board adjourned the meeting at 12:35 a.m.

APPROVED BY

\_\_\_\_\_  
Board Chair

\_\_\_\_\_  
DATE

**CITY OF BOULDER  
DESIGN ADVISORY BOARD MINUTES  
June 8, 2022  
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/>

**DAB MEMBERS PRESENT:**

Brendan Ash  
Rory Bilocerkowycz  
Todd Bryan (Chair)  
Mark McIntyre, Planning Board Ex-Officio Member

**DAB MEMBERS ABSENT:**

Matthew Schexnyder

**STAFF PRESENT:**

Kalani Pahoa, City Principal Planner  
Cindy Spence, Board Specialist  
Amanda Cusworth, Planning & Zoning Supervisor  
Karl Guiler, Policy Senior Advisor  
Charles Ferro, Development Planning Senior Manager  
Brad Mueller, Director of Planning & Development Services  
Kristofer Johnson, Comprehensive Planning Senior Manager

**1. CALL TO ORDER**

Chair, **T. Bryan**, declared a quorum at 4:05 p.m. and the following business was conducted.

**2. APPROVAL OF MINUTES**

The board approved the December 8, 2021 and January 12, 2022 Design Advisory Board minutes as amended.

**3. PUBLIC PARTICIPATION**

No one spoke.

**4. DISCUSSION ITEMS**

- A. PROJECT REVIEW:** Design Advisory Board (DAB) review and feedback on the building design criteria of the Site Review criteria, as requested by Planning Board, and part of the project to update the criteria to be more reflective of city goals and to add more predictability to the process.

**Staff Introduction**

**K. Guiler** provided a summary of the Site Review criteria.

## Public Participation

Bill Holicky, with Coburn Architecture

### Board Discussion of Referral Questions:

**Key Issue #1:** Based on the established goals and objectives of the Site Review update project, what is DAB's feedback on the proposed building design criteria (Section 9-2-14(h)(3)) in Attachment A?

- **R. Bilocerkowycz** summarized his thoughts regarding the packet. He said his initial major reaction as an architect in Boulder was that if one were to over constrain the design problem, then we were going to be left with solutions that start to feel like one could read the code as they walk downtown as opposed to allowing people to innovate. He said that would be a very fine line and a difficult task for staff to deal with. Having guidelines and criteria which folks would be encouraged to focus on, and if they were not necessarily as educated in the design profession, would give them a lot of rubrics to work with. Ultimately the beauty of a Site Review Process (SRP) would allow for creative flexibility and interpretation of codes if they could be demonstrated to be providing design, value and benefits to community in a way that might not be captured by a black and white set of metrics. He said if the ability for design teams were eliminated, developers to be afforded flexibility, he was concerned that we would end up with a prescriptive set of buildings.
- **B. Ash** said that as a board, we are tasked with the downtown building design and architecture. She said that when you break the design requirements apart into different parts of Boulder, some would make more sense than others. She said that making them the requirement would make it too constraining for certain building types and it may not fit in all parts of the city. She said that she feels drawn to human scale and design section, and she felt the city was broken apart into different types of human scale. For example, on the Pearl Street Mall, the human scale is pedestrian whereas the Diagonal or even 28<sup>th</sup> Street is less of a pedestrian scale and more of an automotive scale. Overall, she found some of these moves to more applicable to downtown design and there may need to be loosened a little for areas outside of downtown.
- **T. Bryan** agreed with the previous comments. He agreed with an earlier point regarding those certain criteria should be followed not necessarily shall be followed. If one of the criteria were human scale, he would want to know how the applicant accomplished the design around human scale and see if they could explain it to us in a convincing way. And if they are successful in explaining, then they have met the criteria. However, from his experience on the board, an applicant will mention human scale but they will not explain what it means specifically. He would be more inclined to ask the applicant how they met the criteria and to be specific. However now, it sounds like they may be looking guidance from DAB and what it means to the board.
- **R. Bilocerkowycz** said the board was in agreement that Site Review criteria should function has guidelines and not as prescriptive criteria.
- **B. Ash** agreed however staff and Planning Board need a solid document that would back them up on decisions. From a legal and enforcing standpoint, there would needs to some level of language for the board to enforce and encourage good design.

**Key Issue #2:** More specifically, what is DAB's input on the following proposed Site Review criteria and questions?

- a. Minimum window transparency per floor [(B)(i)]
- b. Balcony requirements for buildings with attached dwelling units [(B)(iv)]
- c. Building detailing requirements (e.g., expression lines) [(C)]

- d. **Building height modification or height bonus criteria (for buildings over the zoning district height) relative to compatibility and context area [(B)(iii)]**
- e. **In the roof types section for taller buildings, should gambrel and mansard roofs be prohibited? [(4)(C)(i)]**
- f. **What does DAB consider “human scale” design?**

➤ ***e. In the roof types section for taller buildings, should gambrel and mansard roofs be prohibited? [(4)(C)(i)]***

- **T. Bryan** said, for DAB, this would not be a yes or no question.
- **B. Ash** said she did not like gambrel or mansard roofs and are not necessarily found in Colorado. Having these roofs prohibited did not seem like a big loss.
- **R. Bilocerkowycz** said this would not be an uncommon prohibition. Mansard roofs would illicit a kind of seventies architecture where third and fourth floors were inserted into the roofs and it was a way to skirt zoning requirements. He said that type of architecture would not be desirable or aesthetically pleasing in today’s context. However, he would hate to think there would not be a creative way to interpret what a mansard roof could be in the future. He was apprehensive to flat out prohibit that roof type. He challenged a full-on prohibition to allow for creative interpretations of what a contemporary version could be. Prohibition is a strong word and suggested using the words “*strongly discouraged*”.
- **T. Bryan** agreed.
- **B. Ash** agreed and suggested “*on a case-by-case basis*”.

➤ ***f. What does DAB consider “human scale” design?***

- **T. Bryan** said that human scale was not just one thing. That there is a pedestrian scale and there may be an automotive scale. That human scale is contextual. He questioned if there was more to it.
- **R. Bilocerkowycz** said in his opinion that human scale was design that intentionally was intended for a human. The human would be the reception of the design intent. He said this was very open ended.
- **B. Ash** said human scale was creating a space where one invites people to participate in it. It would be made by the community in their own participation. She did not think it should be prescriptive. She said it would be creating spaces which humans bring life to, the space that they would inhabit. Humans perceive their surroundings at eye level and we should consider what are the moments that make people stop, pause and look up or just creating a comfortable environment at that level for a human being. And that would be different if a person were driving in a car. We should consider what would draw you into that space physically.
- **T. Bryan** said that should include materials, patterns, and textures that people could relate to in that kind of context. It would be a number of different things that would go into what would be considered a human scale and how people respond to that environment.
- **R. Bilocerkowycz** said that while this is a subjective term, it forces people to justify some of the design moves they would be making in reference to a human scale design.

➤ ***a. Minimum window transparency per floor [(B)(i)]***

- **R. Bilocerkowycz** said that he liked seeing minimum transparency in any jurisdictions design guidelines or review criteria, particularly on the ground level. He thought it was paramount as there is an inherent safety. Generally, he said some level of transparency guidelines would make sense, however it could get tricky. He thought a minimum transparency criterion that addressed the ground

floor vs. upper levels and addressed the uniqueness of the program beyond the wall would be important. While the proposed seventy percent for ground level is good, he was having a difficult time understanding the impact. While he did not feel qualified to elicit a metric for the percentage, he did feel it was important to have a guideline.

