

**Mayor**  
Aaron Brockett

**Council Members**  
Taishya Adams  
Matt Benjamin  
Lauren Folkerts  
Tina Marquis  
Ryan Schuchard  
Nicole Speer  
Mark Wallach  
Tara Winer



Council Chambers  
1777 Broadway  
Boulder, CO 80302  
June 20, 2024  
6:00 PM

**City Manager**  
Nuria Rivera-Vandermyde

**City Attorney**  
Teresa Taylor Tate

**City Clerk**  
Elesha Johnson

## AGENDA FOR THE REGULAR MEETING OF THE BOULDER CITY COUNCIL

---

1. **Call to Order and Roll Call**
  - A. **Immigrant Heritage Month Declaration presented by Council Member Marquis** **5 Min**
  - B. **Pride Month Declaration presented by Council Member Folkerts** **10 Min**
2. **Open Comment**
3. **Consent Agenda**
  - A. **Consideration of a motion to accept the May 2, 2024 City Council Regular Meeting Minutes**
  - B. **Consideration of a motion to accept the May 16, 2024 City Council Regular Meeting Minutes**
  - C. **Consideration of a motion to accept the April 25, 2024 Study Session Summary regarding the Zoning for Affordable Housing Phase Two project**
  - D. **Consideration of a motion to accept the May 23, 2024 Study Session Summary Regarding the Community Wildlife Protection Plan**
  - E. **Consideration of a motion to amend the 2024 Council Meetings Calendar**
  - F. **Consideration of a motion to amend Council Rules of Procedure Sec. II. Communications with Council, Sec. IV. Council Meeting Agenda and Sec XVI. Rules of Decorum**
  - G. **Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8636, authorizing and directing the acquisition of various property interests, within city limits, by purchase or eminent domain proceedings, for the construction of**

the Gregory Canyon Creek Flood Mitigation project; and setting forth related details

- H. Introduction, first reading and consideration of a motion to order published by title only and adopt by emergency measure Ordinance 8635 adopting Supplement 159 which codifies previously adopted Ordinances as amendments to the Boulder Revised Code, 1981; and setting forth related details
  - I. Second reading and motion adopt Ordinance 8626 designating the North Foothills Habitat Conservation Area pursuant to Section 8-8-2, "Habitat Conservation Area Designation," B.R.C. 1981; and setting forth related details
  - J. Third reading and consideration of a motion to adopt Ordinance 8622, amending Title 9, "Land Use Code," B.R.C. 1981, to simplify certain development review processes, and setting forth related details
  - K. Consideration of a motion to accept the City Clerk's certification to City Council of sufficient valid signatures on the petition submitted by "Repurpose Our Runways" to add a new code section 11-4-8 as described in the petition
  - L. Consideration of a motion to accept the City Clerk's certification to City Council of sufficient valid signatures on the petition submitted by "Runways to Neighborhoods" to add a new code section 11-4-8 as described in the petition
4. Call-Up Check-In
- A. Concept Plan Review and Comment for a redevelopment proposal of 2555 30th Street. The proposal includes demolition of the existing car dealership and redevelopment of the site with residential uses. The new development proposes approx. 150 units including studio, one-, two-, and three-bedroom units totaling ranging from studio units to three-bedroom units for a total of 118,927 square feet. Parking will be located on-site and below grade. Reviewed under case no. LUR2024-00018
  - B. Landmark Alteration Certificate application to construct a new two-story building, construct a rear addition to the primary building, and modify an existing accessory building at 1105 Spruce St., a contributing property in the Mapleton Hill Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code 1981
  - C. Landmark Alteration Certificate application to demolish an existing c. 1990s accessory building, construct a new 1 ½ story, two-car garage, and remodel the existing house at 432 Concord Ave., a non-contributing property in the Mapleton Hill Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code 1981
5. Public Hearings
- A. Second reading and consideration of a motion to adopt Ordinance 8634 designating the property at 904 Mapleton Ave., City of Boulder, **15 min - 5 min**

Colorado, to be known as the Gardiner-Sandoe House, as an individual landmark under Chapter 9-11, "Historic Preservation," B.R.C. 1981; and setting forth related details. Reviewed under case number HIS2023-00262

*presentat  
/ 10 min  
public  
hearing  
&  
council  
discussio*

**B. Boards and Commissions Appointments**

*30 min  
– 10  
min  
presentat  
/ 20 min  
public  
hearing  
&  
council  
discussio*

**6. Matters from the City Manager**

**A. Follow-up Discussion with Council on Ballot Measures**

*60 min  
– 15  
min  
presentat  
/ 45 min  
council  
discussio*

**7. Matters from the City Attorney**

**8. Matters from the Mayor and Members of Council**

**9. Discussion Items**

**10. Debrief**

**11. Adjournment**

*3:00 hrs*

---

**Additional Materials**

**Presentations**

**Item Updates**

**Information Items**

**A. Snow & Ice Update**

**B. Update on May 17th Chat with Council**

**Boards and Commissions**

**A. 04.15.24 WRAB Signed Minutes**

**B. 04.17.24 EAB Signed Minutes**

**Declarations**

**A. World Refugee Day Declaration**

**Heads Up! Email**

---

This meeting can be viewed at [www.bouldercolorado.gov/city-council](http://www.bouldercolorado.gov/city-council). Meetings are aired live on Municipal Channel 8 and the city's website and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting.

Boulder 8 TV (Comcast channels 8 and 880) is now providing closed captioning for all live meetings that are aired on the channels. The closed captioning service operates in the same manner as similar services offered by broadcast channels, allowing viewers to turn the closed captioning on or off with the television remote control. Closed captioning also is available on the live HD stream on [BoulderChannel8.com](http://BoulderChannel8.com). To activate the captioning service for the live stream, the "CC" button (which is located at the bottom of the video player) will be illuminated and available whenever the channel is providing captioning services.

The council chambers is equipped with a T-Coil assisted listening loop and portable assisted listening devices. Individuals with hearing or speech loss may contact us using Relay Colorado at 711 or 1-800-659-3656.

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at 303-441-4222, 8 a.m. - 5 p.m. Monday through Friday. Please request special packet preparation no later than 48 hours prior to the meeting.

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretacion o cualquier otra ayuda con relacion al idioma para esta junta, por favor comuniquese al (303) 441-1905 por lo menos 3 negocios dias antes de la junta.

Send electronic presentations to email address: [CityClerkStaff@bouldercolorado.gov](mailto:CityClerkStaff@bouldercolorado.gov) no later than 2 p.m. the day of the meeting.



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Immigrant Heritage Month Declaration presented by Council Member Marquis

**PRIMARY STAFF CONTACT**

Megan Valliere, Assistant to City Council

**ATTACHMENTS:**

**Description**

- ▣ **Immigrant Heritage Month Declaration**

## **Immigrant Heritage Month**

**June 2024**

Immigrant Heritage Month celebrates the generations of immigrants from every corner of the globe who have built our country's economy, created the unique character of our city, and are linked in a shared history.

Immigrants have come here to work, to learn, and to find freedom and shelter. They are an important part of Colorado's history, and they continue to keep the workforce competitive, businesses innovative, and the economy strong. In addition to economic contributions, immigrants bring diverse perspectives and experiences that make for a unique social and cultural influence, fundamentally enriching the extraordinary character of our community.

Immigrants have not only been steadfast leaders in securing their own rights and access to equal opportunity but have also campaigned to create a fairer and more just society for all. Yet despite these countless contributions, the role of immigrants in building and advancing our nation has frequently been overlooked and undervalued throughout our history and continuing to the present day.

One in ten Boulder County residents is an immigrant, and this exceptional group of people adds to the variety of languages, customs, and cuisines, which contributes to the cultural diversity enjoyed in the city.

The City Council of the City of Boulder, Colorado declares June 2024 as

## **Immigrant Heritage Month**

And urge all to join in recognizing the distinct value that lies in welcoming people of different backgrounds and treating all with dignity and respect.



---

**Aaron Brockett, Mayor**





**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Pride Month Declaration presented by Council Member Folkerts

**PRIMARY STAFF CONTACT**

Megan Valliere, Assistant to City Council

**ATTACHMENTS:**

**Description**

- ▣ **Pride Month Declaration 2024**

## **Pride Month**

**June 2024**

More than 50 years ago, patrons and supporters of the Stonewall Inn in New York City resisted police harassment that had become all too common for members of the lesbian, gay, bisexual, transgender, and queer (LGBTQ+) community. Out of this resistance, the LGBTQ+ rights movement in America was born. During LGBTQ+ Pride Month, we commemorate the events of June 1969 and commit to achieving equal justice under law for LGBTQ+ individuals.

Boulder has a diverse LGBTQ+ community that includes people of many ethnicities, religions, and professions, and we consider diversity to be a community asset that enhances and enriches the lives of every resident, worker, visitor, and student in our city. LGBTQ+ individuals are our teachers, baristas, volunteers, tech workers, current and future leaders, and elders. They keep our community going while dealing with the anti-LGBTQ+ bias and discrimination that persists even here in Boulder, and that is growing across the country.

We are grateful for the work of local advocacy groups such as Out Boulder County, OASOS, and the Pride Office at CU Boulder and for other local organizations such as Queer Asterisk and A Queer Endeavor that support our LGBTQ+ community members, many of whom have intersecting marginalized identities that are not always honored and celebrated in our city.

Although other states and even the United States Supreme Court are taking away or limiting the rights of LGBTQ+ individuals and families, advocacy from the LGBTQ+ community in Boulder County and allies across the state led to some significant victories this year. The Colorado legislature passed a bill requiring schools to honor students' chosen names. Additionally, our legislature passed a resolution that refers a ballot measure to Colorado voters to remove language banning same-sex marriages from the Colorado state constitution. While this language became obsolete after the Supreme Court's ruling protecting the right to same-sex marriage nationwide in 2015, it is imperative to amend the state constitution to remove this language in the event that the Supreme Court overturns its previous ruling.

We thank everyone in the LGBTQ+ community who continues to work to keep yourself and our community going. In many respects there has been profound success in the rights, protections, and general community acceptance of LGBTQ+ people in the past 55 years.

As our city celebrates Pride this month, we not only honor our LGBTQ+ communities and advocacy organizations for their continued work to achieve equity in our systems, we also restate our commitment to this ongoing work to promote and protect everyone in our community regardless of gender or sexuality.

We, the City Council of the City of Boulder, Colorado, declare June 2024 as

**Pride Month**

And urge all residents to respect and honor the diversity in our community; to celebrate and continue building a culture of inclusiveness and acceptance; and to stand up against injustice in all its forms.



---

Aaron Brockett, Mayor



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Consideration of a motion to accept the May 2, 2024 City Council Regular Meeting Minutes

**PRIMARY STAFF CONTACT**

Elesha Johnson, City Clerk

**REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the May 2, 2024 City Council Regular Meeting Minutes

**ATTACHMENTS:**

**Description**

- ▣ **Item 3A - DRAFT May 2, 2024 Regular Meeting Minutes**



## CITY COUNCIL MEETING

### Council Chambers

Thursday, May 2, 2024

# MINUTES

1. **Call to Order and Roll Call:**

Mayor Brockett called the meeting to order at 7:00 p.m.

Council Members present: Adams, Benjamin, Brockett, Folkerts, Marquis, Schuchard, Speer, Wallach, Winer

Motion	Made By/Seconded	Vote
Motion to <b>AMEND</b> the agenda to <b>ADD</b> : <ul style="list-style-type: none"><li>Item 3D - Consideration of a motion to <b>authorize the City Manager to enter into a settlement agreement to resolve a lawsuit filed by Benjamin Cronin</b> for payment in the amount of \$1,000,000</li></ul>	Wallach / Marquis	Carried 9:0

- A. **Asian American and Pacific Islander Heritage Month Declaration** presented by Councilmember Winer
- B. **Mental Health Awareness Month Declaration** presented by Councilmember Folkerts
- C. **Archaeology and Historic Preservation Month Declaration** presented by Councilmember Wallach

2. **Open Comment:**

(Public comments are a summary of actual testimony. Full testimony is available on the council web page at: <https://bouldercolorado.gov/city-council> > Watch Live or Archived Meetings.)

Open Comment **opened** at 7:14 p.m.

➤ **In-Person (Council Chambers):**

1. ~~Padi Fuster-Aguilera~~ ***moved to virtual***
2. Marie-Juliette Bird spoke on Boulder Arts Budget
3. Jennifer Mabry spoke on lime scooters cluttering city of Boulder
4. ~~Laura Gonzalez~~ ***moved to virtual***
5. Bruce Shaffer spoke on antisemitism, BNSCP
6. Shannon Golden-Schubert spoke on affordable housing
7. Elliot Fladen spoke on racism at last council meeting
8. Luke Hoffman spoke on Valmont Bike Park concerns
9. ~~Doug Hamilton~~ ***withdrew***
10. Michele Rodriguez spoke on general
11. Julie Shaffer spoke on anti-semitism
12. Glenn Brillinger spoke on Boulder Municipal Airport decision
13. ~~Kevalyn Maw~~ ***moved to virtual***
14. ~~Elise Mordos~~ ***moved to virtual***
15. James Duncan spoke on Indigenous peoples day for Palestine

➤ **Virtual:**

16. Devin Riker spoke on traffic speed control
17. Mike Marsh spoke on public comments re 2952 Baseline Williams Village proposal
18. Jack Hadley spoke on 2A Arts Funding Allocation
19. Lynn Segal – ***spoke in person*** spoke on TBA
20. Renee Beshures spoke on day shelter
21. Elise Mordos spoke on antisemitism
22. Padi Fuster- Aguilera spoke on ceasfire
23. Laura Gonzalez spoke on violence against our community
24. Kevalyn Maw spoke on Race Equity Plan and Palestine

Open Comment **closed** at 7:54 p.m.

3. **Consent Agenda**

- A. Consideration of a motion to **authorize the City Manager to approve and execute a 20-year revocable permit for a 75-square-foot portion of an elevated canopy**

encroachment within a City easement located near the entrance of the Moxy Hotel f/k/a University Hill Hotel at 1247 Pleasant Street (REV2024-00002)

- B. **Introduction**, first reading and consideration of a motion to order published by title only **Ordinance 8626 designating the North Foothills Habitat Conservation Area** pursuant to Section 8-8-2, “Habitat Conservation Area Designation,” B.R.C. 1981; and setting forth related details
- C. **Second reading** and consideration of a motion to adopt **Ordinance 8631, updating the streetlighting standards by amending the City of Boulder Design and Construction Standards (DCS)**, originally adopted pursuant to Ordinance 5985, and adding a new Section 4-20-77, “Streetlighting Fees,” B.R.C. 1981, and setting forth related details
- D. Consideration of a motion to **authorize the City Manager to enter into a settlement agreement to resolve a lawsuit filed by Benjamin Cronin** for payment in the amount of \$1,000,000

Motion	Made By/Seconded	Vote
Motion to <b>APPROVE the consent agenda items A-D</b>	Marquis / Benjamin	Carried 9:0

4. **Call-Up Check-In**

- A. **Concept Plan Review and Comment** for the **development of a vacant parcel at the northwest corner of Spine Rd. and Gunbarrel Ave., addressed as 4600 HWY 119 in city mapping**. The proposal includes the development of 79 two- and three-bedroom townhouses within 10 buildings around a central common area. Reviewed under case no. LUR2024-00013

**NO ACTION**

- B. **Use Review** to **allow residential uses on the ground floor facing a street in an Industrial-Service 1 zone district at 4725 Broadway**. The proposal includes the redevelopment of the existing site with two new residential buildings containing 21 three-story townhouse units with private garages. Reviewed under case no. LUR2022-00032

**NO ACTION**

- C. **Site Review** approval for redevelopment of **2206 Pearl Street as a mixed-use development with approximately 2,021 sq. ft. of first floor commercial space and 45 efficiency living units** along with associated amenity spaces, including a second level community deck, common lounge area, secure bike storage, and an at-

grade parking garage containing 18 parking spaces where 45 are required (60% parking reduction requested). Reviewed under case number LUR2023-00020

Council member Wallach made a motion call-up this item and Council member Winer seconded the motion.

The motion was approved with a show of hands of 5 members.

5. **Public Hearings**

- A. **Second reading** and consideration of a motion to adopt **Ordinance 8625 designating the property at 2120 Bluebell Ave.**, City of Boulder, Colorado, to be known as the Fankboner-Hartman-Ely House, as an individual landmark under Chapter 9-11, “Historic Preservation,” B.R.C. 1981; and setting forth related details

Marcie Gerwing, City Planner Principal provided Council with the Quasi-Judicial guidelines, a presentation and answered questions from Council.

The applicant, Jim Harman addressed Council and thanked them for their consideration with the landmark designation.

The public hearing **opened** at 8:25 p.m. and the following spoke:

➤ **In-Person (Council Chambers):**

1. Lynn Segal

The public hearing **closed** at 8:28 p.m.

<b>Motion</b>	<b>Made By/Seconded</b>	<b>Vote</b>
Motion to <b>ADOPT Ordinance 8625 designating the property at 2120 Bluebell Ave.</b> , City of Boulder, Colorado, to be known as the Fankboner-Hartman-Ely House, as an individual landmark under Chapter 9-11, “Historic Preservation,” B.R.C. 1981; and setting forth related details	Folkerts / Winer	Adopted 9:0

6. **Matters from the City Manager**

- A. **Council Retreat Follow-up Discussion**

Nuria Rivera-Vandermyde introduced this item and provide background and an outline of the materials being presented.

Mark Woulf, Assistant City Manager and Pam Davis, Assistant City Manager provided a presentation and answered questions from Council.

- 7. **Matters from the City Attorney**
- 8. **Matters from the Mayor and Members of Council**
- 9. **Discussion Items**
- 10. **Debrief**
- 11. **Adjournment**

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Brockett at 9:44 p.m.**

Approved this 20<sup>th</sup> day of June 2024.

APPROVED BY:

\_\_\_\_\_  
Aaron Brockett, Mayor

ATTEST:

\_\_\_\_\_  
Elesha Johnson, City Clerk



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Consideration of a motion to accept the May 16, 2024 City Council Regular Meeting Minutes

**PRIMARY STAFF CONTACT**

Elesha Johnson, City Clerk

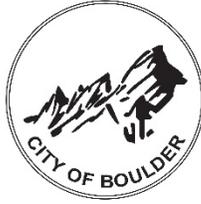
**REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the May 16, 2024 City Council Regular Meeting Minutes

**ATTACHMENTS:**

**Description**

- **Item 3B - DRAFT May 16, 2024 Regular Meeting Minutes**



## CITY COUNCIL MEETING

### Council Chambers

Thursday, May 16, 2024

# MINUTES

## 1. Call to Order and Roll Call:

Mayor Brockett called the meeting to order at 6:01 p.m.

Council Members present: Adams, Brockett, Folkerts, Marquis, Schuchard, Speer, Wallach, Winer

Virtual: Benjamin

- A. **Jewish American Heritage Month Declaration** presented by Council Member Marquis
- B. **Older Americans Month Declaration** presented by Council Member Schuchard
- C. **Remembering Los Seis Declaration** presented by Mayor Pro Tem Speer

## 2. Open Comment:

(Public comments are a summary of actual testimony. Full testimony is available on the council web page at: <https://bouldercolorado.gov/city-council> > Watch Live or Archived Meetings.)

Open Comment **opened** at 6:21 p.m.

### ➤ In-Person (Council Chambers):

- 1. — ~~Dan Hochman~~ **did not show**
- 2. Ali Aghili spoke on healthy addiction to Sanitas mountain
- 3. Evan Ravitz spoke on various subjects

4. Hep Ingham spoke on democratize Boulder Airport
5. Leslie Glustrom spoke on electricity
6. Padi Fuster Aguilera spoke on ceasefire resolution
7. Gary Brenner spoke on Gregory Creek Flood Mitigation Project
8. ~~Evan Buchman~~ - *did not show*
9. Kent Katnik spoke on Boulder Municipal Airport
10. ~~Michael Benjmain~~ - *withdrew*
11. Macon Cowles spoke on council pay
12. Jan Burton spoke on airport funding
13. Lynn Segal spoke on imminent demolitions at 613 and 260 and 2206
14. Dr. Aram Bingham spoke on ceasefire resolution

➤ **Virtual**

15. Jacob Taylor spoke on crime – did not show
16. Shiela Salt spoke on Boulder airport
17. Aidan Reed spoke on minimum wage
18. Laura Gonzalez spoke on violation of first amendment rights/cease fire resolution
19. Elliot Fladen spoke on antisemitism/Israel
20. ~~Steve Whitaker~~ - *did not show*

Open Comment **closed** at 6:55 p.m.

**Due to disruptions in Chambers, Mayor Brockett called a recess at 6:59 p.m. and reconvened the meeting at 7:03 p.m.**

**3. Consent Agenda**

- A. Consideration of a motion to **accept the April 11, 2024 Special City Council Meeting Minutes**
- B. Consideration of a motion to **accept the April 18, 2024 Regular City Council Meeting Minutes**
- C. Consideration of a motion to **approve and authorize the city manager to enter into and execute four separate Intergovernmental Agreements**, in substantially the same form as in Attachments A-D, between the City of Boulder and jurisdictions within the Boulder County region establishing a regional homeownership and rental compliance program administered by City of Boulder staff

- D. Consideration of a motion to **adopt the findings and conclusions of the Boulder City Council, as specified in this Agenda Memorandum dated May 16, 2024, for the disapproval of the designation of the Civic Area Historic District**
- E. Consideration of a motion to **amend the Council Rules of Procedure Sec. II. Communication with Council, Sec. IV. Council Meeting Agenda and Sec. XVI. Rules of Decorum**  
  
Motion to amend consent agenda to remove item 3E and reschedule to a future meeting made by CM Folkerts and seconded by CM Adams – Carried 6:3
- F. Consideration of a motion to **authorize the city manager to enter into a settlement agreement to resolve a lawsuit filed by Sina Goharjou in the amount of \$125,000**
- G. Introduction, **first reading** and consideration of a motion to order published by title only **Ordinance 8622, amending Title 9, “Land Use Code,” B.R.C. 1981, to simplify certain development review processes**, and setting forth related details
- H. Introduction, **first reading** and consideration of a motion to order published by title only, **Ordinance 8632 approving annual supplemental appropriations to the 2024 Budget**
- I. Introduction, **first reading**, and consideration of a motion to order published by title only **Ordinance 8633 amending Section 2-1-2, "Council Meetings," B.R.C. 1981 allowing for regular meetings once a month during the summer months;** and setting forth related details

Motion	Made By/Seconded	Vote
Motion to <b>APPROVE the consent agenda items A-D and F-I (Item E REMOVED)</b>	Folkerts / Adams	Carried: 9:0  <span style="color: red;"><b>NAY on 3D: Wallach, Brockett</b></span>

**4. Call-Up Check-In**

- A. **Concept Plan Review** for a proposed **Boulder Housing Partners redevelopment on 3.74 acres located at 6400-6570 Gunpark Drive and 6560 Spine Road** with 23 townhomes in two buildings, 124 apartments in five buildings, and one community building. The site is largely undeveloped; two existing office buildings on the property would be demolished. **Reviewed under case no. LUR2023-00060**

**NO ACTION**

5. **Public Hearings**

- A. **Second reading** and consideration of a **motion to amend and pass Ordinance 8629, repealing the “2020 City of Boulder Energy Conservation Code,” adopting by reference the “2024 City of Boulder Energy Conservation Code,” and amending Title 10, “Structures,” B.R.C. 1981,** and other sections of the Boulder Revised Code in relation thereto, and setting forth related details

Johnathan Koehn, Climate Initiatives Director, and Brad Mueller, Planning and Development Services Director, provided introductory remarks.

Rob Adriaens, Chief Building Official, Josh Hanson, Energy Code Compliance Examiner Principal and Carolyn Elam, Sustainability Senior Manager, provided a presentation and answered questions from Council.

The public hearing **opened** at 8:44 p.m. and the following spoke:

➤ **In-Person (Council Chambers)**

1. Phil Keuhn
2. Lauren Reeg
3. Devin Edgley
4. Steve Hoge
5. Lynn Segal

➤ **Virtual:**

6. Daniel Howard
7. Jordan Bunch

The public hearing **closed** at 9:05 p.m.

<b>Motion</b>	<b>Made By/Seconded</b>	<b>Vote</b>
Motion to <b>AMEND</b> and <b>PASS Ordinance 8629, repealing the “2020 City of Boulder Energy Conservation Code,” adopting by reference the “2024 City of Boulder Energy Conservation Code,” and amending Title 10, “Structures,” B.R.C. 1981,</b> and other sections of the Boulder Revised Code in relation thereto, and setting forth related details	Brockett / Folkerts	Approved as amended 9:0

6. **Matters from the City Manager**

A. **Addressing Impacts of Gas-Powered Landscape Equipment**

Carloyn Elam, Sustainability Senior Manager, provided a presentation and answered questions from Council.

Council member Wallach left the meeting at 10:23 p.m.

7. **Matters from the City Attorney**

8. **Matters from the Mayor and Members of Council**

9. **Discussion Items**

10. **Debrief**

11. **Adjournment**

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Brockett at 10:37 p.m.**

Approved this 20<sup>th</sup> day of June 2024.

APPROVED BY:

\_\_\_\_\_  
Aaron Brockett, Mayor

ATTEST:

\_\_\_\_\_  
Elesha Johnson, City Clerk



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Consideration of a motion to accept the April 25, 2024 Study Session Summary regarding the Zoning for Affordable Housing Phase Two project

**PRIMARY STAFF CONTACT**

Karl Guiler, Policy Advisor Senior

**REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the April 25, 2024 Study Session Summary regarding the Zoning for Affordable Housing Phase Two project

**ATTACHMENTS:**

**Description**

- **Item 3C - Zoning for Affordable Housing 2.0 Study Session Summary**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE:**

Consideration of a motion to accept the April 25, 2024 Study Session Summary regarding the Zoning for Affordable Housing Phase Two project.

**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**

This agenda item provides a summary of the [April 25, 2024 study session on the Zoning for Affordable Housing Phase Two project](#). The purpose of the study session was to update the City Council on the status of the project, provide staff analysis of the City Council suggested options offered by council in Sep. 2023, and to discuss which options should be explored further. Staff intends to refine the options and solicit community and board feedback before returning to council with an ordinance later this year.

The stated goals of the project are listed below:

- Review city standards and regulations and identify areas where zoning may discourage affordable or modest sized dwelling units, including without limitation, the intensity standards and parking requirements.
- Vet the options with the community to inform any proposed ordinance changes.
- Prepare land use code amendments that provide greater opportunities to obtain more housing affordable options.

Key takeaways from the study session discussion were:

- **Rename/Reframe the effort:** There was support for changing the name of the project to better reflect the scope. As not all of the suggestions in the scope are related to guaranteed housing affordability, but rather an effort to allow more housing options to mitigate rising costs, the project name should be changed to reflect “housing accessibility” or obtaining more “family friendly vibrant neighborhoods.” This aligns with the 2024 Work Program item with the same intent. It was suggested that perhaps this project should not be the

second phase of the Zoning for Affordable Housing project, but rather the project should be reframed as the first phase of 2024 work program item. The goals of the project should be clarified and affordability should be better defined.

- **Community engagement:** Engagement should commence on all of the suggestions outlined in the [April 25 memorandum](#) with a focus on whether there is community support for allowing more duplex units along transit corridors in the RR and RL-1 zones, increased density allowances in the RMX-1 zone, density adjustments in the RM-1 zone, and exploring owner occupancy requirements for any property adding units in the RR and RL-1 zones. Increased density on the west side of the city should be taken into account for the city's emergency plans for wildfire evacuation. Engagement should also clearly communicate how current proposed changes will intertwine with future related city efforts on adding housing options.
- **Move Forward with All Suggestions:** A majority of City Council found that staff should move forward on all suggestions, with the exception that Suggestion #5 should be modified to explore allowing 100% permanently affordable projects to proceed without Site Review.

## **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 April 25, 2024 Study Session Summary regarding the Zoning for Affordable Housing Phase Two project.*

## **ANALYSIS**

Staff provided a background on the Zoning of Affordable Housing Phase Two project, as well as a summary of past input related to the project and the staff analysis of the council suggested options. The [April 25 memorandum](#) and presentation was structured on the seven suggested options. Council asked questions and provided feedback on each of the suggested options as outlined below.

**Suggestion #1: Add RMX-1 (Mixed Density Residential – 1) to the scope of the project**

– Explore changes to the RMX-1 zone that would apply the current floor area ratio (FAR) maximums per lot and remove the lot area per dwelling unit requirement.

- A majority of council supported moving forward with this option.
- There were suggestions that staff consider bundling the engagement on RMX-1 with the engagement anticipated as part of the upcoming parking project since the issues are intertwined.
- Suggestions were made to determine the total number of additional units that could be allowed in RMX-1 and create a cap that would be applied to the whole zone.
- Alternatively, some council members felt that the density calculation should be

modified from the recommended 3,000 square feet down to potentially 2,500 square feet or 1,500 square feet, although some council members expressed concern about this change. Community engagement should focus on these options.

**Suggestion #2: Add RM-1 (Medium Density Residential – 1) to the scope of the project**

– Explore changes to the RM-1 zone that would remove the minimum open space per dwelling unit requirement and replace with the FAR limit of the RMX-1 zone.

- A majority of council found that RM-1 areas are transit-rich environments and supported the staff recommendation to modify the density calculation to be either 2,000 square feet of open space or lot area per dwelling unit.
- One council member did not support changes that would reduce open space.

**Suggestion #3: Opportunities for additional housing density in lower density areas –**

Analyze density in low density areas in more depth and explore whether there are areas where additional density, consistent with the BVCP land use designations, may be possible (e.g., allowance for duplexes on corner lots along multi-modal corridors etc.) without any BVCP updates.

- A majority of council was supportive of this option moving forward and some council members noted that they were mixed on the topic.
- Two council members expressed concern about there being no specific affordability component to the project and questioned the value of the project and what the city is trying to achieve, noting that the outcome will just be more million + dollar duplexes.
- One council member noted that while there may not be an affordability component, two duplex units would be inherently more affordable than if the same structure were just a single-family home and would work towards more attainable housing.
- One council member expressed their excitement for these changes and that the changes would work to attract or retain families in Boulder where enrollment is declining.
- More analysis and outreach should focus on which of the density options might make the most financial sense to incentivize duplex conversion or construction in lieu of maintaining or constructing a single-family home.
- While there was interest in allowing duplexes throughout the RR and RL-1 zones, some council members supported not using a ‘lot area per dwelling unit’ density calculation and rather, figure out how many units could be added in the zone consistent with the BVCP and just allow lots within a specified proximity to transit corridors the ability to build or convert to a duplex. Community engagement should focus on this aspect.
- One council member expressed concern about concentrating more housing into fire prone areas like the Wildland Urban Interface (WUI) and how the increased density could impact evaluation.

**Suggestion #4: Explore additional restrictions in low density residential zones to encourage home ownership** – Explore additional regulations to enable homeownership in low density residential zones and preservation of the character of such areas, such as owner-occupancy on lots where additional dwelling units may be allowed. This option was added based on concerns that investors may buy up properties and rent the homes if additional units are permitted.

- A majority of council expressed interest in moving forward with this suggestion finding that there should be more opportunities for home ownership in Boulder.
- Community engagement should be conducted on this idea to help inform any mechanism for owner occupancy.
- Some council members expressed interest in there being affordability requirements associated with this option.

**Suggestion #5: Exemption for “missing middle” housing** – Consider an exemption to the Site Review process for projects that provide 100% “missing middle” type housing if there are no land use modifications associated with the project. Solicit feedback on this type of housing and proposed changes from groups assisting/housing those with disabilities.

- City Council agreed to not move forward with an exemption for 100% “missing middle” housing, but rather to explore an exemption from Site Review for 100% permanently affordable housing projects.
- One council member asserted that it remained important that there be design standards applying to such projects.

**Suggestion #6: Further analyze minimum thresholds for Site Review and whether any thresholds should be tied to number of dwelling units** – Consider changing additional zones in [Table 2-2 in Section 9-2-14, “Site Review,” B.R.C. 1981](#) to “0” to make them eligible for Site Review.

- City Council agreed to move forward with the staff recommended changes to the Site Review thresholds as outlined in the [April 25 memorandum](#).

**Suggestion #7: Rethink whether research and development (R&D) uses should be incentivized by additional residential FAR in the industrial zones** – Consider removal of R&D uses from the allowance for additional residential FAR and list other light industrial uses that should be promoted for light industrial areas.

- City Council generally agreed with the staff recommendation to keep R&D uses in the list of uses in the code that when paired with residential uses would qualify a project for additional allowable residential floor area. The provision is an incentive for mixed-use in the industrial zones by encouraging residential uses and retaining or fostering new light industrial uses.
- Council agreed with the list of other recommended light manufacturing uses for the floor area ratio bonus, but requested that a list of the proposed “non-permitted” uses be provided at the next update.

## **NEXT STEPS**

Staff plans to move forward with reframing the project with a new name (focusing on housing diversity as discussed in this memorandum) and commencing community engagement based on the council direction from the study session. Staff also plans to update Planning Board and Housing Advisory Board in the coming weeks to inform the boards of the project's scope and obtain feedback on the preferred options. If necessary, staff may return to City Council in the August timeframe for additional direction. The goal is to complete this project in Quarter Three of 2024.



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Consideration of a motion to accept the May 23, 2024 Study Session Summary Regarding the Community Wildlife Protection Plan

### **PRIMARY STAFF CONTACT**

Nuria Rivera-Vandermyde, City Manager

Chris Meschuk, Deputy City Manager

Pam Davis, Assistant City Manager

Mike Calderazzo, Chief of Fire-Rescue

Dan Burke, Director of Open Space and Mountain Parks

Brian Oliver, Chief of Fire-Rescue Wildland Division

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the May 23, 2024 Study Session Summary Regarding the Community Wildlife Protection Plan

### **ATTACHMENTS:**

#### **Description**

- **Item 3D - Study Session Summary CWPP**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Consideration of a motion to accept the May 23, 2024 Study Session Summary Regarding the Community Wildfire Protection Plan (CWPP) Final Draft Discussion

**PRESENTER(S)**

Nuria Rivera-Vandermyde, City Manager  
Chris Meschuk, Deputy City Manager  
Pam Davis, Assistant City Manager  
Mike Calderazzo, Chief of Fire-Rescue  
Dan Burke, Director of Open Space and Mountain Parks  
Brian Oliver, Chief of Fire-Rescue Wildland Division

**EXECUTIVE SUMMARY**

The purpose of this study session was to provide City Council with an overview and information regarding the 2024 update to the city of Boulder's Community Wildfire Protection Plan (CWPP) and to give City Council an opportunity to respond to the following questions:

1. Does City Council have any questions regarding the purpose, content or implementation of the Community Wildfire Protection Plan?
2. Which recommendations or recommendation themes are of highest interest to council to be considered as implementation plans are developed?

The CWPP is a city staff-initiated, consultant supported, community-centered, cross-departmental planning effort to enhance the city's holistic and strategic approach to wildfire risk mitigation. Funded by Boulder's Climate Tax, passed by voters in November 2022, the CWPP update serves as a guiding document that will assist the city and community members in making informed decisions with respect to wildfire preparation and management. Implementing the recommendations in the plan is a priority action supporting strategy #2 of the citywide strategic plan to: advance efforts to enhance

regional disaster prevention, preparedness, and response that leverage existing partnerships and prioritize city investments. The purpose of the 2024 CWPP update is to:

- facilitate a cohesive wildfire risk assessment to identify preparedness and risk reduction actions at a citywide scale;
- provide a framework for future planning and implementation of necessary mitigation measures;
- provide information to inform future land-use planning, building codes, and wildfire mitigation and prevention-related ordinances;
- enable local communities, civic groups, businesses, and governments to improve their wildfire-mitigation capabilities and capacity, while working with fire protection agencies to identify high fire risk areas and prioritize regions for structure hardening, mitigation, fire suppression, and emergency preparedness projects;
- enhance public awareness by helping residents, visitors, and homeowners better understand and mitigate the natural and human-caused risks of wildland fires that threaten lives, safety, and the local economy;
- define the Wildland Urban Interface (WUI) and conduct a risk assessment that encompasses fuel hazards, fire history, structure vulnerability, and protective community values; and
- to meet the minimum standards of the Healthy Forests Restoration Act of 2003 and Colorado State Forest Service (CSFS) by being developed collaboratively between local, state, and federal agencies, as well as other interested parties; including priority areas for hazardous fuel reduction treatments; and recommending measures that homeowners and communities can take to reduce structural ignitability.

### **STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

**Motion to accept the May 23rd, 2024 Study Session summary regarding the Community Wildfire Protection Plan Final Draft discussion.**

### **SUMMARY OF PRESENTATION AND COUNCIL DISCUSSION**

Pam Davis, Assistant City Manager, Brian Oliver, Chief of Fire-Rescue Wildland Division, Mike Calderazo, Fire-Rescue Chief, and Dan Burke, Director of Open Space and Mountain Parks (OSMP) provided council with a brief presentation and overview of the CWPP as well as examples of how several of the CWPP recommendations are already being carried out. The presentation also noted that the development of a more detailed action or implementation plan is already underway as well as a dashboard tool to keep community informed on the progress towards fulfilling plan recommendations.

Overall, council members generally expressed appreciation and support for the plan and several council members expressed understanding and appreciation for the level of detail the plan contained. Several topic areas emerged during council member questions and comments, including:

Wildland Urban Interface (WUI) Code:

Council Member Marquis noted there is a difference between the area in the city covered by the WUI code area and that of the operational WUI area defined in the CWPP. Fire-Rescue Division Chief, Lowrey, acknowledges the differences between the two and noted that the next iteration of WUI building codes has the opportunity to re-define the geographic area of its application.

Council Member Benjamin asked if council can go above and beyond existing geographic areas for building codes. Staff said yes.

Evacuations and Alerts:

Council Member Marquis asked how the community can connect with evacuation plans and added that evacuation for people with mobility challenges, whether physical or related to vehicle access, needs to be addressed. Mike Chard, Office of Disaster Management, responded that they are conducting a tighter assessment of the area and developing a traffic control plan and are first focusing on areas most vulnerable to high west to east wind events. Chard also noted that extensive community information regarding preparedness has been developed in 5 different languages.

Council Member Marquis asked if community members can get emergency alerts for locations where family members, children, friends may reside, work or go to school. Staff said yes, community members can set up alerts for other geographical areas in addition to where they live.

Fuel Treatments:

Council Member Benjamin asked how long fuel treatments last and how frequently they ideally need to happen. Brian Oliver, Fire-Rescue, said forest fuels treatments such as tree removal/thinning and prescribed burns have longer lasting impact of 10 or more years whereas grass treatments have much less lasting impact. Mowing, for example, may have to be biannual. Council Member Benjamin responded with it is important that we help the community understand this difference.

Council Member Folkerts raised concerns about utilizing gas powered equipment to carry out the city's new perimeter mowing programs and encouraged alternatives if they are available.

Mayor Pro Tem Speer noted that there seems to be mixed messages from city departments on what to do with leaf debris.

Insurance:

Several council members expressed significant concerns about the long-term viability of insurance coverage and insurance rates here in Boulder due to the risk from natural disasters such as fire and encouraged staff to stay current on this issue, consider this issue when prioritizing actions, and to have direct communications with insurance companies as appropriate.

Home Hardening and Assessments:

Council Member Adams emphasized the importance of considering renters for home hardening and assessment conversations.

Community Awareness and Education:

Council Member Benjamin said it's important that the most important aspects of the CWPP are "pulled out" of the larger plan and then put into the community's hands to increase awareness and understanding.

Council Member Adams talked about the importance and need to manage and organize neighborhood trainings and to seek more ways to elevate and make the community ambassador program and opportunities more broadly available and known.

Mayor Pro Tem Speer suggested more use of volunteers to support wildfire mitigation.

CWPP Recommendation Priorities:

Council Member Benjamin: prioritize, RL 2, 5, 11, 13.

Council Member Adams: Important to know and show the fiscal implications of the different recommendations. Assess cost data alongside prioritization. Ensure the strategies are mutually supportive. Important to understand what the city's specific role is versus the county and others. Importance of building trust outside of a crisis.

Council Member Marquis: Supportive of the goals of life safety, echoes work on insurance. Would like to understand needs in the budget process.

Mayor Pro Tem Speer: When prioritizing, consider intersections of SER framework, critical city facilities, near term versus long term, and reliance on partners and how we can leverage work that is already happening. Also, need to tie together the Detailed Home Assessment program with that of grant monies and contractor resources available to carry out recommendations from the assessments.

Mayor Brockett echoed the need to develop a framework/matrix that shows how and why we are prioritizing the CWPP recommendations.

Council Member Schuchard said it's important to clarify and state what our overall fire protection goals and objectives are and is also interested in having a solid understanding of climate impacts and insurance markets as it relates to this topic.



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Consideration of a motion to amend the 2024 Council Meetings Calendar

**PRIMARY STAFF CONTACT**

NA

**REQUESTED ACTION OR MOTION LANGUAGE**

Consideration of a motion to amend the 2024 Council Meetings Calendar

**ATTACHMENTS:**

**Description**

- ▣ **Item 3E - AMENDED 2024 Council Meeting Dates - UPDATED2 061024**



## AMENDED 2024 City Council Meeting Dates

Amendments are highlighted in **GREEN**  
 Presented to Council for approval at the June 20, 2024 meeting.

Date	Regular Meeting or Study Session	NOTES
January 11	<b>SPECIAL</b> Meeting	First meeting of the month after recess
January 18	Regular Meeting	
January 25	Study Session	
February 1	Regular Meeting	
February 8	Study Session	
February 15	Regular Meeting	
February 22	Study Session	
February 29	<b>SPECIAL</b> Meeting	
March 7	Regular Meeting	Board & Commission Appointments
March 14	Study Session	
March 21	Regular Meeting	
<b>March 25<sup>th</sup>- 29<sup>th</sup></b>	<b>CU and BVSD Spring Break – NO MEETING</b>	
April 4	Regular Meeting	
April 11	Study Session	
April 18 – 7 p.m.	Regular Meeting	(Possible late start – Sister City Dinner)
April 25	Study Session	
May 2 – 7 p.m.	Regular Meeting	(Possible late start – YOAB Dinner)
May 9	Study Session	
May 16	Regular Meeting	
May 23	Study Session	
<b>May 30<sup>th</sup></b>	<b>5<sup>TH</sup> Thursday</b>	<b>NO MEETING</b>
June 6	Regular Meeting	
June 13	Study Session	Last Day of Shavuot
June 20	Regular Meeting	
June 27	Study Session	
<b>June 28<sup>th</sup> - July 7<sup>th</sup> - 21<sup>st</sup></b>	<b>No Meetings - Council SUMMER Recess</b>	
July 11 - <b>CANCELLED</b>	<b>SPECIAL</b> Meeting	First meeting of the month after recess
July 18 - <b>CANCELLED</b>	Regular Meeting	
July 25	Study Session <b>SPECIAL MEETING</b>	
August 1	Regular Meeting	
August 8	Study Session	
August 15	Regular Meeting	
August 22	Study Session	
<b>August 29<sup>th</sup></b>	<b>5<sup>TH</sup> Thursday</b>	<b>5<sup>th</sup> Thursday</b>
September 5	Regular Meeting	
September 12	Study Session	
September 19	Regular Meeting	
September 26	Study Session	

October 3	Regular Meeting	2 <sup>nd</sup> is the FIRST evening of Rosh Hashanah
October 10	Study Session	11 <sup>th</sup> is the FIRST evening of Yom Kippur
October 17	Regular Meeting	16 <sup>th</sup> is the FIRST evening of Sukkot
October 24	Study Session	23 <sup>rd</sup> is the FIRST evening of Shemini Atzeret & Simchat Torah
<b>October 31<sup>st</sup></b>	<b>No Meeting</b>	<b>5<sup>th</sup> Thursday</b>
November 7	Regular Meeting	2024 Election held November 5 <sup>th</sup>
November 14	Study Session	
November 21	Regular Meeting	
<b>November 25<sup>th</sup> - 29<sup>th</sup></b>	<b>No meeting week of Thanksgiving</b>	
December 5	Regular Meeting	
December 12	Study Session	
December 19	Regular Meeting	
<b>December 20<sup>th</sup> – Jan 5<sup>th</sup> - No meetings of Christmas / New Year’s Day – Council WINTER Recess</b>		



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Consideration of a motion to amend Council Rules of Procedure Sec. II. Communications with Council, Sec. IV. Council Meeting Agenda and Sec XVI. Rules of Decorum

**PRIMARY STAFF CONTACT**

Teresa Taylor Tate, City Attorney, 303.441.3020

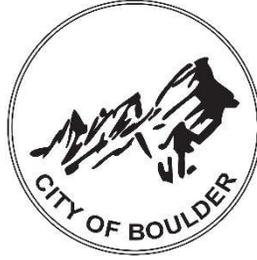
**REQUESTED ACTION OR MOTION LANGUAGE**

Motion to amend Council Rules of Procedure Sec. II. Communications with Council, Sec. IV. Council Meeting Agenda and Sec XVI. Rules of Decorum.

**ATTACHMENTS:**

**Description**

- **UPDATED MEMO - Agenda Council Rules of Procedure Sec. II., Sec. IV. Sec. XVI**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Consideration of a motion to amend Council Rules of Procedure Sec. II. Communications with Council, Sec. IV. Council Meeting Agenda and Sec. XVI. Rules of Decorum.

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Teresa Taylor Tate, City Attorney  
Erin Poe, Deputy City Attorney

**EXECUTIVE SUMMARY**

At its retreat in April 2024, council requested a number of changes to the Council Procedures to facilitate orderly meetings and to limit disruptions, in order to have efficient government operations. Those changes along with clean up changes are indicated with strikeouts and double underlines in **Attachment A**.

**STAFF RECOMMENDATION**

**Suggested Motion Language**

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

Motion to amend Council Rules of Procedure Sec. II. Communications with Council, Sec. IV. Council Meeting Agenda and Sec. XVI. Rules of Decorum.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic** -None
- **Environmental** -None
- **Social** -None

## **OTHER IMPACTS**

- **Fiscal** -None
- **Staff time** -None

## **RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE**

None.

## **BOARD AND COMMISSION FEEDBACK**

None.

## **PUBLIC FEEDBACK**

None.

## **BACKGROUND**

At its retreat in April 2024, council requested a number of changes to the Council Procedures to facilitate orderly meetings and to limit disruptions, in order to have efficient government operations. Council also discussed all proposed amendments during the study session held June 13, 2024. Those changes, along with clean up from the separation of the library and removing gendered language, are also contained in **Attachment A**.

## **ANALYSIS**

Amendments to the Council Rules of Procedure Sec. IV. Council Meeting Agenda and Sec. XVI. Rules of Decorum are intended to limit disruptions, in order to facilitate orderly meetings and have efficient government operations. Changes include, but are not limited to, limiting the podium to one person; providing for a rule that limits speakers from speaking at successive meetings if more than 20 people are signed up for open comment; prohibiting affixing items to city property; prohibition on standing in the aisles; limiting sign size; and limiting noise. The amendments also codify the ability to remove all persons from council chambers and to move to a virtual meeting in the event of disruption that interrupts the council meeting. Finally, clean up changes contained in Sec. II. Communications with Council include correcting typos and grammar, removing a reference to a city library and removing gendered language throughout all sections.

**NEXT STEPS**

Council may adopt the proposed changes to the Council Rules of Procedure or not.

**ATTACHMENTS**

Attachment A – Redlined version Proposed Amendments to Council Rules of Procedure

Attachment B – Clean version Proposed Amendments to Council Rules of Procedure

TITLE 2 - GOVERNMENT ORGANIZATION  
Appendix: Council Procedure

**Appendix: Council Procedure**

Adopted:	February 21, 1982 (by Council motion only)
Effective:	January 1, 1983
Amended:	June 21, 1983
Adopted:	February 21, 1984
Amended:	September, 1984
Amended:	June, 1986
Amended:	March, 1988
Amended:	May, 1990
Amended:	May, 1992
Amended:	June, 1992
Amended:	February, 1994
Amended:	June, 1994
Amended:	February, 1996
Amended:	January, 1999
Amended:	March, 1999
Amended:	May, 2003
Amended:	July, 2003
Amended:	April, 2004
Amended:	November, 2007
Amended:	February, 2011
Amended:	January, 2012
Amended:	May, 2012
Amended:	September, 2012 (Effective January 1, 2013)
Amended:	February, 2013
Amended:	November, 2014
Amended:	February, 2017
Amended:	September 19, 2017
Amended:	March 20, 2018
Amended:	March 3, 2020
Amended:	April 21, 2020
Amended:	May 26, 2020
Amended:	June 16, 2020
Amended:	July 13, 2021
Amended:	June 7, 2022
Amended:	November 3, 2022
Amended:	March 16, 2023
Amended:	September 7, 2023
Amended:	October 19, 2023
Amended:	June 20, 2024

TITLE 2 - GOVERNMENT ORGANIZATION  
Appendix: - Council Procedure  
COUNCIL PROCEDURE

---

## **COUNCIL PROCEDURE**

This procedure is intended to govern the actions of the city council in the general conduct of its business and to serve as a reference in settling parliamentary disputes. In handling routine business, the council may by general consent use a more informal procedure than that set forth in this procedure.