- **B. Ash** struggled with the proposed seventy percent because it left very few solutions other than aluminum storefront windows and all the ground level facades would start looking too similar to achieve the seventy percent. She said it would not allow for flexibility in materiality and detailing at ground floor level. She thought there should be language included for exceptions regarding party walls or graded walls. She was in favor of sixty percent as it would be easier to achieve.
- **T. Bryan** summarized that there were comments about being overly strict.

➤ ***b. Balcony requirements for buildings with attached dwelling units [B)(iv)]***

- **R. Bilocerkowycz** like the spirit in eliminating the tack-on decks. He questioned how we could ensure that high quality balconies were developed through multi-family buildings without telling developers exactly what to do and then over the next decade every building has the exact same integrated balconies. He cautioned that we do not want to create a complexity, waterproofing and envelope condition. He said having high quality balconies would be important. He was nervous about too much prescriptive direction by prescribing the means by which to do, based on certain amount of recess or containment with the building walls. He said he supported the idea of a minimum balcony size and the underside being finished. The minimum size and the finish on all sides could be prescriptive. He agreed with guiding folks away from the tack-on balcony and integrated into the design of the building.
- **T. Bryan** said it appeared the criteria was trying to define a high-quality balcony. However, it sounds like there may be other quality design criteria that could also be met that might allow more flexibility in these criteria.
- **B. Ash** said this seemed clear and that if we said the balcony should be integrated into the design rather than the form, it would be subjective and less enforceable. She did not mind how the criteria had been written. She was surprised by the size of the balcony and thought it was small. She agreed it would be nice to have the underside of balconies to be finished.

➤ ***c. Building detailing requirements (e.g., expression lines) [(C)]***

- **B. Ash** liked the imagery included on the Boulder Junction which was used as a case study. Her initial thought was, in a high-density area, it might make an entire city block look horizontal. She said sometimes we need vertical expression of a corner or entry. She was concerned it would create too much uniformity.
- **R. Bilocerkowycz** said we are ultimately trying to get people to do nice things. He suggested the first statement could end after “above” so all the buildings do not end up looking all the same.
- **T. Bryan** summarized that this would be trying to get at some consistency in terms of pattern and in terms of a visual expression without being overly prescriptive so there would not appear to have a line running all the way down the entire block. He said it should fit within the architectural expression of the area. He said we are trying to get at a consistency of patterning and expression.

➤ ***d. Building height modification or height bonus criteria (for buildings over the zoning district height) relative to compatibility and context area [(B)(iii)]***

- **M. McIntyre** shared his concern with this section. He said there are a set of height restrictions within the city, which are relatively clear, and by adding the one-thousand-foot radius on

top of that, he said we are creating a vision which says what we have is what we will see in the future vs what we have can be modified to what we want to see in the future. He found that quite concerning in terms of reaching community goals for housing for different types of building for multi-use areas.

- **R. Bilocerkowycz** liked **M. McIntyre's** comments. He said it was not easy to get a height bonus and he would hate to over constrain an applicant or to shut down anyone's attempt if they would bring community benefits. The whole point of bonus structures and Site Review is to encourage above and beyond community gifts and benefits.
  - **T. Bryan** said DAB asked City Council to focus on expanding the definition of community benefits so it would be more than afford housing.
  - **B. Ash** wondered if the height limit was not giving Boulder the density it needs. She said it may be taking away from architecture and design.
- ***Full length Block [B] "Special Building Massing, Height, and Siting Requirements"***
- **R. Bilocerkowycz** cautioned the language '*more than one building*'. He thought it would be more important to have attention applied to proportion and relief.

**Summary of the Board Recommendations:**

- **B. Ash** said DAB could be helpful however this board does not see many projects. She said she thought DAB could help streamline the process.
- **R. Bilocerkowycz** said

**5. BOARD MATTERS**

**6. CALENDAR CHECK**

**7. ADJOURNMENT**

The Design Advisory Board adjourned the meeting at 6:27 p.m.

**APPROVED BY**

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**Board Chair**

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**DATE**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: September 15, 2022**

**AGENDA TITLE:**

Consideration of a motion to accept the summary of the Aug. 25, 2022 Study Session on the Site Review criteria update and Use Table and Standards projects.

**PRESENTERS:**

Nuria Rivera-Vandermyde, City Manager  
Brad Mueller, Director of Planning & Development Services  
Charles Ferro, Senior Planning Manager  
Karl Guiler, Senior Policy Advisor  
Lisa Houde, Senior City Planner

**EXECUTIVE SUMMARY**

This agenda item provides a summary of the Aug. 25, 2022 study session on the Site Review Criteria Update and Use Table and Standards projects. The purpose of this study session was to:

1. Update City Council on the Site Review criteria code change project, describe the draft Ordinance 8515 to implement the changes, convey input from Planning Board and the Design Advisory Board (DAB) and to receive feedback from City Council before revising the draft ordinance, and
2. Update City Council on the status of the second phase of the Use Table and Standards project and to discuss next steps related to industrial areas and neighborhood-serving uses.

Key takeaways from the study session discussion on **Site Review criteria update** were:

- The City Council unanimously agreed that the project was consistent with the original goals and objectives outlined for the project in 2018. However, there was consensus that the building design criteria should be modified to be somewhat less prescriptive and made more descriptive like other parts of the proposed criteria. For instance, best practices for architectural and site design, such as form-based code type requirements, should be retained in the criteria as guides for good design, but applied in a more discretionary manner with weight on ensuring good design and innovation. Council



agreed with listing design attributes that are considered good quality, but requested that flexibility be preserved, to avoid buildings that all look alike throughout the city.

- One council member felt that the Site Review criteria should be more aggressive in attaining key Boulder Valley Comprehensive Plan (BVCP) goals in development projects. The council generally agreed that the criteria requiring compliance with all BVCP criteria, on balance, was too open ended for broad interpretation, but also felt that restricting compliance only to a limited set of policies or key topics of the BVCP would be counter to the purpose of Site Review. Council requested a hybrid between the existing and proposed criterion language that would strike a balance of achieving full BVCP compliance while avoiding language that would result in arbitrary denials of projects based on policies that are not explicitly directed to development projects.
- The council was in general agreement that two of the three suggested greenhouse gas emission reductions requirements (i.e., reduce the Embodied CO<sub>2</sub>e of concrete materials, and a Whole-Building-Life-Cycle Assessment) should be incorporated into the Boulder Energy Code update in 2023, rather than in the Site Review criteria. The council found that the proposed third option in the memorandum, that contained three options for an applicant to choose below, would be appropriate to apply as a Site Review criterion:
  - Design an Electric Project
  - Design to 10% More Efficient Than Code
  - Design to Code and Participate in Outcome Verified Code Path

Council expressed concern over the cost implications of this suggestion and requested further analysis and community outreach on this topic.

Key takeaways from the study session discussion **on Use Table and Standards project** were:

- **Residential development:** The City Council unanimously agreed that the standards for residential development in industrial districts should be updated. One council member suggested, and others agreed, that the contiguity requirement should be eliminated, as well as barriers to mixed use, minimum lot size, and more restrictive setbacks and floor area ratio. Rather, suitability for residential use should be determined based on the guidance laid out in subcommunity plans and the comprehensive plan. Council did not believe that residential uses are appropriate in all industrial areas or on every industrial site, and they would like to see guardrails put in place to protect industrial uses. In particular, a few council members highlighted the importance of retaining industrial service uses and protecting service industrial (IS) zones. Council also noted the importance of ensuring that underrepresented groups are included in the engagement for these changes.
- **Office uses:** The Council was supportive of combining “professional office” and “technical office” into one generalized “office” use type. Several council members noted that there do need to be restrictions on the amount of office that is allowed in industrial districts to avoid displacing all industrial uses that provide needed services to the community and to avoid having industrial areas turn into office parks. Council members noted some potential restrictions like requiring the first floor to remain industrial or a

maximum floor area or percentage per lot, and the need for fairly robust guardrails to avoid accelerating speculative office development in these areas.

- **Future Module Three (Neighborhoods):** City Council encouraged staff to be innovative and bold in proposing recommendations that achieve a rich mix of uses and encourage more sustainable living. One council member noted that schools could be important anchor points to consider surrounding uses. One council member noted that changes in our residential zones could be a big opportunity and encouraged staff to bring forward a wide range of options and consider how to best balance a mix of uses that support each other.

## STAFF RECOMMENDATION

### Suggested Motion Language:

Staff requests council consideration of this summary and action in the form of the following motion:

*Motion to accept the summaries (**Attachments A & B**) of the August 25, 2022 Study Session on Site Review Criteria Update and Use Tables and Standards Project Update.*

## NEXT STEPS

Based on the feedback from council, staff will move forward with each project with the goal of bringing ordinances back to council before year's end. Staff anticipates further community outreach on both projects, particularly the Use Standards and Table project, once more detailed changes are developed for consideration. Staff anticipates bringing ordinances before Planning Board and City Council in the fourth quarter of 2022.

## ATTACHMENTS

Attachment A: Summary of the Aug. 25, 2022 study session on Site Review Criteria Update

Attachment B: Summary of the Aug. 25, 2022 study session on Use Table and Standards Project

**ATTACHMENT A**  
**August 25, 2022 Study Session**  
**Site Review Criteria Update**

**PRESENT**

**City Council:** Mayor Aaron Brockett, Mayor Pro Tem Rachel Friend, Matthew Benjamin, Lauren Folkerts, Junie Johnson, Nicole Speer, Mark Wallach, Bob Yates

**Staff:** Nuria Rivera-Vandermyde, City Manager; Hella Pannewig, Senior City Attorney; Brad Mueller, Director of Planning & Development Services; Karl Guiler, Senior Policy Advisor; Lisa Houde, Senior City Planner, Carolyn Elam, Senior Sustainability Manager

**PURPOSE**

The purpose of this study session was to update City Council on the Site Review criteria code change project, describe the draft Ordinance 8515 to implement the changes, convey input from Planning Board and the Design Advisory Board (DAB) and to receive feedback from City Council before revising the draft ordinance.

Specific feedback from City Council was requested on the draft Ordinance 8515 to guide staff on modifications to make the ordinance before bringing the ordinance back to Planning Board and City Council for eventual adoption.

**SUMMARY OF PRESENTATION & DISCUSSION**

Brad Mueller, Director of P&DS, introduced the item and the staff team.

Karl Guiler presented information on the background and goals and objectives of the project, the community engagement to date and the results, the content of the proposed ordinance, feedback from Planning Board and the Design Advisory Board (DAB) and the key issues below. Following the staff presentation, council asked questions followed by a discussion structured around key issues. Responses from the council members and staff is provided beneath each question.

**Council Questions**

Council members asked the following questions (staff answers are *italicized*):

- What is the overall goal of the Site Review process?

*Staff responded that the purpose of Site Review is to assess larger scale projects determining compatibility with the neighborhood and also result in an improved design over what you would typically get through a by-right building (one that only requires a permit). Site Review project are held to a higher standard in terms of quality but are also affordable increased flexibility such as allowing modifications to setbacks or height. Projects that meet the criteria can be considered an improved design and can be approved.*

- On page 8 of the packet showing the criteria structures, what is it that we are intending to do with the “additional criteria for parking reductions”?

*Staff responded that the parking reduction section is not changing. The title was listed only because the criteria were reformatted.*

- With respect to the criterion on preserving important view corridors, where a building is to exceed the maximum height limit what’s the definition of the type of open space where such views would be protected?

*Staff responded that open space intended for gathering like a private plaza or outdoor area would be what was the subject of the criteria. The current criterion intended to minimizing impacts to views is vague on what specific views does the city protect or from what spaces. Staff wanted to be more specific of what type of views should be protected as this was something heard often as part of the public outreach, some in response to the building built on the Daily Camera site. Staff looked into Denver’s view corridor regulations, but after checking in with council on hiring a consultant to assess views, council advised that the update to the criterion need not have a specific view line easement for protection and that a consultant need not be hired.*

- With respect to the list of zoning districts where height modifications are not allowed, does that include the 40% floor area requirement for affordable housing projects?

*Staff clarified that the zoning district list is only referring to the projects that would not be eligible for a height modification for a 4<sup>th</sup> or 5<sup>th</sup> story subject to the adopted community benefit requirements. Projects subject to the 40% floor area requirement or for instance, require a height modification for issues related to topography for a three story building could be requested anywhere in the city.*

- Following any future update to the BVCP would the Site Review criteria need to be updated yet again?

*Staff responded that it was never discussed that any update to the BVCP would require an update to the criteria. Updates to the BVCP happen every 3 to 5 years and this has not necessitated changes to the Site Review criteria for last few decades. That said, P&DS can always update the criteria for consistency if any changes warrant an update.*

- Have we thought about the aspects like Community Benefit that shouldn’t trigger Site Review to incentivize projects the city wants?

*Staff responded that we have thought about that. There is hesitation in going in that direction as there have been concerns and criticisms about projects like affordable housing where not all of them were good design outcomes. All it takes is one unsuccessful project and then there are questions received by P&DS about why a particular project did not go through Site Review.*

- Could you outline the most common reasons projects apply for Site Review? What are the most common triggers? What percentage are staff level?

*Staff responded that it's often the size of the project or number of dwelling units that requires Site Review. Most are staff level. Staff guessed that roughly 60 to 70% were staff level.*

- Can you explain how much of these new changes will simplify the process?

*The process is not changing. The tiers of review (e.g., amendments, modifications) would remain the same. The language has been simplified by removing redundancy and by more clearly describing what is a good design outcome, the hope is that the process could be simplified if applications more clearly met the criteria upon submittal negating the need for repeated resubmittals.*

- Any discussion of allowing FBC for projects that are 100% affordable?

*Staff responded that we have not looked at applying FBC reviews to projects outside the FBC areas. FBC was a pilot project to meant to apply to Boulder Junction and Alpine Balsam, but it is not intended to be applied in random areas of the city. Staff previously recommend to simplify the review process by removing the automatic requirement for a Planning Board hearing for added height but there has been concern about removing discretion from board and council members in the past. The regulations that were adopted still enabled the call up option on all FBC projects. People really want to make sure that the regulations ensure good design before removing onerous requirements. We don't appear to be there yet.*

- Any thought into changing the criteria to incentivize more affordable housing etc.?