This procedure may be suspended at any time by vote of five council members or of two-thirds of the council members present, whichever is the greater.

### **I. Presiding Officers: Mayor and Mayor Pro Tem.**

Council members shall be selected to serve as mayor pro tem. The mayor pro tem shall fulfill the position identified as "acting mayor" in Charter Section 15. All council members are equal; the mayor and mayor pro tem have no additional authority except as set forth in the City Charter, the City Code, or in these procedures. The mayor, or the mayor pro tem in the mayor's absence, shall serve as the chair of the council at all regular council meetings. The mayor or the mayor pro tem are responsible for conducting meetings in an orderly and democratic manner and assuring that minority opinion may be expressed and that the majority is allowed to rule. At the same time, the mayor and mayor pro tem retain all of the prerogatives of a duly elected council member: The mayor or mayor pro tem may make and second motions and take part in discussions and may vote on all matters not an interest prohibited pursuant to Section 2-7-2, B.R.C. 1981. In addition to chairing council meetings, the mayor is frequently called upon to perform certain ceremonial duties or to serve on intergovernmental committees. Whenever possible, the mayor shall attempt to share these responsibilities equitably among the other council members, including the mayor pro tem.

In the instance when both the mayor and mayor pro tem are not available to serve as the chair at a regular council meeting, the most recently retired mayor pro tem still serving on council shall serve as the chair for the meeting. If the retired mayor pro tem is also not available then the third council person who is then serving on the council agenda committee shall chair the meeting. If the business meeting is scheduled as an in-person meeting, whomever chairs the meeting must also participate in-person.

### **II. Communication with Council.**

It is very important for the council to hear the views of members of the public. There are several ways in which a person can participate.

- (a) City phone numbers and email addresses are provided to reach all council members.
- (b) Electronic means of communication with and from council members as a group is provided through Hotline and Council Correspondence on the city's website. The Hotline is an electronic means for council members to ask questions of staff and convey information to the public that is posted in a manner that is available to the public on the city's website. Staff responses to Hotline questions of council members are posted on Hotline in order to be available to the public. The city's website contains a Council Correspondence email which directs the comment of the person to each council member and many staff members. The city manager's office directs questions from Council Correspondence to the appropriate staff member for response. ~~Computers are available at city libraries for those who may not be able to view the City's website from other locations.~~ All correspondence to Council is published online.

- (c) Open Comment. At the beginning of every regular council meeting, up to forty-five minutes are set aside for open comment. During that time, twenty randomly selected members of the public are invited to express their views on any issue, except those set for public hearing later in the meeting.
- (d) Public Hearings. Public hearings are held to seek input on a particular ordinance or policy decision. These hearings provide an organized forum to address a particular subject. Statements made during a public hearing become part of the record for council's decision on the issue. Quasi-judicial hearings shall be conducted pursuant to Chapter 1-3, "Quasi-Judicial Hearings, B.R.C. 1981. Provided, however, witnesses shall not be required to testify under oath.
- (e) Comment on Motions Made Under Matters. The council will consider motions arising from matters raised by the mayor, members of council, the city manager, or the city attorney. No vote will be taken on these motions until the public has been given an opportunity to comment.

### III. Agenda.

- a. Notice. The agenda is generally distributed to council members no later than the Thursday preceding the council meetings, whether regular, special, or continued meetings. Items will generally not be added, but may be added or deleted by the agenda committee or by a majority of council. Whenever practicable, notice shall be given of all agenda items by publication of the title or a general description thereof in the Boulder Daily Camera on the weekend preceding the council meeting. However, failure to give such notice shall not invalidate any action taken by the council, and such provision shall not apply at all to items adopted by emergency.
- b. Council Agenda Committee (CAC). Items are placed on the agenda by the staff, with the approval of the members of an agenda committee in attendance at a meeting called by the mayor to review the agenda. In addition to the mayor and the mayor pro tem, the council designates a third council member for six to seven weeks at a time (depending on the council meeting cycle) to serve on the agenda committee. A sign-up list is circulated to council members. Replacements are solicited from all remaining council members whenever an agenda committee member cannot attend a meeting. If more council members wish to attend ~~then~~ there are vacancies, the mayor makes the appointment. Meetings of the agenda committee are open to the public and the press/media, but are not advertised. No more than four council members may attend an agenda committee meeting at any time. "Drop-ins" should notify the mayor in advance whenever possible. Presence of staff members at agenda committee meetings is subject to the discretion of the city manager.
- c. Agenda Review. The agenda committee holds an agenda review to review the successes and the difficulties of the council in dealing with agenda items during the preceding calendar quarter and to schedule agenda items for the next calendar quarter, when such items are known in advance. Council members who wish to have the entire council address an agenda issue should identify the issue and ask the agenda committee to schedule a discussion under Matters.
- d. CAC Mission. Representing the views of the entire city council, the agenda committee: 1) sets the agenda for council meetings and study sessions; 2) comments on written agenda materials to assure that all reasonable questions anticipated from the public and any member of the council are answered; 3) acts as a sounding board for staff; 4) informs the city council and staff of emerging issues; 5) requests that staff supply information to the council concerning emerging issues; and 6) discusses correspondence and email to the mayor and the city council and responses to open comment. The agenda committee assigns the responsibility for drafting and signing such responses. But individual council members may respond as well, at their discretion. The agenda committee determines when boards and commissions should be requested to address the council concerning their deliberations, and when matters should be referred back to a board or commission before council action is scheduled. Generally, it is expected that boards and commissions with an adopted mission statement that includes a certain area of concern will be asked to advise council about any agenda item dealing with that area of concern. The agenda committee also establishes check points for

---

Created: 2024-06-07 14:20:13 [EST]

(Supp. No. 159, Update 2)

council input on important staff projects. Agenda committee minutes are made available to the council by email. Approved draft agendas and the council calendar for the upcoming meeting agendas are attached to the minutes.

e. CAC Ground Rules.

1. No Decisions. The agenda committee should not make a "decision" on anything except for specific decisions relating to the council agenda and assignment of correspondence for a response. If a scheduling item is controversial, the CAC shall bring the matter to the entire council.
2. No References. Agenda committee members should avoid reference to the meeting in debate, as by statements such as: "This was discussed in the agenda committee meeting," or "We dealt with that question in the agenda committee meeting." Above all, there should be no reference to any "decision" having been made by the agenda committee.
3. CAC Communications with Council. If, as a result of an agenda committee meeting, the committee determines that it is necessary to contact the remaining council members to convey information or to obtain advice about proposed staff action, staff should contact each available council member. Council members, including agenda committee members, generally should not be involved in such communications. But this does not restrict any council member from contacting other council members and conveying any information or requesting any advice or action. Agenda committee members and other council members may communicate with other council members about any matter, but such process should not substitute for staff action as set forth above, and is subject to the "open meeting" requirements of state law (§ 24-6-402(2)(d)(III), C.R.S.).
4. CAC to Focus on Council Concerns Rather Than Personal Point of View. It is not appropriate for agenda committee members to use the agenda committee meeting to advance their own political agendas or points of view. This is conceded to be difficult to avoid, especially when three council members are discussing an upcoming decision, but it is essential.
5. CAC Not to Indicate Council Support. Prior to approval by the council, the agenda committee and staff are prohibited from indicating any city commitment to city sponsorship or support of an event or to city support for a development proposal.
6. Questions to CAC. Council members are urged to send questions, comments, and suggestions to the staff or to members of the agenda committee prior to its meeting. The agenda committee will endeavor to discuss all such questions, comments, and suggestions at its meeting.
7. Postponement of Issues. It is acceptable for members of the city council to ask for postponement of issues to accommodate a brief absence, when the rescheduling will not inconvenience other council members and the individual council member has a significant interest in the particular issue being decided. However, no council member has a right to require such a change, and the decision of the CAC is generally treated as final, although the council is, as always, the final decision maker.
8. No Rule of Three. Meetings of the CAC shall not be used to indicate a "rule of three" for information/research requests. See Section X, Research and Study Sessions, Subsection A, Information/Research Requests/Rule of Three.
9. Thursday Meetings. CAC shall not schedule council meetings on dates other than Thursdays without polling all council members for their availability. CAC shall not schedule meetings on the fifth Thursday of any month without the prior consent of council.
10. Consent Items, Urgent Items, Time Budget, and Order of Agenda. The CAC designates potential consent items, so that they can be dealt with in a summary fashion. The CAC also designates urgent items, for which delay is not possible or inadvisable, so that the council can deal with such items prior to adjournment. The CAC sets the order of the agenda and sets a time budget for each item. Based on the

estimated time budget, CAC shall make every effort not to schedule any meeting with an expected adjournment time after 10:30 p.m.

#### IV. Council Meeting Agenda.

- a. Council meetings shall be conducted as follows:
  1. Call to Order and Roll Call. Meetings are generally called to order at 6 p.m. sharp.
  2. Open Comment.
    - A. Time for open comment on any subject not scheduled for public hearing is provided for at each regular business meeting of the council. Up to forty-five minutes is provided at the beginning of the meeting at the conclusion of the COVID-19 briefing and response. Speaking shall be limited as set forth in subsection (C) below. During open comment, an individual speaker can speak for up to two minutes.
    - B. Only one person is permitted at the podium at a time, unless a speaker brings one companion for physical, linguistic, or moral support.
    - C. A speaker shall begin by stating their name and may state their connection to Boulder such as neighborhood, residency, employment, school or business ownership. his or her name and address. If a speaker believes that providing such information would put the speaker at risk, the speaker need not state their disclose his or her name or address, but should say whether or not he or she resides in the City of Boulder.
    - DC. The sign-up form for speakers will be available via the internet, beginning at 8:00 a.m. on the Friday after the day that the agenda for the meeting is made available (Thursday). Speakers will designate in the form if they wish to speak "in-person" or "virtually". Online sign up shall end at 2:00 p.m. on the Wednesday preceding a meeting, even if the day is a holiday. No later than 5:00 p.m. on the day prior to the meeting (Wednesday) or noon on the day of the meeting, if the day prior to the meeting is a city holiday, the city clerk shall post on the internet a list of no more than twenty individuals who will be invited to speak at the meeting. If more than twenty people register to speak, the city clerk shall select twenty names at random from among those who have registered. The clerk shall exclude speakers who spoke during open comment at the meeting immediately preceding the current meeting unless less than twenty people have registered to speak. In that situation, the clerk will randomly select from the group of speakers who spoke at the prior meeting during open comment to fill the remaining slots. A person is prohibited from speaking during open comment two meetings in a row.
    - ED. Any person selected to speak who requires a city-provided interpreter shall be invited to speak first. Any person wishing to use an electronic presentation as part of their his or her comments shall provide the presentation to the city clerk no later than 2:00 p.m. on the day of the meeting. The presentation will be provided to members of council to review. No presentation will be shown during a council meeting.
    - FE. At the conclusion of Open Comment, the presiding officer may ask city staff for any response to matters raised during Open Comment. At the conclusion of the staff response, any council member may ask that the original speaker be recalled to reply to the staff response. Such comment shall be limited to one minute.
  3. Consent Agenda. Including generally, but not strictly limited to:
    - A. Minutes. Minutes of previous meetings are approved as made available beforehand, and as corrected by the city clerk, in response to council suggestions, in at the discretion of the clerk.

---

Created: 2024-06-07 14:20:13 [EST]

(Supp. No. 159, Update 2)

This procedure should not be used to alter remarks to express a more considered point of view. Such remarks should be made under item 8, Matters from the Mayor and Members of Council. A motion to approve the minutes is deemed to include such corrections, as well as any corrections made at the meeting.

- B. First Readings. Although generally calendared as part of the consent agenda, the city manager may request that a particular first reading be scheduled early on the agenda when staff/council interaction on the item is important on first reading. See Section V, Procedure in Handling Ordinances, Resolutions and Important Motions, Subsection C, First Reading.
- C. Second Readings. Second Readings shall generally be scheduled for a public hearing. The Council Agenda Committee may schedule second reading of ordinance on consent only for the following:
  - 1. The Quarterly Supplement codifying previously adopted ordinances.
  - 2. Ordinances for which the council has previously held a public hearing.
  - 3. Other ordinances that are routine in nature, which do not elicit public interest and to which no council member objects.
- 4. Call-Up Check-In. Call-ups (typically appeals to council) are considered during item 4. If the decision about whether to exercise the council's call-up authority is a matter of substantial public interest, the agenda committee shall schedule a public hearing for consideration of the potential call-up. Call-ups scheduled for public hearing shall not be considered as part of a call-up check-in.
- 5. Public Hearings. Expected substantial public comment items are generally placed first on the agenda, in the order of public interest in the item, as anticipated by the council agenda committee, but critical short items may be placed first when deemed appropriate by the agenda committee. Items from the city manager, city attorney, or mayor and members of council which are of substantial public interest are placed in this section of the agenda, in the order of public interest. Provided however, that CAC may place matters of significant public interest at the beginning of the meeting before open comment. CAC shall not schedule more than two substantive public hearings at any council meeting. The sign-up form for speakers will be available via the internet, beginning at 8:00 a.m. on the Friday after the day that the agenda for the meeting is made available (Thursday). Speakers will designate in the form if they wish to speak "in-person" or "virtually". Online sign-up shall end at 2:00 p.m. on the Wednesday preceding a meeting, even if the day is a holiday. A speaker shall begin by stating ~~their~~his or her name and address. If a speaker believes that providing such information would put the speaker at risk, the speaker need not disclose ~~their~~his or her name or address but should say whether or not ~~they~~he or she resides in the City of Boulder. During a public hearing an individual speaker can speak for up to three minutes. However, a speaker's time may be limited to two minutes if more than fifteen people have signed up to speak. Three or more people can pool their time so one speaker can speak for five minutes, if all of the people pooling time have signed up to speak when the spokesperson is called to speak and are in the council chambers or present virtually when the speaker is called. The five minutes of pooled time can be reduced to four minutes by the presiding officer if the time for individuals has been reduced to two minutes. Speakers will need to designate on the form if they are pooling with 2 other speakers and indicate who the primary speaker will be and provide the names of the individuals they are pooling with. An applicant may request additional time as reasonably required to present ~~their~~his or her case. In response, the mayor may designate a longer time period for applicants, generally not to exceed fifteen minutes and to occur immediately upon the opening of the public hearing, in order to give the public an opportunity to respond. Additional support for applicant's positions should come from individual witnesses. Board or commission members, whose board or commission acted on a matter and who have been designated to speak by the board or commission, will be allowed to speak during staff presentation or at the beginning of the public hearing. A board or

- commission may designate a person who voted with the majority or a person who voted with the minority or one speaker from each side.
6. Matters from the City Manager. No final decision may be made under this item, or item 7, Matters from the City Attorney, or 8, Matters from the Mayor and Members of Council. All decisions shall be made either after a public hearing or on the consent agenda. Matters items are for informational purposes only. No actionable items shall be raised under Matters.
  7. Matters from the City Attorney.
  8. Matters from the Mayor and Members of Council. At this point, any council member may place before the council matters which are not included in the formal agenda. This item is generally limited to responses to open comment, appointments to boards and commissions, sharing of information, and requests for advice concerning matters pending before other bodies, requests for staff work, and requests for scheduling future agenda items. Matters requiring a formal council vote, such as motions to sponsor an event or to allocate funds, are normally placed on the agenda through the regular agenda review process, rather than dealt with under this item. If a council member wishes to reconsider a prior council decision, the council member shall request that the Council Agenda Committee schedule a discussion under item 8. Prior council decisions shall be reconsidered only after a material change in law or fact. A material change in law or fact means a change that if having occurred before the prior council decision would have made it unlikely that a majority of council would have supported the prior decision. If five or more council members support reconsidering a prior decision, the Council Agenda Committee shall be directed to schedule substantive consideration at a later meeting. No discussion of revisiting a prior decision shall exceed fifteen minutes.
  9. Debrief. Council will have a brief discussion of no more than five minutes for council members to discuss issues regarding that evening's meeting. The discussion is intended to identify issues to be addressed by the Council Agenda Committee or by the council at a future meeting. This time should not be used to revisit arguments raised earlier in the meeting. The intent is to improve council's process by identifying issues concerning process, scheduling, and meeting implementation while fresh in council members' minds to allow for later discussion and resolution.
  10. Adjournment. The council's goal is that all meetings be adjourned by 10:30 p.m. An agenda check will be conducted at or about 9:00 p.m., and no later than at the end of the first item finished after 9:00 p.m. Generally, absent a deadline which the council cannot affect, no new substantial item will be addressed after 10:30 p.m. At the 9:00 p.m. agenda check council will make a realistic assessment of the items remaining on the agenda. Council will table and ask the Council Agenda Committee to reschedule any item that council members reasonably believe will prevent adjournment by 10:30 p.m. The Debrief is not a substantial item. No new item shall be introduced after 10:30 p.m. unless a majority of the council members in attendance at that time agree. All council meetings shall be adjourned at or before 11:00 p.m., unless the meeting is extended by a vote of two-thirds of the council members present. Council shall attempt to schedule any matter not heard before adjournment as the first item at the next study session. If necessary, the council shall schedule a special meeting to coincide with the scheduled study session. It is assumed that council will reschedule items previously scheduled for the study session to accommodate any newly added items.

## **V. Rules of Speaking.**

- a. Mayor Directs Meeting. To obtain the floor, a council member or staff member addresses the mayor.
- b. Assignment of Floor. To assign the floor, the mayor recognizes by calling out the council member's name. Only one council member may have the floor at a time. A council member shall not speak while another has the floor, except to make a point of order. The mayor generally next recognizes the council member who first

asks for the floor after it has been relinquished. The mayor may, in ~~his or her~~ their sole discretion, temporarily suspend the rules of speaking in order to permit a direct colloquy between council members with respect to an issue or motion properly before the council. All council members and staff members are requested to direct their remarks to the council action under consideration.

- c. Outline of Decisions. The staff and the mayor should attempt to focus discussion of agenda items in accordance with the materials, which should contain a proposed outline of decisions.
- d. Minimize Debates Prior to Public Hearings. Council members should minimize debate prior to public hearings and use the period prior to public hearings to ask questions for clarification rather than to lecture, give speeches, score debating points, or ask rhetorical questions. The mayor may intervene to avoid extended debate prior to public hearings.
- e. Minimize Debates After Decisions. Council members should minimize debate after decisions and move on to the next item.
- f. Motions to Table. Tabling motions are generally discussed before they are made, in order to allow for a reasonable amount of council discussion prior to making a non-debatable motion.
- g. Early Warning Process. Council members should give early warning to the mayor and the city manager whenever substantial opposition is anticipated to an agenda item, so that an appropriate staff and council response can be prepared.
- h. Rotation of Questions. Questions are rotated so that, to the extent practicable, different council members are given the lead on each agenda item and questions are grouped by subject matter whenever it is practicable to do so.
- i. Mayor May Intervene. The mayor may intervene in council debate in order to solicit a motion after five to ten minutes of debate, seek to wrap-up discussion when debate seems to be proceeding longer than warranted, determine whether council wishes to postpone council action when more information or staff work appears warranted to facilitate a council decision, and ask council to group follow-up questions by topic.
- j. No Surprises. Council members will make every effort not to surprise each other by bringing up something new at a meeting, and rather will give notice of their intention to do so as soon as practical before the meeting.

## **VI. Procedure in Handling Motions.**

- a. Making a Motion. A council member, after obtaining the floor, makes a motion. (If long or involved, it should be in writing.) The council member may state reasons briefly before making the motion; but may argue the motion only after it has been seconded; and having spoken once may not speak again until everyone who wishes to be heard has had the opportunity to speak, except to answer questions asked by other council members. Having made a motion, a council member may neither speak against it nor vote against it.
- b. Seconding a Motion. Another council member seconds the motion. All motions require a second, to indicate that more than one member is interested in discussing the question. The seconder does not, however, have to favor the motion in order to second it, and may both speak and vote against it. If there is no second, the mayor shall not recognize the motion.
- c. Stating the Motion. The mayor states the motion and asks for discussion.
- d. Debate. General debate and discussion follow, if desired. Council members, the city manager, the city attorney or the city clerk, when wishing to speak, follow the rules of speaking outlined above. The speaker's position on the motion should be stated directly: "I favor this motion because...", "I am opposed to this because...", etc. Remarks should be addressed to the mayor.

- e. Question. The mayor restates the motion and puts the question. Negative as well as affirmative votes are taken.
  - 1. If the mayor is in doubt of the result of a voice vote, the mayor may call for raising of hands or a roll call vote.
  - 2. If any council member is in doubt of the result of a voice vote, the council member may obtain a vote by raising of hands or by roll call by calling for it (without need to be recognized by the mayor).
  - 3. In case of a tie vote, the motion is lost.
- f. Result. The mayor announces the result. The motion is not completed until the result is announced.

## **VII. Procedure in Handling Ordinances, Resolutions and Important Motions.**

- a. Two Readings. All ordinances require at least two readings, because the city charter requires ten days' advance publication in final form. The agenda committee may require similar publication of complex or important motions and resolutions, in order to assure informed public participation.
- b. Notice. All documents delivered to council members' residences or electronically prior to any meeting shall be deemed to have been received and read, unless a council member indicates to the contrary during consideration of the matter. In the event that a council member has not received and read the document in question, the mayor shall determine an appropriate course of action, which may consist of an explanation of the substance of the document by a person familiar with its contents, or a recess. Abstentions are not permitted by the city charter under these circumstances.
- c. First Reading. On first reading, the clerk reads the title or the general description of the item set forth on the agenda, and the council has an opportunity to ask questions of the staff. Whenever practicable, council members ask first reading questions in writing or by email to "Hotline" in advance of the meeting no later than 5:00 p.m. on the Sunday preceding the meeting. Any remaining questions are asked at the meeting. The deadline for first reading questions is noon on the day following the meeting. Complex questions are subject to the "rule of five" for information and research requests set forth in Section X, Research and Study Sessions, Subsection A, Information/Research Requests/Rule of Three. The mayor then requests an appropriate motion. However phrased, an affirmative motion is construed as one to order the item published. Unless otherwise stated in the motion, all publication shall be by title only. The mayor then states the question, followed by proposal of amendments, if any, restates the question if necessary, and puts the question to a vote. After the conclusion of the vote, the mayor declares the item to have been ordered published or to have been rejected for publication. Publication does not constitute substantive approval of an item.
- d. Second Reading. On second reading, the clerk reads the title, or the general description of the item set forth on the agenda, followed by the staff presentation, and then the council has an opportunity to ask questions of the staff. Thereafter, the mayor opens a public hearing and supervises the public hearing. If any council member wishes, questions may be asked of persons testifying. Council may consider a response to public testimony at the meeting, and the agenda committee may consider a response the following week, but the normal response is in the council members' actions on the agenda. The mayor then requests an appropriate motion. The motion should be one to adopt the ordinance, and, however phrased, an affirmative motion shall be so construed. Unless otherwise stated in the motion, all publication shall be by title only. The mayor then states the question, followed by discussion by the council, the city manager and the city attorney and dialogue with staff in response to questions raised by the council, followed by debate, proposal of amendments, if any, and consideration thereof in the form of motions. After debate, the mayor restates the question and requests that the clerk conduct a roll call vote. After the conclusion of the roll call vote, the mayor declares the ordinance adopted or defeated.

- e. Resolutions. Resolutions are handled in the same manner as the second reading of an ordinance, except that the vote need not be by roll call.
- f. Emergencies. Ordinances may be passed by emergency on first or second reading, upon appropriate findings of urgency and need. In the event of passage by emergency on first reading, the first reading is handled in the same manner as the second reading of an ordinance, and the second reading is omitted. Council should endeavor to limit emergency ordinances to the quarterly supplement, matters in which there is a deadline, and matters affecting life, health or safety.
- g. Amendments. Non-emergency ordinances which are amended in substance rather than in form on second reading are republished in the same form originally published (either in full or by title only), as amended, and voted on again at a third reading, without further staff presentation or public hearing. The council retains the discretion to set a public hearing on third reading by majority vote. The same procedure applies to later substantive amendments as well.

### VIII. Voting.

Voting ultimately decides all questions. The council may use any one of the following ways of voting:

- a. Voice Vote. All in favor say "aye," and all opposed say "no." The mayor rules on whether the "ayes" or the "nos" predominate, and the question is so decided.
- b. Raising of Hands. All in favor raise their hands, and then all opposed raise their hands. The mayor decides which side predominates and notes dissents for the record.
- c. Roll Call. The clerk calls the roll of the council members, and each member present votes "aye" or "no" as each name is called. The roll is called in alphabetical order, with the following special provision: On the first roll call vote the clerk shall begin with the first name on the list; on the second vote, the clerk shall begin with the second and end with the first; and so on, continuing thus to rotate the order. This rotation shall continue from meeting to meeting.

### IX. Nominations and Elections.

The mayor pro tem shall be selected in the following manner:

- a. Swearing in of newly elected mayor and council members. The newly elected mayor and new council members shall be sworn in pursuant to Section 9 of the Charter at the first business meeting in December. At that time, the council shall hold a public hearing on the selection of the mayor pro tem.
- b. Mayor pro tem. The mayor pro tem shall serve for a period of one year. No later than the first business meeting in December, any council member with an unexpired term or council member elect may express ~~their~~his or her interest in serving as acting mayor (generally referred to as mayor pro tem). Any person expressing an interest shall post a Hotline message regarding ~~their~~his or her interest in and qualifications for the position.
- c. Nominations. At the first business meeting in December, at the conclusion of public testimony, council will consider nominations for mayor pro tem. Any council member may nominate anyone that expressed an interest on Hotline or made a speech during the meeting including ~~themselves~~himself or herself. Nominations are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may at this time withdraw ~~their~~his or her name from nomination. Silence by the nominee shall be interpreted as acceptance of candidacy.
- d. Order of Vote. A motion then is made and seconded to close the nominations and acted on as any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse

- alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.
- e. Ballots. If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.
  - f. Elimination Process. If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.
  - g. Impasse Process. In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor pro tem.
  - h. Appointment of Board Alternates. In the event that the Boulder Revised Code provides for the appointment of temporary alternate board members, such members shall be appointed as follows: The most recently departed member of the board needing a temporary alternate, who is eligible and able to serve, shall be appointed. In the event that more than one member departed at the same time, alternates shall be chosen in reverse alphabetical order, with appointments alternating between the eligible and able former members who departed at the same time. In the event that the most recently departed member is not eligible or able to serve, the next previously departed member shall be chosen, applying the procedure above if there is more than one potential appointee. No person shall be eligible for a temporary alternate appointment if they were ~~he or she was~~ removed from the board by the council. A temporary alternate shall be appointed only when a member's absence either results in the lack of a quorum or may prevent the board from taking action. No person appointed as a temporary alternate shall serve at two consecutive meetings of the board to which they are ~~he or she is~~ appointed unless it is necessary to complete an agenda item that has been continued to another meeting.
  - i. Boards and Commissions. Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.
  - j. Advertising of Vacancies After Partial Terms. Prior to advertising board and commission vacancies, when a person has already served on the board or commission and is seeking reappointment, council should make the decision of whether or not to advertise that particular vacancy.

## **X. Research and Study Sessions.**

- a. Information/Research Requests/Rule of Three. Requests for information should be directed to "Hotline," or, if a public request is not appropriate, directly to the city manager or the city attorney. Requests for a briefing should be directed to the city manager or the city attorney. A single council member may require the city manager or the city attorney to provide available information at any time or to answer any question concerning an agenda item. The concurrence of three council members is required to assign a matter for research by staff. For staff to spend more time than the city manager or the city attorney considers reasonable in light of other staff time commitments, the concurrence of five council members is required. In such case, the manager or attorney shall report the results of the preliminary research and an estimate of the time required to complete the task as the manager or attorney proposes. In any case, a vote shall be taken at a council meeting, but work may proceed in an emergency pending such vote. The council shall be informed of any such emergency work. Requests for information relating to an agenda item should be made sufficiently in advance to allow staff time to assemble the requested information. Requests for information relating to a quasi-judicial matter before the council are permitted provided that staff shall inform the applicant of the request and shall provide the applicant with a copy of any response.
- b. Budget Rule. A matter shall be placed before the council for decision during the deliberation of the budget by a vote equal to or greater than the number of council members remaining at the meeting after deduction of the majority thereof.
- c. Study Sessions. The chair of each study session shall be selected through rotation of council members who have expressed an interest in chairing study sessions. The Mayor and Mayor Pro Tem may be included in the rotation. The order of the rotation shall follow generally the rotation of members at the Council Agenda Committee, with the Mayor or Mayor Pro Tem presiding when a member is not available, has not expressed an intent to chair a study session or the member agrees to defer to the Mayor or Mayor Pro Tem. Materials for study sessions generally will be made available to the council and the public at least ten days before the date of the study session. Notice will be given as for other council meetings. Written comments received by staff prior to noon on the Thursday preceding study sessions will be forwarded to all council members that evening. Testimony of persons other than staff or consultants or subject-matter experts designated by the city manager is not permitted at study sessions unless a majority of the council members present votes to suspend this rule. The council will give direction to staff at study sessions for the presentation of action items at future regular council meetings. Full summaries of study sessions shall be placed on a later council agenda for approval, including the direction given, any remaining issues and any staff reaction or proposed work plan in response to the study session.

## **XI. Procedure in Handling Major Capital Improvement Projects.**

Major capital improvement projects shall be handled, to the extent practicable, in accordance with the City Plans and Projects Handbook, dated November 2007. Failure to follow any aspect of such processes shall not be grounds for any challenge to any city project. Prior to a development review decision by the planning board or approval of the community and environmental assessment process by an advisory board, the council may determine by motion to review the project prior to the decision on the concept review or community and environmental assessment process. If so, the manager will schedule a public hearing and consideration of a motion directing staff concerning: 1) the goals and objectives of the program which will be served by the project, and 2) the conceptual design of the project. For those projects requiring development review, the council will deal only indirectly with the factors which may ultimately be entailed in a development review application under Chapter 9-4, "Land Development Review," B.R.C. 1981, in recognition that it may later be called upon to adjudicate such questions on a call-up of a planning board decision.

---

Created: 2024-06-07 14:20:13 [EST]

(Supp. No. 159, Update 2)

## **XII. Council Calendar.**

The city publishes a calendar of meetings set by city staff and boards and commissions. Any council member may attend such meetings and events, but council members may not publicly speak at a board or commission meeting unless give prior permission by council to speak on behalf of council as a whole and may be disinvited from ceremonial events by the host.

## **XIII. Council Member Appointments.**

The council may appoint council members to serve on ad hoc and ongoing intergovernmental committees, such as the Colorado Municipal League Policy Committee, the Denver Regional Council of Governments, the National League of Cities, or the Boulder County Consortium of Cities. Council members may be appointed for staff activities on an ad hoc basis. Appointments shall be made at council meetings, after notice to the council that the appointment will be considered as part of the agenda of the meeting. The mayor appoints one of the members to the Housing Authority and one to the Urban Renewal Authority, in conformity with state law, but council is notified at a council meeting of each such appointment, and the Urban Renewal Authority appointment is subject to council ratification. The council appoints one of its members to the board of directors of the Boulder Museum of Contemporary Art, the Boulder Convention and Visitors Bureau, the Colorado Chautauqua Association, the Downtown Business Improvement District Board, the Rocky Flats Stewardship Council, the Commuting Solutions Committee, the Mile High Flood District, the Boulder County Resource Conservation Advisory Board, and the board of directors of the Dairy Arts Center. The mayor will serve on the Metro Mayor's Caucus and the US 36 Mayors and Commissioners Coalition. Council members are expected to inform the council of their committee activities and to request advice on important policy issues.

Council may appoint alternates for (intergovernmental) committees as council deems necessary. The alternate shall serve in place of the council appointee as requested by the council appointee and when the person is not able to participate. Appointments shall be made using the same process noted above.

## **XIV. Parliamentary Procedure.**

Except as otherwise provided herein or as advised by the city attorney, all matters of procedure are governed by the then current Robert's Rules of Order Newly Revised.

## **XV. Declarations and Resolutions.**

- a. Mayor to Screen. All matters proposed for council or mayoral action which commemorate a period of time or commend the actions of a person or a group or endorse a position or an idea not directly related to the affairs of the city shall be screened by the mayor.
- b. Mayoral Declarations. If a group with substantial local support requests such action, and the mayor determines that there is no substantial political issue concerning such action, the proposed declaration shall be included in the agenda for the Council Agenda Committee. Any council member who would prefer that the declaration be issued by the entire council, read out loud at a council meeting or discussed by the entire council shall inform the Council Agenda Committee. Depending on the specific request the Committee can decide to issue the declaration from the entire council (not just the Mayor), schedule a time for reading at a future council meeting or schedule consideration of whether to issue, amend, or deny the declaration at a future council meeting. If no council member seeks full council consideration, the Mayor may sign the declaration. All signed declarations shall be posted on the city's website.
- c. Council Resolutions. In extraordinary circumstances, if the group supporting the action determines that it wishes council action rather than a mayoral declaration, and the action otherwise meets the criteria set forth

above, the mayor may, if the mayor considers such action appropriate in light of the importance of the action and the additional business on the council agenda, place a resolution on the agenda for council action.

- d. Resolutions. Resolutions are appropriate for legislative concerns, including, without limitation, conveyances of positions or ideas to other legislative and administrative bodies. But all legislative actions must be by ordinance.
- e. Political Questions. In the event that a substantial political issue is determined to be presented by a proposed declaration, the mayor shall not act or place the matter on the agenda, but instead will inform the group supporting the action that the matter will be placed on the agenda only if a majority of the council members present at a meeting of the council so directs. The burden shall be on such group to present the issue to the council. The mayor may request council advice at any time concerning proposed mayoral or council action.
- f. Foreign Policy and National Policy Questions. Council shall not act on a foreign policy or national policy issue on which no prior official city policy has been established by the council or the people, unless sufficient time and resources can be allocated to assure a full presentation of the issue.
- g. Fund-Raising. Publicity for fund-raising efforts and community events will be deemed inappropriate for council action, although major efforts and events may be commemorated if the majority of the council members present at a meeting of the council so directs.

## **XVI. Rules of Decorum.**

- a. Council Intent for Rules of Decorum. The city's business is conducted at city council meetings by the elected officials of the city. All council meetings are open to the public, but the public's participation is permitted only at formal council business meetings during the time and in the manner set forth in these rules. Public participation is generally not permitted during study sessions and other informal council meetings, although the council may permit public participation and provide reasonable time and manner restrictions. ~~‡~~The public is encouraged to express comments in writing or other communication prior to those meetings. In order for the council to conduct its business in a manner completely open to the public by video, rules of decorum are necessary. Historically, council meetings have lasted numerous hours which may limit the practical ability for the public to participate and the effectiveness of staff to make presentations and elected officials to discuss issues and make decisions. The intent of these rules is to:
  - 1. Provide a safe and secure setting for council and the public to attend to the city's business.
  - 2. Enable council to conduct its deliberative process without disruption~~interruption~~ in a manner that can be heard and viewed by all viewing and recorded for the simultaneous or later viewing by the public.
  - 3. Ensure that the public has a full opportunity to be heard during public hearings and open comment periods of council meetings.
  - 4. Facilitate transparency in the conduct of council meetings so that all persons have the opportunity to observe and hear all of the council discussion and votes.
  - 5. State specific rules so that all may know the rules in advance and be subject to the same rules.
  - 6. Limit interruptions, unreasonable delay, or duplication of comments, presentations, or discussion.
  - 7. Develop an atmosphere of productive civic discourse that is respectful of diverse opinions and allows presentation of positions that vary from the position of others at the meeting without insults or intimidation.
  - 8. Balance the need for the council to conduct effective meetings without the meetings extending late into the night or early morning with the need to give a full opportunity for the public to be heard.

9. Facilitate council meetings as business meetings, therefore public comments should relate to the business of the city and, as such, be addressed to the council as a whole, which conducts the business of the city.
  10. Adopt these rules of decorum as the standard for conduct of meetings of the city council and staff of the city.
  11. Protect city property from damage.
- b. Rules of Decorum for the Public. During all times a meeting of the city council is being conducted, the following rules shall apply:
1. Prior to addressing council, a person shall sign-up providing information for the council record.
  2. All remarks to the council shall be only after the speaker is acknowledged by the presiding officer.
  3. While in attendance at a council meeting, no attendee shall disrupt, disturb, or otherwise impede the orderly conduct of any council meeting in a manner that obstructs the business of the meeting. This includes any means, including but not limited to, ~~by any means including~~ speech that creates an actual disruption or conversation with other audience members that interferes with the council members ability to hear and focus on the business or other audience members ability to hear the proceedings and in a manner that obstructs the business of the meeting. Disorderly conduct also includes failing to obey any lawful order of the presiding officer to leave the meeting room or refrain from addressing the council.
  4. No attendee shall make threats or other forms of intimidation against any person in the council chambers or meeting room.
  5. All persons participating in a council meeting, including, without limitation, council members, staff, and attendees, shall silence all cell phones, pagers, and other electronic devices to prevent disruption at the meeting.
  6. No person participating in any council meeting shall be in a state of intoxication caused by the person's use of alcohol or drugs.
  7. All remarks shall be limited to matters related to the business of the city. Obscenity, racial, national origin, gender, sexual orientation, or religious epithets, and other epithets, and other disruptive speech and behavior are prohibited.
  8. Only one person shall be at the podium during public comment or public hearings unless a companion is needed for physical, linguistic, or moral support.
  9. No one shall stand in the aisles in violation of the fire code or in a way that obstructs the vision or audio of other audience members.
  10. No signs or flags shall be permitted in council chambers except for one sign held by a person measuring no more than 11x17 inches which is held no higher than the person's face.
  11. No items shall be affixed to or propped against any surface in the council chambers except for laying a sign down against a person's own chair legs, without the permission of the city manager.
  12. Clapping, snapping, shouts, lights, lasers, noisemaking devices and the like shall be considered disruptive and are prohibited except for following a declaration or as invited by the mayor or chairperson to celebrate special events such as a retirement.
- c. Enforcement of Decorum. The mayor or other presiding officer of the council, with the assistance of city staff shall be responsible for maintaining the order and decorum of meetings. The mayor or presiding officer may order that any person who fails to observe these rules of decorum be muted

and/or removed from the meeting, may call a recess, and may order all persons to leave council chambers:

1. The mayor or presiding officer may interrupt any speaker who is violating these rules of decorum if they are causing an actual disruption.
  2. The mayor or presiding officer shall attempt to provide a verbal warning to any attendee or particular speaker that may be violating these rules of decorum, but such verbal warning shall not be required as a condition of removing an offender from the council chambers or meeting room, or taking a recess, ordering attendees to vacate the chambers, or moving to a virtual meeting.
  3. These enforcement provisions are in addition to the authority held by the sergeant-at-arms or any other peace officer in attendance, to maintain order pursuant to the officer's lawful authority.
  4. Any person removed from the council chambers or meeting room shall be excluded from further attendance at the meeting from which the person has been removed, unless permission to attend is granted upon the motion adopted by a majority vote of the council.
  5. Any person who has been removed from a meeting may be charged with violation of the applicable provision of the Boulder Revised Code.
  6. A person removed from a council meeting may request a hearing to dispute prohibition under the provisions of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, if the appeal is filed with the manager within ten days of the date of prohibition. The hearing will be before a hearing officer that is appointed by the city manager. The scope of the hearing will be limited to the following: (1) whether there was a prior removal in the past twenty-four months, and (2) the nature and extent of the behavior resulting in the suspension. The hearing officer will forward a recommendation to the council to affirm the sanction, modify the sanction, or to remove the sanction to the city council for its consideration at a subsequent meeting of the council.
  7. In addition to any other authority of the mayor or presiding officer, the presiding officer may call a recess during which time the members of the council shall leave the meeting room.
  8. In addition to any other authority of the mayor or presiding officer, the presiding officer may make or entertain a motion to move the meeting to a virtual forum.
- d. Rules of Decorum for Council. Members of the council shall attempt to balance the right of the public to know positions of the elected and appointed officials and rationale for decisions with the need for balanced discussion and timely adjournment of the meeting. In order to realize this balance, members shall endeavor to:
1. Articulate questions, opinions, comments and reasons for votes succinctly;
  2. Exercise self-discipline by avoiding repeating statements of others, being verbose in expressing opinions or straying off the topic;
  3. Allow the presiding officer to manage the meeting and call on members before speaking;
  4. Support the presiding officer in enforcement of these rules;
  5. Permit other members an opportunity to speak once on an issue before speaking a second time on the same issue;
  6. Focus on the issue being discussed rather than disagreement of ideas by using "I" statements and avoiding personal attacks or assuming motives of another;
  7. Consider the adopted council goals, staff work plans and limited resources when making requests for delay or additional information;

8. Acknowledge that new topics raised during a meeting by a member of the public or of the council may not have the benefit of all of the necessary background information, may not be presented from a balanced perspective, and decisions in such situations are more often emotionally driven. New topics raised during a meeting are most often best resolved by deferring the decision to the city manager or to a future agenda with direction to staff to provide background materials before the matter is considered at a future meeting. If council desires to take up a matter raised during a meeting, the request should be made and additional information requested under "Matters from the Mayor and Members of Council" portion of the agenda.
- e. Interpretation of Rules. These rules are intended to support the intent of the council set forth above. These rules are not to be used to limit public participation or council debate, but to enable the effective functioning of the council. These rules are not intended to restrict an individual's right to constitutionally protected speech. Either the council or the presiding officer may temporarily suspend these rules or grant exceptions in order to effectuate their intent.

## **XVII. Record Retention for Executive Sessions.**

Between November 5, 2014, and December 31, 2017, the city council was authorized to conduct executive sessions for the purpose of obtaining and receiving legal advice, including negotiation strategy regarding the creation of a municipal electric utility. The following rules shall remain in effect to govern retention and disclosure.

- a. Any recording of an executive session shall be maintained in a secure place within the city and may not be accessed by anyone, other than the City Manager or City Attorney, their authorized delegate or a Member of the City Council, except upon order of a court of competent jurisdiction.
- b. Any recording of an executive session shall be maintained until December 31, 2022, unless litigation relating to matters discussed is initiated or pending during that time in which case the recording shall be maintained until the conclusion of the litigation. The council shall be required to approve the destruction of any such recording of an executive session.
- c. Council may, by unanimous vote, release all or part of a recording of an executive session.

TITLE 2 - GOVERNMENT ORGANIZATION  
Appendix: Council Procedure

**Appendix: Council Procedure**

Adopted:	February 21, 1982 (by Council motion only)
Effective:	January 1, 1983
Amended:	June 21, 1983
Adopted:	February 21, 1984
Amended:	September, 1984
Amended:	June, 1986
Amended:	March, 1988
Amended:	May, 1990
Amended:	May, 1992
Amended:	June, 1992
Amended:	February, 1994
Amended:	June, 1994
Amended:	February, 1996
Amended:	January, 1999
Amended:	March, 1999
Amended:	May, 2003
Amended:	July, 2003
Amended:	April, 2004
Amended:	November, 2007
Amended:	February, 2011
Amended:	January, 2012
Amended:	May, 2012
Amended:	September, 2012 (Effective January 1, 2013)
Amended:	February, 2013
Amended:	November, 2014
Amended:	February, 2017
Amended:	September 19, 2017
Amended:	March 20, 2018
Amended:	March 3, 2020
Amended:	April 21, 2020
Amended:	May 26, 2020
Amended:	June 16, 2020
Amended:	July 13, 2021
Amended:	June 7, 2022
Amended:	November 3, 2022
Amended:	March 16, 2023
Amended:	September 7, 2023
Amended:	October 19, 2023
Amended:	June 20, 2024

## ***COUNCIL PROCEDURE***

This procedure is intended to govern the actions of the city council in the general conduct of its business and to serve as a reference in settling parliamentary disputes. In handling routine business, the council may by general consent use a more informal procedure than that set forth in this procedure.

This procedure may be suspended at any time by vote of five council members or of two-thirds of the council members present, whichever is the greater.

### **I. Presiding Officers: Mayor and Mayor Pro Tem.**

Council members shall be selected to serve as mayor pro tem. The mayor pro tem shall fulfill the position identified as "acting mayor" in Charter Section 15. All council members are equal; the mayor and mayor pro tem have no additional authority except as set forth in the City Charter, the City Code, or in these procedures. The mayor, or the mayor pro tem in the mayor's absence, shall serve as the chair of the council at all regular council meetings. The mayor or the mayor pro tem are responsible for conducting meetings in an orderly and democratic manner and assuring that minority opinion may be expressed and that the majority is allowed to rule. At the same time, the mayor and mayor pro tem retain all of the prerogatives of a duly elected council member: The mayor or mayor pro tem may make and second motions and take part in discussions and may vote on all matters not an interest prohibited pursuant to Section 2-7-2, B.R.C. 1981. In addition to chairing council meetings, the mayor is frequently called upon to perform certain ceremonial duties or to serve on intergovernmental committees. Whenever possible, the mayor shall attempt to share these responsibilities equitably among the other council members, including the mayor pro tem.

In the instance when both the mayor and mayor pro tem are not available to serve as the chair at a regular council meeting, the most recently retired mayor pro tem still serving on council shall serve as the chair for the meeting. If the retired mayor pro tem is also not available then the third council person who is then serving on the council agenda committee shall chair the meeting. If the business meeting is scheduled as an in-person meeting, whomever chairs the meeting must also participate in-person.

### **II. Communication with Council.**

It is very important for the council to hear the views of members of the public. There are several ways in which a person can participate.

- (a) City phone numbers and email addresses are provided to reach all council members.
- (b) Electronic means of communication with and from council members as a group is provided through Hotline and Council Correspondence on the city's website. The Hotline is an electronic means for council members to ask questions of staff and convey information to the public that is posted in a manner that is available to the public on the city's website. Staff responses to Hotline questions of council members are posted on Hotline in order to be available to the public. The city's website contains a Council Correspondence email which directs the comment of the person to each council member and many staff members. The city manager's office directs questions from Council Correspondence to the appropriate staff member for response. All correspondence to Council is published online.

- (c) Open Comment. At the beginning of every regular council meeting, up to forty-five minutes are set aside for open comment. During that time, twenty randomly selected members of the public are invited to express their views on any issue, except those set for public hearing later in the meeting.
- (d) Public Hearings. Public hearings are held to seek input on a particular ordinance or policy decision. These hearings provide an organized forum to address a particular subject. Statements made during a public hearing become part of the record for council's decision on the issue. Quasi-judicial hearings shall be conducted pursuant to Chapter 1-3, "Quasi-Judicial Hearings, B.R.C. 1981. Provided, however, witnesses shall not be required to testify under oath.
- (e) Comment on Motions Made Under Matters. The council will consider motions arising from matters raised by the mayor, members of council, the city manager, or the city attorney. No vote will be taken on these motions until the public has been given an opportunity to comment.

### III. Agenda.

- a. Notice. The agenda is generally distributed to council members no later than the Thursday preceding the council meetings, whether regular, special, or continued meetings. Items will generally not be added, but may be added or deleted by the agenda committee or by a majority of council. Whenever practicable, notice shall be given of all agenda items by publication of the title or a general description thereof in the Boulder Daily Camera on the weekend preceding the council meeting. However, failure to give such notice shall not invalidate any action taken by the council, and such provision shall not apply at all to items adopted by emergency.
- b. Council Agenda Committee (CAC). Items are placed on the agenda by the staff, with the approval of the members of an agenda committee in attendance at a meeting called by the mayor to review the agenda. In addition to the mayor and the mayor pro tem, the council designates a third council member for six to seven weeks at a time (depending on the council meeting cycle) to serve on the agenda committee. A sign-up list is circulated to council members. Replacements are solicited from all remaining council members whenever an agenda committee member cannot attend a meeting. If more council members wish to attend than there are vacancies, the mayor makes the appointment. Meetings of the agenda committee are open to the public and the press/media but are not advertised. No more than four council members may attend an agenda committee meeting at any time. "Drop-ins" should notify the mayor in advance whenever possible. Presence of staff members at agenda committee meetings is subject to the discretion of the city manager.
- c. Agenda Review. The agenda committee holds an agenda review to review the successes and the difficulties of the council in dealing with agenda items during the preceding calendar quarter and to schedule agenda items for the next calendar quarter, when such items are known in advance. Council members who wish to have the entire council address an agenda issue should identify the issue and ask the agenda committee to schedule a discussion under Matters.
- d. CAC Mission. Representing the views of the entire city council, the agenda committee: 1) sets the agenda for council meetings and study sessions; 2) comments on written agenda materials to assure that all reasonable questions anticipated from the public and any member of the council are answered; 3) acts as a sounding board for staff; 4) informs the city council and staff of emerging issues; 5) requests that staff supply information to the council concerning emerging issues; and 6) discusses correspondence and email to the mayor and the city council and responses to open comment. The agenda committee assigns the responsibility for drafting and signing such responses. But individual council members may respond as well, at their discretion. The agenda committee determines when boards and commissions should be requested to address the council concerning their deliberations, and when matters should be referred back to a board or commission before council action is scheduled. Generally, it is expected that boards and commissions with an adopted mission statement that includes a certain area of concern will be asked to advise council about any agenda item dealing with that area of concern. The agenda committee also establishes check points for

---

Created: 2024-06-07 14:20:13 [EST]

(Supp. No. 159, Update 2)

council input on important staff projects. Agenda committee minutes are made available to the council by email. Approved draft agendas and the council calendar for the upcoming meeting agendas are attached to the minutes.

e. CAC Ground Rules.