*Staff responded that this is something we are investigating as part of the 2022 Work Program code change items for allowing more affordable, less expensive housing. Typically, the thinking behind Site Review has been that there are potential increased impacts on neighbors from additional units and thus, this has necessitated the Site Review process.*

- Could the requirement for an acoustic study be a barrier to incentivizing development along multi-modal corridors?

*Staff responded that there is already a criterion related to noise mitigation between units or from noise sources in the Site Review criteria and has been found to be too vague. We worked to make it more specific such as where would such a requirement apply. Planning Board suggested that perhaps instead of requiring a costly study create a metric that an applicant would need to be meet in the building design if in a particular area. There is already a requirement like this in the code for the "Residential in Industrial standards". We are looking at making that requirement apply instead of requiring the study.*

- Does the criterion on historic or cultural resources work against predictability?

*Staff stated that the BVCP already has policies that encourage the city to look at buildings older than 50 years for landmarking. The current practices have been to do this assessment*

*yet the Site Review criteria do not specifically state this. We wanted to specifically state this current practice to make it clearer.*

- Don't state and federal laws already cover the environmental preservation criterion? Who's enforcing this requirement?

*Staff responded that P&DS staff member advise on wildlife environmental issues as well as enforcement. The environmental preservation criterion is already in the Site Review criteria but has been moved up to the policy section. It has been effective in protecting sensitive environmental areas by easement or protection of prairie dogs.*

- Where is Community Benefit for affordable commercial addressed in the Site Review criteria?

*Staff noted that Phase 1 of the Community Benefit project entailed a focus on affordable housing and adopted in 2019. The requirement indicates that additional requirements for affordable apply (increased units or increased commercial linkage fee) if building over three stories or above FAR limits. Phase 2 entailed a focus on below market rate commercial where staff worked with an economic consultant on what an equivalent might be to the Phase 1 requirements. An ordinance was developed for Phase 2 but was not adopted by City Council due to concerns about its complexity and concerns raised by the development community*

- What was the community benefit associated with the building built at the Daily Camera site? If that project was a bad outcome how do we not have that happen again?

*Staff is always looking at projects that may not have gone well and analyze how we can do better. The applicant of the Daily Camera promised a theater as part of the project, but it should be noted that the building pre-dated the community benefit requirements, so when the theater was not built it did not violate any city code. This particular project informed the community benefit project.*

**L. Folkerts** pointed out that signage at the sidewalk should be put up to alert people to the publicly accessible space on the top of that building.

- Please describe the proposed open space linkage criterion?

*The current criterion states, "If possible, open space is linked to the city-wide system" which is vague and difficult to determine. City goals are to see connections where it makes sense. The criterion is meant to make it clear that open space consents to any linkage to open space lands.*

- Did you think about avoiding fire accelerant plantings in the landscaping criteria?

*Staff noted that we did not specifically consider, but we can. Climate initiatives work on this topic is already under way.*

- Wood and fiber cement board may not be considered high quality, but may be preferable to prevent the spread of fire. Was this considered?

*Staff noted that we didn't look at that specifically. There are already building code requirements that specify building materials in wildfire prone areas. We can coordinate with the Fire Department on such requirements city wide.*

- Why are we excluding duplexes from some of the criteria?

*Staff explained that the exclusion is based on the concerns heard about applying FBC type requirements to smaller scale projects.*

- What is the intent behind the criterion requiring three design elements intended to draw from or improve upon the character of the surrounding area?

*Staff responded that determining the character of the area is often a vague and subjective criterion and thus sought to update the criterion to draw out specific elements that could be assessed in determining the character of the area and compatibility.*

- Does the requirement for recessed windows preclude a modern looking building? Is there enough flexibility.

*Staff's opinion was that you can still get modern buildings with this requirement. If we got a particularly modern design, an applicant could ask for alternative compliance for a unique building if not meeting the recessed requirement.*

- If the reference to all BVCP policies were removed, what plan guidance would be omitted or forgone?

*Staff responded that nothing comes to mind. The change was suggested because there were some policies that have been problematic from a predictability perspective like the Jobs:Housing imbalance. Policies are meant to inform the programs of the city, area plans and specific zoning and not always meant to apply specifically to detailed proposals. It should be noted that all the criteria are meant to apply the BVCP and not just the BVCP section.*

- Will the changes add to the cost of doing a Site Review?

*Staff indicated that we have no specific metrics. We have anecdotal notes on FBC where we've heard that additional requirement may add to initial cost of preparing plans for review yet we've also heard that plans can take less time to review because it is more clear that a project meets the requirements avoiding the need for revising plans over and over again which amounts to some cost savings.*

- Why are developers who previously complained about subjectivity now opposing the prescriptive standards?

*Staff indicated that we've heard similar complaints and stated that there was an element of surprise that there was so much resistance to the proposed criteria. Staff expects that any changes that would add additional requirements and added expense despite potentially adding to some level of predictability, would result in opposition.*

- Has anyone costed out the Greenhouse Gas Emissions requirement?

*Carolyn Elam, Senior Sustainability Manager, responded that research was done on the topic and found that there is cost parity to 10% for low concrete materials. Further, sampling was done on the building assessment and this came to less than \$10,000 which is a fraction of the cost for a large building. She noted that many applicants would chose electric since it is cost effective to chose electric and that there was no incremental cost associated with the outcome verified code path.*

- There appear to be remarkable points of disagreement between staff and Planning Board on the criteria. Why has the project come to council instead of working out the points with the board?

*Staff indicated that there have been difficulties since the Planning Board was largely supportive of the project at the work session in October 2021 but this changed when the composition of the board changed significantly afterwards as opinions changed. In the same vein, the composition of the council has also changed so we thought that as the project is a City Council initiative, it would be prudent and important to check in with the new council to makes sure that the project is on the right track before returning to Planning Board and again council.*

- Why use the proposed criteria for Greenhouse Gas Emissions reduction criteria as part of Site Review? Wouldn't the 2023 energy code updates end up being more stringent?

*Carolyn Elam noted that there are characteristics of Site Review projects that potentially increase the level of impacts on the surroundings beyond by-right projects so it was found to be appropriate to have increased requirements for Site Review to mitigate those impacts. If requirements are added to the 2023 energy code ,the 10% better requirement is based on the city energy code, not the base national code, which would keep the requirement better than the more stringent local code.*

- The Greenhouse Gas Emissions reduction requirements would only apply to individual buildings 30,000 square feet or greater, correct?

*Staff responded that that was correct that the requirements would only apply to individual buildings that are over 30,000 square feet that are part of a Site Review application and not "projects" that have more than 30,000 square feet in a mix of multiple buildings.*

- How receptive was the business community to the Greenhouse Gas Emissions reduction requirements and what was the feedback?



*Staff noted that there was concern expressed from the business community about adding new requirements.*

**M. Wallach** chaired the discussion and requested that Planning Board members J. Gerstle and S. Silver recount the Planning Board discussion on Site Review and M. Schexnyder discuss the DAB findings.

**S. Silver** noted that there were three issues that Planning Board was particularly concerned about:

1) **BVCP criterion:** The board had concerns about staff proposal to limit use of the BVCP policies. The board found the BVCP criterion useful to surface key planning issues. S. Silver noted that no Site Review comes to mind as being denied based on BVCP policies, but the policies are used extensively. The one on jobs: housing policy often comes up and it is useful that the community and applicant understand the issue. She noted that a majority of the board did not want the BVCP policies to be limited.

2) **Prescriptive vs. descriptive:** Four board members indicated that the proposed changes were not too prescriptive and three of the new members felt they were too preservative. That is why the project was sent to DAB. There was a long discussion about the height modification criterion. The board found that context is very important vs. having a requirement that projects be limited to areas that are within 1,000-foot of other tall buildings or along high frequency corridors, the latter of which should be better defined.

3) **GHG emissions requirement:** Climate change is an important concern and more opportunities should be undertaken to address the impact of buildings. S. Silver felt staff's suggestion was a good suggestion, but the issue of cost was raised.

**J. Gerstle** added the concern about devaluing the BVCP by not allowing it to be considered in Site Reviews where it can play an important role. The BVCP is a fundamental document that guides development. He noted that all the GHG requirements make sense but cost should be looked into.

**M. Schexnyder** acknowledged the challenges of the project and spoke towards the goals of favorable design outcomes. He asked about the potential for optional FBC citywide and if not, whether the city could elect to make it optional. There is value in doing FBC. He indicated he would support prescriptive standards if it simplified the process such that Site Review may not be required if certain requirements met. The DAB felt that the Site Review criteria were too prescriptive and recommended that there be more options for applicants to consider about whether a design intent is met.

**M. Wallach** brought the discussion back to the council to answer the following questions:

## QUESTIONS FOR CITY COUNCIL

### **Question #1: Goals and Objectives**

Does City Council find that the updated Site Review criteria, within draft Ordinance 8515, meet the goals and objectives outlined for the project (see goals and objectives below)?

- *Identify incentives to address the community economic, social and environmental objectives of the comprehensive plan.*
- *Determine additional design standards for projects requesting a height modification.*
- *Identify other aspects of the Site Review criteria to further city goals and create more predictability in projects.*

### ***Council Comments and Feedback***

**M. Benjamin** answered with “Yes, but...” finding that the criteria did not go far enough to achieve city goals. He thought that the criteria should be more aggressive and bolder.

**L. Folkerts** expressed concern about the prescriptive nature of the criteria and indicated that the criteria should be more discretionary. She stated that form-based code type requirements would remove variety.

**R. Friend** believed that the project was consistent with the original goals and objectives of the project and that the council should not be moving the goal posts at this stage of the project.

**A. Brockett** indicated that the project responds to the goals but that the criteria should be updated to allow more flexible outcomes.

**T. Winer** pointed out how challenging the project is and her agreement with L. Folkerts. She indicated that she did not want to see buildings all look alike. She also agreed with M. Benjamin that the criteria should go farther to achieve city goals.

The City Council did a straw poll and expressed that the project was consistent with the original goals and objectives of the project, although modifications should be made per the discussions below.

### **Question #2: Boulder Valley Comprehensive Plan (BVCP) criterion**

How should the criterion related to Boulder Valley Comprehensive Plan (BVCP) policy compliance be evaluated for development projects? Should all policies be applied to projects “on balance” or should only the “Built Environment” policies apply?

### ***Council Comments and Feedback***

**A. Brockett** understood the challenges of the current “on balance” language from a predictability standpoint and agreed that the language need to be updated. He suggested that language could potentially say that a project would have to be generally consistent with the BVCP but could only be denied per the “Built Environment” policies?

**L. Folkerts** agreed with A. Brockett and noted that she'd like to see the "on balance" language updated to have a caveat that the policies recognize each project's unique circumstance and location be consider by policies that are not otherwise addressed by other zoning standards.

**N. Speer** agreed and noted that we should lean away from the "on balance" language as it's too open for interpretation.

**B. Yates** noted that the "on balance" language was dangerous in how it can be used to deny projects on high level aspirational policies. Agreed with L. Folkerts on the modified criterion with caveats.

**M. Wallach** supported the existing "on balance" language.

**Brad Mueller**, Director of P&DS, noted that the approach could be a mingling of the two paths such as the project is "consistent with the principals of the BVCP" and any conflicts would be reconciled through use of the BVCP.

**Question #3: Greenhouse Gas Emissions Reduction criterion**

To what extent should the Greenhouse Gas Emission (GHG) reduction criterion apply to larger buildings? Should there be three options for compliance or should projects always be required to meet all three?

***Council Comments and Feedback***

**N. Speer** suggested that the GHG reduction criteria just be integrated into the city's Energy Code rather than through Site Review.

**L. Folkerts** indicated that she thought there would need to be more community feedback on this issue. In concept, she liked the require "two" and pick "one" additional option as this would keep the criterion one step ahead of the energy code.

**M. Benjamin** agreed with L. Folkerts. The criterion should think beyond the current standards and push the envelope.

**T. Winer** also noted that she liked the require "two" and pick "one" additional option.

**A. Brockett** liked the idea that the requirements should just be integrated into the city's Energy Code rather than through Site Review. This could be done as early as 2023. The total building evolution option could be the one that is made into a Site Review criterion.

**Carolyn Elam**, Senior Sustainability Manager, noted that that could be an appropriate solution.

**R. Friend** had similar thoughts as N. Speer and A. Brockett about putting the requirements in the city's Energy Code.

**B. Yate** agreed.

**N. Speer** suggested that Site Review projects should be innovative and that it should be done through incentives.

**M. Wallach** indicated agreement with B. Yates, R. Friend and A. Brockett.

**Question #4: Prescriptive nature of criteria**

Does the City Council believe that the criteria should be modified to be less prescriptive? Does City Council suggest any other modifications to the criteria in the draft ordinance?

***Council Comments and Feedback***

**A. Brockett** suggested that the ordinance be revised to be less prescriptive. He liked the design ideas integrated into the criteria, but cautioned about buildings all looking the same. Alternative compliance language be shifted into the criteria heading and then list specific pathways towards successful buildings.

**L. Folkerts** noted that making architects just design buildings by checking boxes or follow checklists doesn't help. Site Review should be discretionary and try to encourage innovative design.

**M. Benjamin** understands the how the less prescriptive criteria impacts the level of predictability. He doesn't want to see homogeneity in building design. Need to find a hybrid that is less prescriptive but has really clear definitions of what good design should be considered. We should be encouraging more community benefit in by-right projects.

**R. Friend** suggested that the process have fewer steps and that the city incentivize what it wants.

**M. Wallach** struggled with why developers and applicants were opposed to the increased prescriptive language to attain more predictability when developers and applicants previously complained about how subjective and unpredictable the process currently was. Doesn't want to hear more complaints about the criteria.

**A. Brockett** asked about the view corridor criterion and suggested that the type of open space referenced in the criterion should be better defined. A. Brockett also expressed concern about the height modification criterion as being too limiting and perhaps the proposed 1,000-foot context area should be rethought. More flexibility should be allowed for redeveloping areas.