1. No Decisions. The agenda committee should not make a "decision" on anything except for specific decisions relating to the council agenda and assignment of correspondence for a response. If a scheduling item is controversial, the CAC shall bring the matter to the entire council.
2. No References. Agenda committee members should avoid reference to the meeting in debate, as by statements such as: "This was discussed in the agenda committee meeting," or "We dealt with that question in the agenda committee meeting." Above all, there should be no reference to any "decision" having been made by the agenda committee.
3. CAC Communications with Council. If, as a result of an agenda committee meeting, the committee determines that it is necessary to contact the remaining council members to convey information or to obtain advice about proposed staff action, staff should contact each available council member. Council members, including agenda committee members, generally should not be involved in such communications. But this does not restrict any council member from contacting other council members and conveying any information or requesting any advice or action. Agenda committee members and other council members may communicate with other council members about any matter, but such process should not substitute for staff action as set forth above, and is subject to the "open meeting" requirements of state law (§ 24-6-402(2)(d)(III), C.R.S.).
4. CAC to Focus on Council Concerns Rather Than Personal Point of View. It is not appropriate for agenda committee members to use the agenda committee meeting to advance their own political agendas or points of view. This is conceded to be difficult to avoid, especially when three council members are discussing an upcoming decision, but it is essential.
5. CAC Not to Indicate Council Support. Prior to approval by the council, the agenda committee and staff are prohibited from indicating any city commitment to city sponsorship or support of an event or to city support for a development proposal.
6. Questions to CAC. Council members are urged to send questions, comments, and suggestions to the staff or to members of the agenda committee prior to its meeting. The agenda committee will endeavor to discuss all such questions, comments, and suggestions at its meeting.
7. Postponement of Issues. It is acceptable for members of the city council to ask for postponement of issues to accommodate a brief absence, when the rescheduling will not inconvenience other council members and the individual council member has a significant interest in the particular issue being decided. However, no council member has a right to require such a change, and the decision of the CAC is generally treated as final, although the council is, as always, the final decision maker.
8. No Rule of Three. Meetings of the CAC shall not be used to indicate a "rule of three" for information/research requests. See Section X, Research and Study Sessions, Subsection A, Information/Research Requests/Rule of Three.
9. Thursday Meetings. CAC shall not schedule council meetings on dates other than Thursdays without polling all council members for their availability. CAC shall not schedule meetings on the fifth Thursday of any month without the prior consent of council.
10. Consent Items, Urgent Items, Time Budget, and Order of Agenda. The CAC designates potential consent items, so that they can be dealt with in a summary fashion. The CAC also designates urgent items, for which delay is not possible or inadvisable, so that the council can deal with such items prior to adjournment. The CAC sets the order of the agenda and sets a time budget for each item. Based on the

---

Created: 2024-06-07 14:20:13 [EST]

(Supp. No. 159, Update 2)

estimated time budget, CAC shall make every effort not to schedule any meeting with an expected adjournment time after 10:30 p.m.

#### **IV. Council Meeting Agenda.**

- a. Council meetings shall be conducted as follows:
  1. Call to Order and Roll Call. Meetings are generally called to order at 6 p.m. sharp.
  2. Open Comment.
    - A. Time for open comment on any subject not scheduled for public hearing is provided for at each regular business meeting of the council. Up to forty-five minutes is provided at the beginning of the meeting at the conclusion of the COVID-19 briefing and response. Speaking shall be limited as set forth in subsection (C) below. During open comment, an individual speaker can speak for up to two minutes.
    - B. Only one person is permitted at the podium at a time, unless a speaker brings one companion for physical, linguistic, or moral support.
    - C. A speaker shall begin by stating their name and may state their connection to Boulder such as neighborhood, residency, employment, school or business ownership. If a speaker believes that providing such information would put the speaker at risk, the speaker need not state their name.
    - D. The sign-up form for speakers will be available via the internet, beginning at 8:00 a.m. on the Friday after the day that the agenda for the meeting is made available (Thursday). Speakers will designate in the form if they wish to speak "in-person" or "virtually". Online sign up shall end at 2:00 p.m. on the Wednesday preceding a meeting, even if the day is a holiday. No later than 5:00 p.m. on the day prior to the meeting (Wednesday) or noon on the day of the meeting, if the day prior to the meeting is a city holiday, the city clerk shall post on the internet a list of no more than twenty individuals who will be invited to speak at the meeting. If more than twenty people register to speak, the city clerk shall select twenty names at random from among those who have registered. The clerk shall exclude speakers who spoke during open comment at the meeting immediately preceding the current meeting unless less than twenty people have registered to speak. In that situation, the clerk will randomly select from the group of speakers who spoke at the prior meeting during open comment to fill the remaining slots.
    - E. Any person selected to speak who requires a city-provided interpreter shall be invited to speak first. Any person wishing to use an electronic presentation as part of their comments shall provide the presentation to the city clerk no later than 2:00 p.m. on the day of the meeting. The presentation will be provided to members of council to review. No presentation will be shown during a council meeting.
    - F. At the conclusion of Open Comment, the presiding officer may ask city staff for any response to matters raised during Open Comment. At the conclusion of the staff response, any council member may ask that the original speaker be recalled to reply to the staff response. Such comment shall be limited to one minute.
  3. Consent Agenda. Including generally, but not strictly limited to:
    - A. Minutes. Minutes of previous meetings are approved as made available beforehand, and as corrected by the city clerk, in response to council suggestions, at the discretion of the clerk. This procedure should not be used to alter remarks to express a more considered point of view. Such remarks should be made under item 8, Matters from the Mayor and Members of Council. A

motion to approve the minutes is deemed to include such corrections, as well as any corrections made at the meeting.

- B. First Readings. Although generally calendared as part of the consent agenda, the city manager may request that a particular first reading be scheduled early on the agenda when staff/council interaction on the item is important on first reading. See Section V, Procedure in Handling Ordinances, Resolutions and Important Motions, Subsection C, First Reading.
- C. Second Readings. Second Readings shall generally be scheduled for a public hearing. The Council Agenda Committee may schedule second reading of ordinance on consent only for the following:
  - 1. The Quarterly Supplement codifying previously adopted ordinances.
  - 2. Ordinances for which the council has previously held a public hearing.
  - 3. Other ordinances that are routine in nature, which do not elicit public interest and to which no council member objects.
- 4. Call-Up Check-In. Call-ups (typically appeals to council) are considered during item 4. If the decision about whether to exercise the council's call-up authority is a matter of substantial public interest, the agenda committee shall schedule a public hearing for consideration of the potential call-up. Call-ups scheduled for public hearing shall not be considered as part of a call-up check-in.
- 5. Public Hearings. Expected substantial public comment items are generally placed first on the agenda, in the order of public interest in the item, as anticipated by the council agenda committee, but critical short items may be placed first when deemed appropriate by the agenda committee. Items from the city manager, city attorney, or mayor and members of council which are of substantial public interest are placed in this section of the agenda, in the order of public interest. Provided however, that CAC may place matters of significant public interest at the beginning of the meeting before open comment. CAC shall not schedule more than two substantive public hearings at any council meeting. The signup form for speakers will be available via the internet, beginning at 8:00 a.m. on the Friday after the day that the agenda for the meeting is made available (Thursday). Speakers will designate in the form if they wish to speak "in-person" or "virtually". Online sign-up shall end at 2:00 p.m. on the Wednesday preceding a meeting, even if the day is a holiday. A speaker shall begin by stating their name and address. If a speaker believes that providing such information would put the speaker at risk, the speaker need not disclose their name or address but should say whether or not they reside in the City of Boulder. During a public hearing an individual speaker can speak for up to three minutes. However, a speaker's time may be limited to two minutes if more than fifteen people have signed up to speak. Three or more people can pool their time so one speaker can speak for five minutes, if all of the people pooling time have signed up to speak when the spokesperson is called to speak and are in the council chambers or present virtually when the speaker is called. The five minutes of pooled time can be reduced to four minutes by the presiding officer if the time for individuals has been reduced to two minutes. Speakers will need to designate on the form if they are pooling with 2 other speakers and indicate who the primary speaker will be and provide the names of the individuals they are pooling with. An applicant may request additional time as reasonably required to present their case. In response, the mayor may designate a longer time period for applicants, generally not to exceed fifteen minutes and to occur immediately upon the opening of the public hearing, in order to give the public an opportunity to respond. Additional support for applicant's positions should come from individual witnesses. Board or commission members, whose board or commission acted on a matter and who have been designated to speak by the board or commission, will be allowed to speak during staff presentation or at the beginning of the public hearing. A board or commission may designate a person who voted with the majority or a person who voted with the minority or one speaker from each side.
- 6. Matters from the City Manager. No final decision may be made under this item, or item 7, Matters from the City Attorney, or 8, Matters from the Mayor and Members of Council. All decisions shall be

---

Created: 2024-06-07 14:20:13 [EST]

(Supp. No. 159, Update 2)

made either after a public hearing or on the consent agenda. Matters items are for informational purposes only. No actionable items shall be raised under Matters.

7. Matters from the City Attorney.
8. Matters from the Mayor and Members of Council. At this point, any council member may place before the council matters which are not included in the formal agenda. This item is generally limited to responses to open comment, appointments to boards and commissions, sharing of information, and requests for advice concerning matters pending before other bodies, requests for staff work, and requests for scheduling future agenda items. Matters requiring a formal council vote, such as motions to sponsor an event or to allocate funds, are normally placed on the agenda through the regular agenda review process, rather than dealt with under this item. If a council member wishes to reconsider a prior council decision, the council member shall request that the Council Agenda Committee schedule a discussion under item 8. Prior council decisions shall be reconsidered only after a material change in law or fact. A material change in law or fact means a change that if having occurred before the prior council decision would have made it unlikely that a majority of council would have supported the prior decision. If five or more council members support reconsidering a prior decision, the Council Agenda Committee shall be directed to schedule substantive consideration at a later meeting. No discussion of revisiting a prior decision shall exceed fifteen minutes.
9. Debrief. Council will have a brief discussion of no more than five minutes for council members to discuss issues regarding that evening's meeting. The discussion is intended to identify issues to be addressed by the Council Agenda Committee or by the council at a future meeting. This time should not be used to revisit arguments raised earlier in the meeting. The intent is to improve council's process by identifying issues concerning process, scheduling, and meeting implementation while fresh in council members' minds to allow for later discussion and resolution.
10. Adjournment. The council's goal is that all meetings be adjourned by 10:30 p.m. An agenda check will be conducted at or about 9:00 p.m., and no later than at the end of the first item finished after 9:00 p.m. Generally, absent a deadline which the council cannot affect, no new substantial item will be addressed after 10:30 p.m. At the 9:00 p.m. agenda check council will make a realistic assessment of the items remaining on the agenda. Council will table and ask the Council Agenda Committee to reschedule any item that council members reasonably believe will prevent adjournment by 10:30 p.m. The Debrief is not a substantial item. No new item shall be introduced after 10:30 p.m. unless a majority of the council members in attendance at that time agree. All council meetings shall be adjourned at or before 11:00 p.m., unless the meeting is extended by a vote of two-thirds of the council members present. Council shall attempt to schedule any matter not heard before adjournment as the first item at the next study session. If necessary, the council shall schedule a special meeting to coincide with the scheduled study session. It is assumed that council will reschedule items previously scheduled for the study session to accommodate any newly added items.

## **V. Rules of Speaking.**

- a. Mayor Directs Meeting. To obtain the floor, a council member or staff member addresses the mayor.
- b. Assignment of Floor. To assign the floor, the mayor recognizes by calling out the council member's name. Only one council member may have the floor at a time. A council member shall not speak while another has the floor, except to make a point of order. The mayor generally next recognizes the council member who first asks for the floor after it has been relinquished. The mayor may, in their sole discretion, temporarily suspend the rules of speaking in order to permit a direct colloquy between council members with respect to an issue or motion properly before the council. All council members and staff members are requested to direct their remarks to the council action under consideration.

- c. Outline of Decisions. The staff and the mayor should attempt to focus discussion of agenda items in accordance with the materials, which should contain a proposed outline of decisions.
- d. Minimize Debates Prior to Public Hearings. Council members should minimize debate prior to public hearings and use the period prior to public hearings to ask questions for clarification rather than to lecture, give speeches, score debating points, or ask rhetorical questions. The mayor may intervene to avoid extended debate prior to public hearings.
- e. Minimize Debates After Decisions. Council members should minimize debate after decisions and move on to the next item.
- f. Motions to Table. Tabling motions are generally discussed before they are made, in order to allow for a reasonable amount of council discussion prior to making a non-debatable motion.
- g. Early Warning Process. Council members should give early warning to the mayor and the city manager whenever substantial opposition is anticipated to an agenda item, so that an appropriate staff and council response can be prepared.
- h. Rotation of Questions. Questions are rotated so that, to the extent practicable, different council members are given the lead on each agenda item and questions are grouped by subject matter whenever it is practicable to do so.
- i. Mayor May Intervene. The mayor may intervene in council debate in order to solicit a motion after five to ten minutes of debate, seek to wrap-up discussion when debate seems to be proceeding longer than warranted, determine whether council wishes to postpone council action when more information or staff work appears warranted to facilitate a council decision, and ask council to group follow-up questions by topic.
- j. No Surprises. Council members will make every effort not to surprise each other by bringing up something new at a meeting, and rather will give notice of their intention to do so as soon as practical before the meeting.

## **VI. Procedure in Handling Motions.**

- a. Making a Motion. A council member, after obtaining the floor, makes a motion. (If long or involved, it should be in writing.) The council member may state reasons briefly before making the motion; but may argue the motion only after it has been seconded; and having spoken once may not speak again until everyone who wishes to be heard has had the opportunity to speak, except to answer questions asked by other council members. Having made a motion, a council member may neither speak against it nor vote against it.
- b. Seconding a Motion. Another council member seconds the motion. All motions require a second, to indicate that more than one member is interested in discussing the question. The seconder does not, however, have to favor the motion in order to second it, and may both speak and vote against it. If there is no second, the mayor shall not recognize the motion.
- c. Stating the Motion. The mayor states the motion and asks for discussion.
- d. Debate. General debate and discussion follow, if desired. Council members, the city manager, the city attorney or the city clerk, when wishing to speak, follow the rules of speaking outlined above. The speaker's position on the motion should be stated directly: "I favor this motion because...", "I am opposed to this because...", etc. Remarks should be addressed to the mayor.
- e. Question. The mayor restates the motion and puts the question. Negative as well as affirmative votes are taken.

1. If the mayor is in doubt of the result of a voice vote, the mayor may call for raising of hands or a roll call vote.
2. If any council member is in doubt of the result of a voice vote, the council member may obtain a vote by raising of hands or by roll call by calling for it (without need to be recognized by the mayor).
3. In case of a tie vote, the motion is lost.
- f. Result. The mayor announces the result. The motion is not completed until the result is announced.

## **VII. Procedure in Handling Ordinances, Resolutions and Important Motions.**

- a. Two Readings. All ordinances require at least two readings, because the city charter requires ten days' advance publication in final form. The agenda committee may require similar publication of complex or important motions and resolutions, in order to assure informed public participation.
- b. Notice. All documents delivered to council members' residences or electronically prior to any meeting shall be deemed to have been received and read, unless a council member indicates to the contrary during consideration of the matter. In the event that a council member has not received and read the document in question, the mayor shall determine an appropriate course of action, which may consist of an explanation of the substance of the document by a person familiar with its contents, or a recess. Abstentions are not permitted by the city charter under these circumstances.
- c. First Reading. On first reading, the clerk reads the title or the general description of the item set forth on the agenda, and the council has an opportunity to ask questions of the staff. Whenever practicable, council members ask first reading questions in writing or by email to "Hotline" in advance of the meeting no later than 5:00 p.m. on the Sunday preceding the meeting. Any remaining questions are asked at the meeting. The deadline for first reading questions is noon on the day following the meeting. Complex questions are subject to the "rule of five" for information and research requests set forth in Section X, Research and Study Sessions, Subsection A, Information/Research Requests/Rule of Three. The mayor then requests an appropriate motion. However phrased, an affirmative motion is construed as one to order the item published. Unless otherwise stated in the motion, all publication shall be by title only. The mayor then states the question, followed by proposal of amendments, if any, restates the question if necessary, and puts the question to a vote. After the conclusion of the vote, the mayor declares the item to have been ordered published or to have been rejected for publication. Publication does not constitute substantive approval of an item.
- d. Second Reading. On second reading, the clerk reads the title, or the general description of the item set forth on the agenda, followed by the staff presentation, and then the council has an opportunity to ask questions of the staff. Thereafter, the mayor opens a public hearing and supervises the public hearing. If any council member wishes, questions may be asked of persons testifying. Council may consider a response to public testimony at the meeting, and the agenda committee may consider a response the following week, but the normal response is in the council members' actions on the agenda. The mayor then requests an appropriate motion. The motion should be one to adopt the ordinance, and, however phrased, an affirmative motion shall be so construed. Unless otherwise stated in the motion, all publication shall be by title only. The mayor then states the question, followed by discussion by the council, the city manager and the city attorney and dialogue with staff in response to questions raised by the council, followed by debate, proposal of amendments, if any, and consideration thereof in the form of motions. After debate, the mayor restates the question and requests that the clerk conduct a roll call vote. After the conclusion of the roll call vote, the mayor declares the ordinance adopted or defeated.
- e. Resolutions. Resolutions are handled in the same manner as the second reading of an ordinance, except that the vote need not be by roll call.

- f. Emergencies. Ordinances may be passed by emergency on first or second reading, upon appropriate findings of urgency and need. In the event of passage by emergency on first reading, the first reading is handled in the same manner as the second reading of an ordinance, and the second reading is omitted. Council should endeavor to limit emergency ordinances to the quarterly supplement, matters in which there is a deadline, and matters affecting life, health or safety.
- g. Amendments. Non-emergency ordinances which are amended in substance rather than in form on second reading are republished in the same form originally published (either in full or by title only), as amended, and voted on again at a third reading, without further staff presentation or public hearing. The council retains the discretion to set a public hearing on third reading by majority vote. The same procedure applies to later substantive amendments as well.

### **VIII. Voting.**

Voting ultimately decides all questions. The council may use any one of the following ways of voting:

- a. Voice Vote. All in favor say "aye," and all opposed say "no." The mayor rules on whether the "ayes" or the "nos" predominate, and the question is so decided.
- b. Raising of Hands. All in favor raise their hands, and then all opposed raise their hands. The mayor decides which side predominates and notes dissents for the record.
- c. Roll Call. The clerk calls the roll of the council members, and each member present votes "aye" or "no" as each name is called. The roll is called in alphabetical order, with the following special provision: On the first roll call vote the clerk shall begin with the first name on the list; on the second vote, the clerk shall begin with the second and end with the first; and so on, continuing thus to rotate the order. This rotation shall continue from meeting to meeting.

### **IX. Nominations and Elections.**

The mayor pro tem shall be selected in the following manner:

- a. Swearing in of newly elected mayor and council members. The newly elected mayor and new council members shall be sworn in pursuant to Section 9 of the Charter at the first business meeting in December. At that time, the council shall hold a public hearing on the selection of the mayor pro tem.
- b. Mayor pro tem. The mayor pro tem shall serve for a period of one year. No later than the first business meeting in December, any council member with an unexpired term or council member elect may express their interest in serving as acting mayor (generally referred to as mayor pro tem). Any person expressing an interest shall post a Hotline message regarding their interest in and qualifications for the position.
- c. Nominations. At the first business meeting in December, at the conclusion of public testimony, council will consider nominations for mayor pro tem. Any council member may nominate anyone that expressed an interest on Hotline or made a speech during the meeting including themselves. Nominations are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may at this time withdraw their name from nomination. Silence by the nominee shall be interpreted as acceptance of candidacy.
- d. Order of Vote. A motion then is made and seconded to close the nominations and acted on as any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.

- e. Ballots. If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.
- f. Elimination Process. If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.
- g. Impasse Process. In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor pro tem.
- h. Appointment of Board Alternates. In the event that the Boulder Revised Code provides for the appointment of temporary alternate board members, such members shall be appointed as follows: The most recently departed member of the board needing a temporary alternate, who is eligible and able to serve, shall be appointed. In the event that more than one member departed at the same time, alternates shall be chosen in reverse alphabetical order, with appointments alternating between the eligible and able former members who departed at the same time. In the event that the most recently departed member is not eligible or able to serve, the next previously departed member shall be chosen, applying the procedure above if there is more than one potential appointee. No person shall be eligible for a temporary alternate appointment if they were removed from the board by the council. A temporary alternate shall be appointed only when a member's absence either results in the lack of a quorum or may prevent the board from taking action. No person appointed as a temporary alternate shall serve at two consecutive meetings of the board to which they are appointed unless it is necessary to complete an agenda item that has been continued to another meeting.
- i. Boards and Commissions. Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.
- j. Advertising of Vacancies After Partial Terms. Prior to advertising board and commission vacancies, when a person has already served on the board or commission and is seeking reappointment, council should make the decision of whether or not to advertise that particular vacancy.

## **X. Research and Study Sessions.**

- a. Information/Research Requests/Rule of Three. Requests for information should be directed to "Hotline," or, if a public request is not appropriate, directly to the city manager or the city attorney. Requests for a briefing should be directed to the city manager or the city attorney. A single council

member may require the city manager or the city attorney to provide available information at any time or to answer any question concerning an agenda item. The concurrence of three council members is required to assign a matter for research by staff. For staff to spend more time than the city manager or the city attorney considers reasonable in light of other staff time commitments, the concurrence of five council members is required. In such case, the manager or attorney shall report the results of the preliminary research and an estimate of the time required to complete the task as the manager or attorney proposes. In any case, a vote shall be taken at a council meeting, but work may proceed in an emergency pending such vote. The council shall be informed of any such emergency work. Requests for information relating to an agenda item should be made sufficiently in advance to allow staff time to assemble the requested information. Requests for information relating to a quasi-judicial matter before the council are permitted provided that staff shall inform the applicant of the request and shall provide the applicant with a copy of any response.

- b. Budget Rule. A matter shall be placed before the council for decision during the deliberation of the budget by a vote equal to or greater than the number of council members remaining at the meeting after deduction of the majority thereof.
- c. Study Sessions. The chair of each study session shall be selected through rotation of council members who have expressed an interest in chairing study sessions. The Mayor and Mayor Pro Tem may be included in the rotation. The order of the rotation shall follow generally the rotation of members at the Council Agenda Committee, with the Mayor or Mayor Pro Tem presiding when a member is not available, has not expressed an intent to chair a study session or the member agrees to defer to the Mayor or Mayor Pro Tem. Materials for study sessions generally will be made available to the council and the public at least ten days before the date of the study session. Notice will be given as for other council meetings. Written comments received by staff prior to noon on the Thursday preceding study sessions will be forwarded to all council members that evening. Testimony of persons other than staff or consultants or subject-matter experts designated by the city manager is not permitted at study sessions unless a majority of the council members present votes to suspend this rule. The council will give direction to staff at study sessions for the presentation of action items at future regular council meetings. Full summaries of study sessions shall be placed on a later council agenda for approval, including the direction given, any remaining issues and any staff reaction or proposed work plan in response to the study session.

## **XI. Procedure in Handling Major Capital Improvement Projects.**

Major capital improvement projects shall be handled, to the extent practicable, in accordance with the City Plans and Projects Handbook, dated November 2007. Failure to follow any aspect of such processes shall not be grounds for any challenge to any city project. Prior to a development review decision by the planning board or approval of the community and environmental assessment process by an advisory board, the council may determine by motion to review the project prior to the decision on the concept review or community and environmental assessment process. If so, the manager will schedule a public hearing and consideration of a motion directing staff concerning: 1) the goals and objectives of the program which will be served by the project, and 2) the conceptual design of the project. For those projects requiring development review, the council will deal only indirectly with the factors which may ultimately be entailed in a development review application under Chapter 9-4, "Land Development Review," B.R.C. 1981, in recognition that it may later be called upon to adjudicate such questions on a call-up of a planning board decision.

## **XII. Council Calendar.**

The city publishes a calendar of meetings set by city staff and boards and commissions. Any council member may attend such meetings and events, but council members may not publicly speak at a board or commission

meeting unless give prior permission by council to speak on behalf of council as a whole and may be disinvited from ceremonial events by the host.

### **XIII. Council Member Appointments.**

The council may appoint council members to serve on ad hoc and ongoing intergovernmental committees, such as the Colorado Municipal League Policy Committee, the Denver Regional Council of Governments, the National League of Cities, or the Boulder County Consortium of Cities. Council members may be appointed for staff activities on an ad hoc basis. Appointments shall be made at council meetings, after notice to the council that the appointment will be considered as part of the agenda of the meeting. The mayor appoints one of the members to the Housing Authority and one to the Urban Renewal Authority, in conformity with state law, but council is notified at a council meeting of each such appointment, and the Urban Renewal Authority appointment is subject to council ratification. The council appoints one of its members to the board of directors of the Boulder Museum of Contemporary Art, the Boulder Convention and Visitors Bureau, the Colorado Chautauqua Association, the Downtown Business Improvement District Board, the Rocky Flats Stewardship Council, the Commuting Solutions Committee, the Mile High Flood District, the Boulder County Resource Conservation Advisory Board, and the board of directors of the Dairy Arts Center. The mayor will serve on the Metro Mayor's Caucus and the US 36 Mayors and Commissioners Coalition. Council members are expected to inform the council of their committee activities and to request advice on important policy issues.

Council may appoint alternates for (intergovernmental) committees as council deems necessary. The alternate shall serve in place of the council appointee as requested by the council appointee and when the person is not able to participate. Appointments shall be made using the same process noted above.

### **XIV. Parliamentary Procedure.**

Except as otherwise provided herein or as advised by the city attorney, all matters of procedure are governed by the then current Robert's Rules of Order Newly Revised.

### **XV. Declarations and Resolutions.**

- a. Mayor to Screen. All matters proposed for council or mayoral action which commemorate a period of time or commend the actions of a person or a group or endorse a position or an idea not directly related to the affairs of the city shall be screened by the mayor.
- b. Mayoral Declarations. If a group with substantial local support requests such action, and the mayor determines that there is no substantial political issue concerning such action, the proposed declaration shall be included in the agenda for the Council Agenda Committee. Any council member who would prefer that the declaration be issued by the entire council, read out loud at a council meeting or discussed by the entire council shall inform the Council Agenda Committee. Depending on the specific request the Committee can decide to issue the declaration from the entire council (not just the Mayor), schedule a time for reading at a future council meeting or schedule consideration of whether to issue, amend, or deny the declaration at a future council meeting. If no council member seeks full council consideration, the Mayor may sign the declaration. All signed declarations shall be posted on the city's website.
- c. Council Resolutions. In extraordinary circumstances, if the group supporting the action determines that it wishes council action rather than a mayoral declaration, and the action otherwise meets the criteria set forth above, the mayor may, if the mayor considers such action appropriate in light of the importance of the action and the additional business on the council agenda, place a resolution on the agenda for council action.

- d. Resolutions. Resolutions are appropriate for legislative concerns, including, without limitation, conveyances of positions or ideas to other legislative and administrative bodies. But all legislative actions must be by ordinance.
- e. Political Questions. In the event that a substantial political issue is determined to be presented by a proposed declaration, the mayor shall not act or place the matter on the agenda, but instead will inform the group supporting the action that the matter will be placed on the agenda only if a majority of the council members present at a meeting of the council so directs. The burden shall be on such group to present the issue to the council. The mayor may request council advice at any time concerning proposed mayoral or council action.
- f. Foreign Policy and National Policy Questions. Council shall not act on a foreign policy or national policy issue on which no prior official city policy has been established by the council or the people, unless sufficient time and resources can be allocated to assure a full presentation of the issue.
- g. Fund-Raising. Publicity for fund-raising efforts and community events will be deemed inappropriate for council action, although major efforts and events may be commemorated if the majority of the council members present at a meeting of the council so directs.

## **XVI. Rules of Decorum.**

- a. Council Intent for Rules of Decorum. The city's business is conducted at city council meetings by the elected officials of the city. All council meetings are open to the public, but the public's participation is permitted only at formal council business meetings during the time and in the manner set forth in these rules. Public participation is generally not permitted during study sessions and other informal council meetings, although the council may permit public participation and provide reasonable time and manner restrictions. The public is encouraged to express comments in writing or other communication prior to those meetings. In order for the council to conduct its business in a manner completely open to the public by video, rules of decorum are necessary. Historically, council meetings have lasted numerous hours which may limit the practical ability for the public to participate and the effectiveness of staff to make presentations and elected officials to discuss issues and make decisions. The intent of these rules is to:
  - 1. Provide a safe and secure setting for council and the public to attend to the city's business.
  - 2. Enable council to conduct its deliberative process without disruption in a manner that can be heard and viewed by all viewing and recorded for the simultaneous or later viewing by the public.
  - 3. Ensure that the public has a full opportunity to be heard during public hearings and open comment periods of council meetings.
  - 4. Facilitate transparency in the conduct of council meetings so that all persons have the opportunity to observe and hear all of the council discussion and votes.
  - 5. State specific rules so that all may know the rules in advance and be subject to the same rules.
  - 6. Limit interruptions, unreasonable delay, or duplication of comments, presentations, or discussion.
  - 7. Develop an atmosphere of productive civic discourse that is respectful of diverse opinions and allows presentation of positions that vary from the position of others at the meeting without insults or intimidation.
  - 8. Balance the need for the council to conduct effective meetings without the meetings extending late into the night or early morning with the need to give a full opportunity for the public to be heard.

9. Facilitate council meetings as business meetings, therefore public comments should relate to the business of the city and, as such, be addressed to the council as a whole, which conducts the business of the city.
  10. Adopt these rules of decorum as the standard for conduct of meetings of the city council and staff of the city.
  11. Protect city property from damage.
- b. Rules of Decorum for the Public. During all times a meeting of the city council is being conducted, the following rules shall apply:
1. Prior to addressing council, a person shall sign-up providing information for the council record.
  2. All remarks to the council shall be only after the speaker is acknowledged by the presiding officer.
  3. While in attendance at a council meeting, no attendee shall disrupt, disturb, or otherwise impede the orderly conduct of any council meeting in a manner that obstructs the business of the meeting. This includes any means, including but not limited to, speech that creates an actual disruption or conversation with other audience members that interferes with the council members ability to hear and focus on the business or other audience members ability to hear the proceedings. Disorderly conduct also includes failing to obey any lawful order of the presiding officer to leave the meeting room or refrain from addressing the council.
  4. No attendee shall make threats or other forms of intimidation against any person in the council chambers or meeting room.
  5. All persons participating in a council meeting, including, without limitation, council members, staff, and attendees, shall silence all cell phones, pagers, and other electronic devices to prevent disruption at the meeting.
  6. No person participating in any council meeting shall be in a state of intoxication caused by the person's use of alcohol or drugs.
  7. All remarks shall be limited to matters related to the business of the city. Obscenity, racial, national origin, gender, sexual orientation, or religious epithets, and other epithets, and other disruptive speech and behavior are prohibited.
  8. Only one person shall be at the podium during public comment or public hearings unless a companion is needed for physical, linguistic, or moral support.
  9. No one shall stand in the aisles in violation of the fire code or in a way that obstructs the vision or audio of other audience members.
  10. No signs or flags shall be permitted in council chambers except for one sign held by a person measuring no more than 11x17 inches which is held no higher than the person's face.
  11. No items shall be affixed to or propped against any surface in the council chambers except for laying a sign down against a person's own chair legs, without the permission of the city manager.
  12. Clapping, snapping, shouts, lights, lasers, noisemaking devices and the like shall be considered disruptive and are prohibited except for following a declaration or as invited by the mayor or chairperson to celebrate special events such as a retirement.
- c. Enforcement of Decorum. The mayor or other presiding officer of the council, with the assistance of city staff shall be responsible for maintaining the order and decorum of meetings. The mayor or presiding officer may order that any person who fails to observe these rules of decorum be muted and/or removed from the meeting, may call a recess, and may order all persons to leave council chambers:

1. The mayor or presiding officer may interrupt any speaker who is violating these rules of decorum if they are causing an actual disruption.
  2. The mayor or presiding officer shall attempt to provide a verbal warning to any attendee or particular speaker that may be violating these rules of decorum, but such verbal warning shall not be required as a condition of removing an offender from the council chambers or meeting room, or taking a recess, ordering attendees to vacate the chambers, or moving to a virtual meeting.
  3. These enforcement provisions are in addition to the authority held by the sergeant-at-arms or any other peace officer in attendance, to maintain order pursuant to the officer's lawful authority.
  4. Any person removed from the council chambers or meeting room shall be excluded from further attendance at the meeting from which the person has been removed, unless permission to attend is granted upon the motion adopted by a majority vote of the council.
  5. Any person who has been removed from a meeting may be charged with violation of the applicable provision of the Boulder Revised Code.
  6. A person removed from a council meeting may request a hearing to dispute prohibition under the provisions of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, if the appeal is filed with the manager within ten days of the date of prohibition. The hearing will be before a hearing officer that is appointed by the city manager. The scope of the hearing will be limited to the following: (1) whether there was a prior removal in the past twenty-four months, and (2) the nature and extent of the behavior resulting in the suspension. The hearing officer will forward a recommendation to the council to affirm the sanction, modify the sanction, or to remove the sanction to the city council for its consideration at a subsequent meeting of the council.
  7. In addition to any other authority of the mayor or presiding officer, the presiding officer may call a recess during which time the members of the council shall leave the meeting room.
  8. In addition to any other authority of the mayor or presiding officer, the presiding officer may make or entertain a motion to move the meeting to a virtual forum.
- d. Rules of Decorum for Council. Members of the council shall attempt to balance the right of the public to know positions of the elected and appointed officials and rationale for decisions with the need for balanced discussion and timely adjournment of the meeting. In order to realize this balance, members shall endeavor to:
1. Articulate questions, opinions, comments and reasons for votes succinctly;
  2. Exercise self-discipline by avoiding repeating statements of others, being verbose in expressing opinions or straying off the topic;
  3. Allow the presiding officer to manage the meeting and call on members before speaking;
  4. Support the presiding officer in enforcement of these rules;
  5. Permit other members an opportunity to speak once on an issue before speaking a second time on the same issue;
  6. Focus on the issue being discussed rather than disagreement of ideas by using "I" statements and avoiding personal attacks or assuming motives of another;
  7. Consider the adopted council goals, staff work plans and limited resources when making requests for delay or additional information;
  8. Acknowledge that new topics raised during a meeting by a member of the public or of the council may not have the benefit of all of the necessary background information, may not be presented from a balanced perspective, and decisions in such situations are more often emotionally driven. New topics

raised during a meeting are most often best resolved by deferring the decision to the city manager or to a future agenda with direction to staff to provide background materials before the matter is considered at a future meeting. If council desires to take up a matter raised during a meeting, the request should be made and additional information requested under "Matters from the Mayor and Members of Council" portion of the agenda.

- e. Interpretation of Rules. These rules are intended to support the intent of the council set forth above. These rules are not to be used to limit public participation or council debate, but to enable the effective functioning of the council. These rules are not intended to restrict an individual's right to constitutionally protected speech. Either the council or the presiding officer may temporarily suspend these rules or grant exceptions in order to effectuate their intent.

## **XVII. Record Retention for Executive Sessions.**

Between November 5, 2014, and December 31, 2017, the city council was authorized to conduct executive sessions for the purpose of obtaining and receiving legal advice, including negotiation strategy regarding the creation of a municipal electric utility. The following rules shall remain in effect to govern retention and disclosure.

- a. Any recording of an executive session shall be maintained in a secure place within the city and may not be accessed by anyone, other than the City Manager or City Attorney, their authorized delegate or a Member of the City Council, except upon order of a court of competent jurisdiction.
- b. Any recording of an executive session shall be maintained until December 31, 2022, unless litigation relating to matters discussed is initiated or pending during that time in which case the recording shall be maintained until the conclusion of the litigation. The council shall be required to approve the destruction of any such recording of an executive session.
- c. Council may, by unanimous vote, release all or part of a recording of an executive session.



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8636, authorizing and directing the acquisition of various property interests, within city limits, by purchase or eminent domain proceedings, for the construction of the Gregory Canyon Creek Flood Mitigation project; and setting forth related details

### **PRIMARY STAFF CONTACT**

Christin Kapatayes, Engineering Project Manager

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to order published by title only Ordinance 8636, authorizing and directing the acquisition of various property interests, within city limits, by purchase or eminent domain proceedings, for the construction of the Gregory Canyon Creek Flood Mitigation project; and setting forth related details

### **ATTACHMENTS:**

#### **Description**

- **Item 3G - Gregory Canyon Creek Flood Mitigation Project Easement Acquisition 1st rdg**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Introduction, first reading, and consideration of a motion to order published by title only, Ordinance 8636 authorizing and directing the acquisition of various property interests, within city limits, by purchase or eminent domain proceedings, for the construction of the Gregory Canyon Creek Flood Mitigation project; and setting forth related details.

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Teresa Tate, City Attorney  
Leila Behnampour, Assistant City Attorney  
Joe Taddeucci, Public Utilities Director  
Brandon Coleman, Civil Engineering Manager  
Christin Kapatayes, Civil Engineering Senior Project Manager

**EXECUTIVE SUMMARY**

Mitigating Boulder’s flood risk is the top priority for the Flood and Stormwater Utility to ensure life safety, to protect property and to enhance Boulder’s natural creek corridors. The [Gregory Canyon Creek Flood Mitigation Plan](#) was approved by City Council in 2015, and a first phase project to increase the channel capacity between Pennsylvania Avenue and Arapahoe Avenue is currently in design and slated for fall 2025 construction.

To complete the project, temporary and permanent easements are required for construction and future maintenance access of the improved flood channel. Boulder’s approach for acquiring such easements follows federal guidance and emphasizes respect for the private property owner’s interests. While to staff’s knowledge it has never been

exercised for a city flood project, one component of the aforementioned federal guidance is the preauthorization of eminent domain authority in the event that easement negotiations fail. It has generally been standard practice for City Council to preauthorize such authority prior to city easement acquisition negotiations.

The purpose of this Memorandum is to request that City Council consider an ordinance authorizing and directing the acquisition of all necessary easements through eminent domain proceedings in the event open market discussions are not successful. Such action would only be taken as a very last resort if all other options were exhausted. Proposed Ordinance 8636 (**Attachment A**) is included for council consideration.

### **STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

Motion to introduce and order published by title only Ordinance 8636 authorizing and directing the acquisition of various property interests, within city limits, by purchase or eminent domain proceedings, for the construction of the Gregory Canyon Creek Flood Mitigation project; and setting forth related details.

### **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic** – Construction of major drainageway flood mitigation projects is a primary way to reduce life safety risk and economic losses caused by floods.
- **Environmental** – Improved and protected drainageways provide enhanced ecosystems that support native species and are more resilient to flooding.
- **Social** – Protecting life and property is one of the principal goals of the utility, and improvements along Gregory Canyon Creek will reduce flood risks within the watershed.

### **OTHER IMPACTS**

- **Fiscal** – The estimated overall project cost is \$19M. and is currently budgeted for in the utilities Capital Improvement Program budget.
- **Staff time** – Management, operation, and maintenance of the project is included in the existing Utilities Department work plan.

### **RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE**

None.

## **PUBLIC FEEDBACK**

Project staff have reached out to affected property owners where easements are required to introduce the project and easement acquisition process. Property owners are generally supportive of the project and have expressed interest in working with the city to implement the project improvements.

## **BACKGROUND**

The city of Boulder is the number one flood risk in the state of Colorado because of its geographic location at the base of the foothills and urbanization along its drainageways. Gregory Canyon Creek is a steep, narrow drainageway extending from Flagstaff Road down to the confluence with Boulder Creek near 9<sup>th</sup> and Arapahoe. Gregory Canyon Creek experienced significant flooding in September 2013, which drove the Gregory Canyon Creek mitigation planning process to identify solutions to reduce the severity of future flooding and make the creek more resilient. The resulting Gregory Canyon Creek Flood Mitigation Plan was approved by City Council in December 2015. The final recommended alternative included proposed improvements to increase the capacity of roadway crossings and channel conveyance much of which is on private property.

## **ANALYSIS**

Because the majority of the project will be built on private property, the city will need both permanent and temporary easements to construct Gregory Canyon Creek channel improvements and for future maintenance access of the improved channel. Boulder's standard practice aligns with federal property acquisition guidelines which involve working collaboratively with willing property owners to obtain necessary easements and using eminent domain only as an option of last resort if all other options have been exhausted. Although the city has been successful with this approach and anticipates receiving the necessary easements voluntarily, not having eminent domain authority as a last resort could jeopardize project completion. City Council has previously enacted similar ordinances prior to negotiations with property owners to ensure the community benefit is achieved.

All needed easement locations are on properties zoned as residential or residential-mixed use. Construction of the project improvements are not expected to diminish any property owners' property value or operation, or residents' quality of life. While construction impacts will occur on properties needing easements, direct flood protection benefits will also occur.

To ensure that each property owner is equitably compensated, the property acquisition process will follow federal property acquisition guidelines detailed in the [Uniform Relocation Assistance and Real Property Acquisition Act of 1970](#). The "Uniform Act" defines the requirements and responsibilities of the government entity acquiring the property and protects private owners' interests to prevent the government from abusing its power or influence. The Uniform Act requires a determination of "fair market value"

by a professional appraiser at the government's expense. These appraisals then become the basis for arriving at a final negotiated settlement or acquisition price. If the negotiating parties cannot reach an agreement, then the matter moves on to the judicial system, where a three-person commission or jury determines the fair market value of the property to be acquired. If negotiations fail with any property owner and use of eminent domain authority is not granted, the project improvements cannot be constructed. The council's options include approving the ordinance now or at a later time if and when needed or denying such approval. Staff recommends that the ordinance be approved now as doing so is consistent with past practice, has the best chance of maintaining the project schedule and maintaining positive community relations.

## **NEXT STEPS**

Staff will continue to negotiate in good faith with those property owners from whom easements are needed and does not intend to initiate any eminent domain action until mid-2025, and then only if absolutely necessary. Staff requests a second reading and adoption of Proposed Ordinance 8636 be brought forward on the consent agenda on July 18.

## **ATTACHMENT**

A – Proposed Ordinance 8636  
(Includes Exhibit A – Right of Way Drawings – Project Key Map Indicating Property Needs and Tabulations)

ORDINANCE 8636

AN ORDINANCE AUTHORIZING AND DIRECTING THE ACQUISITION OF VARIOUS PROPERTY INTERESTS, WITHIN CITY LIMITS, BY PURCHASE OR EMINENT DOMAIN PROCEEDINGS, FOR THE CONSTRUCTION OF THE GREGORY CANYON CREEK FLOOD MITIGATION PROJECT; AND SETTING FORTH RELATED DETAILS

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. The City of Boulder, Colorado, (the “City”) is a home rule city in the State of Colorado.

B. The City is vested with all powers of eminent domain and condemnation pursuant to Article XX of the Colorado Constitution and the City Charter.

C. The City of Boulder Charter delegated City Council with legal authority and power of eminent domain.

D. The City, through the Boulder City Council (“City Council”), has approved the Gregory Canyon Creek Flood Mitigation Project (the “Project”). The first phase of the Project is to increase the channel capacity between Pennsylvania Avenue and Arapahoe Avenue.

E. The Project is intended to reduce flood risks within the Gregory Canyon Creek watershed, enhance functionality of the creek, and maximize opportunities to restore features natural to the creek corridor. The primary goal of the Project is to improve flood safety for the public by developing a design to safely convey the design storm event without adverse impacts to the regulatory 100-year floodplain by increasing channel and roadway crossing capacity.

1 F. City Council has determined that there is a need and necessity to acquire certain  
2 property interests identified in this Ordinance for the construction of the Project, and that the  
3 acquisition of the property interests serve and benefit the public health, safety, or welfare of the  
4 City’s residents.

5 G. The property sought to be acquired for the Project includes acquisition of the  
6 property interests described in **Exhibit A**, attached hereto and incorporated herein by this  
7 reference (the “Properties”), and the Properties are purportedly owned by the persons or entities  
8 described in **Exhibit A** (the “Property Owners”).

9 H. City Council finds and determines that City staff, consultants, or agents are  
10 authorized to commence or continue good faith negotiations for the acquisition of the Properties  
11 with Property Owners and to make good faith offers for the Properties.  
12

13 I. City Council finds and determines that if the Properties cannot be obtained  
14 voluntarily, the City, by and through City staff, consultants, or agents, is authorized to use its  
15 power of eminent domain to commence condemnation proceedings to acquire the Properties and  
16 prosecute the proceedings to conclusion.

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

19  
20 Section 1. The acquisition of the Properties as described in **Exhibit A** is necessary for  
21 construction of the Project.

22 Section 2. The City, its staff, consultants, or agents are authorized to negotiate in good  
23 faith and to make offer(s) of compensation with Property Owners for the acquisition of the  
24 Properties, with any final agreement subject to the approval of the city manager.  
25

1           Section 3. If negotiations for the acquisition of the Properties voluntarily prove  
2 unsuccessful, the City, its staff, consultants, or agents are authorized to acquire, by means of  
3 eminent domain, the Properties and are authorized to employ or continue to employ all necessary  
4 persons for this purpose, including special condemnation counsel, if necessary, and appraisers,  
5 surveyors, engineers, and other experts.

6           Section 4. Immediate possession of the Properties is necessary and required for the  
7 construction of the Project for the reasons and purposes described herein. The City's staff,  
8 consultants, or agents are authorized to obtain immediate possession of the Properties.

9           Section 5. The City's staff, consultants, or agents, consistent with the intent of the  
10 Project, shall have the authority to amend the legal descriptions of the parcels to be acquired or  
11 the nature of the interests to be acquired, as deemed necessary for the Project, and any such  
12 amendments shall be included in the definition of Properties contained herein.

13           Section 6. All prior acts and actions taken by the City's officers, agents and attorneys in  
14 connection with the acquisition of the Properties is hereby ratified and approved.

15           Section 7. This Ordinance is necessary to protect the public health, safety, and welfare of  
16 the residents of the City and covers matters of local concern.

17           Section 8. City Council deems it appropriate that this Ordinance be published by title  
18 only and orders that copies of this Ordinance be made available in the office of the city clerk for  
19 public inspection and acquisition.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 20th day of June 2024.

\_\_\_\_\_  
Aaron Brockett,  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 25th day of July 2024.

\_\_\_\_\_  
Aaron Brockett,  
Mayor

Attest:

\_\_\_\_\_  
City Clerk



NOT FOR CONSTRUCTION

REUSE OF DOCUMENTS: THIS DOCUMENT, AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF CH2M HILL AND IS NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF CH2M HILL.

**Jacobs**  
 GREGORY CANYON CREEK - ARAPAHOE AVE TO PENNSYLVANIA AVE  
 PRELIMINARY RIGHT-OF-WAY PLANS  
 OWNERSHIP MAP

VERIFY SCALE	
BAR IS ONE INCH ON ORIGINAL DRAWING.	
DATE	JUNE 2024
PROJ	D3213500
DWG	GCC-SV-02
SHEET	2 of 11

NO.	DATE	DR	CHK	REVISION	APVD	BY	APVD
		R BRYSON	R GUPTILL		R BRYSON		A COOK

**SURVEY FEATURE LEGEND**

- SS ——— DESIGN CONTOUR LINE
- DESIGN SANITARY SEWER LINE
- DESIGN FENCE LINE
- LIMITS OF CONSTRUCTION
- ALIGNMENT CENTERLINE
- PERMANENT EASEMENT
- TEMPORARY EASEMENT

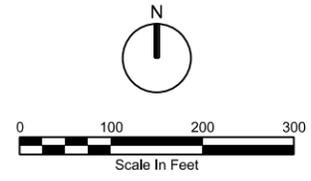


Exhibit A to Proposed Ordinance 8636

R.O.W. TABULATION OF PROPERTIES IN BOULDER COUNTY - GREGORY CANYON CREEK

Easement ID	Site Address	Assessor Parcel No.	Location	Area In Square Feet (Acres)					Book and Page No. And/Or Reception No.	Title Commitment No.	Remarks
				Area Of Parcel	Existing ROW	Net Area	Remainder Left	Remainder Right			
			<b>Township 1 North, Range 71 West</b>								
PE-1	885 Arapahoe Ave. Boulder, CO 80303	PID: 146136112001	A part of the NE 1/4, Section 36	1,807 (0.041)		1,807 (0.041)					
PE-1A	Same as above	Same as above	Same as above	1,036 (0.024)		1,036 (0.024)				For access.	
TE-1	Same as above	Same as above	Same as above	318 (0.007)		318 (0.007)					
PE-2	816 Arapahoe Ave. Boulder, CO 80302	PID: 146136121023	A part of the NE 1/4, Section 36	1,956 (0.045)		1,956 (0.045)					
TE-2	Same as above	Same as above	Same as above	967 (0.022)		967 (0.022)					
PE-3	1655 9th St. Boulder, CO 80302	PID: 146136121001	A part of the NE 1/4, Section 36	4,351 (0.100)		4,351 (0.100)					
TE-3	Same as above	Same as above	Same as above	630 (0.014)		630 (0.014)					
PE-4	1649 9th St. Units 1-6 Boulder, CO 80302	PID: 146136150001 - 146136150006	A part of the NE 1/4, Section 36	1,040 (0.024)		1,040 (0.024)					
TE-4	Same as above	Same as above	Same as above	218 (0.005)		218 (0.005)					
PE-5	811 Marine St. Boulder, CO 80302	PID: 146136121018	A part of the NE 1/4, Section 36	5,200 (0.119)		5,200 (0.119)					
TE-5	Same as above	Same as above	Same as above	983 (0.023)		983 (0.023)					
PE-6	1621 9th St. Boulder, CO 80302	PID: 146136121021	A part of the NE 1/4, Section 36	723 (0.017)		723 (0.017)					
TE-6	Same as above	N/A	Same as above	418 (0.010)		418 (0.010)					
PE-7	833 Marine St. Boulder, CO 80302	PID: 146136121019	A part of the NE 1/4, Section 36	129 (0.003)		129 (0.003)					
TE-7	Same as above	Same as above	Same as above	210 (0.005)		210 (0.005)					
PE-8	818 Marine St. Boulder, CO 80302	PID: 146136120004	A part of the NE 1/4, Section 36	423 (0.010)		423 (0.010)					
PE-8A	Same as above	PID: 146136120003	Same as above	588 (0.013)		588 (0.013)					
TE-8	Same as above	Same as above	Same as above	392 (0.009)		392 (0.009)					

NOT FOR CONSTRUCTION

NO.	DATE	DR	REVISION	CHK	APVD	BY	APVD

A COOK  
R BRYSON  
R GUPTILL  
R BRYSON



**MTHFD**  
MILE HIGH FLOOD DISTRICT

GREGORY CANYON CREEK - ARAPAHOE AVE TO PENNSYLVANIA AVE  
PRELIMINARY RIGHT-OF-WAY PLANS  
TABULATION OF PROPERTIES

Jacobs

VERIFY SCALE  
 BAR IS ONE INCH ON ORIGINAL DRAWING.  
 DATE: JUNE 2024  
 PROJ: D3213500  
 DWG: GCC-SV-03  
 SHEET: 3 of 11

Exhibit A to Proposed Ordinance 8636

R.O.W. TABULATION OF PROPERTIES IN BOULDER COUNTY - GREGORY CANYON CREEK

Easement ID	Site Address	Assessor Parcel No.	Location	Area In Square Feet (Acres)				Book and Page No. And/Or Reception No.	Title Commitment No.	Remarks
				Area Of Parcel	Existing ROW	Net Area	Remainder Left			
			Township 1 North, Range 71 West							
PE-9	802 Marine St. Boulder, CO 80302	PID: 146136120006	A part of the NE 1/4, Section 36	46 (0.001)		46 (0.001)				
PE-9A	Same as above	Same as above	Same as above	360 (0.008)		360 (0.008)				
TE-9	Same as above	Same as above	Same as above	331 (0.008)		331 (0.008)				
PE-10	1544 8th St. Boulder, CO 80302	PID: 146136120007	A part of the NE 1/4, Section 36	1,524 (0.035)		1,524 (0.035)				
TE-10	Same as above	Same as above	Same as above	307 (0.007)		307 (0.007)				
PE-11	744 Marine St. Boulder, CO 80302	PID: 146136100017	A part of the NE 1/4, Section 36	2,034 (0.047)		2,034 (0.047)				
TE-11	Same as above	Same as above	Same as above	416 (0.010)		416 (0.010)				
TE-11A	Same as above	Same as above	Same as above	100 (0.002)		100 (0.002)				
PE-12	744 Marine St. Boulder, CO 80302	PID: 146136100018	A part of the NE 1/4, Section 36	56 (0.001)		56 (0.001)				
TE-12	Same as above	Same as above	Same as above	120 (0.003)		120 (0.003)				
PE-13	765 University Ave. Boulder, CO 80302	PID: 146136123004	A part of the NE 1/4, Section 36	2,647 (0.061)		2,647 (0.061)				
TE-13	Same as above	Same as above	Same as above	694 (0.016)		694 (0.016)				
PE-14	745 University Ave. Boulder, CO 80302	PID: 146136123003	A part of the NE 1/4, Section 36	2,790 (0.064)		2,790 (0.064)				
TE-14	Same as above	Same as above	Same as above	930 (0.021)		930 (0.021)				
PE-15	775 Pleasant St. Boulder, CO 80302	PID: 146136126010	A part of the NE 1/4, Section 36	2,741 (0.063)		2,741 (0.063)				
TE-15	Same as above	Same as above	Same as above	72 (0.002)		72 (0.002)				
PE-16	755 Pleasant St. Boulder, CO 80302	PID: 146136126008	A part of the NE 1/4, Section 36	2,977 (0.068)		2,977 (0.068)				
TE-16	Same as above	Same as above	Same as above	75 (0.002)		75 (0.002)				

NOT FOR CONSTRUCTION

A COOK

R BRYSON

R BRYSON

R GUPTILL

R BRYSON

DR

REVISION

CHK

APVD

BY

APVD

NO. DATE

DSGN



GREGORY CANYON CREEK - ARAPAHOE AVE TO PENNSYLVANIA AVE  
PRELIMINARY RIGHT-OF-WAY PLANS  
TABULATION OF PROPERTIES

Jacobs

VERIFY SCALE  
BAR IS ONE INCH ON ORIGINAL DRAWING.  
0 1"

DATE JUNE 2024  
PROJ D3213500  
DWG GCC-SV-04  
SHEET 4 of 11

REUSE OF DOCUMENTS: THIS DOCUMENT, AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF CH2M HILL. AND IS NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF CH2M HILL. © CH2M HILL 2018. ALL RIGHTS RESERVED.

Exhibit A to Proposed Ordinance 8636

**R.O.W. TABULATION OF PROPERTIES IN BOULDER COUNTY - GREGORY CANYON CREEK**

Easement ID	Site Address	Assessor Parcel No.	Location	Area In Square Feet (Acres)					Book and Page No. And/Or Reception No.	Title Commitment No.	Remarks
				Area Of Parcel	Existing ROW	Net Area	Remainder Left	Remainder Right			
			Township 1 North, Range 71 West								
PE-16A	755 Pleasant St. Boulder, CO 80302	PID: 146136126007	A part of the NE 1/4, Section 36	3,466 (0.080)		3,466 (0.080)					
TE-16A	Same as above	Same as above	Same as above	392 (0.009)		392 (0.009)					
PE-17	704 Pleasant St. Boulder, CO 80302	PID: 146136129001	A part of the NE 1/4, Section 36	4,204 (0.097)		4,204 (0.097)					
TE-17	Same as above	Same as above	Same as above	1,375 (0.032)		1,375 (0.032)					
PE-18	1228 7th St. Boulder, CO 80302	PID: 146136129003	A part of the NE 1/4, Section 36	2,535 (0.058)		2,535 (0.058)					
TE-18	Same as above	Same as above	Same as above	425 (0.010)		425 (0.010)					
TE-19	1231 7th St. Boulder, CO 80302	PID: 146136128011	A part of the NE 1/4, Section 36	241 (0.006)		241 (0.006)					
PE-20	650 Pennsylvania Ave. Boulder, CO 80302	PID: 146136132003	A part of the NE 1/4, Section 36	1,324 (0.030)		1,324 (0.030)					
PE-21	680 Pennsylvania Ave. Boulder, CO 80302	PID: 146136132004	A part of the NE 1/4, Section 36	330 (0.008)		330 (0.008)					
PE-22	1145 7th St. Boulder, CO 80302	PID: 146136132005	A part of the NE 1/4, Section 36	184 (0.004)		184 (0.004)					

NOT FOR CONSTRUCTION

NO.	DATE	DR	REVISION	CHK	APVD	BY	APVD
		R BRYSON		R GUPTILL	R BRYSON		A COOK



**MTHFD**  
MILE HIGH FLOOD DISTRICT

**Jacobs**  
GREGORY CANYON CREEK - ARAPAHOE AVE TO PENNSYLVANIA AVE  
PRELIMINARY RIGHT-OF-WAY PLANS  
TABULATION OF PROPERTIES

VERIFY SCALE	
BAR IS ONE INCH ON ORIGINAL DRAWING.	
DATE	JUNE 2024
PROJ	D3213500
DWG	GCC-SV-05
SHEET	5 of 11

**Exhibit A to Proposed Ordinance 8636**















## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Introduction, first reading and consideration of a motion to order published by title only and adopt by emergency measure Ordinance 8635 adopting Supplement 159 which codifies previously adopted Ordinances as amendments to the Boulder Revised Code, 1981; and setting forth related details

### **PRIMARY STAFF CONTACT**

Teresa Taylor Tate, City Attorney, 303.441.3020

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to introduce, order published by title only and adopt by emergency measure Ordinance 8635 adopting Supplement 159 which codifies previously adopted ordinances as amendments to the Boulder Revised Code, 1981; and setting forth related details.

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 3H - 1st Rdg Ord 8635 Emergency Supplement 159**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Introduction, first reading and consideration of a motion to order published by title only and adopt by emergency measure Ordinance 8635 adopting Supplement 159 which codifies previously adopted Ordinances as amendments to the Boulder Revised Code, 1981; and setting forth related details.

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Teresa Taylor Tate, City Attorney

**EXECUTIVE SUMMARY**

The Boulder Revised Code (“B.R.C. 1981”) is the official book of laws of the City of Boulder. Four times a year (quarterly), council is asked to adopt supplements to the B.R.C. 1981. An ordinance format is used to bring ordinances or procedure changes that council adopted in the prior quarter, or became effective prior to the upcoming supplement, into the B.R.C. 1981; and to ensure that there is no question regarding what constitutes the official laws of the City of Boulder. Code amendments may also be included. These supplement ordinances are approved as a matter of routine by council.

In order to generate the printed supplements to the B.R.C. as soon as possible, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

The text of Supplement 159 has been previously adopted by the following:

Ord. 8620	AN ORDINANCE AMENDING TITLE 9, “LAND USE CODE,” B.R.C. 1981, TO FIX ERRORS, CLARIFY EXISTING CODE SECTIONS, UPDATE GRAPHICS, AND IMPROVE THE CLARITY OF THE CODE; AND SETTING FORTH RELATED DETAILS.
-----------	--

Ord. 8631	AN ORDINANCE UPDATING STREETLIGHTING STANDARDS BY AMENDING THE CITY OF BOULDER DESIGN AND CONSTRUCTION STANDARDS (DCS), ORIGINALLY ADOPTED PURSUANT TO ORDINANCE 5986, AND ADDING A NEW SECTION 4-20-77, "STREETLIGHTING FEES," B.R.C. 1981; AND SETTING FORTH RELATED DETAILS.
Ord. 8633	AN EMERGENCY ORDINANCE AMENDING SECTION 2-1-2, "COUNCIL MEETINGS," B.R.C. 1981 ALLOWING FOR REGULAR MEETINGS ONCE A MONTH DURING THE SUMMER MONTHS; AND SETTING FORTH RELATED DETAILS.

**STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

Motion to introduce, order published by title only and adopt by emergency measure Ordinance 8635 adopting Supplement 159 which codifies previously adopted ordinances as amendments to the Boulder Revised Code, 1981; and setting forth related details.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Budgetary - None
- Staff Time - None beyond the time always allocated to code maintenance in the city attorney’s overall work plan.
- Economic – None

**OTHER IMPACTS**

None.

**FORMAT NOTES**

Code amendments (if any) may be reflected in strike out and double underline format along with a “Reason for Change” as part of this agenda item. Such amendments are intended to correct non-substantive errors discovered through review of these ordinances and/or which may have occurred in previously adopted ordinances already in the B.R.C. 1981. Major and/or substantive corrections or revisions are brought forward as a separate ordinance to council during the normal course of future council business.

**RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE**

None.

**BOARD AND COMMISSION FEEDBACK**

None.

**PUBLIC FEEDBACK**

None.

**BACKGROUND**

Ongoing code maintenance is an essential and largely administrative obligation of the city. Four times a year (quarterly), council is asked to adopt supplements to the B.R.C. 1981. These supplement ordinances are approved as a matter of routine by council.

**ANALYSIS**

This supplement includes ordinances that were adopted by council in the last supplement quarter or are effective prior to the upcoming supplement. They are all added to the official version of the B.R.C. 1981 by way of the attached proposed supplement ordinance. Council adopts a quarterly supplement ordinance to ensure that a clearly identifiable version of the Boulder Revised Code is legislatively adopted.

The printed supplements to the B.R.C. may not be distributed to subscribers until the proposed adopting ordinance is effective. The laws of the city should be current and available to the residents of the City of Boulder as soon as possible; therefore, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

**NEXT STEPS**

None.

**ATTACHMENT**

Attachment A - Proposed Emergency Ordinance 8635

ORDINANCE 8635

AN EMERGENCY ORDINANCE ADOPTING SUPPLEMENT 159,  
WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCES AS  
AMENDMENTS TO THE BOULDER REVISED CODE, 1981; AND  
SETTING FORTH RELATED DETAILS.

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

Section 1. Legislative Findings.

A. Supplement 159 amending the Boulder Revised Code, 1981 (“B.R.C. 1981”) has been printed.

B. The city council intends that this supplement be codified and published as a part of the B.R.C. 1981.

C. Supplement 159 to the B.R.C. 1981 is a part of this ordinance and contains all of the amendments to the B.R.C. 1981 enacted by the city council in Ordinances 8620, 8631, and 8633. The city council intends to adopt this supplement as an amendment to the B.R.C. 1981.

D. The ordinances contained in Supplement 159 are available in printed copy to each member of the city council of the City of Boulder, Colorado, and the published text of the supplement, along with the text of those changes, is available for public inspection and acquisition in the Office of the City Clerk of the City of Boulder, in the Municipal Building, 1777 Broadway, Boulder, Colorado.

Section 2. The city council adopts Supplement 159 by this reference.

Section 3. The city council orders that a copy of Supplement 159 as proposed for adoption by reference herein be on file in the Office of the City Clerk of the City of Boulder, Colorado, Penfield Tate II Building, 1777 Broadway, City of Boulder, Boulder County, Colorado, and may be inspected by any person during regular business hours pending the adoption of this ordinance.

Section 4. The annotations, source notes, codifier’s notes, and other editorial matter included in the printed B.R.C. 1981 are not part of the legislative text. These editorial provisions are provided to

1 give the public additional information for added convenience. No implication or presumption of a  
2 legislative construction is to be drawn from these materials.

3 Section 5. The B.R.C. 1981, or any chapter or section of it, may be proved by a copy certified by  
4 the city clerk of the City of Boulder, under seal of the city; or, when printed in book or pamphlet form  
5 and purporting to be printed by authority of the city. It shall be received in evidence in all courts  
6 without further proof of the existence and regularity of the enactment of any particular ordinance of the  
7 B.R.C. 1981.

8 Section 6. These provisions of the B.R.C. 1981 shall be given effect and interpreted as though a  
9 continuation of prior laws and not as new enactments.

10 Section 7. Unless expressly provided otherwise, any violation of the provisions of the B.R.C.  
11 1981, as supplemented herein, shall be punishable by a fine of not more than one thousand dollars or  
12 incarceration for not more than ninety days in jail, or by both such fine and incarceration, as provided in  
13 Section 5-2-4, "General Penalties," B.R.C. 1981.

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

16 Section 9. The city council finds this ordinance is necessary for the immediate  
17 preservation of public peace, health, safety and property. Passage of this ordinance immediately  
18 is necessary because the printed supplements cannot be distributed until the adopting ordinance is  
19 effective. The laws of the city should be current and available to the residents of the City of Boulder as  
20 soon as possible. On that basis, this ordinance is declared to be an emergency measure and shall be in  
21 full force and effect upon its final passage.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

READ ON FIRST READING, PASSED, ADOPTED AS AN EMERGENCY MEASURE BY  
TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY  
this 20<sup>th</sup> day of June 2024.

---

Aaron Brockett,  
Mayor

Attest:

---

Elesha Johnson,  
City Clerk



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Second reading and motion adopt Ordinance 8626 designating the North Foothills Habitat Conservation Area pursuant to Section 8-8-2, "Habitat Conservation Area Designation," B.R.C. 1981; and setting forth related details

### **PRIMARY STAFF CONTACT**

Nuria Rivera-Vandernyde, City Manager

Dan Burke, Director, Open Space and Mountain Parks

Lauren Kilcoyne, Deputy Director, Central Services

Kacey French, Planning Senior Manager

Marni Ratzel, OSMP Principal Planner

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to adopt Ordinance 8626 designating the North Foothills Habitat Conservation Area pursuant to Section 8-8-2, "Habitat Conservation Area Designation," B.R.C. 1981; and setting forth related details

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 3I - North Foothills HCA**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Second reading and motion adopt Ordinance 8626 designating the North Foothills Habitat Conservation Area pursuant to Section 8-8-2, "Habitat Conservation Area Designation," B.R.C. 1981; and setting forth related details.

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Dan Burke, Director, Open Space and Mountain Parks  
Lauren Kilcoyne, Deputy Director, Central Services  
Kacey French, Planning Senior Manager  
Marni Ratzel, OSMP Principal Planner

**EXECUTIVE SUMMARY**

This memo presents an ordinance that would formally designate and "activate" the North Foothills Habitat Conservation Area (HCA) and establish the HCA boundaries. The proposed ordinance is **Attachment A**. Once the area is designated by ordinance pursuant to section 8-8-2, "Habitat Conservation Area Designation," B.R.C. 1981 the associated regulations such as restricting travel to designated trails, and applicable dog regulations would apply to visitors and be enforceable. This designation supports past planning, Open Space Board of Trustees (OSBT) and council recommendations and actions as well the Master Plan strategies of Ecosystem Health and Resilience 1) Preserve and restore important habitat blocks and corridors; and Responsible Recreation, Stewardship and Enjoyment 6) Support a Range of Passive Recreational Experiences.

**Attachment A** presents the proposed ordinance. It includes a map of the North Foothills HCA boundaries as **Exhibit A**. The HCA lands were first identified as part of the City Council approved Open Space and Mountain Parks (OSMP) 2005 Visitor Master Plan (VMP) and expanded to include additional properties acquired later as part of the 2016 Council approved North Trail Study Area (TSA) Plan.

The city manager, through OSMP staff, most recently sought input and comments from the OSBT on the designation of the North Foothills HCA as part of the planning process to adopt the North TSA Plan. The VMP identified the need to complete a TSA plan to establish visitor access and recreation resource management priorities and actions prior to formally designating the North Foothills HCA by ordinance.

The designation by ordinance of the North Foothills HCA is planned to coincide with the North Sky Trail completion and opening that is anticipated this summer. This will help concentrate the likely rise in visitors and shift use that is currently dispersed across the landscape to the new trail.

**STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

Motion to adopt Ordinance 8626 designating the North Foothills Habitat Conservation Area pursuant to Section 8-8-2, “Habitat Conservation Area Designation,” B.R.C. 1981; and setting forth related details.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic** – OSMP contributes to the economic vitality goal of the city as it provides the context for the diverse and vibrant economic system that sustains services for residents. The land system and quality of life it represents attract visitors and helps businesses recruit and retain quality employees.
- **Environmental** – OSMP is recognized as a leader in the preservation of open space lands and contributing to council’s environmental sustainability goal. The department's land acquisition, land and resource management, and visitor service programs are prominent community-supported initiatives that help preserve and protect the open space values of these lands. Implementing HCA policies, including on-trail requirements, will limit most visitor impacts to designated trail corridors allowing habitats to better remain in high quality condition and providing relatively undisturbed refuges for wildlife away from the trail.
- **Social** – The OSMP land system is accessible to all members of the community. It helps support the council’s community sustainability and equity goals because all

residents who live in Boulder can feel a part of, and thrive in, this aspect of their community.

### **OTHER IMPACTS**

- **Fiscal** – Implementation costs include sign installation and modification to the online off-trail permit application. Funds for these expenses were anticipated in the current operating budget.
- **Staff time** – Normal staff time is required to post signs, update maps, and provide public information on the North Foothills HCA and associated on-trail and off-trail permit policies.

### **RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE**

#### **When will the North Sky Trail open to visitors?**

OSMP is on track to complete construction of the new trail in July and anticipates opening the trail to visitors on July 22. This date is weather dependent and after the end of the 30-day public review period for the North Foothills HCA ordinance if council approves it at the June 20 meeting. A community celebration will be held shortly after the trail is opened.

### **BOARD AND COMMISSION FEEDBACK**

The OSBT first made a recommendation to manage this area as an HCA as part of the City Council approved 2005 VMP. Since the VMP was completed and prior to the North TSA planning process, the city acquired the Joder Ranch, and within that the separate Joder-Cox property (Joder/Cox Property). As a part of those acquisitions, OSBT and City Council recommended the properties be managed as an HCA and included in the North Foothills HCA as they are a continuation of the natural resource values found within the North Foothills HCA. In 2016, the North TSA process involved reviewing the decision to manage the area as an HCA. The OSBT passed a motion to recommend council approval of the North TSA Plan, which included affirming the North Foothills HCA management area designation.

The OSBT received a written information item regarding the North Foothills HCA Implementation in [February 2024 OSBT meeting packet](#). The board was supportive of the approach and requested a map depicting where off-trail permits will be allowed in the North Foothills HCA once the City Council ordinance is enacted. This map is **Attachment B** and described in further detail under the Background section of this memo.

### **PUBLIC FEEDBACK**

The department led a robust planning process for the North TSA Plan that represented a diversity of perspectives in the community including people visiting trails within the area, neighbors, stakeholder organizations, youth, and families. The North Foothills HCA also

was identified in VMP. The VMP process included extensive community meetings, public feedback opportunities, and public hearings during board and council adoption of the plan.

## **BACKGROUND**

HCAs are one of four Management Area Designations defined in OSMP's VMP with Passive Recreation Areas, Natural Areas, and Agricultural Areas being the others. Area management defines the geographic context for deciding which visitor activities are most suitable in a given area and what conditions will minimize impacts on other visitors or resources. HCAs tend to be in more remote areas and typically represent large blocks of naturally functioning ecosystems.

A [March 21, 2024, City Council Information Item](#) memo provided background information on the North Foothills HCA Implementation. The North Foothills HCA boundaries map attached to the March 21 council memo has been updated to highlight the Beech – County property, which is currently owned by Boulder County with a conservation easement held by the city. This property is identified to be included in the North Foothills HCA pending city acquisition of the property from Boulder County. The work to complete that transaction is currently underway. When/if the transaction is complete the property will automatically become a part of the HCA per the proposed ordinance in **Attachment A**.

The city-held conservation easement over the Beech-County property specifically authorizes the city to construct trails and other improvements on this property that support passive recreational uses, and to erect signage on the trails aimed to protect the natural condition of the property. However, because the city only has a conservation easement in the Beech-County property, it cannot establish an HCA over county-owned property without acquiring an ownership or possessory interest; such acquisition is currently being negotiated. In the interim, Boulder County Parks and Open Space (BCPOS) will enact a temporary closure of the Beech-County property with the exception of the small portion of North Sky Trail corridor that passes through their property. Therefore, the entirety of the North Sky Trail will have on-trail requirements.

The designation by ordinance of the North Foothills HCA is planned to coincide with the North Sky Trail completion and opening. This will help concentrate the likely rise in visitors and shift use that is currently dispersed across the landscape to the new trail. By doing so, it will help maintain the high quality of habitats and provide relatively undisturbed refuges for wildlife away from the trail. Currently, the North Sky Trail is anticipated to be complete in early summer 2024, weather permitting. The North Sky Trail is depicted in **Exhibit A** to the attached ordinance.

## **ANALYSIS**

The proposed North Foothills HCA consists of a large, relatively unfragmented habitat block, including a mosaic of mixed grass prairie, woodlands, shrublands, and riparian habitats. It includes a variety of steep draws, flatter mesas and many Colorado Natural

Heritage Program-identified sensitive plant communities, including Foothills ponderosa pine savanna, Foothills ponderosa pine scrub woodland, Great Plains mixed grass prairie, mixed foothills shrubland, shortgrass prairie, and xeric tallgrass prairie. The proposed HCA also includes important shale barren outcrops of the Niobrara and Pierre shale formations. Wildlife includes extensive prairie dog habitat (part of the management area is included in a designated Prairie Dog Habitat Conservation Area), rare butterfly habitat, and rare plants such as Bell's twinpod and birdsfoot violet. Some of the rare butterflies that depend on this area include crossline skipper, arogos skipper, and two-spotted skipper. The HCA is an important habitat for ground-nesting birds because it offers a large block of high-quality grassland habitats. It also is a major raptor use area along the foothills. Historically and to this day, eagles nest on the Palisades, a striking vertical cliff-face in this area, which is included in the seasonal wildlife closures.

OSMP offers an Off-Trail Permit Program that allows visitors to obtain a free permit to travel off designated trails in most HCAs. The North TSA Plan limited the area available for off trail permits within the North Foothills HCA to reduce impacts of the new trail and recreation opportunities on natural resources outside of trail corridors. This recommendation was made to also decrease the potential for creation of new undesignated trails, decrease habitat fragmentation and increase the protection of sensitive natural resources outside of trail corridors. The off-trail permit recommendations for the North Foothills HCA are detailed in **Attachment B**. These are:

- When the North Sky Trail construction is complete, off-trail permits will not be allowed in the North Foothills HCA except for areas west and north of Joder Ranch Trail.
- Once the planned Mahogany Loop trail is open for visitor use, off-trail permits will be allowed for the area inside the loop trail two years after trail construction.

Currently, visitors may use the Joder Ranch Trail, and must stay on trail. The rest of the area within the designated HCA boundaries is closed to public access due to construction of the North Sky Trail. Once the HCA ordinance and Boulder County temporary closure of the Beech-County property goes into effect and the trail is opened, visitors must:

- Remain on trail to protect rare plants and habitat in this area.
- Leash their dogs when dogs are allowed on the trail from Aug. 1 to April 30. Dogs are not allowed on the trail from May 1 to July 31 to protect nesting bird habitat.

These regulations are consistent with the North TSA Plan management strategies to reduce the impacts of new recreational opportunities on natural resources outside the trail corridor as follows:

- **Off-trail permits not allowed in the North Foothills HCA** except for areas west and north of Joder Ranch Trail and inside the planned Mahogany Loop (NF19).
- **Dogs:** Leash required. Seasonal closure from May 1 – July 31 on North Sky Trail.

- **Include the North Sky Trail in the muddy closure program** to improve trail sustainability and reduce trail maintenance costs.
- **Post educational signs about the North Foothills HCA** to educate visitors about the important natural resources and safety concerns of the area, such as rattlesnake awareness.

### **NEXT STEPS**

If passed, the ordinance would take effect 30 days after final passage. Staff is working with BCPOS to acquire an interest in the Beech-County property with future consideration by OSBT and City Council pursuant to charter requirements. After acquisition the property will become a part of the North Foothills HCA.

### **ATTACHMENTS**

- **Attachment A** – Proposed Ordinance 8626 with Exhibit A
- **Attachment B** – North TSA Map of Off-permit recommendations

## ORDINANCE 8626

AN ORDINANCE ORDERING THE DESIGNATION OF THE NORTH FOOTHILLS HABITAT CONSERVATION AREA PURSUANT TO SECTION 8-8-2, "HABITAT CONSERVATION AREA DESIGNATION," B.R.C. 1981; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Purpose and Findings.

- (a) The purpose of this ordinance is to implement the policies and recommendations in the Open Space and Mountain Parks Visitor Master Plan approved by the city council on April 12, 2005 and in the North Trail Study Area Plan, accepted by the city council on June 7, 2016. This ordinance is subject to referendum as provided in the City Charter.
- (b) Pursuant to Section 8-8-2, "Habitat Conservation Area Designation," B.R.C. 1981, the city manager has identified and proposed the areas described in this ordinance for restricted public use because those areas would appropriately constitute habitat conservation areas within the city's open space and mountain parks system based upon the criteria set forth in the Open Space and Mountain Parks Visitor Master Plan.
- (c) The city manager has sought and received advice and comments from the Open Space Board of Trustees on the areas included in this ordinance.

Section 2. The North Foothills Habitat Conservation Area as described on **Exhibit "A"** to this ordinance is ordered and designated as a habitat conservation areas pursuant to Section 8-8-2, "Habitat Conservation Area Designation," B.R.C. 1981. In the event the city acquires a possessory or ownership interest in the area on Exhibit "A" identified as the "Beech – County" parcel, it will automatically be included in the North Foothills Habitat Conservation Area.

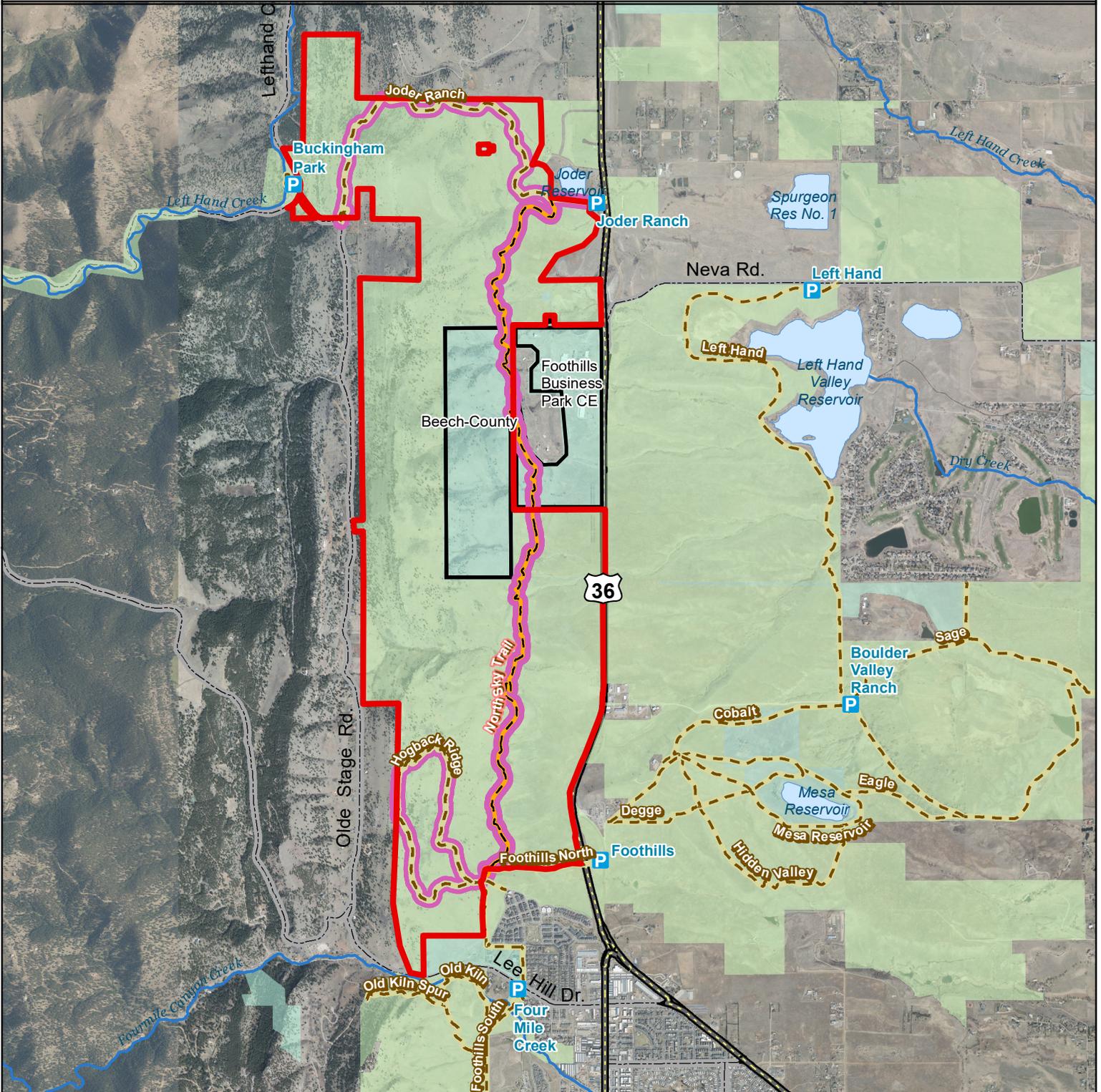
Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.





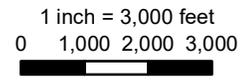
# Exhibit A North Foothills HCA Boundaries

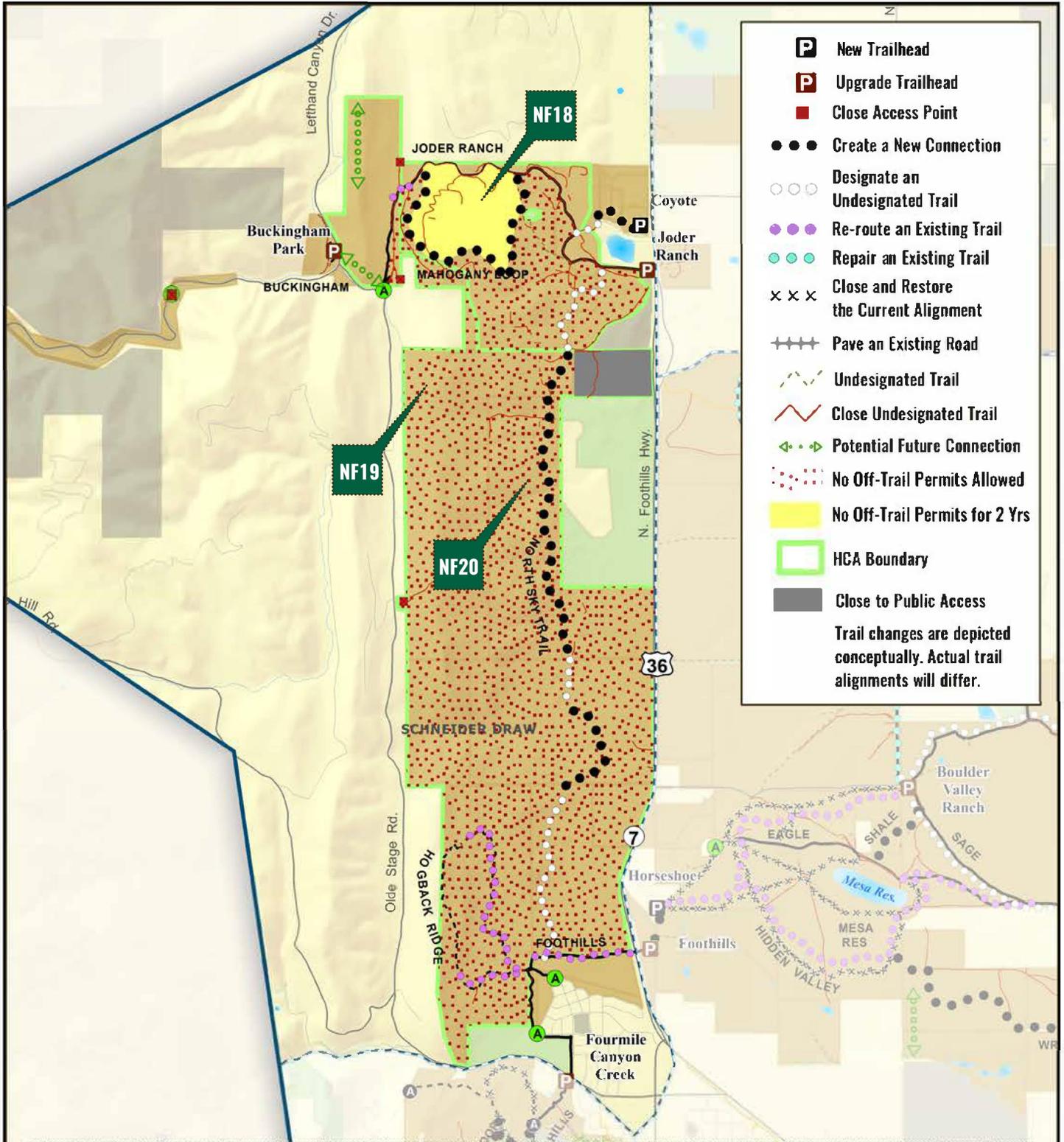
City of Boulder Open Space & Mountain Parks



- - - North Sky Trail Construction
- - - OSMP Maintained Hiking Trail
- - - On-Trail Use Only
- North Foothills HCA
- OSMP Ownership
- OSMP Easements
- P OSMP Trailhead with Designated Parking
- OSMP Land - Simplified Interests

The information depicted is provided as a graphical representation only. While source documents were developed in compliance with National Map Accuracy Standards, the City of Boulder provides no guarantee, express or implied, as to the accuracy and/or completeness of the information contained hereon.





**MAP 7: North Foothills - North Foothills Habitat Conservation Area Off-Trail Permit Recommendations**

- |                                  |                                     |   |
|----------------------------------|-------------------------------------|---|
| North Trail Study Planning Area  | OSMP Hiking/Equestrian Trail        | <b>Lands Not Included in the North Study Area</b>   |
| North Trail Study Subareas       | OSMP Multi-Use Trail                |   |
| OSMP Access Point                | <b>North Trail Study Area Lands</b> | OSMP Easement or Jointly Owned, County-Managed Land |
| OSMP Recreational Feature Access | OSMP Fee & Managed Property         | Other Government Land                               |

Item 3I - North Foothills HCA

Page 10





**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Third reading and consideration of a motion to adopt Ordinance 8622, amending Title 9, "Land Use Code," B.R.C. 1981, to simplify certain development review processes, and setting forth related details

**PRIMARY STAFF CONTACT**

Lisa Houde, City Planner Senior

**ATTACHMENTS:**

**Description**

- **Item 3J - 3rd Rdg Ord 8622 Process Simplification Code Changes**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Third reading and consideration of a motion to adopt Ordinance 8622, amending Title 9, “Land Use Code,” B.R.C. 1981, to simplify certain development review processes, and setting forth related details.

**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  
[Lisa Houde](#), Senior City Planner

**EXECUTIVE SUMMARY**

The purpose of this item is for City Council to consider an ordinance that would amend the Land Use Code to streamline several development review processes to increase efficiency and timeliness of applications.

On [June 6, 2024](#), the City Council held a public hearing and discussed Ordinance 8622. Council members discussed some changes to the ordinance related to the applicability of minor use review and the Planning Board call-up and appeal processes. Council members voted 9-0 to amend the Ordinance on second reading with the following changes:

- Changing the number of Planning Board members from one to two for a call-up and changing the number of interested persons to appeal from one to two where referenced in Title 9.
- Changing 9-2-15(i) to remove “proposed in a zoning district other than a residential district” from the first sentence.

The amendments require a third reading of the ordinance prior to adoption.

Please note that in a few sections of the land use code (floodplains, geophysical exploration permits for oil and gas uses, and final plats), the code currently identifies that “any aggrieved party” may appeal a decision. These references to “aggrieved” parties have a different legal meaning than the “interested person” in other parts of the code. Therefore, these references to aggrieved parties were not changed in the third reading ordinance, but all references to the right of an “interested person” to appeal a decision have been updated to “two interested persons” consistent with the motion language amending the ordinance on second reading. This distinction preserves an aggrieved party’s ability to appeal a city manager decision, ensuring due process is provided to an aggrieved party.

An annotated ordinance provided in **Attachment A** includes detailed footnotes describing each proposed change. The annotated ordinance includes highlighted sections identifying the changes made at second reading. Ordinance 8622 to be considered for final adoption at third reading on June 20<sup>th</sup> (without footnotes) is provided in **Attachment B**. For further detail and analysis, please review the [June 6 second reading memorandum](#).

### **STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

Motion to adopt Ordinance 8622, amending Title 9, “Land Use Code,” B.R.C. 1981, to simplify certain development review processes, and setting forth related details.

### **ATTACHMENTS**

Attachment A: Annotated Ordinance 8622

Attachment B: Ordinance 8622 Without Footnotes

# Annotated Ordinance: City Council Review Draft

NOTE: This version of the ordinance includes footnotes that help to describe all of the proposed changes as well as the redlined tracked changes to existing code language.

Third reading changes are **highlighted in yellow**.

Section 1. Section 4-20-43, “Development Application Fees,” B.R.C. 1981, is amended to read as follows:

## 4-20-43. Development Application Fees.

(a) Subdivision fees:

...

(b) Land use regulation fees:

...

(3) An applicant for approval of a use review shall pay the following fees:

Standard

Initial application .....\$3,420

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) .....\$1,710.

Fee includes an initial and two subsequent staff reviews of the application. Each additional staff review of an application is .....\$1,130.

Nonconforming uses and nonstandard lots and buildings

Initial application .....\$2,870

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) .....\$1,435

Fee includes an initial and two subsequent staff reviews of the application. Each additional staff review of an application is .....\$950.

Minor use review

Initial application .....\$1,710

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) .....\$855

Fee includes an initial and two subsequent staff reviews of the application. Each additional staff review of an application is .....\$560.<sup>1</sup>

...

Section 2. Section 8-6-10, "Vacation of Public Easements," B.R.C. 1981, is

amended to read as follows:

#### **8-6-10. - Vacation of Public Easements**

Vacation of city easements dedicated for any purpose, except public rights of way and access easements, may occur:

- (a) Through the subdivision process; or
- (b) By approval of the city manager upon a determination that no public need exists for such easement. ~~The city manager will review the requested vacation pursuant to Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981. If the city manager approves an easement vacation, it is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the city within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation.<sup>2</sup>~~

Section 3. Section 9-1-4, "Transitional Regulations," B.R.C. 1981, is amended to

read as follows:

#### **9-1-4. Transitional Regulations**

This section addresses the applicability of new substantive standards enacted by amendments to this title to activities, actions and other matters that are pending or occurring as of the effective date ~~of this title~~thereof.

...

---

<sup>1</sup> Adds lower fee for new "minor use review" process, described in 9-2-15.

<sup>2</sup> This change removes the requirement for City Council call-up of utility or drainage easement vacations. These applications are very infrequently, if ever, called up by council. Many of these easement vacations coincide with major development projects and can hold up building permit issuance for an otherwise entirely approved project.

- (e) Existing Uses Subject to Specific Use Standards or That Require a Use Review or Conditional Use Approval:<sup>3</sup>
- (1) Use Review or Conditional Use Approvals: Any previously approved use that was established prior to the adoption of new regulations that make ~~such the~~ use permitted only pursuant to a conditional use or a use review shall be allowed to continue in operation. Any ~~change or~~ expansion of ~~a the~~ use ~~that was established prior to the adoption of new regulations that make such use permitted pursuant to a conditional use or a use review~~ shall be made in conformance with the applicable ~~standards procedure~~ for use review ~~or~~; conditional uses, ~~or for changes or expansions to nonconforming uses~~.<sup>4</sup>
  - (2) Specific Use Standards: Any previously allowed use that was established prior to the adoption of new regulations that make such use allowed subject to specific use standards shall be allowed to continue in operation. Changes to ~~a the~~ use ~~that was established prior to adoption of the new regulations that imposed specific use standards~~ shall be made in conformance with the applicable ~~specific~~ use standards ~~or in conformance with the applicable standards for changes or expansions to nonconforming uses~~.<sup>5</sup>
  - (3) Discontinued Use: If active and continuous operations of a use subject to the standards of paragraphs (e)(1) or (e)(2) of this section are not carried on for a period of three years, it shall thereafter be occupied and used by a use meeting the requirements of this title, ~~as required by Subsection 9-10-2(a), B.R.C. 1981~~.<sup>6</sup>
- ~~(f) Nonconforming Uses: Nonconforming uses are subject to the standards in Chapter 9-10, "Nonconforming Standards," B.R.C. 1981.~~<sup>7</sup>
- (fg) Violations Continue: Any violation of the previous land development regulations of the city shall continue to be a violation under this title and shall be subject to the penalties and enforcement set forth in Chapter 9-15, "Enforcement," B.R.C. 1981, unless the use, development, construction or other activity is clearly consistent with the express terms of this title.

<sup>3</sup> These changes clarify existing processes for uses subject to new review process or use standard requirements.

<sup>4</sup> This simplifies existing complex language.

<sup>5</sup> This subsection was originally added in 2019 when limited uses were added to the land use code. In 2022, this was adjusted to reflect the specific use standards that apply to some allowed uses. If an existing conforming use is not able to meet new specific use standards, any changes must be made in conformance with the specific use standards.

<sup>6</sup> This reference to nonconforming uses has been moved to (f) below.

<sup>7</sup> Separated nonconforming using into different subsection.

Section 4. Section 9-2-1, “Types of Reviews,” B.R.C. 1981, is amended to read as

follows:

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

...

(b) Summary Chart:

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

<b>I. ADMINISTRATIVE REVIEWS</b>	<b>II. DEVELOPMENT REVIEW AND BOARD ACTION</b>
Affordable housing design review pursuant to Section 9-13-4, B.R.C. 1981	Annexation/initial zoning
Building permits	BOZA variances
Change of address	Concept plans
Change of street name	Demolition, moving, and removal of buildings with potential historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981
Conditional uses, as noted in Table 6-1: Use Table	Form-based code review
Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981	Geophysical exploration permit
Easement vacation	Landmark alteration certificates other than those that may be approved by staff per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981
Extension of development approval/staff level	Lot line adjustments
Landmark alteration certificates (staff review per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981)	Lot line elimination
Landscape standards variance	Minor Subdivisions
Minor modification to approved site plan	Out of city utility permit
Minor modification to approved form-based code review	Rezoning
Noise barriers along major streets per Paragraph 9-9-15(c)(7), B.R.C. 1981	Site review
Nonconforming use ( <del>extension; change of use (incl. parking)</del> ) <sup>8</sup>	Subdivisions
Parking deferral per Subsection 9-9-6(e), B.R.C. 1981	Use review
	Vacations of street, alley, or access easement

<sup>8</sup> Language throughout the ordinance referencing “change of use” has been replaced with “expansion of nonconforming use”.

<p>Parking reduction of up to 25 percent per Subsection 9-9-6(f), B.R.C. 1981</p> <p>Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), B.R.C. 1981</p> <p>Parking stall variances</p> <p>Public utility</p> <p>Rescission of development approval</p> <p>Revocable permit</p> <p>Right-of-way lease</p> <p>Setback variance</p> <p>Site access variance</p> <p><u>Substitution of nonconforming use<sup>9</sup></u></p> <p>Solar exception</p> <p>Zoning verification</p>	
---	--

Section 5. Section 9-2-2, “Administrative Review Procedures,” B.R.C. 1981, is amended to read as follows:

**9-2-2. Administrative Review Procedures**

- (a) Purpose: Administrative review of projects will occur at various times in project development to ensure compliance with the development standards of the city.
- ...
- (d) Conditional Uses:
- ...
- (5) Expiration: Any conditional use approval that is not established within one year of its approval, is discontinued for at least three years, or is replaced by another use of land shall expire.<sup>10</sup>
- ...

Section 6. Section 9-2-7, “Development Review Action,” B.R.C. 1981, is amended to read as follows:

<sup>9</sup> Nonconforming uses can be substituted as described in 9-10, but that has not explicitly included in the table.  
<sup>10</sup> Clearer language.

### 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.

...

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

...

(3) Appeal and Call-Ups:

(A) The applicant or **any two interested persons** 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 Two members** 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, **except that minor use review processes are not subject to call-up by planning board.**<sup>11</sup>

...

Section 7. Section 9-2-8, "Public Hearing Requirements," B.R.C. 1981, is amended

to read as follows:

### 9-2-8. Public Hearing Requirements

Within sixty days after a referral, **or an** appeal or call-up pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981, the approving agency, after publishing notice pursuant to Section 9-4-3, "Public Notice Requirements," B.R.C. 1981, will hold a public hearing on the application.<sup>12</sup>

...

Section 8. Section 9-2-9, "Final Approval Requirements," B.R.C. 1981, is amended

to read as follows:

### 9-2-9. Final Approval Requirements

<sup>11</sup> Clarifies new minor use review exception.

<sup>12</sup> Clearer language. **Includes amendments passed by council on second reading.**

- (a) Development Agreement: After the approving agency has finally approved an application for use review, site review, or form-based code review, the owner and the city manager will execute a development agreement that incorporates all conditions of the approval, including, without limitation, time limits for completion of the development, and, if applicable, requirements for appropriate easements or deed restrictions if unique conditions of approval apply. The development agreement shall be binding on all parties thereto, shall run with the land and will be recorded upon execution by the city clerk in the office of the County Clerk and Recorder of Boulder County. Any violation of a development agreement is a violation of this title.

(1) Exceptions: The city manager may waive the requirement for a development agreement for:

(A) A minor amendment to a site review;

(B) A minor use review process; and

(C) If there are no public improvements associated with a form-based code review application, a form-based code review the city manager can waive the requirements for a development agreement.<sup>13</sup>

- (b) Final Approved Plans: The applicant shall file a paper or electronic copy containing the approved site plan, any applicable restrictions or modifications to the underlying zoning district, and any conditions approved by the approving agency. The paper or electronic copy shall be filed with the city manager, who will endorse and date the approved site plan. The location of the approved development will be included on an official map showing development in the City. The paper or electronic copy will remain on file in the planning department.
- (c) Expiration: Unless expressly waived by the city manager for good cause, pursuant to a written request made prior to expiration of the approval, if the applicant fails to file the final approved plans according to the specifications in Subsection (b) above or sign the development agreement within ninety days of final approval, the approval expires.<sup>14</sup>

Section 9. Section 9-2-10, "Amendment Procedures," B.R.C. 1981, is amended to

read as follows:

### 9-2-10. Amendment Procedures

<sup>13</sup> This change provides flexibility regarding the Development Agreement for Use Review applications without site changes (a new process deemed "minor use review"). This will help to expedite the process for those applications. Minor amendments, per 9-2-14(1)(2)(e), are already allowed to have development agreements waived, so this has been incorporated here as well.