**N. Speer** noted that the city should be encouraging more creativity in development.

**ATTACHMENT B**  
**August 25, 2022 Study Session**  
**Use Table and Standards Project**

**PRESENT**

**City Council:** Mayor Aaron Brockett, Mayor Pro Tem Rachel Friend, Matthew Benjamin, Lauren Folkerts, Junie Johnson, Nicole Speer, Mark Wallach, Bob Yates

**Staff:** Nuria Rivera-Vandermyde, City Manager; Brad Mueller, Director of Planning & Development Services; Karl Guiler, Senior Policy Advisor; Lisa Houde, Senior City Planner

**PURPOSE**

The purpose of this item to update the City Council on the status of the second phase of the Use Table and Standards project and to discuss next steps related to industrial areas and neighborhood-serving uses.

Specific feedback from City Council was requested on residential development in industrial districts, office uses, and direction for Module Three of the project related to neighborhoods.

**SUMMARY OF PRESENTATION & DISCUSSION**

Lisa Houde presented information on the background of the project and schedule for Modules Two and Three of the project. The staff presentation was divided into three parts, with council's discussion structured around key questions. Responses from the council members and staff is provided beneath each question.

**Council Questions:**

Council members asked the following questions (staff answers are *italicized*):

- Am I correct that in the IS zone, residential is not permitted?

*Staff responded that attached dwelling units are permitted in IS zones, with some limitations related to ground floor uses. Staff raised the example of the Bus Stop Apartments on North Broadway, which is IS-1 and was developed recently. Efficiency living units, townhomes, and duplexes are similarly allowed in IS districts, provided the use is not located on the ground floor.*

- Why do you think that there were so few projects completed over a period of years, so few developers have taken advantage of the ability to have a residential use in an industrial zone?

*Staff noted that this was a question raised by staff as well, but potentially the contiguity requirement had limited the number of available sites, as well as the uncertainty associated with the use review. Staff also acknowledged that many other factors could impact this that are unrelated to zoning as well. However, staff also noted that three of the four projects had been approved or built in the last two years.*

- Have we done engagement on the question of consolidating office uses in industrial districts?

*Staff noted that there has been some feedback in the previous parts of the project but the broader engagement effort will start on Be Heard Boulder next week.*

- What are some other examples of other limitation that might be necessary for office uses in industrial districts?

*Staff responded that there are a variety of options including limiting floor area, or using a floor area limitation or percentage based on lot size, and that staff will further explore the variety of options as the project moves forward.*

- How will the use table changes interact with the upcoming ADU ordinance updates?

*Staff noted that the use table changes will focus more on other housing types like duplex, triplex, attached dwellings, and live/work, but that ADUs are also an important and interrelated part of the conversation since they are allowed in the lowest density districts. Although they are separate ordinance projects, the conversations will not be disjointed from one another as they are closely tied.*

### Questions for City Council:

#### **Question #1: Residential Development in Industrial Districts**

Does City Council support changes to the standards for residential development in Industrial districts that would make more sites eligible for residential uses? Changes could include removing the current contiguity requirement and/or minimum lot size and instead assessing whether sites are appropriate for residential development through other factors, such as guidance from subcommunity plans, limiting residential development only to the IG zoning district, or other potential approaches.

### ***Council Comments and Feedback***

**L. Folkerts** noted that she supports updates to the standards for residential development, we should eliminate the contiguity requirement, exclusivity of use for industrial in residential, minimum lot size, more restrictive setbacks and FAR that are typically required of housing in those zones. Instead, she would like to see suitability determined based on looking at a combination of intentions set out in the applicable area plans and BVCP. Those intention should speak to housing areas along transit lines and surrounding retail and amenity hubs, housing that is integrated into mixed use buildings and neighborhoods, diverse commercial and retail options. She also noted that housing needs to be in addition to industrial uses and not instead of it in some zones. So in some areas it might be that the first floor has to stay industrial and housing could be put above, or that there's a percentage on the site, or maybe that there's the creation of new conditional uses to help shape that so this fits closer to what we've described in especially the EBSP.

**M. Benjamin** agreed with L. Folkerts' comments. Also added comments regarding engagement and noted there was not much reference to community connectors and reaching out to some of our marginalized communities. Discussed that zoning and land use has almost always traditionally disproportionately impacted those communities and so as we think about how we're using our allowable uses, we want to check in with those communities so that as we're going

forward, how we do our land use and zoning is appropriate for everybody in our community. Provided direction to staff to make sure we're tapping into these communities.

**A. Brockett** supported L. Folkerts' comments, with one exception that each site doesn't have to be mixed use. We don't want 100% of all industrial areas to become 100% residential, but he noted that think that on any given parcel, it could be appropriate for an all-residential project potentially. Guardrails on a whole sector basis can be tough, but he wouldn't put a per parcel restriction on the percentage of residential per se.

**M. Wallach** said that we need to determine what kinds of industrial uses we want to preserve, because to the extent that you permit residential development in an industrial zone, it is likely to crowd out most of the industrial users. Residential development is going to be more profitable than industrial facilities. That doesn't mean we can't do it, but it should be an intentional choice and understand what we're doing. He was concerned about residential is permitted in IS zones along Pearl Parkway. That should be an intentional policy decision on the part of the city because it's going to happen if you do that. He was very concerned about losing small industrial service businesses like plumbing, that have a real place in the community and they may move to other communities if we do not protect them. He noted that some other industrial areas might be more compatible with residential.

**R. Friend** agreed with M. Wallach's comments and noted the important community value of preserving industrial, and mentioned it had been a main point of discussion during the East Boulder Subcommunity Plan. She also noted that we do not want to push out small industrial businesses that the community needs.

**M. Wallach** asked the council to indicate support to making more sites eligible for residential with a thumbs up on video, and all council members voted yes. R. Friend noted that she supported it with the guardrails as discussed to protect the industries we need for this community.

#### **Question #2: Office Uses**

Does City Council support consolidation of the technical office and professional office use types into one generalized office use type? If the two types of office are consolidated into one use type, does Council think that other limitations are necessary for office uses in the Industrial districts?

#### ***Council Comments and Feedback***

**L. Folkerts** strongly supported combining profession and technical office. When we have those definitions, it just is confusing for everyone. She noted that we do need to consider restrictions to ensure that the office use is not displacing industrial use in industrial zones, like requiring the first floor to remain industrial, or having some sort of maximum percentage of floor area or a maximum square footage per lot, or other options too. We do want to protect that industrial usage.

**R. Friend** agreed with L. Folkerts and noted that we need to do robust engagement to make sure we don't have unintended ripple effects.

**M. Benjamin** agreed with L. Folkerts.

**A. Brockett** agreed and supported adding limitations so that our industrial zoned areas don't just become office parks.

**M. Wallach** noted the importance of avoiding unintended consequences and expressed concerns about putting the two office categories together without fairly robust guardrails. If there are no guardrails, he cautioned that this could accelerate the creation of speculative office buildings and that is not where the community interest lies.

**T. Winer** agreed with M. Wallach and A. Brockett.

**Question #3: Module Three**

Does the Council have any specific direction for changes related to neighborhood-serving uses in Module Three?

***Council Comments and Feedback***

**A. Brockett** remembered the feedback from previous meeting in 2020 and noted he was still on the same page from the discussion then. He encouraged staff to be innovative about getting a rich mix of uses into those homogeneous neighborhoods whether they are residential, commercial, industrial. When you think about so many people working from home, if you can get a cup of coffee or grab a loaf of bread near your house, then you don't hop in your car and that makes more sustainable society. He encouraged staff to be innovative and bold and come up with a great list of changes for Council to consider. He noted the importance of the direction this is moving in.