<sup>14</sup> "Written" has been added to clarify this requirement.

An approved use review may be amended pursuant to Subsection 9-2-15(hj),<sup>15</sup> B.R.C. 1981. An approved site review may be amended pursuant to Subsection 9-2-14(l) or (m), B.R.C. 1981. The city manager may approve, without notice, minor modifications to a ~~use review or a~~ site review under the procedures prescribed by Subsection 9-2-14(k), B.R.C. 1981.<sup>16</sup>

Section 10. Section 9-2-12, “Development Progress Required,” B.R.C. 1981, is amended to read as follows:

### 9-2-12. Development Progress Required.<sup>17</sup>

- (a) **Three-Year Rule:** The applicant must obtain applicable building permit approvals and start construction within three years of the date of the final approval of the site review, use review, or form-based code review. For a use review without construction requiring a building permit, the use must be established within three years of the date of final approval. ~~begin and substantially complete the approved site review, use review, or form-based code review as specified in the development agreement within three years from the time of the final approval of the site, use, or form-based code review or as modified by a development schedule incorporated in the development agreement. For the purposes of this section, substantially complete means the time when the construction is sufficiently complete so the owner can occupy the work or portion thereof for the use for which it is intended. If the project is to be developed in stages, the applicant must begin and substantially complete the development of each stage within three years of the time provided for the start of construction of each stage in the development agreement. Failure to substantially complete the development or any development stage within three years of the approved development schedule shall cause the unbuilt portion of the development approval to expire.~~
- (1) Phasing: For reviews with phased development established in the development agreement, for each development phase, the applicable building permits must be obtained and construction must be started within three years of the start of the phase, or as modified by the development agreement.
- (2) Expiration: Failure to comply with the three-year rule shall cause the development approval to expire. For phased development, if an approval for one phase expires, then all successive phases not completed or under

<sup>15</sup> This fixes an error from a previous ordinance and updates according to other numbering changes later in this ordinance.

<sup>16</sup> The reference above to 9-2-15(j) is sufficient.

<sup>17</sup> Modifies requirement from “substantially complete” to obtaining a building permit and starting construction, clarifies phasing, removes Planning Board extension approval requirement, and increases time that staff may grant extension of an approval.

construction shall expire. After an approval has expired, any new application for development is subject to all the procedures and standards of this title in effect at the time of such application.

- (3) Vested Rights: Nothing in this section is deemed to create a vested property right in any applicant; such vested property right may only be created pursuant to the provisions of Section 9-2-20, "Creation of Vested Rights," B.R.C. 1981.
- (b) Extension: If the applicant requests an extension prior to the expiration of a site review, use review, or form-based code review approval, the city manager may grant an extension of the approval pursuant to the following: Prior to the expiration of a form-based code review, use review, or site review approval, the applicant may request an extension of the time allowed for the completion of the development.
- (1) The city manager will grant up to two one-year extensions to obtain applicable building permit approvals and start construction or establish the use if the applicant demonstrates that it exercised reasonable diligence and has good cause as to why the extension should be granted. The extension must be requested in writing prior to the expiration of the approval. The first extension extends the approval by one year from the date of final approval. The second extension extends the approval by an additional year and can be requested only after the first extension has been granted and additional progress has been made. City Manager Level Extension: The city manager may grant up to two six-month extensions for each phase of the development if such extension will enable the applicant to substantially complete the phase of development or is necessary to allow the applicant to request an extension from the planning board.
- (2) Planning Board Level Extension: The planning board may grant an extension of a development approval, pursuant to a hearing conducted under the provisions of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after the applicant has exhausted any extension granted pursuant to Paragraph (b)(1) of this section. The applicant shall be required to demonstrate that it exercised reasonable diligence in completing the project according to the approved development schedule and good cause as to why the extension should be granted.
- (A) Criteria for Demonstrating Reasonable Diligence: An applicant may show that it has exercised reasonable diligence by providing evidence that it has done substantial work towards obtaining building permit approval or starting construction~~completing the project~~. Such evidence may include, without limitation, drafting plans for building permit or technical document review, applications for building permits or other permits that are required prior to the issuance of

building permits, ~~or~~ site preparation and grading, ~~or commencement of the construction of a portion of the project.~~

- (B) Criteria for Demonstrating Good Cause: An applicant may show good cause as to why an extension should be granted by providing evidence that includes, without limitation, the following: a demonstration of the applicant's ability to ~~complete the project~~ obtain building permit approval and start construction within the extension; the extension is needed because of the size of the project or phasing of the development; or ~~that~~ economic cycles and market conditions ~~prevented~~ delayed the building permit approval process and start of construction ~~the construction of the project~~ during the original approval period.

~~(C) Additional Conditions: As part of a hearing to consider an extension, the planning board may impose additional conditions on the applicant in order to ensure compliance with any amendments to this title enacted after the date of the original approval.~~

- (c) Building Permits: Upon issuance of a building permit pursuant to a development review approval, the applicant must adhere to the schedule for construction and inspection as defined in the city building code, Chapter 10-5, "Building Code," B.R.C. 1981. In addition to the provisions of this title, all provisions of the building code regarding expiration and termination of building permits shall apply.
- (d) Annexations/Six-Month Rule: If an owner of property not located within the city, for which a development review application is approved, fails to annex the property to the city within six months of the date of approval, the approval shall expire unless the approving agency extends the time period, upon a finding of good cause predicated upon a written request of the applicant delivered to the city manager before the expiration of the six-month period.
- (e) Rescission of Development Approval: If, after use review, special review, site review, Planned Development (PD), Planned Residential Development (PRD), or Planned Unit Development (PUD) approval is granted pursuant to this chapter, the owner of property desires to develop, instead, under the provisions of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, the owner may request rescission of such use review, site review, PD, PRD or PUD approval by filing a written request for rescission with the city manager. The manager will grant a rescission if:<sup>18</sup>
- (1) ~~The manager will grant a rescission of such use review, site review, PD, PRD, or PUD approval if no~~ No building permit has been issued for the development and neither the city nor the developer has taken any actions in

<sup>18</sup> Numbering added to clarify the circumstances in which rescission may be requested; removes some repetitive language.

detrimental reliance on the terms of the development agreement-; ~~The manager may also rescind a site review, PD, PRD, or PUD approval if~~

~~(2) For a site review, PD, PRD, or PUD approval,~~ the existing or proposed development complies with all the use, form, and intensity requirements of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, and there is no substantial public benefit in maintaining the original approval-; ~~or An owner may also request a rescission of a use review or special review approval in order to~~

~~(3) For a use review or special review approval, the rescission will~~ return the property to a use that is allowed by right or as a conditional use if it and the owner is able to meet all applicable standards for such use under this title.

Section 11. Section 9-2-14, "Site Review," B.R.C. 1981, is amended to read as

follows:

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

...

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

...

(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:

...

(C) Additional Criteria for a Height Bonus and Land Use Intensity Modifications: 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), may be approved if it meets the requirements of this Subparagraph (h)(6)(C). For purposes of this Subparagraph(h)(6)(C), 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). The approving authority may approve a height up to fifty-five feet if one of the following criteria is met:

...

- (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). 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 improve the facilities or services delivered by the city, including without limitation any police, fire, ~~library~~,<sup>19</sup> human services, parks and recreation, or other municipal facility, 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 of a value that is equivalent to or greater than the benefits required by this Subparagraph (h)(6)(C).

...

- (k) Minor Modifications to Approved Site Plans: The city manager reviews applications for minor modifications pursuant to the procedures in Section 9-2-2, “Administrative Review Procedures,” B.R.C. 1981.
  - (1) Standards: Minor modifications may be approved if the proposed modification complies with the following standards:
    - (A) Scope: The proposed modification is to the approved plans.<sup>20</sup>
    - (B) Intent: The modification does not alter the basic intent of the site plan approval;<sup>21</sup>
    - (C) Residential Uses: The housing type is not changed;<sup>22</sup>
    - (D) Height: No portion of any building is expanded above the height permitted under Sections 9-7-1, “Schedule or Form and Bulk Standards,” or 9-7-6, “Building Height, Conditional,” B.R.C. 1981;<sup>23</sup>

---

<sup>19</sup> This is a cleanup change – it was part of Ordinance 8617 adopted by City Council in January 2024 related to the library district.

<sup>20</sup> This new language is intended to better clarify the difference between minor modifications and minor amendments – with a minor amendment, the written statement and conditions of approval may be changed. Modifications are intended to be more for physical changes.

<sup>21</sup> Current wording of (9), moved towards beginning of list.

<sup>22</sup> From current standard (5), with “dwelling unit type” changed to “housing type,” as that is now a defined term in the land use code.

<sup>23</sup> From current standard (6), simplified.

- (E) Parking: Any parking reduction is reviewed and approved through the process and criteria in Subsection 9-9-6(f), B.R.C. 1981;<sup>24</sup>
- (F) Solar Panels: Any solar panels do not substantially add to the mass or perceived height of the building and comply with all applicable building height, solar access, building coverage, and open space requirements;<sup>25</sup>
- (G) Other Requirements: The modification complies with all other applicable requirements of this title; and
- (H) Modified Standards: The numeric standards in the site plan are not modified by more than allowed through Table 2-3.

**Table 2-3: Minor Modification Standards**

<b>Standard modified</b>	<b>Maximum allowed as a minor modification</b>
<u>Setbacks: interior to the site plan area</u>	<u>No limit to setback modifications</u>
<u>Setbacks: along boundary of site plan area</u>	<u>Minimum zoning district requirement</u>
<u>Floor area (cumulative in minor modification processes)</u>	<u>Increase of up to 10 percent of the floor area granted in the site review approval, not to exceed the maximum floor area ratio listed in Chapter 9-8, "Intensity Standards," B.R.C. 1981. These limitations on floor area do not apply to detached dwelling units on individual lots in zoning districts without a maximum floor area ratio.<sup>26</sup></u>
<u>Open space</u>	<u>Minimum zoning district requirement<sup>27</sup></u>
<u>Building location</u>	<u>Up to 10 percent of the length or width of the building<sup>28</sup></u>
<u>Building envelope</u>	<u>Increase of up to 10 percent in area</u>

- (2) Notification: If an applicant requests approval of a minor modification to an approved site review, the city manager will determine which properties within the development would be affected by the proposed change. The city

<sup>24</sup> From current standard (7), simplified language and separated from open space.

<sup>25</sup> From current standard (8), simplified language.

<sup>26</sup> Simplified version of current standard (2), with 10% or 200 sf changed to a simpler 10% requirement. Limit of 5% for buildings over the permitted height removed (additional height already not permitted by proposed standard (1)(D), previous standard (6)).

<sup>27</sup> Past practice has allowed minor reductions in open space for projects that provided open space in excess of their requirement, as long as it did not reduce further than the zoning district minimum requirement, as stated here. Minor amendments may modify by 20%.

<sup>28</sup> Consolidated version of current standard (3) and (4), simplified to a 10% allowance.

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.<sup>29</sup>

Changes to the site plan, building plans, and landscaping plans may be approved by the city manager without an amendment to the site plan if such changes are minor. All minor modifications shall be noted, signed, and dated on the approved site plan. For proposed minor modifications of site review projects that are partially or totally developed, the applicant shall provide notice to any owners of property within the development that might be affected, as determined by the manager. In determining whether a proposed change is a minor modification, the following standards shall apply:

- (1) ~~Setbacks along the boundary of the site plan area cannot be reduced by a minor modification to be less than the minimum setbacks permitted by the underlying zoning district;~~
- (2) ~~Excepting any site plan approval consisting of detached dwelling units on individual lots where no maximum floor area ratio applies, the floor area of the development, including principal and accessory buildings, may be expanded by the cumulative total of no more than the greater of ten percent or two hundred square feet or, in the case of a building that exceeds the permitted height, no more than five percent, except that the portion of any building over thirty-five feet in height may not be expanded under the provisions of this paragraph. However, the floor area or FAR shall not exceed the maximum floor area or FAR of a zoning district or granted in the site review approval, if such amount requires special approval through the site review process;~~
- (3) ~~Approved commercial and industrial building locations may be moved or expanded by no more than the greater of ten feet, or ten percent of the length of the building, measured along the building's axis in the direction that the building is being moved or expanded;~~
- (4) ~~Approved principal and accessory building locations may be moved or expanded by no more than ten feet in any direction within the development in residential districts and lots abutting residential districts. The resulting setbacks shall not be less than the minimum allowed setback of the underlying zone;~~
- (5) ~~Dwelling unit type may not be changed;~~
- (6) ~~The portion of any building over the permitted height under Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may not be expanded under the provisions of this subsection;~~

---

<sup>29</sup> Current language from the beginning of (k), relocated since it is not an approval standard. Makes staff responsible for providing notification, rather than requiring applicant to provide proof of notification.

- ~~(7) No increase may be granted to an open space reduction or to a parking reduction in excess of that allowed in Subsection 9-9-6(f), B.R.C. 1981;~~
- ~~(8) Solar panels that are proposed to be mounted on a building's roof may not substantially add to the mass or perceived height of the building and shall be consistent with Sections 9-7-7, "Building Height, Conditional," and 9-9-7, "Solar Access," B.R.C. 1981. Solar panels proposed to be ground mounted may not result in a building coverage greater than permitted by the zone and shall not result in open space less than required by Chapter 9-8, "Intensity Standards," B.R.C. 1981; and~~
- ~~(9) No change may alter the basic intent of the site plan approval.~~

(l) **Minor Amendments to Approved Site Plans:** ~~The city manager reviews applications for minor amendments for changes that exceed the limits of a minor modification in Subsection (k) pursuant to the procedures in Section 9-2-7, "Development Review Action," B.R.C. 1981.<sup>30</sup>~~

- ~~(1) Standards: Minor amendments may be approved if the proposed amendment complies with the following standards:~~
  - ~~(A) Scope: The proposed amendment is to the approved plans, conditions of approval, or written statement.<sup>31</sup>~~
  - ~~(B) Intent: The minor amendment does not alter the basic intent of the site plan approval.<sup>32</sup>~~
  - ~~(C) Site Review Criteria: The minor amendment complies with the site review criteria of Subparagraphs (h)(2) and (h)(3) of this section;<sup>33</sup>~~
  - ~~(D) Residential Uses: The housing type is not changed;<sup>34</sup>~~
  - ~~(E) Height: No portion of any building is expanded above the height permitted under Sections 9-7-1, "Schedule or Form and Bulk Standards," or 9-7-6, "Building Height, Conditional," B.R.C. 1981;~~
  - ~~(F) Parking: Any additional parking that is provided is accommodated in the previously approved on-site parking design;<sup>35</sup>~~
  - ~~(G) Other Requirements: The minor amendment complies with all other applicable requirements of this title; and~~

---

<sup>30</sup> Language from current (l)(1) updated for parallel drafting with minor modification language. Removed reference to "approved building location or additions to existing buildings" to expand applicability of minor amendment process.

<sup>31</sup> Differentiated from minor modifications, which are changes only to approved plans.

<sup>32</sup> The intent statement matches that of the minor modification, rather than the more complex "substantially consistent" language in current (2)(D).

<sup>33</sup> From current (2)(C).

<sup>34</sup> From current standard (B).

<sup>35</sup> Adapted from current standard (F).

(H) Modified Standards: The numeric standards in the site plan are not amended by more than allowed through Table 2-4.

**Table 2-4: Minor Amendment Standards**

<b>Standard amended</b>	<b>Maximum allowed as a minor amendment, but not to exceed maximum or minimum zoning district requirements.</b>
<u>Floor area (cumulative in minor amendment processes)</u>	<u>20 percent</u>
<u>Open space (cumulative in minor amendment processes)</u>	<u>Decrease of up to 20 percent<sup>36</sup></u>
<u>Building location</u>	<u>Up to 20 percent of the length or width of the building</u>

(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:~~

~~(A) In a residential zone as set forth in Section 9-5-2, "Zoning Districts," B.R.C. 1981, all approved dwelling units within the development phase have been completed;<sup>37</sup>~~

~~(B) In residential zones, dwelling unit type is not changed;~~

~~(C) The required open space per dwelling unit requirement of the zone is met on the lot of the detached dwelling unit to be expanded;<sup>38</sup>~~

~~(D) The total open space per dwelling unit in the development is not reduced by more than ten percent of the amount specified on the approved site plan and is not reduced to less than the minimum required for the zone;~~

~~(E) If the residential open space provided within the development or an approved phase of a development cannot be determined, the detached dwelling unit is not expanded by more than ten percent and there is no variation to the required setbacks for that lot;~~

<sup>36</sup> From current standard (D).

<sup>37</sup> This standard was not carried forward so that minor amendments can have wider applicability.

<sup>38</sup> This overly prescriptive standard has been removed.

~~(F) — For a building in a nonresidential use module, the building coverage is not increased by more than twenty percent, the addition does not cause a reduction in required open space, and any additional required parking that is provided is substantially accommodated within the existing parking arrangement;<sup>39</sup>~~

~~(G) — The portion of any building over the permitted height under Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, is not increased; and~~

~~(H) — The proposed minor amendment does not require public infrastructure improvements or other off-site improvements.<sup>40</sup>~~

(2) ~~Amendments to the Site Review Approval~~ Process: Applications for minor amendment shall be ~~approved reviewed and 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 city 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) and (h)(3) of this section.<sup>41</sup>~~

~~(D) — The minor amendment 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.<sup>42</sup>~~

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

<sup>39</sup> This standard has not been carried forward as it does not apply in most circumstances.

<sup>40</sup> This standard was not carried forward as it is unlikely to apply often to situations that meet the other standards of a minor amendment.

<sup>41</sup> Moved up into minor amendment standards.

<sup>42</sup> Moved up into minor amendment standards, modified language.

Section 12. Section 9-2-15, "Use Review," B.R.C. 1981, is amended to read as

follows:

### 9-2-15. Use Review

- (a) Purpose: Each zoning district established in Section 9-5-2, "Zoning Districts," B.R.C. 1981, is intended for a predominant use, but other uses designated in Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, may be allowed by use review if a particular use is demonstrated to be appropriate in the proposed location. Nonconforming uses may be upgraded or expanded under this section if the change would not adversely affect the traffic and the environment of the surrounding area or if the change would reduce the degree of the nonconformity or improve the appearance of the structure or site without increasing the degree of nonconformity. Nonstandard buildings may be changed, expanded or modified consistent with the criteria and standards set forth in this section and Subsection 9-10-3(a), B.R.C. 1981.

...

- (d) Review and Recommendation:

- (1) The city manager will review applications for use review of ~~a nonresidential use in residential zoning districts, attached and detached dwelling units or a residential use in a P district, and~~ oil and gas operations and will submit a recommendation to the planning board for its final action pursuant to Subsection 9-2-7(b), B.R.C. 1981.<sup>43</sup>
- (2) The city manager shall review and make decisions on all other use review applications pursuant to Subsection 9-2-7(a), B.R.C. 1981.
- (3) Reviews by either the city manager or planning board shall be pursuant to Section 9-2-7, "Development Review Action," B.R.C. 1981, except that minor use review processes are not subject to call-up by planning board.<sup>44</sup>

- (e) Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

- ~~(1) — Consistency With Zoning and Nonconformity: The use is consistent with the purpose of the zoning district as set forth in Section 9-5-2, "Zoning Districts," B.R.C. 1981, except in the case of a nonconforming use;~~<sup>45</sup>
- ~~(2) Rationale: The use either:~~

<sup>43</sup> Removes automatic Planning Board review requirement for these uses. Applications would still be subject to call-up unless they qualify as minor use review.

<sup>44</sup> Exception added for new "minor use review" applications without site changes.

<sup>45</sup> This criterion is unnecessary and has been removed; the Use Table determines what uses are allowed by Use Review in each district.

- (A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;
  - (B) Provides a compatible transition between higher intensity and lower intensity uses;
  - (C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and nonresidential mixed uses in appropriate locations, and group living arrangements for special populations; or
  - (D) Is an existing legal nonconforming use or ~~a change thereto~~ an expansion that is permitted under Subsection (f) of this section;
- (32) Compatibility: ~~The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the~~ use will be reasonably compatible with and have minimal negative impact on the use of nearby properties, or, for residential uses or community, cultural, and educational uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;<sup>46</sup>
- (43) Infrastructure: ~~As compared to development permitted under Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a nonconforming use, the~~ The proposed development use will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater and storm drainage utilities and streets, compared to an allowed use in the zoning district, or compared to the existing level of impact of a nonconforming use;<sup>47</sup>
- (54) Character of Area: The use will not change the predominant character of the surrounding area or the character established by adopted design guidelines or plans for the area; and
- (65) Conversion of Dwelling Units to Nonresidential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts to nonresidential uses that are allowed pursuant to a use review, or through the ~~change substitution~~ of one nonconforming use with another nonconforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental or recreational need in the community, including, without limitation, a use for a daycare

---

<sup>46</sup> Rewording for clarity and parallel drafting.

<sup>47</sup> Rewording for clarity.

center, park, religious assembly, social service use, benevolent organization use, art studio or workshop, museum, or an educational use.

- (f) Additional Criteria for ~~Modifications~~ ~~Expansion to of a~~ Nonconforming Uses:<sup>48</sup> No application for ~~a change to an expansion of~~ a nonconforming use shall be granted unless all of the following criteria are met in addition to the criteria set forth above:
- (1) Reasonable Measures Required: The applicant has undertaken all reasonable measures to reduce or alleviate the effects of the nonconformity upon the surrounding area, including, without limitation, objectionable conditions, glare, adverse visual impacts, noise pollution, air emissions, vehicular traffic, storage of equipment, materials and refuse, and on-street parking, so that the ~~change-expansion~~ will not adversely affect the surrounding area.
  - (2) Reduction in Nonconformity/Improvement of Appearance: The proposed ~~change or~~ expansion will either reduce the degree of nonconformity of the use or improve the physical appearance of the structure or the site without increasing the degree of nonconformity.
  - (3) Compliance With This Title/~~Exceptions~~: The ~~proposed change in use~~ ~~expansion~~ complies with all ~~of the other applicable~~ requirements of this title.<sup>49</sup>
    - (A) ~~Except for a change of a nonconforming use to another nonconforming use; and~~
    - (B) ~~Unless a variance to the setback requirements has been granted pursuant to Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or the setback has been varied through the application of the requirements of Section 9-2-14, "Site Review," B.R.C. 1981.~~
  - (4) Cannot Reasonably Be Made Conforming: The existing building or lot cannot reasonably be utilized or made to conform to the requirements of Chapter 9-6, "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or 9-9, "Development Standards," B.R.C. 1981. This paragraph (4) shall not apply to reconstruction or restoration permitted pursuant to Paragraph 9-10-3(c)(4), B.R.C. 1981, with respect to density and other pre-existing nonconformities of the use or nonstandard features of the building.
  - (5) No Increase in Floor Area Over Ten Percent: The ~~change or~~ expansion will not result in a cumulative increase in floor area of more than ten percent of the existing floor area.

<sup>48</sup> Clarifications. Only expansions of nonconforming use are subject to this review process, so that has been clarified. Substitutions of nonconforming use is the application term used more commonly so that has been updated as well throughout the criteria.

<sup>49</sup> This language has been in the code since at least the early 1980s. A more general review of compliance with all other standards is sufficient, rather than calling out these two particular items.

- (6) Approving Authority May Grant Zoning Variances: The approving authority may grant the variances permitted by Subsection 9-2-3(d), B.R.C. 1981, upon finding that the criteria set forth in Subsection 9-2-3(h), B.R.C. 1981, have been met.
- (g) Conditions of Approval: The approving agency may impose modifications or conditions on the use review approval ~~in order to assure ensure~~ compliance with the criteria set forth in Subsections (e) and (f) of this section. In the case of a nonconforming use, conditions may also be imposed to reduce nonconformity and to improve site design.
- (h) Oil and Gas Operations: The criteria for review in Subsection (e) shall not apply to an application for oil and gas operations. An oil and gas operations use shall meet the criteria set forth in Section 9-6-7(b), "Oil and Gas Operations," B.R.C. 1981. Any use review approval for an oil and gas operations use shall expire, whether operational or not, in ten years from the date of final approval. Prior to such expiration for an oil and gas operations use, applicants will be responsible for submitting a new use review application for an oil and gas operations use proposed for operation beyond ten years. Following approval of any oil and gas operations use, the applicant shall have two years to obtain the necessary permits to establish the use.
- (i) Minor Use Review Process:<sup>50</sup> A use review for a nonresidential use that is proposed to occupy an existing nonresidential space without any site changes may be reviewed pursuant to a minor use review process. For the purposes of this subsection, site changes do not include changes to landscape plantings, pedestrian pathways, installation of bicycle parking, ordinary site maintenance or repair, signs, or site lighting.
- (1) Process: The city manager shall review and make decisions on all minor use review process applications pursuant to Subsection 9-2-7(a), "City Manager Review and Recommendation," B.R.C. 1981. The applicant or any two interested persons may appeal the city manager's decision pursuant to Paragraph 9-2-15(l)(1), but the city manager's decision is not subject to call-up by the planning board pursuant to Paragraph 9-2-15(l)(2). The city manager may refer the application to the planning board for review or decision.<sup>51</sup>
- (2) Development Agreement: The city manager may waive the requirements for a development agreement for a minor use review.
- (j) Amendments and Minor Modifications:<sup>52</sup> No person shall expand or modify any approved use review use. However, the approved site plan may be modified as provided in Subsection 9-2-14(k), B.R.C. 1981, if it does not expand the use, any

<sup>50</sup> New "minor use review" process has been added to allow for expedited processing of use review applications without site changes. Includes amendments passed by council on second reading.

<sup>51</sup> Includes amendments passed by council on second reading.

<sup>52</sup> Clarifies the process to modify approved use reviews and more clearly outlines the existing criteria for a minor change.

~~changes conform to Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981; the impact on other uses of the approved use review is not changed; and the change complies with all other provisions of this title and any other ordinance of the city. No person shall modify an approved use review without a new use review approval, except that minor modifications to the approved site plan may be approved pursuant to Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981, provided that the minor modification meets the following standards:~~

- ~~(1) The use is not expanded and the modification is otherwise substantially consistent with the conditions of the original approval;~~
- ~~(2) The modification does not adversely increase impacts to other surrounding properties or adjacent uses; and~~
- ~~(3) The site plan complies with all other provisions of this title and any other ordinance of the city.~~

(jk) Expiration: Any use review approval or previously approved special review ~~which that~~ is discontinued for at least three years shall expire. The city manager, upon a finding of good cause, may grant an extension not to exceed six months from the original date of expiration. In addition, use review approvals for oil and gas operations are subject to expiration pursuant to the standards in Subsection (h) of this section.

(kl) Appeals and Call-Ups:

- (1) The applicant or any **two interested persons** may appeal the city manager's decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.
- (2) **A Two members** of the planning board may call-up the manager's decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981, ~~except that decisions in minor use review processes are not subject to call-up by the planning board.~~<sup>53</sup>
- (3) 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.

Section 13. Section 9-2-16, "Form-Based Code Review," B.R.C. 1981, is amended

to read as follows:

#### 9-2-16. Form-Based Code Review.

- (a) Purpose: The purpose of form-based code review, is to improve the character and quality of new development to promote the health, safety and welfare of the public and the users of the development. The form-based code review regulations are

<sup>53</sup> Exception added for minor use review. **Includes amendments passed by council on second reading.**

established to create a sense of place in the area being developed or redeveloped and ensure a site and building design that:

...

(o) Appeals and Call-Ups:

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

(2) ~~A~~ Two members of the planning board may call up the manager's decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. <sup>54</sup>

(3) The city council may call up any planning board decision pursuant to Section 9-4-4, "Appeal, Call-Ups and Public Hearings," B.R.C. 1981.

...

Section 14. Section 9-3-6, "Floodplain Development Permits," B.R.C. 1981, is

amended to read as follows:

**9-3-6. Floodplain Development Permits.**

...

(h) Floodplain development permits that allow for development in the conveyance zone or the high hazard zone, or which will involve a change of watercourse, shall be decided by the city manager. The decision of the city manager ~~shall be subject to may be call-up by the planning board, or~~ appealed by any aggrieved party to the planning board, subject to the ~~call-up and~~ appeal procedure of Section 9-4-4, "Appeals, Call-Ups, and Public Hearings," B.R.C. 1981. <sup>55</sup>

...

Section 15. Section 9-3-7, "Variances," B.R.C. 1981, is amended to read as follows:

**9-3-7. Variances**

(a) The city manager may grant a variance from the requirements of Subsection 9-3-2(i) and Sections 9-3-3, 9-3-4, and 9-3-5, B.R.C. 1981, except that no variance shall be granted for expansion or enlargement of any structure constructed after July 12,

<sup>54</sup> This section added to ordinance due to amendments passed by council on second reading.

<sup>55</sup> Removed Planning Board call-up requirement for floodplain development permits. Aggrieved parties may still appeal. Note this has not been changed to specify two persons.

1978, unless such expansion or enlargement conforms to the flood protection elevation requirement in effect at the time of the original construction.

...

- (f) Any decision by the city manager to approve a variance ~~may be is subject to call-up by the planning board or~~ appealed by any aggrieved party to the planning board as described by Section 9-4-4, "Appeals, Call-Ups, and Public Hearings," B.R.C. 1981.<sup>56</sup>

...

Section 16. Section 9-3-9, "Stream, Wetlands, and Water Body Protection," B.R.C.

1981, is amended to read as follows:

**9-3-9. Stream, Wetlands, and Water Body Protection**

...

- (c) Permitted, Allowed and Prohibited Uses within the Regulated Area: The purpose of this subsection is to describe activities that are exempted, conditionally permitted, requiring development review or prohibited:

- (1) Explanation of Table Abbreviations: The abbreviations used in the cells in table 3-1 have the following meanings:

"E"(Exempted Activities): indicates that the use type is allowed as a matter of right and no stream, wetland or water body permit is required.

"C"(Conditional Use Review): indicates that the use type will be reviewed in accordance with the requirements in paragraph (e)(~~32~~) of this section.<sup>57</sup>

"S"(Standard Permit Review): indicates that the use type will be reviewed in accordance with the requirements in paragraph (e)(~~43~~) of this section.<sup>58</sup>

"P"(Prohibited Activities): indicates that the use type is prohibited in the zone.

"N"(Allowed with Notice): indicates that the use type is allowed as a matter of right subject to the application of best management practices as defined in chapter 9-16, "Definitions," B.R.C. 1981, and provision of notice in paragraph (5) of this subsection. Such activity shall not significantly alter the function of the stream, wetland or water body. No person shall conduct any

<sup>56</sup> ~~Removed Planning Board call-up requirement for floodplain variances. Aggrieved parties may still appeal.~~ Note this has not been changed to specify two persons.

<sup>57</sup> Necessary renumbering.

<sup>58</sup> Necessary renumbering.

activity that is allowed with notice in violation of the best management practices.

...

(e) Stream, Wetland and Water Body Permit Application Review:

(1) Acceptance of Application: Applicants for stream, wetland or water body permits shall submit an application as set forth in subsection (d) of this section. Upon receipt of an application, the city manager shall review the application for completeness. A permit application will be accepted when the city manager determines that it is complete.

~~(2) Public Notification of Application: Upon acceptance of a complete standard review application, public notice shall be provided according to the requirements shown in section 9-4-3, "Public Notice Requirements," B.R.C. 1981, using Public Notice Type 5 from table 4-2. Public notice of a conditional use review application is not required.<sup>59</sup>~~

(32) Criteria for Review: For an activity requiring conditional use or standard review, the applicant shall demonstrate that the stream, wetland or water body permit application meets the following criteria:

...

(B) Criteria for the Outer Buffer Zone: In the outer buffer zone, the following criteria shall apply:

- (i) The provisions of Subparagraph (e)(32)(A) of this section.<sup>60</sup>
- (ii) Impervious surface coverage: Any new building or attached structure, expansion of an existing building or attached structure, new surfacing or expansion of an existing surface that would result in a cumulative total of twenty percent or more impervious surface in the outer zone on the property shall provide mitigation according to the requirements in subsection (f) of this section for the loss of pervious surface.

(C) Criteria for the Inner Buffer Zone: In the inner buffer zone, the following criteria shall apply:

- (i) The provisions of Subparagraph (e)(32)(A) of this section.<sup>61</sup>
- (ii) The provisions of Subparagraph (e)(32)(B) of this section.<sup>62</sup>
- (iii) Channel bank protection or stabilization shall utilize, to the extent feasible, techniques that involve landscaping with

<sup>59</sup> ~~The requirement for call-up for floodplain and wetland applications has been removed, therefore the notice would not be applicable.~~

<sup>60</sup> Necessary renumbering.

<sup>61</sup> Necessary renumbering.

<sup>62</sup> Necessary renumbering.

appropriate native plants rather than rock or artificially hardened structures.

- (iv) All new plant material adjacent to wetlands or water bodies or along the banks of a stream shall be consistent with all applicable city rules concerning best management practices as described in chapter 9-16, "Definitions," B.R.C. 1981. Mitigation monitoring for restoration projects may be required by the city manager.
  - (v) "Vegetation removal - major" shall only be allowed to prevent noxious weed infestation, provide for native habitat restoration or for other permitted projects. Major removal of vegetation shall be mitigated within the inner buffer according to the requirements in subsection (f) of this section.
  - (vi) New steps, paths or other minor access to or over a stream on private property will be permitted if there is no more than one access on an individual property, the path or steps are designed to have minimal impact to the wetland, stream or water body, and the path and the area of impact does not exceed four feet in width.
- (D) Criteria for the Wetland, Stream or Water Body: In the wetland, stream, or water body, the following criteria shall apply:
- (i) The provisions of Subparagraph (e)(~~32~~)(A) of this section.<sup>63</sup>
  - (ii) The provisions of Subparagraph (e)(~~32~~)(B) of this section.<sup>64</sup>
  - (iii) The provisions of Subparagraph (e)(~~32~~)(C) of this section.<sup>65</sup>
  - (iv) Replacement or repair of an existing fence shall be generally in the same location and not result in additional impacts to the wetland, stream, or water body.
  - (v) Utility line or drop structure maintenance or repair shall not impact the existing functions of the wetland, stream, or water body.
  - (vi) Activities conducted solely for the purpose of removing stream sediment shall not alter the flood capacity as shown on the adopted floodplain maps. Vegetated channel bottoms shall be restored and stabilized.

---

<sup>63</sup> Necessary renumbering.

<sup>64</sup> Necessary renumbering.

<sup>65</sup> Necessary renumbering.

- (4) Criteria for Standard Review: In addition to the standards in paragraph (e)(32) of this section, the applicant shall demonstrate that the stream, wetland or water body permit application meets the following criteria:<sup>66</sup>

...

- (g) Permit Issuance:

...

- (5) Referrals, Call-up or Appeal:

- (A) Conditional Use Permits: For conditional use permits, there shall be no referrals, call-ups or appeals. An applicant may resubmit a standard permit application for a denied conditional use application, pay the balance of the standard permit fee and proceed pursuant to the standard permit review process.

- (B) Standard Review Permits: The decision of the city manager ~~shall be subject to call-up by the planning board~~ may be, or appealed by the applicant to the planning board, subject to the ~~call-up and~~ appeal procedure of ~~section~~Section; 9-4-4 "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.<sup>67</sup>

...

- (k) Stream, Wetland and Water Body Boundaries:

...

- (3) Map Revisions: At the request of a property owner and after submittal of an application and payment of the fee prescribed in section 4-20-53, "Stream, Wetland and Water Body Permit and Map Revision Fees," B.R.C. 1981, or at the city manager's initiative, adopted stream, wetland and water body boundaries may be modified by the city manager by means of the performance of a boundary determination in accordance with the requirements of this subsection:

...

- (B) Review of Map Revision Applications:

- (i) The city manager shall review the application in accordance with subsection (l) of this section, and may approve the proposed boundary change, approve the proposed boundary change with modifications or deny the proposed boundary change.

---

<sup>66</sup> Necessary renumbering.

<sup>67</sup> Removed Planning Board call-up requirement for standard wetland permits. Applicants may still appeal.

- (ii) The decision of the city manager ~~shall be subject to call-up by the planning board or may be~~ appealed by the applicant to the planning board, subject to the ~~call-up and~~ appeal procedure of Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.<sup>68</sup>

...

- (m) Variances:

...

- (7) The decision of the city manager ~~shall be subject to call-up by the planning board, or may be~~ appealed by the applicant to the planning board, subject to the ~~call-up and~~ appeal procedure of Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.<sup>69</sup>

...

Section 17. Table 4-1: Summary of Decision Authority by Process Type in Section 9-4-2, "Development Review Procedures," B.R.C. 1981, is amended to read as follows:

**9-4-2. Development Review Procedures**

- (a) Development Review Authority: Table 4-1 of this section summarizes the review and decision-making responsibilities for the administration of the administrative and development review procedures described in this chapter. The table is a summary tool and does not describe all types of decisions made under this code. Refer to sections referenced for specific requirements. ~~Form and bulk standards may also be modified by site review.~~<sup>70</sup> Additional procedures that are required by this code but located in other chapters are:
  - (1) "Historic Preservation," chapter 9-11; and
  - (2) "Inclusionary Housing," chapter 9-13.

**TABLE 4-1: SUMMARY OF DECISION AUTHORITY BY PROCESS TYPE<sup>71</sup>**

<i>Standard or Application Type</i>	<i>Staff/City Manager</i>	<i>BOZA</i>	<i>Planning Board</i>	<i>City Council</i>
Code Interpretation SECTION 9-2-3	D	CA(14)	CA(30)	CA
Setback variance ≤20% SECTION 9-2-3	D	D	—	—
Setback variance >20% SECTION 9-2-3	—	D	—	—

<sup>68</sup> ~~Removed Planning Board call-up requirement for wetland map revisions. Applicants may still appeal.~~

<sup>69</sup> ~~Removed Planning Board call-up requirement for wetland variances. Applicants may still appeal.~~

<sup>70</sup> ~~Removed irrelevant language.~~

<sup>71</sup> ~~The final ordinance will reorganize this table by Section and improve formatting for ease of reference. The current organization is shown here to make it easier to review the text changes.~~

Parking access dimensions SECTION <del>9-2-29-9-5</del>	D	—	—	—
Parking deferral SUBSECTION <del>9-2-29-9-6(e)</del>	D	—	—	—
Parking reduction ≤25% SUBSECTION <del>9-2-29-9-6(f)</del>	D	—	—	—
Parking reduction >25% but ≤50% SUBSECTION <del>9-2-29-9-6(f)</del>	D(14)	—	CA, D(30)	CA
Parking reduction >50% SUBSECTION 9-9-6(f)	—	—	D(30)	CA
<del>Conditional</del> Building height, <del>conditional</del> SECTION 9-7-6	D	—	—	—
Building height, less than principal or nonstandard building height max SECTION 9-2-14	D(14)	—	CA, D(30)	CA
Building height, greater than principal building height max SECTION 9-2-14	—	—	D(30)	CA
Building height SECTION 9-7-5	—	—	D(30)	CA
Conditional Use SECTION 9-2- <del>4</del> 2	D	—	—	—
Site Review SECTION 9-2-14	D(14)	—	CA, D(30)	CA
Use Review SECTION 9-2-15	D(14)	—	CA, D(30)	CA
Minor Use Review <sup>72</sup> SUBSECTION 9-2-15(i)	<del>D(14)</del>	=	A	CA
Use Review Minor Modification <sup>73</sup> SUBSECTION 9-2-15(j)	<del>D</del>	=	=	=
Form-Based Code Review SECTION 9-2-16	D(14)	—	CA, D(30)	CA
<del>Administrative</del> Form-Based Code Review; <del>administrative</del> SECTION 9-2-16	D	—	—	—
Form-Based Code Review; <del>minor</del> Minor <del>modification</del> Modification SECTION 9-2-16	D	—	—	—
Annexation SECTION 9-2-17	—	—	R	D
Rezoning SECTION 9-2-19	—	—	R	D
Wetland Permit- <del>Simple Conditional</del> <sup>74</sup> SECTION 9-3-9	D	—	—	—
Wetland Permit-Standard SECTION 9-3-9	D(14)	—	<del>D(30)</del> A	CA
Extension of Development Approval ≤ <del>1 yr</del> PARAGRAPH 9-2-12(b)( <del>1</del> )	D	—	—	—
Extension of Dev't Approval >1 yr PARAGRAPH 9-2-12(b)( <del>2</del> ) <sup>75</sup>	—	—	<del>D(30)</del>	CA
Rescission of Development Approval SUBSECTION 9-2-12(e)	D	—	—	—
Creation of Vested Rights >3 years SECTION 9-2-20	—	—	R	D
Floodplain Development Permit SECTION 9-3-6	D(14)	—	CA( <del>30</del> )	CA

<sup>72</sup> Added minor use review, with only appeal authority rather than call-up.

<sup>73</sup> Added use review minor modification as described in 9-2-15.

<sup>74</sup> Inconsistent term fixed.

<sup>75</sup> Planning Board extensions have been removed.

Wetland Boundary <del>change-</del> <del>Standard</del> Revision SUBSECTION 9-3-9(e)(k) <sup>76</sup>	<del>—</del> D(14)	—	R-A	<del>D</del> -CA
Geophysical Exploration Permit SECTION 9-6-7(b)	D(14)	—	CA(30)	CA
Substitution of Nonconforming Use SECTION 9-10-3	D	—	—	—
Expansion of <del>a</del> Nonconforming Use SECTION 9-10-3	D(14)	—	CA(30)	CA
<del>Subdivision, prelim</del> Preliminary <del>plat</del> Plat SECTION 9-12-7	D	—	—	—
<del>Subdivision, f</del> Final <del>plat</del> Plat SECTION 9-12-8	D(14)	—	CA	—
<del>Minor</del> Subdivision; <del>minor</del> SECTION 9-12-5	D(14)	—	CA(30)	<del>CA</del> <sup>77</sup>
<del>Subdivision, LLA or LLE</del> Lot Line Adjustment or Lot Line Elimination SECTIONS 9-12-3 and 9-12-4	D	—	—	—
Solar Exception SUBSECTION 9-9-17(f)	D	D	—	—
Solar Access Permit SUBSECTION 9-9-17(h)	D	D	—	—
<del>Owner or Tenant</del> Accessory Building Coverage SUBSECTION 9-7-8(a)	—	D	—	—
Minor Modification of Discretionary Approval SUBSECTION 9-2-14(k)	D	—	—	—
Minor Amendment of Discretionary Approval SUBSECTION 9-2-14(l)	D(14)	—	CA(30)	CA
Amendment of Discretionary Approval not involving height SUBSECTION 9-2-14(m)	D(14)	—	CA, D(30)	CA
Amendment of Discretionary Approval involving height SECTION 9-2-14	—	—	D(30)	CA
KEY:				
D = Decision Authority      CA = Call-Up and Appeal Authority ( <u>for City Council, call-up only</u> )				
R = Recommendation only <u>(A) = Appeal Authority only</u> <sup>78</sup> (n) = Maximum number of days for call-up or appeal				

Section 18. Section 9-4-3, “Public Notice Requirements,” B.R.C. 1981, is amended

to read as follows:

### 9-4-3. Public Notice Requirements

- (a) Process and Options: When a process or procedure identified in this title requires public notice, the city manager shall provide such notice according to Table 4-2 of this section. If a code section does not reference a specific method, the city manager shall determine the most appropriate notification method to be used.

<sup>76</sup> In 9-3-9(k), these are described as boundary revisions. Other columns updated to match text.

<sup>77</sup> Fixes error in the table. These are not subject to Council call-up.

<sup>78</sup> This has been added to clarify there are some circumstances that can be appealed, but not called up.

TABLE 4-2: PUBLIC NOTICE OPTIONS

<i>Public Notice Type</i>	<i>Type of Application, Meeting or Hearing</i>	<i>Mailed Notice</i>	<i>Posted Notice</i>
1	Administrative Reviews (except those identified below)	none	none
2	Preliminary Plats and Minor Subdivisions	To adjacent property owners a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
3	Good neighbor meetings	To property owners within 600 feet of subject property a minimum of 10 days before meeting	none
4	Solar <del>exceptions</del> , solar access permits <sup>79</sup>	To adjacent property owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
5	Applications requiring BOZA action, <del>wetland permit and boundary determination</del> <sup>80</sup>	To property owners within 300 feet of subject property a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
6	Development Review Applications (site review, use review, annexation, rezoning, concept plans)	To property owners within 600 feet of subject property a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
7	Form-based code review	To property owners and all addresses within 600 feet of the subject property a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
8	Use review applications for oil and gas operations	To property owners, all addresses, and the local government designee of any local government within 5,280 feet (one mile) of the subject property upon finding an application complete and a minimum of 10 days before final action and any mineral rights owners at that time and a minimum of 30 days before initial hearing	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing

<sup>79</sup> Solar exceptions are processed similarly to other administrative variances, so would instead use public notice type 1 accordingly. Exception approvals already require an affidavit from all affected properties per 9-9-17(f)(4), so other properties affected would be aware and indicate no objection. Like other administrative variances, applications with neighbor objection are referred to BOZA by staff or decisions can be appealed by the applicant per 9-9-17(f)(5).

<sup>80</sup> Requirements for Planning Board call-ups have been removed, so notice has been removed accordingly to make these reviews administrative.

...

Section 19. Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981, is amended to read as follows:

#### 9-4-4. Appeals, Call-Ups and Public Hearings

When a section of the land use ~~regulations code~~ indicates that a decision is subject to appeal or call-up, the following standards shall apply:

- (a) Appeal: ~~If a right to appeal is noted in this title, if noted in Table 4-1, Section 9-4-2, "Development Review Procedures," B.R.C. 1981, in a specific section,~~ an applicant or, ~~if applicable,~~ **an aggrieved party or** any **two interested persons** may appeal the city manager's decision to grant or deny an application to the planning board by delivering a written notice of appeal to the city manager within fourteen days of the decision.
- (b) Board Call-Up: ~~If a planning board call-up of a city manager decision is noted in this title, if noted in Table 4-1, Section 9-4-2, "Development Review Procedures," B.R.C. 1981,~~ **a two members** of the planning board may call up a city manager's decision upon written notification to staff or by making a verbal request, on the record, at a regularly scheduled board meeting within fourteen days of the manager's decision. A member of the BOZA may call up a city manager's decision regarding an interpretation upon written notification to staff or by making a verbal request, on the record, at a regularly scheduled board meeting within fourteen days of the manager's decision. ~~On any application that it calls up, the board will hold a public hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after publishing notice as provided in Subsection 9-4-3(d), B.R.C. 1981. Within thirty days of the public hearing or within such other time as the board 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 decision will specifically set forth in what respects the development review application meets or fails to meet the standards and criteria 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, for the type of review requested.<sup>81</sup>~~
- (c) City Council Call-Up: ~~With the exception of minor subdivisions and plats, t~~The city council may call up any board decision within thirty days of the board's action. The city manager may extend the call-up period until the council's next regular meeting, if the manager finds in writing within the original call-up period that the council will not receive notice of a decision of the board in time to enable it to call up the decision for review. ~~On any application that it calls up, the council will hold a public~~

<sup>81</sup> This text is repetitive in both (b) and (c); it has been consolidated together below in (d). **Includes amendments passed by council on second reading.**

~~hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after publishing notice as specified by Subsection 9-4-3(d), B.R.C. 1981, summarized in Subsection (b) of this section. Together with the evidence presented at such public hearing, the council may consider the record, or any portion thereof, of the hearing before the board. Within thirty days of the public hearing or within such other time as the council and the applicant mutually agree, the council will either grant the application in whole or in part, with or without modifications and conditions, or deny it. The decision will specifically set forth in what respects the development review application meets or fails to meet the standards and criteria 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, for the type of review requested.<sup>82</sup>~~

- (d) Public Hearing Requirements: Within sixty days after ~~a referral,~~ appeal or call-up under this section, the approving agency will hold a public hearing on the application. On any application that it calls up, the board or council will hold a public hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after publishing notice as provided in Subsection 9-4-3(d), B.R.C. 1981. Within thirty days of the public hearing or within such other time as the board or council and the applicant mutually agree, the board or council will either grant the application in whole or in part, with or without modifications and conditions, or deny it. The decision will specifically set forth in what respects the development review application meets or fails to meet the standards and criteria 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, for the type of review requested.<sup>83</sup>

...

Section 20. Section 9-6-3, "Specific Use Standards - Residential Uses," B.R.C.

1981, is amended to read as follows:

### 9-6-3. Specific Use Standards - Residential Uses

#### (a) Residential Uses:

- (1) This Subsection (a) sets forth standards for uses in the residential use classification that are subject to specific use standards pursuant to Table 6-1, Use Table.

<sup>82</sup> This text is repetitive in both (b) and (c); it has been consolidated together below in (d), with the unique sentence about council evidence remaining in place. Also clarifies exception for minor subdivision and plats.

<sup>83</sup> This text is repetitive in both (b) and (c); it has been consolidated together here. Removed "referral" from first line as referral process is described in 9-2-8 and is not a call-up or appeal.

(2) Residential Uses in the IG and IM Zoning Districts: The following standards apply in the IG and IM zoning districts to residential uses that may be approved pursuant to a use review:

(A) Location: Dwelling units may be constructed only on a lot or parcel that meets one or more of the following requirements (i), (ii), or (iii). If a lot or parcel meets this location standard, the approving authority shall presume that the standard in Paragraph 9-2-15(e)(54), B.R.C. 1981, has been met.<sup>84</sup>

...

**(d) Dwelling Unit, Detached:**

...

(2) In the RH-1, RH-2, RH-3, RH-4, RH-5, RH-7, MU-1, MU-2, and MU-4 Zoning Districts:

(A) Review Process: In the RH-1, RH-2, RH-3, RH-4, RH-5, RH-7, MU-1, MU-2, and MU-4 zoning districts, the following review process applies to detached dwelling units:

...

(ii) Use Review: A new detached dwelling unit that is not allowed by right may be approved pursuant to a use review if the approving authority finds that:

a. The use meets the use review criteria in Paragraphs 9-2-15(e)(1), (32), (43), and (54), "Use Review," B.R.C. 1981;<sup>85</sup>

...

Section 21. Section 9-6-5, "Specific Use Standards - Commercial Uses," B.R.C.

1981, is amended to read as follows:

**9-6-5. Specific Use Standards - Commercial Uses**

...

**(b) Brewery, Distillery, and Winery:**

...

(2) In the IS-1, IS-2, and IMS Zoning Districts:

...

<sup>84</sup> Necessary renumbering – criteria (1) was removed.

<sup>85</sup> Necessary renumbering – criteria (1) was removed.

(A) In the IS-1, IS-2, and IMS zoning districts, breweries, distilleries, and wineries shall meet the following standards:

...

(i) Review Process: In the IS-1, IS-2, and IMS zoning districts, the following review process applies:

...

c. Use Review: If the use is not allowed by right or as a conditional use, the use may be approved only pursuant to a use review subject to the use review criteria in Paragraphs 9-2-15(e)(~~1~~), (~~32~~), (~~43~~), and (~~54~~) "Use Review," B.R.C. 1981.<sup>86</sup>

...

(3) In the IG and IM Zoning Districts:

(A) In the IG and IM zoning districts, breweries, distilleries, and wineries shall meet the following standards:

(i) Review Process: In the IG and IM zoning districts, the following review process applies:

...

c. Use Review: If the use is not allowed by right or as a conditional use, the use may be approved only pursuant to a use review subject to the use review criteria in Paragraphs 9-2-15(e)(~~1~~), (~~32~~), (~~43~~), and (~~54~~) "Use Review," B.R.C. 1981.<sup>87</sup>

...

**(i) Office Uses:**

...

(2) Office Uses in the MU-4 Zoning District:

(A) Review Process: In the MU-4 zoning district, the following review process applies to office uses:

...

(ii) Use Review: Office uses that may not be approved by right may be approved pursuant to a use review if the approving authority finds that the use:

---

<sup>86</sup> Necessary renumbering, criteria (1) was removed.

<sup>87</sup> Necessary renumbering, criteria (1) was removed.

- a. Meets the use review criteria in Paragraphs 9-2-15(e)~~(1)~~; ~~(32)~~, ~~(43)~~, and ~~(54)~~, "Use Review," B.R.C. 1981; and

...

(3) Office Uses in the BT-1, BT-2, BMS, BR-1, and BR-2 Zoning Districts:

(A) Review Process: In the BT-1, BT-2, BMS, BR-1, and BR-2 zoning districts, the following review process applies to office uses:

- (i) Allowed Use: Office uses are allowed by right if they meet the following standards:
  - a. The use is located within the University Hill general improvement district;
  - b. The combined total amount of floor area of any office uses does not exceed 20,000 square feet on the lot or parcel; or
  - c. The use was legally established within the associated floor area prior to August 6, 2019. ~~Uses that exceed the 20,000 square feet limitation of Subparagraph (A)(i)b. shall be considered a nonconforming use.~~ Changes in operations, such as changes in ownership, tenancy, management, number of employees, hours of operation, or changes to other uses also within the office use category within the existing floor area referenced in this subsection, ~~shall do not require city manager review. be considered an expansion of a nonconforming use. Such changes shall not require a request for a change of use pursuant to Section 9-10-3(c)(2), "Standards for Changes to Nonconforming Uses," B.R.C. 1981.~~ Additions or changes to floor plans that result in the combined floor area of these uses exceeding ~~the 20,000 square foot feet limitation of Subparagraph (A)(i)b. for the nonconforming floor area~~ may are not be allowed by right and are subject to the standards of Subparagraphs (A)(ii) and (A)(iii).<sup>88</sup>
- (ii) Conditional Use: The use may be approved as a conditional use if the following standards are met:
  - a. The total amount of floor area of any office uses does not exceed 40,000 square feet on the lot or parcel;

---

<sup>88</sup> Clarifications related to nonconforming use definition changes and new language for substitutions of owner and tenant processes.

- b. Dwelling units are constructed on the same lot or parcel or within the area of the same approved site review, planned unit development, or form-based code review and at least thirteen percent of those dwelling units meet the requirements for permanently affordable units set forth in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981; and
- c. No less than two permanently affordable units are constructed on said lot or parcel or within said area of an approved site review, planned unit development, or form-based code review.

(iii) Use Review: Any use that is not allowed by right and may not be approved as a conditional use may be approved pursuant to a use review if the approving authority finds that the use:

- a. Meets the use review criteria in Paragraphs 9-2-15(e)~~(1)~~, ~~(32)~~, ~~(43)~~, and ~~(54)~~, "Use Review," B.R.C. 1981; and<sup>89</sup>
- b. The proposed use is part of a mixed-use development that includes residential or retail uses.

...

**(k) Office:**

...

(4) In the IG and IM Zoning Districts:

(A) Review Process: In the IG and IM zoning districts, the following review process applies to offices:

...

(ii) Use Review: If the office is not allowed by right, the use may be approved only pursuant to a use review. In addition to meeting the use review criteria in Paragraphs 9-2-15(e)~~(1)~~, ~~(32)~~, ~~(43)~~, and ~~(54)~~ "Use Review," B.R.C. 1981, the applicant shall demonstrate that:<sup>90</sup>

...

**(r) Financial Institution:**

...

(2) In the MU-4 Zoning District:

---

<sup>89</sup> Necessary renumbering as (1) is removed.  
<sup>90</sup> Necessary renumbering as (1) is removed.

- (A) Review Process: In the MU-4 zoning district, the following review process applies to financial institutions:

...

- (ii) Use Review: Financial institutions that may not be approved by right may be approved pursuant to a use review if the approving authority finds that the use:

- a. Meets the use review criteria in Paragraphs 9-2-15(e)~~(1)~~, ~~(32)~~, ~~(43)~~, and ~~(54)~~, "Use Review," B.R.C. 1981; and<sup>91</sup>

...

Section 22. Section 9-7-5, "Building Height," B.R.C. 1981, is amended to read as follows:

**9-7-5. Building Height**

...

- (d) Nonconformity to Permitted Height: For existing buildings that exceed the height permitted in Section 9-7-1, "Schedule of Form and Bulk Standards," or Section 9-7-6, "Building Height, Conditional," B.R.C. 1981, the following changes require approval under Section 9-2-14, "Site Review," B.R.C. 1981:

- (1) ~~There shall be no increase in~~ Increasing the building's highest point as established by Subsection 9-7-5(b), "Measurement of Height," B.R.C. 1981;
- (2) ~~Adding building elements or massing above the permitted or conditional height unless permitted by Section 9-7-7, "Building Height, Appurtenances," B.R.C. 1981; or~~
- (3) ~~or Adding the floor area of buildings greater than the above the permitted or conditional height but less than fifty-five feet in height, unless approved under Section 9-2-14, "Site Review," B.R.C. 1981.~~<sup>92</sup>

...

...

Section 23. Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, is amended to read as follows:

**9-8-5. Occupancy of Dwelling Units**

\_\_\_\_\_

<sup>91</sup> Necessary renumbering as (1) is removed.

<sup>92</sup> Clarifies changes allowed to buildings that do not conform to height requirements and that additional floor area below the maximum height is permitted.

...

- (d) Nonconforming Uses: A nonconforming residential use that is ~~not permitted~~~~prohibited~~ by Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, or is a lot or parcel that does not meet the density requirements of Chapter 9-8, "Intensity Standards," B.R.C. 1981, is subject to the following:<sup>93</sup>

...

Section 24. Section 9-9-6, "Parking Standards," B.R.C. 1981, is amended to read as follows:

### 9-9-6. Parking Standards

- (a) Rationale: The intent of this section is to provide adequate off-street parking for all uses, to prevent undue congestion and interference with the traffic carrying capacity of city streets, and to minimize the visual and environmental impacts of excessive parking lot paving.
- ...
- (c) General Parking Requirements:
- (1) Rounding Rule: For all motor vehicle and bicycle parking space requirements resulting in a fraction, the fraction shall be:
    - (A) Rounded to the next higher whole number when the required number of spaces is five or less; or
    - (B) Rounded to the next lower whole number when the required number of spaces is more than five.
  - (2) Parking Requirements for Lots in Two or More Zoning Districts: For lots that have more than one zoning designation, the required motor vehicle and bicycle parking for the use(s) on the lot may be provided on any portion of the lot, subject to the provisions of this title.
  - (3) Off-Street Parking Requirement for Unlisted Nonresidential Uses: If the city manager determines that the use type is not specifically listed in Table 6-1, Use Table, or Table 9-4, Use Specific Motor Vehicle Parking Requirements for Nonresidential Uses in All Zones, the city manager may apply one of the following standards that adequately meets the parking needs of the use:<sup>94</sup>

<sup>93</sup> Aligns language with changes proposed in definition of "nonconforming use."

<sup>94</sup> This provides additional flexibility for unlisted uses to determine unique parking requirements and is common in other communities. Some properties are not eligible to apply for Site Review to further modify parking requirements, so this provides a path for determining appropriate standards.

- (A) The applicable off-street parking requirement under Table 9-3, Nonresidential Motor Vehicle Parking Requirements by Zoning District;
- (B) The off-street parking requirement under Table 9-4 for the listed use type most similar to the proposed use type based on public parking demand, nature of the use, number of employees, or any other factors deemed appropriate by the city manager;
- (C) An off-street parking requirement established based on local or national best practices or by reference to standards or resources such as the Institute of Traffic Engineers, Urban Land Institute, International Council of Shopping Centers, American Association of State Highway and Transportation Officials, or American Planning Association; or
- (D) An off-street parking requirement demonstrated by a parking demand study prepared by the applicant according to Paragraph 9-9-6(d)(6).

...

Section 25. Section 9-9-17, "Solar Access," B.R.C. 1981, is amended to read as follows:

#### 9-9-17. Solar Access

...

(d) Basic Solar Access Protection:

- (1) Solar Fence: A solar fence is hereby hypothesized for each lot located in SA Area I and SA Area II. Each solar fence completely encloses the lot in question, and its foundation is contiguous with the lot lines. Such fence is vertical, is opaque and lacks any thickness.
  - (A) **SA Area I:** No person shall erect an object or structure on any other lot that would shade a protected lot in SA Area I to a greater degree than the lot would be shaded by a solar fence twelve feet in height, between two hours before and two hours after local solar noon on a clear winter solstice day.
  - (B) **SA Area II:** No person shall erect an object or structure on any other lot that would shade a protected lot in SA Area II to a greater degree than the lot would be shaded by a solar fence twenty-five feet in height, between two hours before and two hours after local solar noon on a clear winter solstice day.

(C) SA Area III: Solar fences are not hypothesized for lots located in SA Area III. Solar access protection in SA Area III is available under this section only through permits, as hereinafter provided.

~~(D) Adjoining Duplex or Townhouse Lots in All Solar Areas: On duplex or townhouse lots, solar fences are not hypothesized on interior lot lines between adjoining units of a duplex or adjoining townhouses. Other lot lines are subject to the solar fence restrictions of subsection (A), (B), or (C), as applicable.<sup>95</sup>~~

...

(f) Exceptions

(5) Referral or Appeal of City Manager's Decision: The city manager may refer the application or the city manager's decision may be appealed by the applicant to the BOZA pursuant to the procedures of Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. If an affidavit from each owner of each affected lot per subparagraph (f)(4)(A) cannot be obtained, the applicant may apply for consideration of the exception before the BOZA. Public notification of the hearing shall be provided pursuant to Section 9-4-3, "Public Notice Requirements," B.R.C. 1981. The sign posted shall remain posted until the conclusion of the hearing.<sup>96</sup>

(g) Solar Siting:

...

(2) Waivers: Upon request of any applicant for a building permit or a subdivision or planned unit development approval, the approving authority may waive such of the requirements of this paragraph as it deems appropriate if it finds that any of the following criteria are met:

...

~~(D) — The applicant's proposal incorporates the following additional energy resource and conservation option points in excess of the requirements of Subsection 10-5.5-2(y), "Resource Conservation- Green Points," B.R.C. 1981:~~

~~(i) — 2 points - to qualify for a waiver of the requirement of Subparagraph (g)(1)(A) of this section;~~

~~(ii) — 3 points - to qualify for a waiver of the requirement of Subparagraph (g)(1)(B) of this section; and~~

---

<sup>95</sup> This clarifies that solar fences are not considered for adjoining duplex or townhouse lots, but still considered at the exterior of a development.

<sup>96</sup> Changes made to mirror changes in Table 4-4 to better align solar exceptions with other administrative variances.

~~(iii) — The city manager finds that adequate protection for any solar energy systems to be installed is provided either under the provisions of this section, or through covenants, easements, or other agreements among affected landowners.<sup>97</sup>~~

...

Section 26. Section 9-10-2, “Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots,” B.R.C. 1981, is amended to read as follows:

**9-10-2. Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots**

Nonconforming uses and nonstandard buildings and lots in existence on the effective date of the ordinance which first made them nonconforming may continue to exist subject to the following:

- (a) One-Year Expiration for Nonconforming Uses: A nonconforming use, except for a use that is nonconforming only because it fails to meet the required off street parking standards ~~in of~~ Sections 9-9-6, "Parking Standards," ~~and or residential density requirements of Section 9-78-1,~~ " Schedule of Intensity Standards~~Schedule of Form and Bulk Standards,~~" B.R.C. 1981, that has been discontinued for at least one year shall not be resumed or replaced by another nonconforming use as allowed under Subsection 9-2-15(f), B.R.C. 1981, unless an extension of time is requested in writing prior to the expiration of the one-year period.<sup>98</sup> The approving authority will grant such a request for an extension upon finding that an undue hardship would result if such extension were not granted.

...

Section 27. Section 9-10-3, “Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses,” B.R.C. 1981, is amended to read as follows:

**9-10-3. Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses**

...

- (c) Nonconforming Uses:

---

<sup>97</sup> The green points system was removed several years ago and this language unintentionally remains in the code.  
<sup>98</sup> Fixes incorrect cross-reference.

- (1) Nonconforming Changes to Conforming Use Prohibited: No conforming use may be changed to a nonconforming use, notwithstanding the fact that some of the features of the lot or building are nonstandard or the parking is nonconforming.
- (2) Standards for ~~Changes-Substitutions of~~ Nonconforming Uses: The city manager will grant a request for a ~~change-substitution~~ of nonconforming use, which is the replacement of one nonconforming use with another, if the ~~modified or~~ new use does not constitute an expansion of a nonconforming use. Any ~~other change of use that constitutes~~ expansion of a nonconforming use must be reviewed under procedures of Section 9-2-15, "Use Review," B.R.C. 1981.<sup>99</sup>
- (3) Nonconforming Only as to Parking: The city manager will grant a request to change a use that is nonconforming only because of an inadequate amount of parking to any conforming use allowed in the underlying zoning district upon a finding that the new or modified use will have an equivalent or less parking requirement than the use being replaced.<sup>100</sup>

...

Section 28. Section 9-12-3, "Adjustment of Lot Lines," B.R.C. 1981, is amended to read as follows:

### 9-12-3. Adjustment of Lot Lines

...

- (d) City Manager Approval: No person shall transfer land under this section until after the city manager reviews the map and legal description of the property and all other information required under this section to verify that the transfer is exempt under this chapter. ~~The city manager shall sign the documents of transfer before they are recorded and will record the approved replat map after the applicant has recorded the documents of transfer. The city manager shall sign the approved replat map and the city clerk shall record the replat map in the office of the Boulder County Clerk and Recorder. Any such approved replat not recorded within six months after the date it was approved shall automatically expire.~~<sup>101</sup>

<sup>99</sup> This process, which is specific to swapping one nonconforming use for another, has been called a substitution of nonconforming use for many years, so the language has been updated accordingly.

<sup>100</sup> Uses that are nonconforming to parking only may be modified using this section; it does not necessarily need to be a new use.

<sup>101</sup> Staff does not sign documents of transfer, so this language has been removed to align with current practice. Similar language from 9-12-4 has been included to align the process of city manager signature and recording with that of lot line eliminations.

Section 29. Section 9-12-4, “Elimination of Lot Lines,” B.R.C. 1981, is amended to read as follows:

#### 9-12-4. Elimination of Lot Lines

...

~~(e) City Manager Decision: The city manager shall notify the planning board in writing within seven days of the disposition of the replat application.<sup>102</sup>~~

(fe) City Manager Approval: The city manager shall sign all approved replats and, upon the payment of the recording fees prescribed by subsection 4-20-43(a), B.R.C. 1981, the city clerk shall record all such replats in the office of the Boulder County Clerk and Recorder. Any such approved replat not recorded within six months after the date it was approved shall automatically expire.<sup>103</sup>

Section 30. Section 9-12-5, “Minor Subdivision,” B.R.C. 1981, is amended to read as follows:

#### 9-12-5. Minor Subdivision

(a) Scope: A minor subdivision is a division of land that is already served by city services, will not require the extension of streets or public improvements and will not result in more than one additional lot.

...

(f) Existing Streets or Alleys. Dedication and Vacation of Easements: Right-of-way necessary to bring an existing street or alley up to a current city standard, or public easements for utilities or sidewalks may be dedicated on a minor subdivision plat. The City may approve the vacation of city utility easements on the replat.<sup>104</sup>

...

Section 31. Section 9-12-10, “Final Plat Procedure,” B.R.C. 1981, is amended to read as follows:

#### 9-12-10. Final Plat Procedure

...

(ed) Any person aggrieved by a decision of the city manager to approve or deny an application for a subdivision may appeal such decision to the planning board by

<sup>102</sup> Lot line eliminations currently require an informational item to be sent to the Planning Board, even though lot line adjustments are not required to do so. Additionally, they are not subject to call-up so it is purely informational.

<sup>103</sup> Recording fees are no longer described in this subsection so this has been removed.

<sup>104</sup> Additional language to subsection leader for clarity.

~~filing an appeal with the city manager within fourteen days of the decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. Two members of the planning board may call-up the city manager decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. The board shall hear the appeal or call-up of the subdivision application, after giving notice to all interested parties, within thirty days of the notice of appeal or call-up, under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.~~ The board shall determine whether the subdivision application meets the requirements of this code and other ordinances of the City or those determined by the city manager to be necessary to protect the public health, safety and welfare and shall grant or deny the application.<sup>105</sup>

- (fe) The city manager shall sign the city manager certification on all plats of the subdivision following planning board approval, or the expiration of the call-up period, as applicable. Within one week after any conditions of the subdivision agreement required to occur prior to recording have been met, the city clerk shall record all such plats and agreements in the office of the Boulder County Clerk and Recorder in a form acceptable to the office and consistent with state law.
- (gf) A plat expires if not recorded within twenty-four months after the date it was submitted, unless the city manager extends final plat approval for not more than twelve months upon a showing of good cause.

Section 32. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read

as follows:

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

...

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

...

Conforming Use means any use of a building or use of a lot that is permitted by Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981 and meets any applicable specific use standards. A conforming use also includes:<sup>106</sup>

<sup>105</sup> Specific language related to Planning Board call-ups added to align with charter requirements. Includes amendments passed by council on second reading.

<sup>106</sup> The definition of "nonconforming use" currently includes many examples of situations that are not nonconforming. This pulls those situations into a new definition of "conforming use" to simplify the nonconforming use definition.

(1) A legal existing use that is not prohibited but was not approved as a conditional use or use review use;

(2) A use approved pursuant to a valid use review or special review, except where the review was a nonconforming use review;

*Expansion of a nonconforming use* means any change or modification to a nonconforming use that constitutes:

(1) An increase in the occupancy, floor area, required parking, traffic generation, outdoor storage, or visual, noise, or air pollution;

(2) Any change in the operational characteristics which may increase the impacts or create adverse impacts to the surrounding area including, without limitation, the hours of operation, noise, or the number of employees;

(3) The addition of bedrooms to a dwelling unit, except a single-family detached dwelling unit; or

(4) The addition of one or more dwelling units.

...

*Nonconforming use* means any use of a building or use of a lot that is ~~not permitted~~prohibited by Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981,~~but excludes a conforming use in a nonstandard building or on a nonstandard lot; a legal existing use that has not been approved as a conditional use or a use review use, or a use approved pursuant to a valid special review or use review approval.~~ A nonconforming use also includes an otherwise conforming use, except a single dwelling unit on a lot, that does not meet the following parking ~~and or~~ residential density requirements, including, without limitation, the requirements for minimum lot area per dwelling unit, ~~useable open space per dwelling unit, or required off-street parking requirements of Sections 9-8-1, "Schedule of Intensity Standards," and or~~ 9-9-6, "Parking Standards," B.R.C. 1981.<sup>107</sup>

...

*Nonstandard building or structure* means any building or structure that does not conform to the setback, height, side yard bulk plane, side yard wall length articulation, or building coverage requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," or the floor area ratio requirements of Section 9-8-1, "Schedule of Intensity Standards," and Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, unless the nonstandard features of the building or structure were approved as part of a planned unit development

---

<sup>107</sup> The exclusions have been relocated to a new definition of "conforming use" to make this easier to read.

or a site review, or as a variance. A nonstandard building or structure does not render a conforming use a nonconforming use.<sup>108</sup>

*Nonstandard lot* means any lot that does not conform to the minimum lot area requirement of Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, or frontage upon a public street required by Section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981, unless the nonstandard nature of the lot was approved as part of a planned unit development or a site review. A nonstandard lot does not render a conforming use a nonconforming use.<sup>109</sup>

---

<sup>108</sup> Clarification added to align with changes to nonconforming use definition.

<sup>109</sup> Clarification added to align with changes to nonconforming use definition.

ORDINANCE 8622

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO SIMPLIFY CERTAIN DEVELOPMENT REVIEW PROCESSES; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-20-43, "Development Application Fees," B.R.C. 1981, is amended to read as follows:

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

(a) Subdivision fees:

...

(b) Land use regulation fees:

...

(3) An applicant for approval of a use review shall pay the following fees:

Standard

Initial application .....\$3,420

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) .....\$1,710.

Fee includes an initial and two subsequent staff reviews of the application. Each additional staff review of an application is .....\$1,130.

Nonconforming uses and nonstandard lots and buildings

Initial application .....\$2,870

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) .....\$1,435

Fee includes an initial and two subsequent staff reviews of the application. Each additional staff review of an application is .....\$950.

Minor use review

Initial application .....\$1,710

Reapplication for same type of revision on same property within six months (if initial application is withdrawn or denied) .....\$855

Fee includes an initial and two subsequent staff reviews of the application. Each additional staff review of an application is .....\$560.

...  
Section 2. Section 8-6-10, "Vacation of Public Easements," B.R.C. 1981, is amended to read as follows:

**8-6-10. - Vacation of Public Easements**

Vacation of city easements dedicated for any purpose, except public rights of way and access easements, may occur:

- (a) Through the subdivision process; or
- (b) By approval of the city manager upon a determination that no public need exists for such easement. ~~The city manager will review the requested vacation pursuant to Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981. If the city manager approves an easement vacation, it is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the city within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation.~~

Section 3. Section 9-1-4, "Transitional Regulations," B.R.C. 1981, is amended to read as follows:

**9-1-4. Transitional Regulations**

This section addresses the applicability of new substantive standards enacted by amendments to this title to activities, actions and other matters that are pending or occurring as of the effective date of this title~~thereof~~.

- ...
  - (e) Existing Uses Subject to Specific Use Standards or That Require a Use Review or Conditional Use Approval:
    - (1) Use Review or Conditional Use Approvals: Any previously approved use that was established prior to the adoption of new regulations that make

~~such the use permitted only pursuant to a conditional use or a use review shall be allowed to continue in operation. Any change or expansion of a the use that was established prior to the adoption of new regulations that make such use permitted pursuant to a conditional use or a use review shall be made in conformance with the applicable standards procedure for use review or, conditional uses, or for changes or expansions to nonconforming uses.~~

(2) Specific Use Standards: Any previously allowed use that was established prior to the adoption of new regulations that make such use allowed subject to specific use standards shall be allowed to continue in operation. Changes to a the use that was established prior to adoption of the new regulations that imposed specific use standards shall be made in conformance with the applicable specific use standards or in conformance with the applicable standards for changes or expansions to nonconforming uses.

(3) Discontinued Use: If active and continuous operations of a use subject to the standards of paragraphs (e)(1) or (e)(2) of this section are not carried on for a period of three years, it shall thereafter be occupied and used by a use meeting the requirements of this title, as required by Subsection 9-10-2(a), B.R.C. 1981.

(f) Nonconforming Uses: Nonconforming uses are subject to the standards in Chapter 9-10, "Nonconforming Standards," B.R.C. 1981.

~~(fg)~~ Violations Continue: Any violation of the previous land development regulations of the city shall continue to be a violation under this title and shall be subject to the penalties and enforcement set forth in Chapter 9-15, "Enforcement," B.R.C. 1981, unless the use, development, construction or other activity is clearly consistent with the express terms of this title.

Section 4. Section 9-2-1, "Types of Reviews," B.R.C. 1981, is amended to read as follows:

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

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

(b) Summary Chart:

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

<i>I. ADMINISTRATIVE REVIEWS</i>	<i>II. DEVELOPMENT REVIEW AND BOARD ACTION</i>
----------------------------------	--

1	Affordable housing design review pursuant to Section 9-13-4, B.R.C. 1981	Annexation/initial zoning
2	Building permits	BOZA variances
3	Change of address	Concept plans
4	Change of street name	Demolition, moving, and removal of buildings with potential historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981
5	Conditional uses, as noted in Table 6-1: Use Table	Form-based code review
6	Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981	Geophysical exploration permit
7	Easement vacation	Landmark alteration certificates other than those that may be approved by staff per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981
8	Extension of development approval/staff level	Lot line adjustments
9	Landmark alteration certificates (staff review per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981)	Lot line elimination
10	Landscape standards variance	Minor Subdivisions
11	Minor modification to approved site plan	Out of city utility permit
12	Minor modification to approved form-based code review	Rezoning
13	Noise barriers along major streets per Paragraph 9-9-15(c)(7), B.R.C. 1981	Site review
14	Nonconforming use (extension, <del>change of use (incl. parking)</del> )	Subdivisions
15	Parking deferral per Subsection 9-9-6(e), B.R.C. 1981	Use review
16	Parking reduction of up to 25 percent per Subsection 9-9-6(f), B.R.C. 1981	Vacations of street, alley, or access easement
17	Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), B.R.C. 1981	
18	Parking stall variances	
19	Public utility	
20	Rescission of development approval	
21	Revocable permit	
22	Right-of-way lease	
23	Setback variance	
24	Site access variance	
25	<u>Substitution of a nonconforming use</u>	
	Solar exception	
	Zoning verification	

1           Section 5. Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981, is amended

2 to read as follows:

3 **9-2-2. Administrative Review Procedures**

4 (a) Purpose: Administrative review of projects will occur at various times in project  
5 development to ensure compliance with the development standards of the city.

6 ...

7 (d) Conditional Uses:

8 ...

9 (5) Expiration: Any conditional use approval that is not established within one year of  
10 its approval, is discontinued for at least three years, or is replaced by another use  
11 of land shall expire.

12 ...

13 Section 6. Section 9-2-7, "Development Review Action," B.R.C. 1981, is amended to

14 read as follows:

15 **9-2-7. Development Review Action**

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

20 ...

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

23 ...

24 (3) Appeal and Call-Ups:

25 (A) The applicant or any two interested persons 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~~Two members 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, except that minor use review processes are not  
subject to call-up by planning board.

1 (c) City Council Call-Up: The city council may call-up any planning board decision pursuant  
2 to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

3 (d) Building Permit Pending Appeal: A building permit may be applied for after the initial  
4 approval of a development review application, but no building permit will be issued until  
5 after any and all applicable call-up or appeal periods have expired. An applicant for such  
6 a permit bears all risks of subsequent disapproval and waives any claims arising from the  
7 permit application.

8 (e) Judicial Review: Any person aggrieved by the final decision of the city manager may  
9 seek judicial review pursuant to Subsection 9-4-4(g), B.R.C. 1981.

10 Section 7. Section 9-2-8, "Public Hearing Requirements," B.R.C. 1981, is amended to  
11 read as follows:

12 **9-2-8. Public Hearing Requirements**

13 Within sixty days after a referral, or an appeal or call-up pursuant to Section 9-4-4, "Appeals,  
14 Call-Ups and Public Hearings," B.R.C. 1981, the approving agency, after publishing notice  
15 pursuant to Section 9-4-3, "Public Notice Requirements," B.R.C. 1981, will hold a public  
16 hearing on the application.

17 Section 8. Section 9-2-9, "Final Approval Requirements," B.R.C. 1981, is amended to  
18 read as follows:

19 **9-2-9. Final Approval Requirements**

20 (a) Development Agreement: After the approving agency has finally approved an application  
21 for use review, site review, or form-based code review, the owner and the city manager  
22 will execute a development agreement that incorporates all conditions of the approval,  
23 including, without limitation, time limits for completion of the development, and, if  
24 applicable, requirements for appropriate easements or deed restrictions if unique  
25 conditions of approval apply. The development agreement shall be binding on all parties  
thereto, shall run with the land and will be recorded upon execution by the city clerk in  
the office of the County Clerk and Recorder of Boulder County. Any violation of a  
development agreement is a violation of this title.

(1) Exceptions: The city manager may waive the requirement for a development  
agreement for:

(A) A minor amendment to a site review;

(B) A minor use review process; and

(C) If there are no public improvements associated with a form-based code review  
application, a form-based code review the city manager can waive the  
requirements for a development agreement.

1 (b) Final Approved Plans: The applicant shall file a paper or electronic copy containing the  
2 approved site plan, any applicable restrictions or modifications to the underlying zoning  
3 district, and any conditions approved by the approving agency. The paper or electronic  
4 copy shall be filed with the city manager, who will endorse and date the approved site  
5 plan. The location of the approved development will be included on an official map  
6 showing development in the City. The paper or electronic copy will remain on file in the  
7 planning department.

8 (c) Expiration: Unless expressly waived by the city manager for good cause, pursuant to a  
9 written request made prior to expiration of the approval, if the applicant fails to file the  
10 final approved plans according to the specifications in Subsection (b) above or sign the  
11 development agreement within ninety days of final approval, the approval expires.

12 Section 9. Section 9-2-10, "Amendment Procedures," B.R.C. 1981, is amended to read  
13 as follows:

14 **9-2-10. Amendment Procedures**

15 An approved use review may be amended pursuant to Subsection 9-2-15(hj), B.R.C. 1981. An  
16 approved site review may be amended pursuant to Subsection 9-2-14(l) or (m), B.R.C. 1981. The  
17 city manager may approve, without notice, minor modifications to a ~~use review or a site review~~  
18 under the procedures prescribed by Subsection 9-2-14(k), B.R.C. 1981.

19 Section 10. Section 9-2-12, "Development Progress Required," B.R.C. 1981, is amended  
20 to read as follows:

21 **9-2-12. Development Progress Required.**

22 (a) Three-Year Rule: The applicant must obtain applicable building permit approvals and  
23 start construction within three years of the date of the final approval of the site review,  
24 use review, or form-based code review. For a use review without construction requiring a  
25 building permit, the use must be established within three years of the date of final  
~~approval. begin and substantially complete the approved site review, use review, or form-~~  
~~based code review as specified in the development agreement within three years from the~~  
~~time of the final approval of the site, use, or form-based code review or as modified by a~~  
~~development schedule incorporated in the development agreement. For the purposes of~~  
~~this section, substantially complete means the time when the construction is sufficiently~~  
~~complete so the owner can occupy the work or portion thereof for the use for which it is~~  
~~intended. If the project is to be developed in stages, the applicant must begin and~~  
~~substantially complete the development of each stage within three years of the time~~  
~~provided for the start of construction of each stage in the development agreement. Failure~~  
~~to substantially complete the development or any development stage within three years of~~  
~~the approved development schedule shall cause the unbuilt portion of the development~~  
~~approval to expire.~~

1       (1)     Phasing: For reviews with phased development established in the development  
 2       agreement, for each development phase, the applicable building permits must be  
 3       obtained and construction must be started within three years of the start of the  
 4       phase, or as modified by the development agreement.

5       (2)     Expiration: Failure to comply with the three-year rule shall cause the development  
 6       approval to expire. For phased development, if an approval for one phase expires,  
 7       then all successive phases not completed or under construction shall expire. After  
 8       an approval has expired, any new application for development is subject to all the  
 9       procedures and standards of this title in effect at the time of such application.

10     (3)     Vested Rights: Nothing in this section is deemed to create a vested property right  
 11     in any applicant; such vested property right may only be created pursuant to the  
 12     provisions of Section 9-2-20, "Creation of Vested Rights," B.R.C. 1981.

13     (b)     Extension: If the applicant requests an extension prior to the expiration of a site review,  
 14     use review, or form-based code review approval, the city manager may grant an  
 15     extension of the approval pursuant to the following: Prior to the expiration of a form-  
 16     based code review, use review, or site review approval, the applicant may request an  
 17     extension of the time allowed for the completion of the development.

18     (1)     The city manager will grant up to two one-year extensions to obtain applicable  
 19     building permit approvals and start construction or establish the use if the  
 20     applicant demonstrates that it exercised reasonable diligence and has good cause  
 21     as to why the extension should be granted. The extension must be requested in  
 22     writing prior to the expiration of the approval. The first extension extends the  
 23     approval by one year from the date of final approval. The second extension  
 24     extends the approval by an additional year and can be requested only after the first  
 25     extension has been granted and additional progress has been made. City Manager  
 26     Level Extension: The city manager may grant up to two six-month extensions for  
 27     each phase of the development if such extension will enable the applicant to  
 28     substantially complete the phase of development or is necessary to allow the  
 29     applicant to request an extension from the planning board.

30     (2)     ~~Planning Board Level Extension: The planning board may grant an extension of a~~  
 31     ~~development approval, pursuant to a hearing conducted under the provisions of~~  
 32     ~~Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after the applicant has~~  
 33     ~~exhausted any extension granted pursuant to Paragraph (b)(1) of this section. The~~  
 34     ~~applicant shall be required to demonstrate that it exercised reasonable diligence in~~  
 35     ~~completing the project according to the approved development schedule and good~~  
 36     ~~cause as to why the extension should be granted.~~

37     (A)     Criteria for Demonstrating Reasonable Diligence: An applicant may show  
 38     that it has exercised reasonable diligence by providing evidence that it has  
 39     done substantial work towards obtaining building permit approval or  
 40     starting construction~~completing the project~~. Such evidence may include,

without limitation, drafting plans for building permit or technical document review, applications for building permits or other permits that are required prior to the issuance of building permits, ~~or site preparation and grading, or commencement of the construction of a portion of the project.~~

(B) Criteria for Demonstrating Good Cause: An applicant may show good cause as to why an extension should be granted by providing evidence that includes, without limitation, the following: a demonstration of the applicant's ability to ~~complete the project~~ obtain building permit approval and start construction within the extension; the extension is needed because of the size of the project or phasing of the development; or ~~that economic cycles and market conditions prevented~~ delayed the building permit approval process and start of construction ~~the construction of the project~~ during the original approval period.

~~(C) Additional Conditions: As part of a hearing to consider an extension, the planning board may impose additional conditions on the applicant in order to ensure compliance with any amendments to this title enacted after the date of the original approval.~~

(c) Building Permits: Upon issuance of a building permit pursuant to a development review approval, the applicant must adhere to the schedule for construction and inspection as defined in the city building code, Chapter 10-5, "Building Code," B.R.C. 1981. In addition to the provisions of this title, all provisions of the building code regarding expiration and termination of building permits shall apply.

(d) Annexations/Six-Month Rule: If an owner of property not located within the city, for which a development review application is approved, fails to annex the property to the city within six months of the date of approval, the approval shall expire unless the approving agency extends the time period, upon a finding of good cause predicated upon a written request of the applicant delivered to the city manager before the expiration of the six-month period.

(e) Rescission of Development Approval: If, after use review, special review, site review, Planned Development (PD), Planned Residential Development (PRD), or Planned Unit Development (PUD) approval is granted pursuant to this chapter, the owner of property desires to develop, instead, under the provisions of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, the owner may request rescission of such use review, site review, PD, PRD or PUD approval by filing a written request for rescission with the city manager. The manager will grant a rescission if:

(1) The manager will grant a rescission of such use review, site review, PD, PRD, or PUD approval if no ~~No~~ building permit has been issued for the development and

1 neither the city nor the developer has taken any actions in detrimental reliance on  
2 the terms of the development agreement. ~~The manager may also rescind a site  
review, PD, PRD, or PUD approval if~~

3 (2) For a site review, PD, PRD, or PUD approval, the existing or proposed  
4 development complies with all the use, form, and intensity requirements of  
5 Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8,  
6 "Intensity Standards," B.R.C. 1981, and there is no substantial public benefit in  
maintaining the original approval. ~~or An owner may also request a rescission of  
a use review or special review approval in order to~~

7 (3) For a use review or special review approval, the rescission will return the property  
8 to a use that is allowed by right or as a conditional use ~~if it~~ and the owner is able to  
meet all applicable standards for such use under this title.

9 Section 11. Section 9-2-14, "Site Review," B.R.C. 1981, is amended to read as follows:

10 **9-2-14. Site Review**

11 ...

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

14 ...

15 (6) Land Use Intensity and Height Modifications: Modifications to minimum open  
16 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:

17 ...

18 (C) Additional Criteria for a Height Bonus and Land Use Intensity  
19 Modifications: A building proposed with a fourth or fifth story or addition  
20 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,  
21 together with any additional floor area or residential density approved  
under Subparagraph (h)(6)(B), may be approved if it meets the  
22 requirements of this Subparagraph (h)(6)(C). For purposes of this  
Subparagraph(h)(6)(C), bonus floor area shall mean floor area that is on a  
23 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). The approving authority may  
approve a height up to fifty-five feet if one of the following criteria is met:

24 ...

25 (iv) Alternative Community Benefit: Pursuant to the standard in this  
Subparagraph (iv), the approving authority may approve an

1 alternative method of compliance to provide additional benefits to  
2 the community and qualify for a height bonus together with any  
3 additional floor area or density that may be approved under  
4 Subparagraph (h)(6)(B). The approving authority will approve the  
5 alternative method of compliance if the applicant proposes the  
6 alternative method of compliance and demonstrates that the  
7 proposed method:

- 8 a. Will improve the facilities or services delivered by the city,  
9 including without limitation any police, fire, ~~library,~~ human  
10 services, parks and recreation, or other municipal facility,  
11 land or service, or will provide an arts, cultural, human  
12 services, housing, environmental or other benefit that is a  
13 community benefit objective in the BVCP, and
- 14 b. Is of a value that is equivalent to or greater than the benefits  
15 required by this Subparagraph (h)(6)(C).

16 ...

17 (k) Minor Modifications to Approved Site Plans: The city manager reviews applications for  
18 minor modifications pursuant to the procedures in Section 9-2-2, "Administrative Review  
19 Procedures," B.R.C. 1981.

20 (1) Standards: Minor modifications may be approved if the proposed modification  
21 complies with the following standards:

22 (A) Scope: The proposed modification is to the approved plans.

23 (B) Intent: The modification does not alter the basic intent of the site plan  
24 approval;

25 (C) Residential Uses: The housing type is not changed;

(D) Height: No portion of any building is expanded above the height permitted  
under Sections 9-7-1, "Schedule or Form and Bulk Standards," or 9-7-6,  
"Building Height, Conditional," B.R.C. 1981;

(E) Parking: Any parking reduction is reviewed and approved through the  
process and criteria in Subsection 9-9-6(f), B.R.C. 1981;

(F) Solar Panels: Any solar panels do not substantially add to the mass or  
perceived height of the building and comply with all applicable building  
height, solar access, building coverage, and open space requirements;

(G) Other Requirements: The modification complies with all other applicable  
requirements of this title; and

(H) Modified Standards: The numeric standards in the site plan are not  
modified by more than allowed through Table 2-3.

**Table 2-3: Minor Modification Standards**

<u>Standard modified</u>	<u>Maximum allowed as a minor modification</u>
<u>Setbacks: interior to the site plan area</u>	<u>No limit to setback modifications</u>
<u>Setbacks: along boundary of site plan area</u>	<u>Minimum zoning district requirement</u>
<u>Floor area (cumulative in minor modification processes)</u>	<u>Increase of up to 10 percent of the floor area granted in the site review approval, not to exceed the floor area ratio listed in Chapter 9-8, "Intensity Standards," B.R.C. 1981. These limitations on floor area do not apply to detached dwelling units on individual lots in zoning districts without a maximum floor area ratio.</u>
<u>Open space</u>	<u>Minimum zoning district requirement</u>
<u>Building location</u>	<u>Up to 10 percent of the length or width of the building</u>
<u>Building envelope</u>	<u>Increase of up to 10 percent in area</u>

(2) Notification: If an applicant requests approval of a minor modification to an approved site review, the city manager will determine which properties within the development would be affected by the proposed change. The city 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.

~~Changes to the site plan, building plans, and landscaping plans may be approved by the city manager without an amendment to the site plan if such changes are minor. All minor modifications shall be noted, signed, and dated on the approved site plan. For proposed minor modifications of site review projects that are partially or totally developed, the applicant shall provide notice to any owners of property within the development that might be affected, as determined by the manager. In determining whether a proposed change is a minor modification, the following standards shall apply:~~

- ~~(1) — Setbacks along the boundary of the site plan area cannot be reduced by a minor modification to be less than the minimum setbacks permitted by the underlying zoning district;~~
- ~~(2) — Excepting any site plan approval consisting of detached dwelling units on individual lots where no maximum floor area ratio applies, the floor area of the development, including principal and accessory buildings, may be expanded by the cumulative total of no more than the greater of ten percent or two hundred square feet or, in the case of a building that exceeds the permitted height, no more than five percent, except that the portion of any building over thirty-five feet in height may not be expanded under the provisions of this paragraph. However, the floor area or FAR shall not exceed the maximum floor area or FAR of a zoning~~

- 1 district or granted in the site review approval, if such amount requires special  
2 approval through the site review process;
- 3 (3) ~~Approved commercial and industrial building locations may be moved or  
4 expanded by no more than the greater of ten feet, or ten percent of the length of  
5 the building, measured along the building's axis in the direction that the building  
6 is being moved or expanded;~~
- 7 (4) ~~Approved principal and accessory building locations may be moved or expanded  
8 by no more than ten feet in any direction within the development in residential  
9 districts and lots abutting residential districts. The resulting setbacks shall not be  
10 less than the minimum allowed setback of the underlying zone;~~
- 11 (5) ~~Dwelling unit type may not be changed;~~
- 12 (6) ~~The portion of any building over the permitted height under Section 9-7-1,  
13 "Schedule of Form and Bulk Standards," B.R.C. 1981, may not be expanded  
14 under the provisions of this subsection;~~
- 15 (7) ~~No increase may be granted to an open space reduction or to a parking reduction  
16 in excess of that allowed in Subsection 9-9-6(f), B.R.C. 1981;~~
- 17 (8) ~~Solar panels that are proposed to be mounted on a building's roof may not  
18 substantially add to the mass or perceived height of the building and shall be  
19 consistent with Sections 9-7-7, "Building Height, Conditional," and 9-9-7, "Solar  
20 Access," B.R.C. 1981. Solar panels proposed to be ground mounted may not  
21 result in a building coverage greater than permitted by the zone and shall not  
22 result in open space less than required by Chapter 9-8, "Intensity Standards,"  
23 B.R.C. 1981; and~~
- 24 (9) ~~No change may alter the basic intent of the site plan approval.~~
- 25 (1) Minor Amendments to Approved Site Plans: The city manager reviews applications for  
minor amendments for changes that exceed the limits of a minor modification in  
Subsection (k) pursuant to the procedures in Section 9-2-7, "Development Review  
Action," B.R.C. 1981.
- (1) Standards: Minor amendments may be approved if the proposed amendment  
complies with the following standards:
- (A) Scope: The proposed amendment is to the approved plans, conditions of  
approval, or written statement.
- (B) Intent: The minor amendment does not alter the basic intent of the site  
plan approval.
- (C) Site Review Criteria: The minor amendment complies with the site review  
criteria of Subparagraphs (h)(2) and (h)(3) of this section;
- (D) Residential Uses: The housing type is not changed;
- (E) Height: No portion of any building is expanded above the height permitted  
under Sections 9-7-1, "Schedule of Form and Bulk Standards," or 9-7-6,  
"Building Height, Conditional," B.R.C. 1981;

- (F) Parking: Any additional parking that is provided is accommodated in the previously approved on-site parking design;
- (G) Other Requirements: The minor amendment complies with all other applicable requirements of this title; and
- (H) Modified Standards: The numeric standards in the site plan are not amended by more than allowed through Table 2-4.

**Table 2-4: Minor Amendment Standards**

<u>Standard amended</u>	<u>Maximum allowed as a minor amendment, but not to exceed maximum or minimum zoning district requirements.</u>
<u>Floor area (cumulative in minor amendment processes)</u>	<u>20 percent</u>
<u>Open space (cumulative in minor amendment processes)</u>	<u>Decrease of up to 20 percent</u>
<u>Building location</u>	<u>Up to 20 percent of the length or width of the building</u>

- ~~(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:~~
  - ~~(A) In a residential zone as set forth in Section 9-5-2, "Zoning Districts," B.R.C. 1981, all approved dwelling units within the development phase have been completed;~~
  - ~~(B) In residential zones, dwelling unit type is not changed;~~
  - ~~(C) The required open space per dwelling unit requirement of the zone is met on the lot of the detached dwelling unit to be expanded;~~
  - ~~(D) The total open space per dwelling unit in the development is not reduced by more than ten percent of the amount specified on the approved site plan and is not reduced to less than the minimum required for the zone;~~
  - ~~(E) If the residential open space provided within the development or an approved phase of a development cannot be determined, the detached dwelling unit is not expanded by more than ten percent and there is no variation to the required setbacks for that lot;~~
  - ~~(F) For a building in a nonresidential use module, the building coverage is not increased by more than twenty percent, the addition does not cause a reduction in required open space, and any additional required parking that is provided is substantially accommodated within the existing parking arrangement;~~

1           ~~(G) The portion of any building over the permitted height under Section 9-7-1,~~  
2           ~~"Schedule of Form and Bulk Standards," B.R.C. 1981, is not increased;~~  
3           ~~and~~

4           ~~(H) The proposed minor amendment does not require public infrastructure~~  
5           ~~improvements or other off-site improvements.~~

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

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

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

17           ~~(C) The minor amendment shall be found to comply with the review criteria of~~  
18           ~~Subparagraphs (h)(2) and (h)(3) of this section.~~

19           ~~(D) The minor amendment shall be substantially consistent with the intent of~~  
20           ~~the original approval, including conditions of approval, the intended~~  
21           ~~design character, and site arrangement of the development, and specific~~  
22           ~~limitations on additions or total size of the building which were required to~~  
23           ~~keep the building in general proportion to others in the surrounding area or~~  
24           ~~minimize visual impacts.~~

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

...

Section 12. Section 9-2-15, "Use Review," B.R.C. 1981, is amended to read as follows:

**9-2-15. Use Review**

(a) Purpose: Each zoning district established in Section 9-5-2, "Zoning Districts," B.R.C. 1981, is intended for a predominant use, but other uses designated in Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, may be allowed by use review if a particular use is demonstrated to be appropriate in the proposed location. Nonconforming uses may be upgraded or expanded under this section if the change would not adversely affect the traffic and the environment of the surrounding area or if the change would reduce the degree of the nonconformity or improve the appearance of the structure or site without increasing the degree of nonconformity. Nonstandard buildings may be changed, expanded or modified consistent with the criteria and standards set forth in this section and Subsection 9-10-3(a), B.R.C. 1981.

...

1 (d) Review and Recommendation:

- 2 (1) The city manager will review applications for use review of ~~a nonresidential use~~  
~~in residential zoning districts, attached and detached dwelling units or a~~  
~~residential use in a P district, and~~ oil and gas operations and will submit a  
 3 recommendation to the planning board for its final action pursuant to Subsection  
 4 9-2-7(b), B.R.C. 1981.
- 5 (2) The city manager shall review and make decisions on all other use review  
 applications pursuant to Subsection 9-2-7(a), B.R.C. 1981.
- 6 (3) Reviews by either the city manager or planning board shall be pursuant to Section  
 7 9-2-7, "Development Review Action," B.R.C. 1981, except that minor use review  
processes are not subject to call-up by planning board.