**M. Benjamin** thanked staff for laying out the historic context.

**M. Benjamin** recommended thinking of schools as anchor points for 15-minute neighborhoods or larger areas to consider how we want to shape those areas around schools, and raised concerns about enrollment and pressures on schools, particularly on the Broadway corridor.

**L. Folkerts** noted that residential zoning has a lot of potential, since it represents a large area of the community, to address some of our biggest concerns like cost of housing and climate change. She is excited about this piece moving forward and asked staff to provide a broad range of options to Council. She also noted the importance of balancing uses and not being scared to make big recommendations.



**From:** [Mueller, Brad](#)  
**To:** [Guiler, Karl](#); [Houde, Lisa](#)  
**Subject:** FW: Site Review criteria  
**Date:** Tuesday, December 20, 2022 3:04:42 PM

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**From:** Kurt Nordback <[knordback@yahoo.com](mailto:knordback@yahoo.com)>  
**Sent:** Tuesday, December 20, 2022 2:14 PM  
**To:** boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>  
**Subject:** Site Review criteria

**External Sender**

Dear Planning Board,

First I'd like to thank Staff for all their hard work on the site review criteria update, and their responsiveness to a huge amount of varying input from various entities, much of which was contradictory. Pulling all that together has been a huge undertaking, and they've done it admirably.

Overall I find the draft before you to be a big improvement on some of the previous iterations. I have one concern specifically about the height modification criteria. 4(B)(i)(b)(2) reads "...the building height is compatible with the height of buildings in the surrounding area, **and** the building is located near a high frequency multi-modal corridor or an area of redevelopment where a higher intensity of use and a similar building height is anticipated...." This means height modification is allowed only if it is **both** compatible with surrounding heights, and near transit or an area of redevelopment. I would suggest that **either** compatibility or the other criteria should be sufficient for height modification. That is, I would suggest changing this to: "...the building height is compatible with the height of buildings in the surrounding area, **or** the building is located near a high frequency multi-modal corridor or an area of redevelopment where a higher intensity of use and a similar building height is anticipated...."

My bigger-picture concern is that this project did not address the site review thresholds. Some of these are based on unit count. Given the enormous cost and time commitment of site review, for projects near the threshold this creates a perverse incentive for a project with fewer (and generally larger and more expensive) units. For instance, in the RM zones and RMX-1, the threshold is five units. If a developer is considering a project that could, say, be either four 2,000 sq ft townhouses or five 1,600 sq ft units, the prospect of avoiding site review is a strong incentive to go the former route. So I'd encourage the board to recommend a follow-up project to consider these thresholds and how they currently work against affordability, and ways they could be configured to align better with our goals.

Thanks.

Kurt Nordback

**From:** [Barbara Fahey](#)  
**To:** [Guiler, Karl](#)  
**Subject:** Site review criteria update  
**Date:** Wednesday, August 31, 2022 1:58:04 PM

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External Sender

Hi Karl,

Thanks for all your hard work on this project. This is the first chance for public input I've seen so apologies if there were other opportunities. I hope there will be more widely known public input opportunities in the future so others who don't get the Planning Department newsletter can participate.

My basic input is I don't want to see more exceptions of the height limit made for whatever community benefit there is. The height limit was a vote of the people and it feels like a breach of public trust to be continually finding ways to get around it

People stay or come to Boulder for one big reason - the views of the mountains and outdoor recreation opportunities they provide. I hate to see us destroy the very thing that most people value the most about Boulder by building ever taller buildings that obstruct these views. I believe the best thing we can do to impact climate change is create better infrastructure for electric cars, buses and trucks and add more climate friendly power sources. Building tall buildings to increase the total population will only add to our environmental impact.

Thanks for listening,  
Barbara

**From:** [Crystal Gray](#)  
**To:** [Wallach, Mark](#); [Folkerts, Lauren](#); [Benjamin, Matt](#); [Speer, Nicole](#); [Friend, Rachel](#); [Brockett, Aaron](#)  
**Cc:** [Meschuk, Chris](#); [Guiler, Karl](#); [Mueller, Brad](#)  
**Subject:** Site Review Criteria study session  
**Date:** Thursday, August 25, 2022 12:00:41 PM

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## External Sender

Dear Council,

The Site review and Use table memos were so interesting to read. Staff did a good job. Made me long for my City Council and Planning Board days!

A few comments:

### 1) Goals

Suggest that you always add Equity (Racial Equity plan) and Climate Goals (Climate Initiatives) when ever you talk about goals p. 2, and p. 6 Questions for Council #1. And p.6 Under “**Emphasize**” .....add Equity and Climate (yes it does mention Green house Gas reduction) - these two areas (Equity and Climate) are very important to the community - and add links. Planning decisions can determine where members of the community live (Equity) and the quality and variety of living experiences for a variety of incomes. As example the decision to allow all cash in lieu eliminates affordable housing for low and ‘missing middle’ residents from living in new projects downtown.

### 2) Minimize or Mitigate energy use

Very interesting discussion on ‘Minimize or Mitigate’ energy use p.16, p. 18. I agree with Planning Board recommendation for council to pursue all three goals for GG reductions see council questions p.2, #3. My biggest regret after 6 years on Planning Board is not to have pushed more for on-site renewables under Minimize or Mitigate. We tried with the ‘Google’ building - they said they would ‘evaluate roof top solar’. Having the strictest energy code in the country is not an excuse to have roof tops with no solar - especially on new buildings. See Amory Host’s building at Junction Place - solar on roof and on the east facade facing the railroad tracks. It can be done - tour it. And when you have focus groups (p. 20, Table 5) please include reps from energy groups like Clean Energy Action, EOF, Colorado Renewable Energy Society (CRES) etc.

From the code

9-2-14 Site Review (h) Criteria for review (2) Site Design (F) Building Design (xi)  
 (xi) Buildings minimize or mitigate energy use; support on-site renewable energy generation and/or energy management systems; construction wastes are minimized; the project mitigates urban heat island effects; and the project reasonably mitigates or minimizes water use and impacts on water quality;.....

### Miscellaneous comments

1) The Public Realm is left out of the actual code - where people gather, travel etc. As we densify it is especially important to have small and large, green, outdoor spaces. We learned this lesson from the pandemic! Everyone should have access to these spaces not just those with their own yards .

2) The Transportation Demand Management Plan need to be **finally** updated since

transportation contributes significant GHG . Parking reductions should be tied to more than just a two year requirement to buy Eco- Passes. Look at development fees or the CAP tax to buy passes for the entire community!

3) We have no ground water plan - Liz Payton asked for this consistently during her 5 years on Planning Board.

4) Installed Landscape on approved plans should be alive after 15 years or so- put it in the appropriate ordinance. Right now there are dead trees on recently approved projects. Coordinate for monitoring with Cool Boulder; have a call in line/web address on line to report; or hire environmental design interns - give them an e-bike and landscape plans to check.

Thanks for reading this! And I look forward to hear what your ideas are too!