8 (e) Criteria for Review: No use review application will be approved unless the approving  
 agency finds all of the following:

- 9 ~~(1) — Consistency With Zoning and Nonconformity: The use is consistent with the~~  
~~purpose of the zoning district as set forth in Section 9-5-2, "Zoning Districts,"~~  
~~B.R.C. 1981, except in the case of a nonconforming use;~~
- 10 ~~(2)~~ (2) Rationale: The use either:
- 11 (A) Provides direct service or convenience to or reduces adverse impacts to  
 12 the surrounding uses or neighborhood;
- 13 (B) Provides a compatible transition between higher intensity and lower  
 14 intensity uses;
- 15 (C) Is necessary to foster a specific city policy, as expressed in the Boulder  
 16 Valley Comprehensive Plan, including, without limitation, historic  
 17 preservation, moderate income housing, residential and nonresidential  
 18 mixed uses in appropriate locations, and group living arrangements for  
 special populations; or
- 19 (D) Is an existing legal nonconforming use or ~~a change thereto~~ an expansion  
 that is permitted under Subsection (f) of this section;
- 20 ~~(3)~~ (3) Compatibility: The location, size, design, and operating characteristics of the  
~~proposed development or change to an existing development are such that the use~~  
 will be reasonably compatible with and have minimal negative impact on the use  
 21 of nearby properties, or, for residential uses or community, cultural, and  
 22 educational uses in industrial zoning districts, the proposed development  
 reasonably mitigates the potential negative impacts from nearby properties;
- 23 ~~(4)~~ (4) Infrastructure: ~~As compared to development permitted under Section 9-6-1,~~  
~~"Schedule of Permitted Land Uses," B.R.C. 1981, in the zone, or as compared to~~  
~~the existing level of impact of a nonconforming use, the~~ The proposed  
~~development~~ development will not significantly adversely affect the infrastructure of the  
 24 surrounding area, including, without limitation, water, wastewater and storm  
 25 drainage utilities and streets, compared to an allowed use in the zoning district, or  
compared to the existing level of impact of a nonconforming use;

- 1           (54) Character of Area: The use will not change the predominant character of the  
2           surrounding area or the character established by adopted design guidelines or  
3           plans for the area; and
- 4           (65) Conversion of Dwelling Units to Nonresidential Uses: There shall be a  
5           presumption against approving the conversion of dwelling units in the residential  
6           zoning districts to nonresidential uses that are allowed pursuant to a use review, or  
7           through the ~~change~~ substitution of one nonconforming use ~~with~~ another  
8           nonconforming use. The presumption against such a conversion may be overcome  
9           by a finding that the use to be approved serves another compelling social, human  
10          services, governmental or recreational need in the community, including, without  
11          limitation, a use for a daycare center, park, religious assembly, social service use,  
12          benevolent organization use, art studio or workshop, museum, or an educational  
13          use.
- 14          (f) Additional Criteria for ~~Modifications~~ Expansion to of a Nonconforming Uses: No  
15          application for a ~~change to an expansion of~~ a nonconforming use shall be granted unless  
16          all of the following criteria are met in addition to the criteria set forth above:
- 17           (1) Reasonable Measures Required: The applicant has undertaken all reasonable  
18           measures to reduce or alleviate the effects of the nonconformity upon the  
19           surrounding area, including, without limitation, objectionable conditions, glare,  
20           adverse visual impacts, noise pollution, air emissions, vehicular traffic, storage of  
21           equipment, materials and refuse, and on-street parking, so that the ~~change~~  
22           expansion will not adversely affect the surrounding area.
- 23           (2) Reduction in Nonconformity/Improvement of Appearance: The proposed ~~change~~  
24           ~~or expansion~~ will either reduce the degree of nonconformity of the use or improve  
25           the physical appearance of the structure or the site without increasing the degree  
26           of nonconformity.
- 27           (3) Compliance With This Title/~~Exceptions~~: The ~~proposed change in use~~ expansion  
28           complies with all of the ~~other~~ applicable requirements of this title.:
- 29           (A) ~~Except for a change of a nonconforming use to another nonconforming~~  
30           ~~use; and~~
- 31           (B) ~~Unless a variance to the setback requirements has been granted pursuant to~~  
32           ~~Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or the~~  
33           ~~setback has been varied through the application of the requirements of~~  
34           ~~Section 9-2-14, "Site Review," B.R.C. 1981.~~
- 35           (4) Cannot Reasonably Be Made Conforming: The existing building or lot cannot  
36           reasonably be utilized or made to conform to the requirements of Chapter 9-6,  
37           "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or  
38           9-9, "Development Standards," B.R.C. 1981. This paragraph (4) shall not apply to  
39           reconstruction or restoration permitted pursuant to Paragraph 9-10-3(c)(4), B.R.C.  
40           1981, with respect to density and other pre-existing nonconformities of the use or  
41           nonstandard features of the building.

- 1 (5) No Increase in Floor Area Over Ten Percent: The ~~change or expansion~~ will not  
2 result in a cumulative increase in floor area of more than ten percent of the  
3 existing floor area.
- 4 (6) Approving Authority May Grant Zoning Variances: The approving authority may  
5 grant the variances permitted by Subsection 9-2-3(d), B.R.C. 1981, upon finding  
6 that the criteria set forth in Subsection 9-2-3(h), B.R.C. 1981, have been met.
- 7 (g) Conditions of Approval: The approving agency may impose modifications or conditions  
8 on the use review approval ~~in order to assure~~ ensure compliance with the criteria set forth  
9 in Subsections (e) and (f) of this section. In the case of a nonconforming use, conditions  
10 may also be imposed to reduce nonconformity and to improve site design.
- 11 (h) Oil and Gas Operations: The criteria for review in Subsection (e) shall not apply to an  
12 application for oil and gas operations. An oil and gas operations use shall meet the  
13 criteria set forth in Section 9-6-7(b), "Oil and Gas Operations," B.R.C. 1981. Any use  
14 review approval for an oil and gas operations use shall expire, whether operational or not,  
15 in ten years from the date of final approval. Prior to such expiration for an oil and gas  
16 operations use, applicants will be responsible for submitting a new use review application  
17 for an oil and gas operations use proposed for operation beyond ten years. Following  
18 approval of any oil and gas operations use, the applicant shall have two years to obtain  
19 the necessary permits to establish the use.
- 20 (i) Minor Use Review Process: A use review for a nonresidential use that is proposed to  
21 occupy an existing nonresidential space without any site changes may be reviewed  
22 pursuant to a minor use review process. For the purposes of this subsection, site changes  
23 do not include changes to landscape plantings, pedestrian pathways, installation of  
24 bicycle parking, ordinary site maintenance or repair, signs, or site lighting.
- 25 (1) Process: The city manager shall review and make decisions on all minor use  
review process applications pursuant to Subsection 9-2-7(a), "City Manager  
Review and Recommendation," B.R.C. 1981. The applicant or any two interested  
persons may appeal the city manager's decision pursuant to Paragraph 9-2-  
15(l)(1), but the city manager's decision is not subject to call-up by the planning  
board pursuant to Paragraph 9-2-15(l)(2). The city manager may refer the  
application to the planning board for review or decision.
- (2) Development Agreement: The city manager may waive the requirements for a  
development agreement for a minor use review.
- (j) Amendments and Minor Modifications: ~~No person shall expand or modify any approved~~  
~~use review use. However, the approved site plan may be modified as provided in~~  
~~Subsection 9-2-14(k), B.R.C. 1981, if it does not expand the use, any changes conform to~~  
~~Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981; the impact on other~~  
~~uses of the approved use review is not changed; and the change complies with all other~~  
~~provisions of this title and any other ordinance of the city. No person shall modify an~~  
~~approved use review without a new use review approval, except that minor modifications~~

1 may be approved pursuant to Section 9-2-2, "Administrative Review Procedures," B.R.C.  
2 1981, provided that the minor modification meets the following standards:

3 (1) The use is not expanded and the modification is otherwise substantially consistent  
4 with the conditions of the original approval;

5 (2) The modification does not adversely increase impacts to other surrounding  
6 properties or adjacent uses; and

7 (3) The site plan complies with all other provisions of this title and any other  
8 ordinance of the city.

9 (jk) Expiration: Any use review approval or previously approved special review ~~which~~ that is  
10 discontinued for at least three years shall expire. The city manager, upon a finding of  
11 good cause, may grant an extension not to exceed six months from the original date of  
12 expiration. In addition, use review approvals for oil and gas operations are subject to  
13 expiration pursuant to the standards in Subsection (h) of this section.

14 (kl) Appeals and Call-Ups:

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

18 (2) ~~A~~ Two members of the planning board may call-up the manager's decision  
19 pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981,  
20 except that decisions in minor use review processes are not subject to call-up by  
21 the planning board.

22 (3) The city council may call-up any planning board decision pursuant to Section 9-4-  
23 4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

24 Section 13. Section 9-2-16, "Form-Based Code Review," B.R.C. 1981, is amended to  
25 read as follows:

**9-2-16. Form-Based Code Review.**

(a) Purpose: The purpose of form-based code review, is to improve the character and quality  
of new development to promote the health, safety and welfare of the public and the users  
of the development. The form-based code review regulations are established to create a  
sense of place in the area being developed or redeveloped and ensure a site and building  
design that:

...

(o) Appeals and Call-Ups:

- 1 (1) The applicant or any two interested persons may appeal the city manager's
- 2 decision pursuant to Section 9-4-4, "Appeal, Call-Ups and Public Hearings,"
- 3 B.R.C. 1981.
- 4 (2) ~~A~~ Two members of the planning board may call up the manager's decision
- 5 pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.
- 6 (3) The city council may call up any planning board decision pursuant to Section 9-4-
- 7 4, "Appeal, Call-Ups and Public Hearings," B.R.C. 1981.

...

Section 14. Section 9-3-6, "Floodplain Development Permits," B.R.C. 1981, is amended

to read as follows:

**9-3-6. Floodplain Development Permits.**

...

- 10 (h) Floodplain development permits that allow for development in the conveyance zone or
- 11 the high hazard zone, or which will involve a change of watercourse, shall be decided by
- 12 the city manager. The decision of the city manager ~~shall be subject to~~ may be call up by
- 13 ~~the planning board, or appealed~~ by any aggrieved party to the planning board, subject to
- 14 the ~~call-up and~~ appeal procedure of Section 9-4-4, "Appeals, Call-Ups, and Public
- 15 Hearings," B.R.C. 1981.

...

Section 15. Section 9-3-7, "Variances," B.R.C. 1981, is amended to read as follows:

**9-3-7. Variances**

- 17 (a) The city manager may grant a variance from the requirements of Subsection 9-3-2(i) and
- 18 Sections 9-3-3, 9-3-4, and 9-3-5, B.R.C. 1981, except that no variance shall be granted
- 19 for expansion or enlargement of any structure constructed after July 12, 1978, unless such
- 20 expansion or enlargement conforms to the flood protection elevation requirement in
- 21 effect at the time of the original construction.

...

- 21 (f) Any decision by the city manager to approve a variance may be ~~is subject to call up by~~
- 22 ~~the planning board or appealed~~ by any aggrieved party to the planning board as described
- 23 by Section 9-4-4, "Appeals, Call-Ups, and Public Hearings," B.R.C. 1981.

...

Section 16. Section 9-3-9, "Stream, Wetlands, and Water Body Protection," B.R.C.

1981, is amended to read as follows:

1 **9-3-9. Stream, Wetlands, and Water Body Protection**

2 ...

3 (c) Permitted, Allowed and Prohibited Uses within the Regulated Area: The purpose of this  
4 subsection is to describe activities that are exempted, conditionally permitted, requiring  
5 development review or prohibited:

6 (1) Explanation of Table Abbreviations: The abbreviations used in the cells in table  
7 3-1 have the following meanings:

8 "E"(Exempted Activities): indicates that the use type is allowed as a matter of  
9 right and no stream, wetland or water body permit is required.

10 "C"(Conditional Use Review): indicates that the use type will be reviewed in  
11 accordance with the requirements in paragraph (e)(32) of this section.

12 "S"(Standard Permit Review): indicates that the use type will be reviewed in  
13 accordance with the requirements in paragraph (e)(43) of this section.

14 "P"(Prohibited Activities): indicates that the use type is prohibited in the zone.

15 "N"(Allowed with Notice): indicates that the use type is allowed as a matter of  
16 right subject to the application of best management practices as defined in chapter  
17 9-16, "Definitions," B.R.C. 1981, and provision of notice in paragraph (5) of this  
18 subsection. Such activity shall not significantly alter the function of the stream,  
19 wetland or water body. No person shall conduct any activity that is allowed with  
20 notice in violation of the best management practices.

21 ...

22 (e) Stream, Wetland and Water Body Permit Application Review:

23 (1) Acceptance of Application: Applicants for stream, wetland or water body permits  
24 shall submit an application as set forth in subsection (d) of this section. Upon  
25 receipt of an application, the city manager shall review the application for  
completeness. A permit application will be accepted when the city manager  
determines that it is complete.

~~(2) Public Notification of Application: Upon acceptance of a complete standard  
review application, public notice shall be provided according to the requirements  
shown in section 9-4-3, "Public Notice Requirements," B.R.C. 1981, using Public  
Notice Type 5 from table 4-2. Public notice of a conditional use review  
application is not required.~~

(32) Criteria for Review: For an activity requiring conditional use or standard review,  
the applicant shall demonstrate that the stream, wetland or water body permit  
application meets the following criteria:

26 ...

(B) Criteria for the Outer Buffer Zone: In the outer buffer zone, the following  
criteria shall apply:

- 1 (i) The provisions of Subparagraph (e)(32)(A) of this section.
- 2 (ii) Impervious surface coverage: Any new building or attached  
3 structure, expansion of an existing building or attached structure,  
4 new surfacing or expansion of an existing surface that would result  
5 in a cumulative total of twenty percent or more impervious surface  
6 in the outer zone on the property shall provide mitigation  
7 according to the requirements in subsection (f) of this section for  
8 the loss of pervious surface.
- 9 (C) Criteria for the Inner Buffer Zone: In the inner buffer zone, the following  
10 criteria shall apply:
- 11 (i) The provisions of Subparagraph (e)(32)(A) of this section.
- 12 (ii) The provisions of Subparagraph (e)(32)(B) of this section.
- 13 (iii) Channel bank protection or stabilization shall utilize, to the extent  
14 feasible, techniques that involve landscaping with appropriate  
15 native plants rather than rock or artificially hardened structures.
- 16 (iv) All new plant material adjacent to wetlands or water bodies or  
17 along the banks of a stream shall be consistent with all applicable  
18 city rules concerning best management practices as described in  
19 chapter 9-16, "Definitions," B.R.C. 1981. Mitigation monitoring  
20 for restoration projects may be required by the city manager.
- 21 (v) "Vegetation removal - major" shall only be allowed to prevent  
22 noxious weed infestation, provide for native habitat restoration or  
23 for other permitted projects. Major removal of vegetation shall be  
24 mitigated within the inner buffer according to the requirements in  
25 subsection (f) of this section.
- (vi) New steps, paths or other minor access to or over a stream on  
private property will be permitted if there is no more than one  
access on an individual property, the path or steps are designed to  
have minimal impact to the wetland, stream or water body, and the  
path and the area of impact does not exceed four feet in width.
- (D) Criteria for the Wetland, Stream or Water Body: In the wetland, stream, or  
water body, the following criteria shall apply:
- (i) The provisions of Subparagraph (e)(32)(A) of this section.
- (ii) The provisions of Subparagraph (e)(32)(B) of this section.
- (iii) The provisions of Subparagraph (e)(32)(C) of this section.
- (iv) Replacement or repair of an existing fence shall be generally in the  
same location and not result in additional impacts to the wetland,  
stream, or water body.
- (v) Utility line or drop structure maintenance or repair shall not impact  
the existing functions of the wetland, stream, or water body.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(vi) Activities conducted solely for the purpose of removing stream sediment shall not alter the flood capacity as shown on the adopted floodplain maps. Vegetated channel bottoms shall be restored and stabilized.

(4) Criteria for Standard Review: In addition to the standards in paragraph (e)(32) of this section, the applicant shall demonstrate that the stream, wetland or water body permit application meets the following criteria:

...

(g) Permit Issuance:

...

(5) Referrals, Call-up or Appeal:

(A) Conditional Use Permits: For conditional use permits, there shall be no referrals, call-ups or appeals. An applicant may resubmit a standard permit application for a denied conditional use application, pay the balance of the standard permit fee and proceed pursuant to the standard permit review process.

(B) Standard Review Permits: The decision of the city manager ~~shall be subject to call-up by the planning board~~ may be, or appealed by the applicant to the planning board, subject to the ~~call-up and~~ appeal procedure of ~~section~~ Section, 9-4-4 "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

...

(k) Stream, Wetland and Water Body Boundaries:

...

(3) Map Revisions: At the request of a property owner and after submittal of an application and payment of the fee prescribed in section 4-20-53, "Stream, Wetland and Water Body Permit and Map Revision Fees," B.R.C. 1981, or at the city manager's initiative, adopted stream, wetland and water body boundaries may be modified by the city manager by means of the performance of a boundary determination in accordance with the requirements of this subsection:

...

(B) Review of Map Revision Applications:

(i) The city manager shall review the application in accordance with subsection (l) of this section, and may approve the proposed boundary change, approve the proposed boundary change with modifications or deny the proposed boundary change.

(ii) The decision of the city manager ~~shall be subject to call-up by the planning board or may be appealed by the applicant to the planning board~~, subject to the ~~call-up and~~ appeal procedure of Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(m) Variances:

(7) The decision of the city manager ~~shall be subject to call-up by the planning board, or may be appealed by the applicant to the planning board~~, subject to the ~~call-up and~~ appeal procedure of Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

Section 17. Table 4-1: Summary of Decision Authority by Process Type in Section 9-4-2, "Development Review Procedures," B.R.C. 1981, is amended to read as follows:

**9-4-2. Development Review Procedures**

(a) Development Review Authority: Table 4-1 of this section summarizes the review and decision-making responsibilities for the administration of the administrative and development review procedures described in this chapter. The table is a summary tool and does not describe all types of decisions made under this code. Refer to sections referenced for specific requirements. ~~Form and bulk standards may also be modified by site review.~~ Additional procedures that are required by this code but located in other chapters are:

- (1) "Historic Preservation," chapter 9-11; and
- (2) "Inclusionary Housing," chapter 9-13.

**TABLE 4-1: SUMMARY OF DECISION AUTHORITY BY PROCESS TYPE**

<i>Standard or Application Type</i>	<i>Staff/City Manager</i>	<i>BOZA</i>	<i>Planning Board</i>	<i>City Council</i>
Code Interpretation SECTION 9-2-3	D	CA(14)	CA(30)	CA
Setback variance ≤20% SECTION 9-2-3	D	D	—	—
Setback variance >20% SECTION 9-2-3	—	D	—	—
Parking access dimensions SECTION 9-2-2	D	—	—	—
Parking deferral SECTION 9-2-2	D	—	—	—
Parking reduction ≤25% SECTION 9-2-2	D	—	—	—
Parking reduction >25% but ≤50% SECTION 9-2-2	D(14)	—	CA, D(30)	CA
Parking reduction >50% SUBSECTION 9-9-6(f)	—	—	D(30)	CA

1	Building height, conditional SECTION 9 7 6	D	—	—	—
2	Building height, less than principal or nonstandard building height max SECTION 9 2 14	D(14)	—	CA, D(30)	CA
3	Building height, greater than principal building height max SECTION 9 2 14	—	—	D(30)	CA
4	Building height SECTION 9 7 5	—	—	D(30)	CA
5	Conditional Use SECTION 9 2 4	D	—	—	—
6	Site Review SECTION 9 2 14	D(14)	—	CA, D(30)	CA
7	Use Review SECTION 9 2 15	D(14)	—	CA, D(30)	CA
8	Form Based Code Review SECTION 9 2 16	D(14)	—	CA, D(30)	CA
9	Form Based Code Review, administrative SECTION 9 2 16	D	—	—	—
10	Form Based Code Review, minor modification SECTION 9 2 16	D	—	—	—
11	Annexation SECTION 9 2 17	—	—	R	D
12	Rezoning SECTION 9 2 19	—	—	R	D
13	Wetland Permit Simple SECTION 9 3 9	D	—	—	—
14	Wetland Permit Standard SECTION 9 3 9	D(14)	—	D(30)	CA
15	Extension of Dev't Approval ≤1 yr PARAGRAPH 9 2 12(b)(1)	D	—	—	—
16	Extension of Dev't Approval >1 yr PARAGRAPH 9 2 12(b)(2)	—	—	D(30)	CA
17	Rescission of Dev't Approval SUBSECTION 9 2 12(e)	D	—	—	—
18	Creation of Vested Rights >3 yrs SECTION 9 2 20	—	—	R	D
19	Floodplain Dev't Permit SECTION 9 3 6	D(14)	—	CA(30)	CA
20	Wetland Boundary change Standard SUBSECTION 9 3 9(e)	—	—	R	D
21	Geophysical Exploration Permit SECTION 9 6 7(b)	D(14)	—	CA(30)	CA
22	Substitution of Nonconforming Use SECTION 9 10 3	D	—	—	—
23	Expansion of Nonconforming Use SECTION 9 10 3	D(14)	—	CA(30)	CA
24	Subdivision, prelim plat SECTION 9 12 7	D	—	—	—
25	Subdivision, final plat SECTION 9 12 8	D(14)	—	CA	—
26	Subdivision, minor SECTION 9 12 5	D(14)	—	CA(30)	CA
27	Subdivision, LLA or LLE SECTIONS 9 12 3 and 9 12 4	D	—	—	—
28	Solar Exception SUBSECTION 9 9 17(f)	D	D	—	—
29	Solar Access Permit SUBSECTION 9 9 17(h)	D	D	—	—
30	Accessory Bldg Coverage SUBSECTION 9 7 8(a)	—	D	—	—
31	Minor Modification of Discretionary Approval SUBSECTION 9 2 14(l)	D	—	—	—
32	Minor Amendment of Discretionary Approval SUBSECTION 9 2 14(l)	D(14)	—	CA(30)	CA

1	Amendment of Discretionary Approval not involving height SUBSECTION 9-2-14(m)	D(14)	—	CA, D(30)	CA
2	Amendment of Discretionary Approval involving height SECTION 9-2-14	—	—	D(30)	CA
3	<b>KEY:</b>				
4	D = Decision Authority — CA = Call Up and Appeal Authority				
5	R = Recommendation only — (n) = Maximum number of days for call up or appeal				

<i>Standard or Application Type</i>	<i>Staff/City Manager</i>	<i>BOZA</i>	<i>Planning Board</i>	<i>City Council</i>
<b>Section 9-2-2: Administrative Review Procedures</b>				
<u>Conditional Use</u> Section 9-2-2	<u>D</u>	≡	≡	≡
<b>Section 9-2-3: Variances and Interpretations</b>				
<u>Code Interpretation</u> Section 9-2-3	<u>D</u>	<u>CA(14)</u>	<u>CA(30)</u>	<u>CA</u>
<u>Setback Variance &lt;20%</u> Section 9-2-3	<u>D</u>	<u>D</u>	≡	≡
<u>Setback Variance &gt;20%</u> Section 9-2-3	≡	<u>D</u>	≡	≡
<b>Section 9-2-12: Development Progress Required</b>				
<u>Extension of Development Approval</u> Paragraph 9-2-12(b)	<u>D</u>	≡	≡	≡
<u>Rescission of Development Approval</u> Subsection 9-2-12(e)	<u>D</u>	≡	≡	≡
<b>Section 9-2-14: Site Review</b>				
<u>Amendment of Discretionary Approval - not involving height</u> Subsection 9-2-14(m)	<u>D(14)</u>	≡	<u>CA, D(30)</u>	<u>CA</u>
<u>Amendment of Discretionary Approval - involving height</u> Section 9-2-14	≡	≡	<u>D(30)</u>	<u>CA</u>
<u>Building Height - less than principal or nonstandard building height maximum</u> Section 9-2-14	<u>D(14)</u>	≡	<u>CA, D(30)</u>	<u>CA</u>
<u>Building Height - greater than principal building height maximum</u> Section 9-2-14	≡	≡	<u>D(30)</u>	<u>CA</u>
<u>Minor Amendment of Discretionary Approval</u> Subsection 9-2-14(l)	<u>D(14)</u>	≡	<u>CA(30)</u>	<u>CA</u>
<u>Minor Modification of Discretionary Approval</u> Subsection 9-2-14(k)	<u>D</u>	≡	≡	≡
<u>Site Review</u> Section 9-2-14	<u>D(14)</u>	≡	<u>CA, D(30)</u>	<u>CA</u>
<b>Section 9-2-15: Use Review</b>				
<u>Minor Use Review</u> Subsection 9-2-15(i)	<u>D(14)</u>	≡	<u>A</u>	<u>CA</u>
<u>Use Review</u> Section 9-2-15	<u>D(14)</u>	≡	<u>CA, D(30)</u>	<u>CA</u>
<u>Use Review Minor Modification</u> Subsection 9-2-15(j)	<u>D</u>	≡	≡	≡
<b>Section 9-2-16: Form-Based Code Review</b>				
<u>Administrative Form-Based Code Review</u> Section 9-2-16	<u>D</u>	≡	≡	≡
<u>Form-Based Code Review Minor Modification</u> Section 9-2-16	<u>D</u>	≡	≡	≡

1	<b>Form-Based Code Review</b> Section 9-2-16	<u>D(14)</u>	≡	<u>CA, D(30)</u>	<u>CA</u>
<b>Section 9-2-17: Annexation Requirements</b>					
2	<b>Annexation</b> Section 9-2-17	≡	≡	<u>R</u>	<u>D</u>
<b>Section 9-2-19: Rezoning</b>					
3	<b>Rezoning</b> Section 9-2-19	≡	≡	<u>R</u>	<u>D</u>
<b>Section 9-2-20: Creation of Vested Rights</b>					
4	<b>Creation of Vested Rights &gt;3 years</b> Section 9-2-20	≡	≡	<u>R</u>	<u>D</u>
<b>Section 9-3-6: Floodplain Development Permits</b>					
5	<b>Floodplain Development Permit</b> Section 9-3-6	<u>D(14)</u>	≡	<u>A</u>	<u>CA</u>
<b>Section 9-3-9: Stream, Wetlands, and Water Body Protection</b>					
6	<b>Wetland Permit Conditional</b> Section 9-3-9	<u>D</u>	≡	≡	≡
7	<b>Wetland Permit Standard</b> Section 9-3-9	<u>D(14)</u>	≡	<u>A</u>	<u>CA</u>
8	<b>Wetland Boundary Revision</b> Subsection 9-3-9(k)	<u>D(14)</u>	≡	<u>A</u>	<u>CA</u>
<b>Section 9-6-7: Specific Use Standards - Agriculture and Natural Resource Uses</b>					
9	<b>Geophysical Exploration Permit</b> Section 9-6-7(b)	<u>D(14)</u>	≡	<u>CA(30)</u>	<u>CA</u>
10	<b>Chapter 9-7: Form and Bulk Standards</b>				
11	<b>Accessory Building Coverage</b> Subsection 9-7-8(a)	≡	<u>D</u>	≡	≡
12	<b>Building Height</b> Section 9-7-5	≡	≡	<u>D(30)</u>	<u>CA</u>
13	<b>Conditional Building Height</b> Section 9-7-6	<u>D</u>	≡	≡	≡
<b>Section 9-9-6: Parking Standards</b>					
14	<b>Parking Access Dimensions</b> Section 9-9-5	<u>D</u>	≡	≡	≡
15	<b>Parking Deferral</b> Subsection 9-9-6(e)	<u>D</u>	≡	≡	≡
16	<b>Parking Reduction &lt;25%</b> Subsection 9-9-6(f)	<u>D</u>	≡	≡	≡
17	<b>Parking Reduction &gt;25% but &lt;50%</b> Section 9-9-6(f)	<u>D(14)</u>	≡	<u>CA, D(30)</u>	<u>CA</u>
18	<b>Parking Reduction &gt;50%</b> Subsection 9-9-6(f)	≡	≡	<u>D(30)</u>	<u>CA</u>
<b>Section 9-9-17: Solar Access</b>					
19	<b>Solar Access Permit</b> Subsection 9-9-17(h)	<u>D</u>	<u>D</u>	≡	≡
20	<b>Solar Exception</b> Subsection 9-9-17(f)	<u>D</u>	<u>D</u>	≡	≡
<b>Section 9-10-3: Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses</b>					
21	<b>Expansion of a Nonconforming Use</b> Section 9-10-3	<u>D(14)</u>	≡	<u>CA(30)</u>	<u>CA</u>
22	<b>Substitution of a Nonconforming Use</b> Section 9-10-3	<u>D</u>	≡	≡	≡
<b>Chapter 9-12: Subdivision</b>					
23	<b>Final Plat</b> Section 9-12-8	<u>D(14)</u>	≡	<u>CA</u>	≡
24	<b>Lot Line Adjustment or Lot Line Elimination</b> Sections 9-12-3 and 9-12-4	<u>D</u>	≡	≡	≡
25	<b>Minor Subdivision</b> Section 9-12-5	<u>D(14)</u>	≡	<u>CA(30)</u>	≡
	<b>Preliminary Plat</b> Section 9-12-7	<u>D</u>	≡	≡	≡

<p>KEY: D = Decision Authority      CA = Call-Up and Appeal Authority (for City Council, call-up only)</p> <p>R = Recommendation only      (A) = Appeal Authority only      (n) = Maximum number of days for call-up or appeal</p>
--

Section 18. Section 9-4-3, “Public Notice Requirements,” B.R.C. 1981, is amended to read as follows:

**9-4-3. Public Notice Requirements**

- (a) Process and Options: When a process or procedure identified in this title requires public notice, the city manager shall provide such notice according to Table 4-2 of this section. If a code section does not reference a specific method, the city manager shall determine the most appropriate notification method to be used.

**TABLE 4-2: PUBLIC NOTICE OPTIONS**

<i>Public Notice Type</i>	<i>Type of Application, Meeting or Hearing</i>	<i>Mailed Notice</i>	<i>Posted Notice</i>
1	Administrative Reviews (except those identified below)	none	none
2	Preliminary Plats and Minor Subdivisions	To adjacent property owners a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
3	Good neighbor meetings	To property owners within 600 feet of subject property a minimum of 10 days before meeting	none
4	Solar exceptions, solar access permits	To adjacent property owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
5	Applications requiring BOZA action, <del>wetland permit and boundary determination</del>	To property owners within 300 feet of subject property a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
6	Development Review Applications (site review, use review, annexation, rezoning, concept plans)	To property owners within 600 feet of subject property a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
7	Form-based code review	To property owners and all addresses within 600 feet of the subject property a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
8	Use review applications for oil and gas operations	To property owners, all addresses, and the local government designee of any local government within 5,280 feet (one mile) of the subject property upon finding an application complete and a minimum of 10 days before final action and any mineral rights owners at that	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing

		time and a minimum of 30 days before initial hearing	
--	--	--	--

1 ...

2  
3 Section 19. Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981, is  
4 amended to read as follows:

5 **9-4-4. Appeals, Call-Ups and Public Hearings**

6 When a section of the land use ~~regulations code~~ indicates that a decision is subject to appeal or  
7 call-up, the following standards shall apply:

- 8 (a) Appeal: ~~If a right to appeal is noted in this title, If noted in Table 4-1, Section 9-4-2,~~  
9 ~~"Development Review Procedures," B.R.C. 1981, in a specific section, an applicant or, if~~  
10 ~~applicable, an aggrieved party or any two interested persons~~ may appeal the city  
11 manager's decision to grant or deny an application to the planning board by delivering a  
12 written notice of appeal to the city manager within fourteen days of the decision.
- 13 (b) Board Call-Up: ~~If a planning board call-up of a city manager decision is noted in this~~  
14 ~~title, If noted in Table 4-1, Section 9-4-2, "Development Review Procedures," B.R.C.~~  
15 ~~1981, a two members~~ of the planning board may call up a city manager's decision upon  
16 written notification to staff or by making a verbal request, on the record, at a regularly  
17 scheduled board meeting within fourteen days of the manager's decision. A member of  
18 the BOZA may call up a city manager's decision regarding an interpretation upon written  
19 notification to staff or by making a verbal request, on the record, at a regularly scheduled  
20 board meeting within fourteen days of the manager's decision. ~~On any application that it~~  
21 ~~calls up, the board will hold a public hearing under the procedures prescribed by Chapter~~  
22 ~~1-3, "Quasi Judicial Hearings," B.R.C. 1981, after publishing notice as provided in~~  
23 ~~Subsection 9-4-3(d), B.R.C. 1981. Within thirty days of the public hearing or within such~~  
24 ~~other time as the board and the applicant mutually agree, the board will either grant the~~  
25 ~~application in whole or in part, with or without modifications and~~  
~~conditions, or deny it. The decision will specifically set forth in what respects the~~  
~~development review application meets or fails to meet the standards and criteria 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, for the type of review requested.~~
- (c) City Council Call-Up: ~~With the exception of minor subdivisions and plats, t~~The city  
council may call up any board decision within thirty days of the board's action. The city  
manager may extend the call-up period until the council's next regular meeting, if the  
manager finds in writing within the original call-up period that the council will not  
receive notice of a decision of the board in time to enable it to call up the decision for  
review. ~~On any application that it calls up, the council will hold a public hearing under~~  
~~the procedures prescribed by Chapter 1-3, "Quasi Judicial Hearings," B.R.C. 1981, after~~  
~~publishing notice as specified by Subsection 9-4-3(d), B.R.C. 1981, summarized in~~  
~~Subsection (b) of this section.~~ Together with the evidence presented at such public  
hearing, the council may consider the record, or any portion thereof, of the hearing before  
the board. ~~Within thirty days of the public hearing or within such other time as the~~

council and the applicant mutually agree, the council will either grant the application in whole or in part, with or without modifications and conditions, or deny it. The decision will specifically set forth in what respects the development review application meets or fails to meet the standards and criteria 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, for the type of review requested.

(d) Public Hearing Requirements: Within sixty days after a referral, appeal or call-up under this section, the approving agency will hold a public hearing on the application. On any application that it calls up, the board or council will hold a public hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after publishing notice as provided in Subsection 9-4-3(d), B.R.C. 1981. Within thirty days of the public hearing or within such other time as the board or council and the applicant mutually agree, the board or council will either grant the application in whole or in part, with or without modifications and conditions, or deny it. The decision will specifically set forth in what respects the development review application meets or fails to meet the standards and criteria 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, for the type of review requested.

...  
Section 20. Section 9-6-3, "Specific Use Standards - Residential Uses," B.R.C. 1981, is amended to read as follows:

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

**(a) Residential Uses:**

- (1) This Subsection (a) sets forth standards for uses in the residential use classification that are subject to specific use standards pursuant to Table 6-1, Use Table.
- (2) Residential Uses in the IG and IM Zoning Districts: The following standards apply in the IG and IM zoning districts to residential uses that may be approved pursuant to a use review:
  - (A) Location: Dwelling units may be constructed only on a lot or parcel that meets one or more of the following requirements (i), (ii), or (iii). If a lot or parcel meets this location standard, the approving authority shall presume that the standard in Paragraph 9-2-15(e)(~~5~~4), B.R.C. 1981, has been met.

...  
**(e) Dwelling Unit, Detached:**

- (2) In the RH-1, RH-2, RH-3, RH-4, RH-5, RH-7, MU-1, MU-2, and MU-4 Zoning Districts:

1 (A) Review Process: In the RH-1, RH-2, RH-3, RH-4, RH-5, RH-7, MU-1,  
2 MU-2, and MU-4 zoning districts, the following review process applies to  
detached dwelling units:

3 ...  
4 (ii) Use Review: A new detached dwelling unit that is not allowed by  
right may be approved pursuant to a use review if the approving  
5 authority finds that:

6 a. The use meets the use review criteria in Paragraphs 9-2-  
15(e)(1), (32), (43), and (54), "Use Review," B.R.C. 1981;

7 ...  
8 Section 21. Section 9-6-5, "Specific Use Standards - Commercial Uses," B.R.C. 1981, is

9 amended to read as follows:

10 **9-6-5. Specific Use Standards - Commercial Uses**

11 ...  
12 (b) **Brewery, Distillery, and Winery:**

13 (2) In the IS-1, IS-2, and IMS Zoning Districts:

14 ...  
15 (A) In the IS-1, IS-2, and IMS zoning districts, breweries, distilleries, and  
wineries shall meet the following standards:

16 (i) Review Process: In the IS-1, IS-2, and IMS zoning districts, the  
17 following review process applies:

18 c. Use Review: If the use is not allowed by right or as a  
19 conditional use, the use may be approved only pursuant to a  
use review subject to the use review criteria in Paragraphs  
20 9-2-15(e)(1), (32), (43), and (54) "Use Review," B.R.C.  
1981.

21 (ii) General Standard: No brewery, distillery, or winery shall exceed  
22 15,000 square feet in floor area.

23 (3) In the IG and IM Zoning Districts:

24 (A) In the IG and IM zoning districts, breweries, distilleries, and wineries shall  
meet the following standards:

25 (i) Review Process: In the IG and IM zoning districts, the following  
review process applies:

1 ...  
2  
3  
4  
5 ...  
6  
7 ...  
8  
9 ...  
10  
11  
12  
13 ...  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

c. Use Review: If the use is not allowed by right or as a conditional use, the use may be approved only pursuant to a use review subject to the use review criteria in Paragraphs 9-2-15(e)(1), (32), (43), and (54) "Use Review," B.R.C. 1981.

**(i) Office Uses:**

(2) Office Uses in the MU-4 Zoning District:

(A) Review Process: In the MU-4 zoning district, the following review process applies to office uses:

(ii) Use Review: Office uses that may not be approved by right may be approved pursuant to a use review if the approving authority finds that the use:

a. Meets the use review criteria in Paragraphs 9-2-15(e)(1), (32), (43), and (54), "Use Review," B.R.C. 1981; and

(3) Office Uses in the BT-1, BT-2, BMS, BR-1, and BR-2 Zoning Districts:

(A) Review Process: In the BT-1, BT-2, BMS, BR-1, and BR-2 zoning districts, the following review process applies to office uses:

(i) Allowed Use: Office uses are allowed by right if they meet the following standards:

- a. The use is located within the University Hill general improvement district;
- b. The combined total amount of floor area of any office uses does not exceed 20,000 square feet on the lot or parcel; or
- c. The use was legally established within the associated floor area prior to August 6, 2019. ~~Uses that exceed the 20,000 square feet limitation of Subparagraph (A)(i)b. shall be considered a nonconforming use.~~ Changes in operations, such as changes in ownership, tenancy, management, number of employees, hours of operation, or changes to other uses also within the office use category within the existing floor area referenced in this subsection, shall do not require city manager review. ~~be considered an expansion of a nonconforming use. Such changes shall not~~

~~require a request for a change of use pursuant to Section 9-10-3(e)(2), "Standards for Changes to Nonconforming Uses," B.R.C. 1981. Additions or changes to floor plans that result in the combined floor area of these uses exceeding the 20,000 square foot feet limitation of Subparagraph (A)(i)b. for the nonconforming floor area may are not be allowed by right and are subject to the standards of Subparagraphs (A)(ii) and (A)(iii).~~

(ii) Conditional Use: The use may be approved as a conditional use if the following standards are met:

- a. The total amount of floor area of any office uses does not exceed 40,000 square feet on the lot or parcel;
- b. Dwelling units are constructed on the same lot or parcel or within the area of the same approved site review, planned unit development, or form-based code review and at least thirteen percent of those dwelling units meet the requirements for permanently affordable units set forth in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981; and
- c. No less than two permanently affordable units are constructed on said lot or parcel or within said area of an approved site review, planned unit development, or form-based code review.

(iii) Use Review: Any use that is not allowed by right and may not be approved as a conditional use may be approved pursuant to a use review if the approving authority finds that the use:

- a. Meets the use review criteria in Paragraphs 9-2-15(e)(1), (32), (43), and (54), "Use Review," B.R.C. 1981; and
- b. The proposed use is part of a mixed-use development that includes residential or retail uses.

...

**(k) Office:**

...

(4) In the IG and IM Zoning Districts:

(A) Review Process: In the IG and IM zoning districts, the following review process applies to offices:

...

(ii) Use Review: If the office is not allowed by right, the use may be approved only pursuant to a use review. In addition to meeting the use review criteria in Paragraphs 9-2-15(e)(1), (32), (43), and (54) "Use Review," B.R.C. 1981, the applicant shall demonstrate that:

1 ...  
2 **(r) Financial Institution:**

3 ...  
4 (2) In the MU-4 Zoning District:

5 (A) Review Process: In the MU-4 zoning district, the following review process  
6 applies to financial institutions:

7 (ii) Use Review: Financial institutions that may not be approved by  
8 right may be approved pursuant to a use review if the approving  
9 authority finds that the use:

10 a. Meets the use review criteria in Paragraphs 9-2-15(e)(1),  
11 (32), (43), and (54), "Use Review," B.R.C. 1981; and

12 ...  
13 Section 22. Section 9-7-5, "Building Height," B.R.C. 1981, is amended to read as  
14 follows:

15 **9-7-5. Building Height**

16 (a) Permitted Height: The height permitted without review within the City is set forth in  
17 Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, except as provided  
18 in Paragraph (b)(2) of this section. Buildings greater than the permitted height may be  
19 approved under Section 9-2-14, "Site Review," B.R.C. 1981.

20 (d) Nonconformity to Permitted Height: For existing buildings that exceed the height  
21 permitted in Section 9-7-1, "Schedule of Form and Bulk Standards," or Section 9-7-6,  
22 "Building Height, Conditional," B.R.C. 1981, the following changes require approval  
23 under Section 9-2-14, "Site Review," B.R.C. 1981:

24 (1) ~~There shall be no increase in~~ Increasing the building's highest point as established  
25 by Subsection 9-7-5(b), "Measurement of Height," B.R.C. 1981;

(2) Adding building elements or massing above the permitted or conditional height  
unless permitted by Section 9-7-7, "Building Height, Appurtenances," B.R.C.  
1981; or

(3) ~~or Adding the floor area of buildings greater than the above the permitted or~~  
conditional height but less than fifty-five feet in height, unless approved under  
Section 9-2-14, "Site Review," B.R.C. 1981.

26 ...  
27 Section 23. Section 9-8-5, "Occupancy of Dwelling Units," B.R.C. 1981, is amended to

1 read as follows:

2 **9-8-5. Occupancy of Dwelling Units**

3 ...

4 (d) Nonconforming Uses: A nonconforming residential use that is ~~not permitted~~prohibited by  
5 Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, or is a lot or parcel that  
6 does not meet the density requirements of Chapter 9-8, "Intensity Standards," B.R.C.  
7 1981, is subject to the following:

8 ...

9 Section 24. Section 9-9-2, "General Provisions," B.R.C. 1981, is amended to read as  
10 follows:

11 **9-9-2. - General Provisions**

12 No person shall use or develop any land within the city except according to the following  
13 standards, unless modified through a use review under Section 9-2-15, "Use Review," B.R.C.  
14 1981, or a site review, Section 9-2-14, "Site Review," B.R.C. 1981, or a variance granted under  
15 Section 9-2-3, "Variances and Interpretations," B.R.C., 1981.

16 (a) Fire and Life Safety: All development shall meet the applicable requirements of Chapter  
17 10-8, "Fire Code," B.R.C. 1981.

18 (b) Maximum Permitted Buildings on a Lot: No more than one principal building shall be  
19 placed on a lot in the RR, RE, RL-1, and RM zoning districts unless approved under the  
20 provisions of Section 9-2-14, "Site Review," or 9-7-12, "Two Detached Dwellings on a  
21 Single Lot," B.R.C. 1981.

22 ...

23 Section 25. Section 9-9-6, "Parking Standards," B.R.C. 1981, is amended to read as  
24 follows:

25 **9-9-6. Parking Standards**

(a) Rationale: The intent of this section is to provide adequate off-street parking for all uses,  
to prevent undue congestion and interference with the traffic carrying capacity of city  
streets, and to minimize the visual and environmental impacts of excessive parking lot  
paving.

...

(c) General Parking Requirements:

(1) Rounding Rule: For all motor vehicle and bicycle parking space requirements  
resulting in a fraction, the fraction shall be:

(A) Rounded to the next higher whole number when the required number of  
spaces is five or less; or

(B) Rounded to the next lower whole number when the required number of spaces is more than five.

(2) Parking Requirements for Lots in Two or More Zoning Districts: For lots that have more than one zoning designation, the required motor vehicle and bicycle parking for the use(s) on the lot may be provided on any portion of the lot, subject to the provisions of this title.

(3) Off-Street Parking Requirement for Unlisted Nonresidential Uses: If the city manager determines that the use type is not specifically listed in Table 6-1, Use Table, or Table 9-4, Use Specific Motor Vehicle Parking Requirements for Nonresidential Uses in All Zones, the city manager may apply one of the following standards that adequately meets the parking needs of the use:

(A) The applicable off-street parking requirement under Table 9-3, Nonresidential Motor Vehicle Parking Requirements by Zoning District;

(B) The off-street parking requirement under Table 9-4 for the listed use type most similar to the proposed use based on public parking demand, nature of the use type, number of employees, or any other factors deemed appropriate by the city manager;

(C) An off-street parking requirement established based on local or national best practices or by reference to standards or resources such as the Institute of Traffic Engineers, Urban Land Institute, International Council of Shopping Centers, American Association of State Highway and Transportation Officials, or American Planning Association; or

(D) An off-street parking requirement demonstrated by a parking demand study prepared by the applicant according to Paragraph 9-9-6(d)(6).

...

Section 26. Section 9-9-17, "Solar Access," B.R.C. 1981, is amended to read as follows:

**9-9-17. Solar Access**

...

(d) Basic Solar Access Protection:

(1) Solar Fence: A solar fence is hereby hypothesized for each lot located in SA Area I and SA Area II. Each solar fence completely encloses the lot in question, and its foundation is contiguous with the lot lines. Such fence is vertical, is opaque and lacks any thickness.

(A) SA Area I: No person shall erect an object or structure on any other lot that would shade a protected lot in SA Area I to a greater degree than the lot would be shaded by a solar fence twelve feet in height, between two hours before and two hours after local solar noon on a clear winter solstice day.

1 (B) SA Area II: No person shall erect an object or structure on any other lot  
2 that would shade a protected lot in SA Area II to a greater degree than the  
3 lot would be shaded by a solar fence twenty-five feet in height, between  
4 two hours before and two hours after local solar noon on a clear winter  
5 solstice day.

6 (C) SA Area III: Solar fences are not hypothesized for lots located in SA Area  
7 III. Solar access protection in SA Area III is available under this section  
8 only through permits, as hereinafter provided.

9 (D) Adjoining Duplex or Townhouse Lots in All Solar Areas: On duplex or  
10 townhouse lots, solar fences are not hypothesized on interior lot lines  
11 between adjoining units of a duplex or adjoining townhouses. Other lot  
12 lines are subject to the solar fence restrictions of subsection (A), (B), or  
13 (C), as applicable.

14 ...  
15 (f) Exceptions:

16 ...  
17 (5) Referral or Appeal of City Manager's Decision: The city manager may refer the  
18 application or the city manager's decision may be appealed by the applicant to the  
19 BOZA pursuant to the procedures of Section 9-4-4, "Appeals, Call-Ups and  
20 Public Hearings," B.R.C. 1981. If an affidavit from each owner of each affected  
21 lot per subparagraph (f)(4)(A) cannot be obtained, the applicant may apply for  
22 consideration of the exception before the BOZA. Public notification of the  
23 hearing shall be provided pursuant to Section 9-4-3, "Public Notice  
24 Requirements," B.R.C. 1981. The sign posted shall remain posted until the  
25 conclusion of the hearing.

26 ...  
27 (g) Solar Siting:

28 ...  
29 (2) Waivers: Upon request of any applicant for a building permit or a subdivision or  
30 planned unit development approval, the approving authority may waive such of  
31 the requirements of this paragraph as it deems appropriate if it finds that any of  
32 the following criteria are met:

33 ...  
34 (D) ~~The applicant's proposal incorporates the following additional energy  
35 resource and conservation option points in excess of the requirements of  
36 Subsection 10 5.5 2(y), "Resource Conservation - Green Points," B.R.C.  
37 1981:~~

38 (i) ~~2 points to qualify for a waiver of the requirement of  
39 Subparagraph (g)(1)(A) of this section;~~

(ii) ~~3 points to qualify for a waiver of the requirement of Subparagraph (g)(1)(B) of this section; and~~

(iii) ~~The city manager finds that adequate protection for any solar energy systems to be installed is provided either under the provisions of this section, or through covenants, easements, or other agreements among affected landowners.~~

...