Best,

Crystal Gray

303-906-5509

Former council -2003-2011

Planning Board 2013-2019

DDAB - 10 years

Sent from my iPad

**From:** [Ferro, Charles](#)  
**To:** [Guiler, Karl](#)  
**Subject:** FW: New site review criteria  
**Date:** Thursday, May 19, 2022 10:38:00 AM  
**Importance:** High

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**From:** Lynda Gibbons <Lynda@gibbonswhite.com>  
**Sent:** Thursday, May 19, 2022 5:35 AM  
**To:** boulderplanningboard <Boulderplanningboard@bouldercolorado.gov>  
**Subject:** New site review criteria  
**Importance:** High

**External Sender**

Dear planning board members, please review and comment on the following concerns and feedback that I have regarding the newly proposed SITE REVIEW CRITERIA for development projects in Boulder:

1. I feel strongly that height modifications should be considered anywhere it makes sense- not only where existing higher buildings are- especially as clumping them together as a prescriptive measure will not allow the filtered light we all appreciate and assessing heights based on each site alone seems much more effective and useful for great architectural fabric in the city of Boulder.
2. New acoustical requirements and new higher even than now energy requirements should be carrots and not sticks. More costs work to drive down the beauty and creativity in the architectural process due to increased systems costs! if Boulder wants to have some of the gorgeous fabric that it talks about wanting – we all need to create some flexibility such that developers can put their money in different areas and not ALL on the engineered systems such that there is no budget remaining for the beauty of materials and the creativity of nice buildings to be reachable.
3. Boulder already has appropriately strict energy codes – there is no place to increase these or specify additional levels of compliance as related to site review!
4. It seems that many of the requirements are more like codes which will only work to create more ‘sameness’ and less beauty and doesn’t support the concept of a discretionary review which is what this should be about – not simply more codes!
5. Bill Hollicky has a great set of bullets that should be the basis for a building design guideline – why were these not utilized?
6. In general I would like you to consider more minor modifications that can be dealt with differently than a full blown SR or amendment process.

Your feedback would be welcome on these points at your earliest convenience.

I will plan to speak at the upcoming meeting.

Lynda Gibbons

303 442-1040 x 5920

Direct Dial 303-586-5920

[www.gibbonswhite.com](http://www.gibbonswhite.com)

**From:** [David Biek](#)  
**To:** [boulderplanningboard](#)  
**Cc:** [Guiler, Karl](#)  
**Subject:** Proposed changes to Site Review Criteria  
**Date:** Tuesday, May 17, 2022 6:17:49 PM

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## External Sender

Dear Members of Planning Board,

I have great respect for Karl Guiler and other members of Staff and appreciate the hard work that has gone into this project. My apologies to Karl for not providing feedback along the way, but the sheer size and amount of material to ingest and reflect upon was beyond me. My guess is that most of my colleagues have been in the same boat. Our profession has been swamped with work. Even now, I cannot say that I've looked into this in adequate detail to comment in a thorough manner.

I do fear, however, that the intent of simplifying and clarifying these criteria in the way they have been done will instead make the process more complex and difficult in many circumstances that cannot be foreseen. Just judging by the increase in the number of pages would suggest it is not simpler. I recommend not implementing them until they can be tested on several real life projects in different places in the City with different design teams. While the intention of the criteria come from a very good place (many are even things I've personally advocated for over the years), I believe they will add considerable cost to the design and construction of most projects.

This cost is already untenable.

A couple of examples:

We currently have a Site Review underway for an addition to the Cain Travel building at Valmont and Foothills Parkway (2990 Center Green Ct.). If we were to apply these new design criteria regarding horizontal lines, we would not be able to achieve our goals to blend the new addition with the existing building, which does not have a language of horizontal expression.

The requirement to set windows back 2" from the wall surface can be extremely costly for some building types.

Having spent 10 years serving on BDAB, it was a common occurrence that 'Guidelines' came to be viewed by both Staff and the applicants as rules to be followed. They often did not contribute to better architectural designs, but in some cases they worked beautifully. Form based codes have their place in neighborhoods where a particular form is intended, but can be very inflexible and unworkable when applied to an entire city built over many decades with many different scales, uses, and contexts, etc. The language of these new criteria seems to be taken from form based codes and are probably too prescriptive.

This is a VERY challenging assignment that Karl and his team have been tasked with and they have done a great job. Even still, the results may not have the outcome hoped for and could be disastrous in some circumstances. I believe we should hit pause until we can vet them more thoroughly.



Thanks,

David

David Biek  
Principal Architect



303.819.2424 (m)  
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**From:** [Liz Hanson](#)  
**To:** [boulderplanningboard](#)  
**Cc:** [Guiler, Karl](#); [Ferro, Charles](#)  
**Subject:** New Site Review Criteria: Liz Hanson's comments on 5/19 Agenda Item 5.A.  
**Date:** Wednesday, May 18, 2022 3:53:42 PM

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## External Sender

To Members of the Boulder Planning Board:

I am writing about tomorrow's Agenda Item 5.A., Update the Site Review Criteria, based on my experience working for the City of Boulder for 30 years (20 years as a development review planner and planning manager) - and, for the past six years as a planning consultant and as a Senior Planner with law firm Holland & Hart. I appreciated the opportunity to serve on a city focus group for two years to provide feedback on the evolving ordinance. I particularly appreciate the hard work and determination of Senior Planner Karl Guiler and other planning staff who have worked on this challenging but much needed project. Most of the existing criteria are the same ones I've worked with since 1986.

*I have considerable concerns about the recommended ordinance for new Site Review Criteria that I have shared with the focus group and Karl Guiler. My concerns include:*

- **Code standards rather than discretionary criteria:** I understand the goal to make the criteria less subjective, but most of the new criteria are prescriptive, use "shall" statements and read more like code standards than discretionary review criteria. These are like "form based codes" (e.g. window spacing, numerical requirements for elevation features), but they apply to all site reviews in the whole city. I can think of many projects that could not - and should not - comply with the ordinance. I support writing criteria as guidelines with examples for compliance.
- **Alternative Compliance:** This section was added to address the issue above, however I believe it would only be effective if staff can determine that this code section would apply to a project prior to application. This is how staff confirms standard vs. complex Site Review or Minor Modification vs. Amendment now.
- **Site Review and PUD Amendments:** These make up a large number of Site Review applications and the new standards may not fit remodels, new small buildings in large projects (e.g. Shake Shack at Twenty Ninth Street, with two blank walls), and older projects. Staff has added an Alternative Compliance section for amendments which is a good start, but think this needs more work to solve the "amendment issue." This issue could also discourage property owners from investing in upgrades.
- **Limits on Height Requests:** As proposed, height modification requests would not be allowed in certain residential zones. Since some properties may be appropriate for any increased height over 35 feet (particularly needed housing), why couldn't an application be considered by staff and Planning Board? I also disagree with only allowing height modifications to be applied for where there are other tall buildings nearby; again, allow the request for consideration.
- **New Requirements Duplicate the Code:** Some of the new proposed requirements duplicate existing codes. New energy conservation requirements are proposed even though Boulder already has the toughest energy codes. Acoustical consultant requirements would add cost. Both seem out of place in Site Review criteria.

Site Review is intended as a way to incentivize flexibility, creativity, and design excellence in Boulder projects. I fear that the proposed ordinance will discourage many applicants from applying for Site Review (choosing a by-right option instead) or from upgrading their property. I think with certain changes, the new Site Review Criteria can help ensure projects achieve Boulder's goals.

Thank you for your service to Boulder,

Liz Hanson

[Hanson Business Strategies](#)

303-859-0333