Section 27. Section 9-10-2, "Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots," B.R.C. 1981, is amended to read as follows:

**9-10-2. Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots**

Nonconforming uses and nonstandard buildings and lots in existence on the effective date of the ordinance which first made them nonconforming may continue to exist subject to the following:

- (a) One-Year Expiration for Nonconforming Uses: A nonconforming use, except for a use that is nonconforming only because it fails to meet the required off street parking standards ~~in of~~ Sections 9-9-6, "Parking Standards," ~~and or residential density requirements of Section 9-78-1, "Schedule of Intensity Standards, Schedule of Form and Bulk Standards,"~~ B.R.C. 1981, that has been discontinued for at least one year shall not be resumed or replaced by another nonconforming use as allowed under Subsection 9-2-15(f), B.R.C. 1981, unless an extension of time is requested in writing prior to the expiration of the one-year period. The approving authority will grant such a request for an extension upon finding that an undue hardship would result if such extension were not granted.

...

Section 28. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, is amended to read as follows:

**9-10-3. Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses**

Changes to nonstandard buildings, structures, or nonstandard lots and nonconforming uses shall comply with the following requirements:

...

- (c) Nonconforming Uses:

- (1) Nonconforming Changes to Conforming Use Prohibited: No conforming use may be changed to a nonconforming use, notwithstanding the fact that some of the features of the lot or building are nonstandard or the parking is nonconforming.
- (2) Standards for ~~Changes-Substitutions of~~ Nonconforming Uses: The city manager will grant a request for a ~~change-substitution of~~ a nonconforming use, which is the

1 replacement of one nonconforming use with another, if the ~~modified or~~ new use  
2 does not constitute an expansion of a nonconforming use. Any ~~other change of~~  
3 ~~use that constitutes~~ expansion of a nonconforming use must be reviewed under  
4 procedures of Section 9-2-15, "Use Review," B.R.C. 1981.

- 5 (3) Nonconforming Only as to Parking: The city manager will grant a request to  
6 change a use that is nonconforming only because of an inadequate amount of  
7 parking to any conforming use allowed in the underlying zoning district upon a  
8 finding that the new or modified use will have an equivalent or less parking  
9 requirement than the use being replaced.

10 ...

11 Section 29. Section 9-12-3, "Adjustment of Lot Lines," B.R.C. 1981, is amended to read  
12 as follows:

13 **9-12-3. Adjustment of Lot Lines**

- 14 (a) Scope: The city manager is authorized to grant exemptions from the subdivision process  
15 for the transfer of part of one lot or parcel for the purpose of enlarging an existing  
16 adjacent lot or parcel if such transfer meets the requirements of this section. If an  
17 applicant cannot meet the standards of this section, then an adjustment may be approved,  
18 if it meets the applicable standards, as part of a minor subdivision or a subdivision.

19 ...

- 20 (d) City Manager Approval: No person shall transfer land under this section until after the  
21 city manager reviews the map and legal description of the property and all other  
22 information required under this section to verify that the transfer is exempt under this  
23 chapter. ~~The city manager shall sign the documents of transfer before they are recorded~~  
24 ~~and will record the approved replat map after the applicant has recorded the documents of~~  
25 ~~transfer. The city manager shall sign the approved replat map and the city clerk shall~~  
record the replat map in the office of the Boulder County Clerk and Recorder. Any such  
approved replat not recorded within six months after the date it was approved shall  
automatically expire.

26 Section 30. Section 9-12-4, "Elimination of Lot Lines," B.R.C. 1981, is amended to read  
27 as follows:

28 **9-12-4. Elimination of Lot Lines**

- 29 (a) Scope: Notwithstanding any other provisions of this chapter, existing lot lines forming  
30 the boundary between two or more conforming platted lots located within the same  
31 subdivision or lot lines between lots or parcels that have merged to form one building lot  
32 pursuant to subsection 9-9-2(c), B.R.C. 1981, may be removed or eliminated through a  
33 replatting process which conforms to the requirements of this section.

34 ...

1 ~~(e) City Manager Decision: The city manager shall notify the planning board in writing within seven days of the disposition of the replat application.~~

2 (fe) City Manager Approval: The city manager shall sign all approved replats and, upon the  
3 payment of the recording fees prescribed by subsection 4-20-43(a), B.R.C. 1981, the city  
4 clerk shall record all such replats in the office of the Boulder County Clerk and Recorder.  
Any such approved replat not recorded within six months after the date it was approved  
shall automatically expire.

5 Section 31. Section 9-12-5, "Minor Subdivision," B.R.C. 1981, is amended to read as  
6 follows:

7 **9-12-5. Minor Subdivision**

8 (a) Scope: A minor subdivision is a division of land that is already served by city services,  
9 will not require the extension of streets or public improvements and will not result in  
more than one additional lot.

10 ...

11 (f) Existing Streets or Alleys. Dedication and Vacation of Easements: Right-of-way  
12 necessary to bring an existing street or alley up to a current city standard, or public  
easements for utilities or sidewalks may be dedicated on a minor subdivision plat. The  
City may approve the vacation of city utility easements on the replat.

13 ...

14 Section 32. Section 9-12-10, "Final Plat Procedure," B.R.C. 1981, is amended to read as  
15 follows:

16 **9-12-10. Final Plat Procedure**

17 (a) If the final plat and the required plans, specifications, agreements, guarantees and other  
18 documents meet the requirements of this code, the City of Boulder Design and  
Construction Standards and other ordinances of the City or requirements determined by  
19 the city manager to be necessary to protect the public health, safety or welfare, the  
manager shall approve the final plat (subject to the provisions of subsection (d) of this  
20 section) within ninety days of the date of submitting the required documents. The  
manager shall then execute a subdivision agreement that incorporates the final plat, the  
21 undertaking to provide public improvements prescribed by Section 9-12-12, "Standards  
for Lots and Public Improvements," B.R.C. 1981, the undertaking of financial guarantees  
22 prescribed by Section 9-12-13, "Subdivider Financial Guarantees," B.R.C. 1981, the  
public improvement warranty prescribed by Section 9-12-14, "Public Improvement  
23 Warranty," B.R.C. 1981, the subdivider's commitment to provide an update of the  
preliminary title report or attorney memorandum current as of the date of recording the  
24 plat and any other terms and conditions to which the parties agree.

25 ...

1 (e) Any person aggrieved by a decision of the city manager to approve or deny an  
 2 application for a subdivision may appeal such decision to the planning board ~~by filing an~~  
 3 ~~appeal with the city manager within fourteen days of the decision pursuant to Section 9-4-~~  
 4 ~~4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. Two members of the planning~~  
 5 ~~board may call-up the city manager decision pursuant to Section 9-4-4, "Appeals, Call-~~  
 6 ~~Ups and Public Hearings," B.R.C. 1981. The board shall hear the appeal or call-up of the~~  
 7 ~~subdivision application, after giving notice to all interested parties, within thirty days of~~  
 8 ~~the notice of appeal or call-up, under the procedures prescribed by Chapter 1-3, "Quasi-~~  
 9 ~~Judicial Hearings," B.R.C. 1981. The board shall determine whether the subdivision~~  
 10 ~~application meets the requirements of this code and other ordinances of the City or those~~  
 11 ~~determined by the city manager to be necessary to protect the public health, safety and~~  
 12 ~~welfare and shall grant or deny the application.~~

...

8 Section 33. Section 9-16-1, "General Definitions," B.R.C. 1981, is amended to read as  
 9 follows:

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

- 11 (a) The definitions contained in Chapter 1-2, "Definitions," B.R.C. 1981, apply to this title  
 12 unless a term is defined differently in this chapter.
- 13 (b) Terms identified with the references shown below after the definition are limited to  
 14 those specific sections or chapters of this title:
- 15 (1) Airport influence zone (AIZ).
  - 16 (2) Floodplain regulations (Floodplain).
  - 17 (3) Historic preservation (Historic).
  - 18 (4) Inclusionary housing (Inclusionary Housing).
  - 19 (5) Solar access (Solar).
  - 20 (6) Wetlands Protection (Wetlands).
  - 21 (7) Signs (Signs).
- 22 (c) The following terms as used in this title have the following meanings unless the context  
 23 clearly indicates otherwise:

**A—E**

...

22 Conforming Use means any use of a building or use of a lot that is permitted by Section 9-6-1,  
 23 "Schedule of Permitted Land Uses," B.R.C. 1981 and meets any applicable specific use  
 24 standards. A conforming use also includes:

- 24 (1) A legal existing use that is not prohibited but was not approved as a conditional use or  
 25 use review use;

1 (2) A use approved pursuant to a valid use review or special review, except where the  
2 review was a nonconforming use review;

3 *Expansion of a nonconforming use* means any change or modification to a nonconforming use  
4 that constitutes:

5 (1) An increase in the occupancy, floor area, required parking, traffic generation, outdoor  
6 storage, or visual, noise, or air pollution;

7 (2) Any change in the operational characteristics which may increase the impacts or  
8 create adverse impacts to the surrounding area including, without limitation, the hours of  
9 operation, noise, or the number of employees;

10 (3) The addition of bedrooms to a dwelling unit, except a single-family detached dwelling  
11 unit; or

12 (4) The addition of one or more dwelling units.

13 **K—O**

14 ...

15 *Nonconforming use* means any use of a building or use of a lot that is ~~not permitted~~ prohibited by  
16 Section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, ~~but excludes a conforming use~~  
17 ~~in a nonstandard building or on a nonstandard lot; a legal existing use that has not been approved~~  
18 ~~as a conditional use or a use review use, or a use approved pursuant to a valid special review or~~  
19 ~~use review approval.~~ A nonconforming use also includes an otherwise conforming use, except a  
20 single dwelling unit on a lot, that does not meet the following parking ~~and or~~ residential density  
21 requirements, including, without limitation, the requirements for minimum lot area per dwelling  
22 unit, useable open space per dwelling unit, or required off-street parking requirements of  
23 Sections 9-8-1, "Schedule of Intensity Standards," ~~and or~~ 9-9-6, "Parking Standards," B.R.C.  
24 1981.

25 ...

*Nonstandard building or structure* means any building or structure that does not conform to the  
setback, height, side yard bulk plane, side yard wall length articulation, or building coverage  
requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," or the floor area ratio  
requirements of Section 9-8-1, "Schedule of Intensity Standards," and Section 9-8-2, "Floor Area  
Ratio Requirements," B.R.C. 1981, unless the nonstandard features of the building or structure  
were approved as part of a planned unit development or a site review, or as a variance. A  
nonstandard building or structure does not render a conforming use a nonconforming use.

*Nonstandard lot* means any lot that does not conform to the minimum lot area requirement of  
Section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, or frontage upon a public street  
required by Section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981, unless  
the nonstandard nature of the lot was approved as part of a planned unit development or a site  
review. A nonstandard lot does not render a conforming use a nonconforming use.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

...

Section 34. This ordinance shall apply to any application under Title 9, “Land Use Code,” B.R.C. 1981, (hereafter referred as “Application”) applied for on or after the effective date of this ordinance. Any project for which a complete Application has been submitted to the city or which has received an approval prior to the effective date of this ordinance shall be subject to the standards in effect at the time such Application was submitted to the city.

Section 35. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 36. 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 37. 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 16<sup>th</sup> day of May 2024.

\_\_\_\_\_  
Aaron Brockett,  
Mayor

Attest:

\_\_\_\_\_  
Elesha Johnson,  
City Clerk

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

READ ON SECOND READING, AMENDED AND PASSED this 6<sup>th</sup> day of June 2024.

\_\_\_\_\_  
Aaron Brockett,  
Mayor

Attest:

\_\_\_\_\_  
Elesha Johnson,  
City Clerk

READ ON THIRD READING, PASSED AND ADOPTED this 20<sup>th</sup> day of June 2024.

\_\_\_\_\_  
Aaron Brockett,  
Mayor

Attest:

\_\_\_\_\_  
Elesha Johnson,  
City Clerk



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Consideration of a motion to accept the City Clerk's certification to City Council of sufficient valid signatures on the petition submitted by "Repurpose Our Runways" to add a new code section 11-4-8 as described in the petition

**PRIMARY STAFF CONTACT**

Elesha Johnson, City Clerk

**REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the City Clerk's certification to City Council of sufficient valid signatures on the petition submitted by "Repurpose Our Runways" to add a new code section 11-4-8 as described in the petition

**ATTACHMENTS:**

**Description**

**Item 3K -**

- **\_Agenda\_Memo\_Repurpose\_Our\_Runways\_CERTIFICATION\_062024**  
**w\_attachments**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Consideration of a motion to accept the city clerk’s certification to City Council of sufficient valid signatures on the petition submitted by “Repurpose Our Runways” to add a new code section 11-4-8 as described in the petition

**EXECUTIVE SUMMARY**

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Erin Poe, Deputy City Attorney  
Luis Toro, Senior Counsel  
Elesha Johnson, City Clerk  
John Morse, Election Administrator

**Petition Title – “Repurpose Our Runways”**

The petition committee to *decommission (close) the Boulder Municipal Airport as soon as reasonably feasible, with the exception that a portion of the site may be used for emergency-only helicopter facilities and uses, and with guidance regarding funding and management of the airport during the transition period including minimizing community impacts, and considering new uses for the site*, submitted its petition on March 21, 2024.

The petition committee elected to utilize both paper and the city’s electronic petitioning system, Boulder Direct Democracy Online (BDDO). The petition became “live” and open for endorsements and circulation on April 1, 2024.

On May 29, 2024, the committee submitted the signed paper sections, declared to contain

4090 signatures. Petition sections were numbered 1-123.

At the time of the paper sections being submitted, the electronic petition was closed and contained **141** endorsements.

An audit of the paper petitions was performed by the City Clerk’s Office and the endorsements made in the BDDO system were uploaded to verify all signatures were valid by verifying no duplicates were documented.

The paper sections contained **3,346 valid** endorsements. The **total** number of both paper and electronic endorsements was **3,487**, which met the **3,401-signature** requirement.

The city clerk provided the committee with the attached Certificate of Sufficiency on June 13, 2024. That certificate triggers two timelines; one for council and one for anyone that may want to protest the petition. The copy of the Certificate of Sufficiency attached is certification to the council as to the validity and sufficiency of the petition.

### **STAFF RECOMMENDATION**

#### **Suggested Motion Language:**

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

Motion to accept the city clerk’s certification to City Council of sufficient valid signatures on the petition submitted by “Repurpose Our Runways” and directing staff to develop an ordinance placing the matter on the ballot including a proposed ballot title for council’s consideration.

### **BACKGROUND**

#### **Initiative Procedure:**

For an initiated measure to be on the ballot, the following steps must occur:

1. Petition committee (five registered electors that represent the petition in all matters) present the form of the initiative petition for approval by the city clerk.
2. The city clerk can require the form to be corrected and make comments on the content. The city clerk also writes the summary that must appear at the top of every page of the petition under the warning.
3. The petition committee is responsible for getting the required number of signatures on the approved petition form and submitting all sections of the completed petition to the city clerk in the appropriate format.

4. The city clerk must then review all of the petition signatures to determine whether a sufficient number are valid signatures of electors registered to vote in Boulder. The circulator of each section must sign, in the presence of a notary, that the petition packet attached is the petition packet that circulator watched each signer sign.
5. The city clerk verifies all of the circulator affidavits before verifying voter signatures. All signatures in a petition packet without a valid circulator's affidavit are invalid. The city clerk must compare each signature with the city's voter records to determine that the person is registered to vote at the address they wrote on the petition and that person has not signed the petition more than once and verify to the extent possible that the signatures on the petition are genuine.
6. If the petitions contain the required number of valid signatures, the city clerk issues a Certificate of Sufficiency to the committee and conveys it to council.
7. Prior to 70 days before the election, council must determine whether to adopt the initiated measure as a city ordinance, or place it on the ballot with a ballot title determined by council, and in that instance, also determine whether to place a competing measure on the ballot if it believes an alternative could accomplish the intent in a better manner than the initiative. Under Charter Sec. 53, the ballot question with the greater number of votes would become law in the event both were to pass.
8. Within 40 days (July 16) of the filing of the petition (which was June 13 for this election cycle), opponents to the measure can file a protest with the city challenging the sufficiency of the petition.

**Status of Initiative Regarding “Repurpose Our Runways”:**

Staff can prepare an ordinance for adoption of the code section by council or ballot titles for the August 1, 2024 meeting. This will place this measure on the same schedule as all of the other ballot measures from council for the 2024 November election.

**Administrative Issues:**

The petition seeks to amend the Boulder Revised Code to direct the closure of the airport as soon as reasonably feasible. If the measure passes, staff will evaluate when it will be reasonably feasible to close the airport.

**Next Steps:**

Once the ballot title and ordinance are drafted, Council has the following options:

- A. Adopt the initiative amending the code as presented in the initiative; or
- B. Place the initiative on the ballot with a ballot title set by the council.

Council **MUST** do A or B unless the petition is withdrawn. With either A or B council **may** also choose C:

- C. Place a competing ballot measure on the same ballot as the initiative declaring that the one obtaining the most votes would be the one effective. Council may want to place a competing measure on the ballot if it believes the intent can be accomplished in a manner more beneficial to the city than as proposed in the initiative.

In addition to the above outcomes, the committee may withdraw the petition either on its own or as part of an agreement that council will place an agreed amended measure on the ballot.

### **ATTACHMENTS**

- A – Certificate of Sufficiency – “Repurpose Our Runways”
- B - Clerk's Petition Signature Tracking Results

STATE OF COLORADO )  
COUNTY OF BOULDER)      SS.  
CITY OF BOULDER     )

## Certificate of Sufficiency

---

I, **Elesha M. Johnson, City Clerk of the City of Boulder, Colorado**, pursuant to Boulder Charter, Article IV, Direct Legislation do hereby certify as follows:

1. On March 21, 2024, there was filed in my office an “Intent to Circulate” a petition by **“Repurpose Our Runways”** to submit to the voters at the November 5, 2024 election. The petition contained the below approved summary:

*“Shall the Boulder Municipal Airport be decommissioned (closed) as soon as reasonably feasible, with the exception that a portion of the site may be used for emergency-only helicopter facilities and uses, and with guidance regarding funding and management of the airport during the transition period including minimizing community impacts, and considering new uses for the site?”*

2. On April 1, 2024, my office issued a comment letter approving the petition for both paper and electronic endorsements.
3. On May 29, 2024, the committee submitted the signed paper sections, declared to contain **4,090** signatures. Petition sections were numbered 1-123.
4. At the time of the paper sections being submitted, the electronic petition was closed and contained **141** endorsements.
5. The paper sections contained **3,346 valid** endorsements. The **total** number of both paper and electronic endorsements is **3,487**.
6. A petition to submit a Boulder Revised Code amendment at the next regular election must be signed by at least ten percent of the registered electors of the municipality who voted in the last two council elections.
7. The number of valid signatures required is 3,401.
8. Within 15 calendar days of the filing of the petition, the city clerk shall certify to the governing body as to the validity and sufficiency of such petition. (Boulder Charter, Article IV, Section 39). The deadline for certification is June 13, 2024.

9. There are **3,487 endorsements validated** meeting the required number of 3,401.

10. I hereby **certify** to the Boulder City Council, pursuant to Boulder Charter, Article IV, Section 39 that the **petition is found sufficient**.

IN WITNESS WHEREOF, I have hereto affixed my signature and the official seal of the City of Boulder, Colorado this **13<sup>th</sup> day of June 2024**.



  
\_\_\_\_\_  
Elesha M. Johnson  
City Clerk, City of Boulder

Copy: Erin Poe, Deputy City Attorney  
Luis Toro, Senior Assistant City Attorney  
John Morse, Elections Administrator

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside of Range	INC - Incomplete	Total Reviewed
1		48	38	8	1					1			48
2		50	43	3	3							1	50
3		50	41	7	1				1				50
4		49	42	3					4				49
5		40	30	5	1				2		2		40
6		36	32	3					1				36
7		4	4										4
8		10	8	2									10
9	NOT CIRCULATED												0
10		50	44	5								1	50
11		32	30	1					1				32
12		23	18	2					1	1		1	23
13		50	39	5					5	1			50
14		50	44	5					1				50
15		49	40	6					2	1			49
16		47	41	3					3				47
17		49	43	3					2			1	49
18		48	39	3					4	1		1	48
19		49	44	2					1	1		1	49
20		50	40	3					4			3	50
21		42	28	6	1				3	2		2	42
22		49	38	5					3			3	49
23		50	34	9	1				6				50
24		49	43		1				5				49
25		4	4										4
26		3	3										3
27		8	5						2	1			8
28		50	43	6									49
29		47	41	2	1		1		1			1	47
30	NOT CIRCULATED												0

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside of Range	INC - Incomplete	Total Reviewed
31		45	25	13	3					4			45
32		49	44	3						1		1	49
33		49	35	5	1					1	4	3	49
34		50	44	3						3			50
35		18	17	1									18
36	NOT CIRCULATED												0
37		34	30	2						2			34
38		50	42	5						2	1		50
39		50	45	2						3			50
40		46	35	6	1	1				2	1		46
41		49	46	3									49
42		48	28	6	7					3		4	48
43		47	43	3				1					47
44		49	35	4				3		3	1	3	49
45		19	12	5	1							1	19
46		48	37	6				1		2		2	48
47		47	39	3				2		1		2	47
48		14	5	3				2		2		2	14
49		44	33	3	2					1	1	4	44
50		49	40	1						3		5	49
51		43	21	9	2					3	2	6	43
52	NOT CIRCULATED												0
53	NOT CIRCULATED												0
54		48	43	2				1		2			48
55	NOT CIRCULATED												0
56		7	5		1					1			7
57		49	38	2	2	1				4	1	1	49
58		44	35	5	3							1	44
59		50	44	4	1					1			50
60		50	43	4				1		1	1		50

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside od Range	INC - Incomplete	Total Reviewed
61		50	45	2						3			50
62		27	24	1	1					1			27
63		49	44	2						2	1		49
64		12	11							1			12
65	NOT CIRCULATED												0
66		17	16	1									17
67		49	44	2	1					1		1	49
68		50	42	6						1		1	50
69		49	39	5	1					2	1	1	49
70	NOT CIRCULATED												0
71		47	35	8						1	2	1	47
72		29	28	1									29
73		48	36	7						3	1	1	48
74		41	31	6	1			1		1		1	41
75		49	41	5						3			49
76		27	24	1						2			27
77		50	44	3						1		2	50
78		49	42	3	1					2		1	49
79		17	11	2	1					3			17
80		32	27	3	2								32
81		17	16							1			17
82		49	45	2						2			49
83		49	43	3				1		1		1	49
84		48	41	5						2			48
85		50	41	5						4			50
86		45	30	4	4					1	2	4	45
87		48	43	2						2		1	48
88		50	45	3						1		1	50
89		49	40	2	2			1		4			49
90		49	42	1	1					3		2	49

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside od Range	INC - Incomplete	Total Reviewed
91		49	39	6			1		1			2	49
92		50	42	2					4	1	1		50
93		36	22	4	1				2		5	2	36
94		50	47						1			2	50
95		49	41	6					1	1			49
96		50	44	2					4				50
97	NOT CIRCULATED												0
98	NOT CIRCULATED												0
99		50	44	2	2					1		1	50
100		49	35	1	4				2	3	1	3	49
101		47	40	5							2		47
102		50	42	2	1		1		4				50
103		50	20	8	1				9			12	50
104		4	1		2							1	4
105	NOT CIRCULATED												0
106		21	18	2								1	21
107	NOT CIRCULATED												0
108	NOT CIRCULATED												0
109	NOT CIRCULATED												0
110	NOT CIRCULATED												0
111		48	44		1				3				48
112	NOT CIRCULATED												0
113	NOT CIRCULATED												0
114		39	33	2					2	1		1	39
115		34	26	3	1				2			2	34
116	NOT CIRCULATED												0
117	NOT CIRCULATED												0
118	NOT CIRCULATED												0
119	NOT CIRCULATED												0
120		49	44	3		10			2				49

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside of Range	INC - Incomplete	Total Reviewed
121		27	24	1					2				27
122		6	4						1		1		6
123		4	3									1	4
													0
		Paper	3346										
		BDDO	141										
		<b>Total Verified Sinatures</b>	<b>3487</b>										



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Consideration of a motion to accept the City Clerk's certification to City Council of sufficient valid signatures on the petition submitted by "Runways to Neighborhoods" to add a new code section 11-4-8 as described in the petition

### **PRIMARY STAFF CONTACT**

Elesha Johnson, City Clerk

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to accept the city clerk's certification to City Council of sufficient valid signatures on a petition on the petition submitted by "Runways to Neighborhoods" to add a new code section 11-4-8 as described in the petition

### **ATTACHMENTS:**

#### **Description**

#### **Item 3L -**

- **\_Agenda\_Memo\_Runways\_To\_Neighborhoods\_CERTIFICATION\_062024\_w\_attachments**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Consideration of a motion to accept the city clerk’s certification to City Council of sufficient valid signatures on the petition submitted by “Runways to Neighborhoods” to add a new code section 11-4-8 as described in the petition

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Erin Poe, Deputy City Attorney  
Luis Toro, Senior Counsel  
Elesha Johnson, City Clerk  
John Morse, Election Administrator

**EXECUTIVE SUMMARY**

**Petition Title – “Runways to Neighborhoods”**

The petition committee supporting the “Runways to Neighborhoods” initiative submitted its petition on March 21, 2024. The text of the petition reads: *if ballot measure “Repurpose Our Runways” passes, the decommissioned airport site be repurposed as sustainable, mixed-use neighborhoods, with at least 50% of on-site housing units designated as permanently affordable for low, moderate, and middle-income residents, and whose development shall be guided with input from a community board, (aka “Runways to Neighborhoods”), and direct staff to develop an ordinance placing the matter on the ballot including a proposed ballot title for council’s consideration.*

The petition committee elected to utilize both paper and the city’s electronic petitioning

system, Boulder Direct Democracy Online (BDDO). The petition became “live” and open for endorsements and circulation on April 1, 2024.

On May 29, 2024, the committee submitted the signed paper sections, declared to contain 4061 signatures. Petition sections were numbered 1-123.

At the time of the paper sections being submitted, the electronic petition was closed and contained **146** endorsements.

An audit of the paper petitions was performed by the City Clerk’s Office and the endorsements made in the BDDO system were assessed to verify no duplicate signatures were documented.

The paper sections contained **3,276 valid** endorsements. The **total** number of both paper and electronic endorsements was **3,422**, which met the **3,401-signature** requirement.

The city clerk provided the committee with the attached Certificate of Sufficiency on June 13, 2024. That certificate triggers two timelines; one for council and one for anyone that may want to protest the petition. The copy of the Certificate of Sufficiency attached is certification to the council as to the validity and sufficiency of the petition.

**STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

Motion to accept the city clerk’s certification to City Council of sufficient valid signatures on a petition submitted by “Runways to Neighborhoods” and directing staff to develop an ordinance placing the matter on the ballot including a proposed ballot title for council’s consideration.

**BACKGROUND**

**Initiative Procedure:**

For an initiated measure to be on the ballot, the following steps must occur:

1. Petition committee (five registered electors that represent the petition in all matters) present the form of the initiative petition for approval by the city clerk.
2. The city clerk can require the form to be corrected and make comments on

the content. The city clerk also writes the summary that must appear at the top of every page of the petition under the warning.

3. The petition committee is responsible for getting the required number of signatures on the approved petition form and submitting all sections of the completed petition to the city clerk in the appropriate format.
4. The city clerk must then review all of the petition signatures to determine whether a sufficient number are valid signatures of electors registered to vote in Boulder. The circulator of each section must sign, in the presence of a notary, that the petition packet attached is the petition packet that circulator watched each signer sign.
5. The city clerk verifies all of the circulator affidavits before verifying voter signatures. All signatures in a petition packet without a valid circulator's affidavit are invalid. The city clerk must compare each signature with the city's voter records to determine that the person is registered to vote at the address they wrote on the petition and that person has not signed the petition more than once and verify to the extent possible that the signatures on the petition are genuine.
6. If the petitions contain the required number of valid signatures, the city clerk issues a Certificate of Sufficiency to the committee and conveys it to council.
7. Prior to 70 days before the election, council must determine whether to adopt the initiated measure as a city ordinance, or place it on the ballot with a ballot title determined by council, and in that instance, also determine whether to place a competing measure on the ballot if it believes an alternative could accomplish the intent in a better manner than the initiative. Under Charter Sec. 53, the ballot question with the greater number of votes would become law in the event both were to pass.
8. Within 40 days (July 16) of the filing of the petition (which was June 13 for this election cycle), opponents to the measure can file a protest with the city challenging the sufficiency of the petition.

**Status of Initiative Regarding “Runways to Neighborhoods”:**

Staff will prepare an ordinance for adoption of the code section by council or for ballot titles for the August 1, 2024 meeting. This will place this measure on the same schedule as all of the other ballot measures from council for the 2024 November election.

## **Next Steps:**

Once the ballot title and ordinance are drafted, Council has the following options:

- A. Adopt the initiative amending the code as presented in the initiative; or
- B. Place the initiative on the ballot with a ballot title set by the council.

Council **MUST** do A or B unless the petition is withdrawn. With either A or B council **may** also choose C:

- C. Place a competing ballot measure on the same ballot as the initiative declaring that the one obtaining the most votes would be the one effective. Council may want to place a competing measure on the ballot if it believes the intent can be accomplished in a manner more beneficial to the city than as proposed in the initiative.

In addition to the above outcomes, the committee may withdraw the petition either on its own or as part of an agreement that council will place an agreed amended measure on the ballot.

## **ATTACHMENTS**

- A – Certificate of Sufficiency – “Runways to Neighborhoods”
- B - Clerk's Petition Signature Tracking Results

STATE OF COLORADO )  
COUNTY OF BOULDER )  
CITY OF BOULDER )

SS. **Certificate of Sufficiency**

---

I, **Elesha M. Johnson, City Clerk of the City of Boulder, Colorado**, pursuant to Boulder Charter, Article IV, Direct Legislation do hereby certify as follows:

1. On March 21, 2024, there was filed in my office an “Intent to Circulate” a petition by **“Runways to Neighborhoods”** to submit to the voters at the November 5, 2024 election. The petition contained the below approved summary:

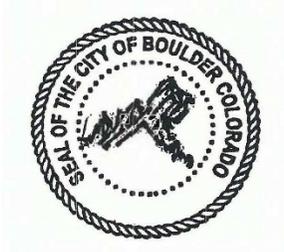
*“If ballot measure “Repurpose Our Runways” passes, shall the decommissioned airport site be repurposed as sustainable, mixed-use neighborhoods, with at least 50% of on-site housing units designated as permanently affordable for low, moderate, and middle-income residents, and whose development shall be guided with input from a community board.”*

2. On April 1, 2024, my office issued a comment letter approving the petition for both paper and electronic endorsements.
3. On May 29, 2024, the committee submitted the signed paper sections, declared to contain **4,061** signatures. Petition sections were numbered 1-123.
4. At the time of the paper sections being submitted, the electronic petition was closed and contained **146** endorsements.
5. The paper sections contained **3,276 valid** endorsements. The **total** number of both paper and electronic endorsements is **3,422**.
6. A petition to submit a Boulder Revised Code amendment at the next regular election must be signed by at least ten percent of the registered electors of the municipality who voted in the last two council elections.
7. The number of valid signatures required is 3,401.
8. Within 15 calendar days of the filing of the petition, the city clerk shall certify to the governing body as to the validity and sufficiency of such petition. (Boulder Charter, Article IV, Section 39). The deadline for certification is June 13, 2024.

9. There are **3,422 endorsements validated** meeting the required number of 3,401.

10. I hereby **certify** to the Boulder City Council, pursuant to Boulder Charter, Article IV, Section 39 that the **petition is found sufficient**.

IN WITNESS WHEREOF, I have hereto affixed my signature and the official seal of the City of Boulder, Colorado this **13<sup>th</sup> day of June 2024**.



  
\_\_\_\_\_  
Elesha M. Johnson  
City Clerk, City of Boulder

Copy: Erin Poe, Deputy City Attorney  
Luis Toro, Senior Assistant City Attorney  
John Morse, Elections Administrator

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside Range	INC - Incomplete	Total Reviewed
1		50	40	4	1		1		1	2		1	50
2		49	39	6	2				1	1			49
3		50	41	4	1				1	1	2		50
4		50	46	2					2				50
5		35	23	4	1		1		1	1	1	3	35
6		36	31	4					1				36
7		4	4										4
8		9	7	2									9
9	NOT CIRCULATED												0
10		49	43	3					2			1	49
11		30	24	1	1				3	1			30
12		23	20	2								1	23
13		48	36	4					7	1			48
14		49	44	3								2	49
15		50	40	7					2			1	50
16		49	41	4	1				3				49
17		50	46	2					2				50
18		50	42	2					5			1	50
19		50	47	1	1				1				50
20		50	42	5					1	1		1	50
21		41	28	5	2				3	2		1	41
22		50	38	8					2	1		1	50
23		50	35	11	1				3				50
24		48	41	3	1				2			1	48
25		5	5										5
26		3	3										3
27		6	4	1						1			6
28		50	42	7					1				50
29		46	41	2			1		1			1	46
30	NOT CIRCULATED												0

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside od Range	INC - Incomplete	Total Reviewed
31		50	29	14	2					3		2	50
32		49	27	2						1	19		49
33		48	30	5	2		2			2	3	4	48
34		43	35	2					1		4	1	43
35		23	22	1									23
36	NOT CIRCULATED												0
37		33	30	1						2			33
38		49	42	4						3			49
39		49	44	3						2			49
40		47	37	5	2	1				2			47
41		49	46	2						1			49
42		42	27	13	5	1				1		2	49
43		47	42	2			2			1			47
44		45	40	4								1	45
45		5	3	1	1								5
46		48	42	4						2			48
47		47	34	7						2		4	47
48		22	8	10	3					1			22
49		13	7	5	1								13
50		48	41	5	1					1			48
51		50	29	13	3		2			3			50
52	NOT CIRCULATED												0
53	NOT CIRCULATED												0
54		6	4	2									6
55		50	46	4									50
56		7	6	1									7
57		50	36	9	3	1				1			50
58		50	40	7	1							2	50
59		50	45	4	1								50
60		49	43	4						2			49

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside of Range	INC - Incomplete	Total Reviewed
61	REJECTED												0
62		27	23	2	1				1				27
63		46	39	4					1		1	1	46
64		12	11							1			12
65	NOT CIRCULATED												0
66		16	15	1									16
67		48	43	1	1				2			1	48
68		47	41	5					1				47
69		48	41	4			1		2				48
70		22	18	4									22
71	NOT CIRCULATED												0
72	NOT CIRCULATED												0
73		49	42	5	1				1				49
74		50	38	7	2				1	1	1		50
75		49	39	8					2				49
76		26	23	1					2				26
77		50	43	2	1		1			1		2	50
78		42	32	3	1				4			2	42
79		17	10	2	1				3		1		17
80		31	23	3	2							3	31
81		17	15	1					1				17
82		48	41	1					4	1	1		48
83		49	42	4		1					1	1	49
84		47	43	2					2				47
85		47	40	4					3				47
86		44	28	5	4				2	1		4	44
87		48	36	12								2	50
88		50	41	8						1			50
89		50	42	6								2	50
90		47	42						5				47

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside od Range	INC - Incomplete	Total Reviewed
91		50	40	8						1		1	50
92		50	46							4			50
93		34	28	4	1					1			34
94		45	33	11							1		45
95		49	44	5									49
96		50	45	5									50
97	NOT CIRCULATED												0
98	NOT CIRCULATED												0
99		37	34		1					1		1	37
100		50	42	3	2				1	1	1		50
101		49	42	3	2				1		1		49
102		47	41	4					1			1	47
103		46	17	14					6			9	46
104		3			1							2	3
105	NOT CIRCULATED												0
106		21	18	2	1								21
107	NOT CIRCULATED												0
108	NOT CIRCULATED												0
109		43	22	15			1				2	3	43
110		46	30	2	3		1		1	2	1	6	46
111		44	41						2		1		44
112	NOT CIRCULATED												0
113	NOT CIRCULATED												0
114		38	33	2					2		1		38
115		10	6	2					1			1	10
116	NOT CIRCULATED												0
117		44	35	3			1					5	44
118		42	27	5	1				2			7	42
119	NOT CIRCULATED												0
120		50	46	2					2				50

## Submission Record

## Review Process

Petition Section No.	Comments	Number of Signatures Proposed	OK - Registered	NR - Not Registered	OD - Out of District	POB - PO Box	IL - Illegible	NA - No Address	DA - Different Address	DUP - Already Signed	Date Outside of Range	INC - Incomplete	Total Reviewed
121		26	24	1						1			26
122	REJECTED												0
123		4	3									1	4
													0
		Paper	3276										
		BDDO	146										
		<b>Total Verified Sinatures</b>	<b>3422</b>										



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Concept Plan Review and Comment for a redevelopment proposal of 2555 30th Street. The proposal includes demolition of the existing car dealership and redevelopment of the site with residential uses. The new development proposes approx. 150 units including studio, one-, two-, and three-bedroom units totaling ranging from studio units to three-bedroom units for a total of 118,927 square feet. Parking will be located on-site and below grade. Reviewed under case no. LUR2024-00018

### **PRIMARY STAFF CONTACT**

Alison Blaine, City Planner Senior

### **BRIEF HISTORY OF ITEM**

Scheduled for PB on 5/21/24

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 4A - 2555 30th Street Concept Plan Review**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE:** Concept Plan Review and Comment for a redevelopment proposal of 2555 30th Street. The proposal includes demolition of the existing car dealership and redevelopment of the site with residential uses. The new development proposes approx. 150 units including studio, one-, two-, and three-bedroom units for a total of 118,927 square feet. Parking will be located on-site and below grade. Reviewed under case no. LUR2024-00018.

Applicant: Nicholas Kuhl, Coburn Partners  
Owner: 2555 30th Street LLC

**REQUESTING DEPARTMENT / PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Brad Mueller, Planning & Development Services Director  
Charles Ferro, Senior Planning Manager  
Alison Blaine, Senior Planner

**EXECUTIVE SUMMARY**

The purpose of this item is for the City Council to consider whether to call up the above-referenced application for review and comment at a public hearing. On May 21, 2024, the Planning Board held a virtual meeting and reviewed and commented on the proposal. The 30-day call up period concludes on June 20, 2024. City Council is scheduled to consider this application for call-up at its meeting on **June 20, 2024**.

The staff memorandum to Planning Board, recorded video, and the applicant's submittal materials along with other related background materials are available in the [city archives for Planning Board, May 21, 2024](#). The recorded video from the hearing can be found [here](#). The applicant's submittal package is provided in **Attachment A**. The draft meeting minutes from the Planning Board meeting are provided in **Attachment B**.

## **REVIEW PROCESS**

In a concept plan review, no formal action is required on behalf of City Council. Public, staff, Planning Board, and Council comments will be documented for the applicant's use in a future Site Review application.

The proposal requires Concept Plan review and comment prior to Site Review because the development is proposed to exceed 50,000 square feet of floor area in size for the BMS zone and 30,000 square feet of floor area in size for the BT-1 (Table 2-2 of Section 9-2-14, B.R.C. 1981).

The purpose of the Concept Plan review is to determine the general development plan for a particular site and to help identify key issues in advance of a site review submittal. This step in the development process is intended to give the applicant an opportunity to solicit comments from the Planning Board, City Council (if called up) as well as the public early in the development process as to whether a development concept is consistent with the requirements of the city as set forth in its adopted plans, ordinances, and policies (Section 9-2-13, B.R.C. 1981).

In addition to a public hearing at City Council, City Council has authority to refer Concept Plan Review proposals to the Design Advisory Board (DAB) and/or Transportation Advisory Board (TAB) for their respective opinions. The purpose of such a review by DAB is to encourage thoughtful, well-designed development projects that are sensitive to the existing character of an area, or the character established by adopted design guidelines or plans for the area. TAB's opinion can be requested by council on transportation matters implicated in a Concept Plan Review proposal.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic:** The proposed project would require a height modification, and as such the project would be subject to the adopted Community Benefit requirements of Section 9-2-14(h)(2)(K)(i), B.R.C. 1981 as there is floor area above a third story in a fourth floor above the zoning district height limit. Conditions of approval would be applied to any approved development that would ensure compliance with the community benefit regulations. The additional floor area permitted with the height modification ("bonus floor area") would be used to determine the required number of "bonus units", e.g., residential units above the 25% Inclusionary Housing requirement. This results in the number of additional permanently affordable units that must be in the building or included in the total calculation for in-lieu fees.
- **Environmental:** The proposed project would add housing units within close proximity to commercial uses and transportation lines, therefore reducing the environmental impacts associated with driving.
- **Social:** The proposal addresses Boulder's goals on housing diversity and residential infill, which is a focus area of the Boulder Valley Comprehensive Plan (BVCP).

## **OTHER IMPACTS**

- **Fiscal:** No fiscal impacts are anticipated.

- **Staff time:** The application was reviewed under standard staff review time.

### **BOARD AND COMMISSION FEEDBACK**

At the public hearing on May 21, 2024, the Planning Board heard presentations by staff and the applicant, and asked questions following each presentation. At the public hearing, there was testimony from one community member regarding the Concept Plan.

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

1. Is the proposal consistent with BVCP policies and the vision for the area as shown in the Transit Village Area Plan?
2. Does Planning Board have feedback to the applicant on the conceptual site plan and building design?
3. Other key issues identified by the Board.

Regarding Key Issue one, overall the Board felt that the project aligned with BVCP policies. Several Board members encouraged more activation and programming of the open space. The Board was also supportive of the proposed project and the opportunities for greater connection to open space and transit. Regarding TVAP, there was some disagreement on how the planned alley shown in TVAP should be programmed. Some Board members were supportive of fully eliminating the alley in lieu of a pedestrian and bike path. Others were supportive of moving the alley elsewhere on the site to accommodate service uses. Another member said that they were not supportive of the relocation but that the alley should either remain or be eliminated completely. Other concerns were raised about consistency with TVAP related to protecting viewsheds of the surrounding properties and better activation of the ground floor along 30<sup>th</sup> Street to align with TVAP's vision for the area and the underlying zoning.

Regarding Key Issue two, the majority of the Board's comments were directed towards the proposed architecture and the 30<sup>th</sup> Street facade. One Board member felt that the design could benefit from fewer flat planes in favor of added depth and massing. The Board member also encouraged more design consideration to the roof form and was in favor of the taller development that adds density while maintaining open space. Another Board member was supportive of keeping residential uses on the ground floor facing 30<sup>th</sup> Street if it would avoid potentially empty or vacant retail spaces. One Board member encouraged the applicant to evaluate the proposed size and scale compared to nearby properties and consider a more activated ground floor use. Another Board member liked the 30<sup>th</sup> Street facade but encouraged redesigning the fenestration pattern and avoiding using only colors and materials for vertical separation.

Regarding Key Issue three, Board feedback was incorporated in the first two key issues above.

### **PUBLIC FEEDBACK**

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property. A sign was posted on the property a minimum of 10 days prior to the hearing. Staff received comments from neighbors about the proposed scope of the project. Written comments are included in the staff memorandum to Planning Board (link provided above).

### **BACKGROUND & ANALYSIS**

The staff memorandum to Planning Board that includes staff analysis, community member comments along with the meeting audio, and the applicant's submittal materials are available on the [Records Archive for Planning Board](#).

### **MATRIX OF OPTIONS**

The City Council may call up a Concept Plan application within thirty days of the Planning Board's review. Any application that it calls up, the City Council will review at a public meeting within sixty days of the call-up vote, or within such other time as the city and the applicant mutually agree. The City Council is scheduled to consider this application for call-up at its meeting on **June 20, 2024**.

### **ATTACHMENTS**

Attachment A: Applicant Concept Plans and Written Statement

Attachment B: Draft May 21, 2024 Planning Board Meeting Minutes

# 30/Bluff

## 2555 30th St Boulder, CO 80301

### Concept

#### SCOPE OF WORK

SCOPE OF WORK: 146 Residences, Retail-level Active Spaces, and Outdoor Space.  
ZONING: BMS/ BT-1  
SETBACK MINIMUMS: 20'; Side = 0', 5' or 12'; Rear = 20'  
BUILDING TYPE: Multi-Family Residential  
NUMBER OF BUILDINGS: 1 Building  
TOTAL LOT SIZE: 83, 771 SF  
MAX ALLOWABLE HEIGHT: 35'/55'

#### DEVELOPER/ CLIENT

ELEMENT PROPERTIES  
PO Box 17367  
Boulder, CO 80308  
p: 303.752.8046

#### ARCHITECT

COBURN ARCHITECTURE  
2718 Pine Street, Suite 100  
Boulder, CO 80302  
p: 303.442.3351



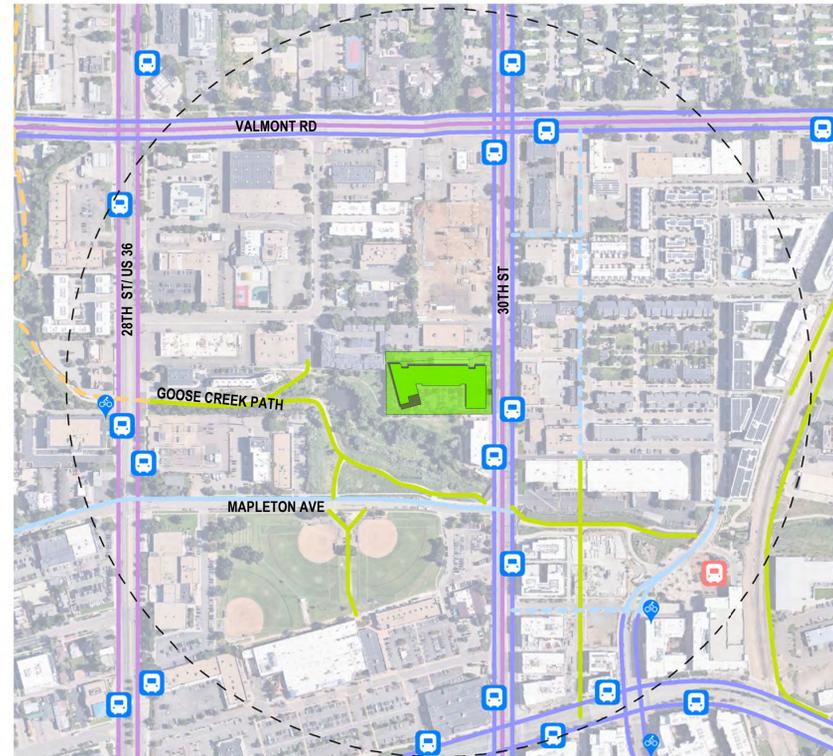
#### SHEET INDEX

Conceptual Plan Cover Sheet	CP-000
15-Minute Living	CP-001
Neighborhood Adjacencies	CP-002
Massing Development	CP-003
Massing Development	CP-004
Site Plan	CP-005
On-Site Open Space & Parking	CP-006
Unit Mix Diagram	CP-007
Architectural Character Perspectives	CP-008
Architectural Character Perspectives	CP-009
Architectural Character Perspectives	CP-010

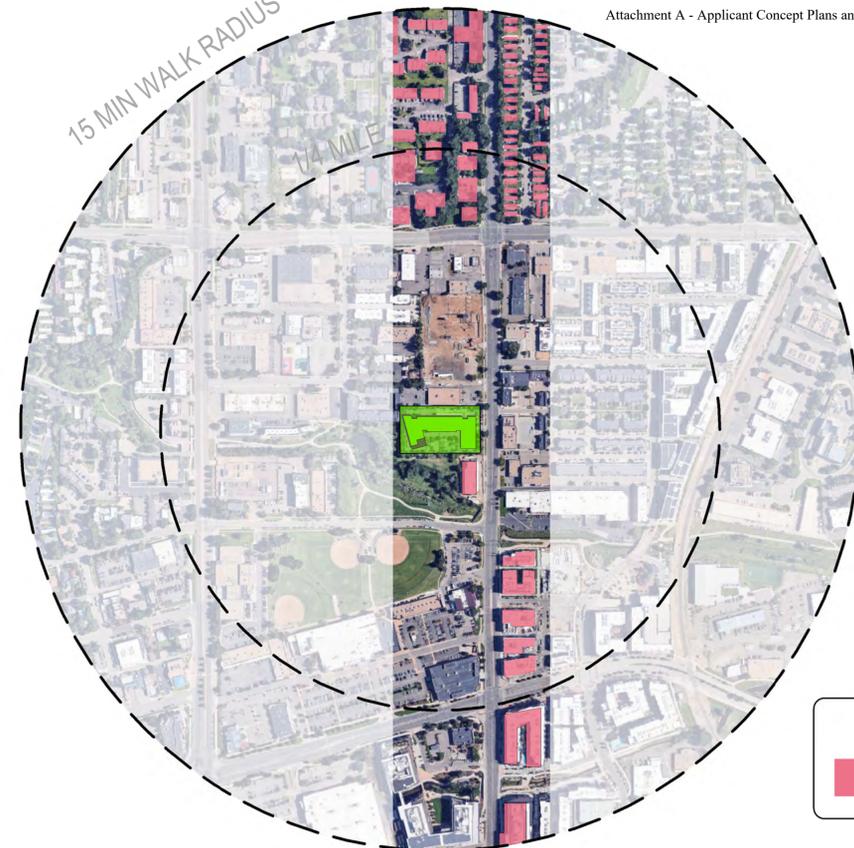
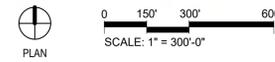
# 15-MINUTE LIVING

30/Bluff residents will enjoy walkable access to employment, shopping, restaurants, and recreation within central Boulder, as well as bike and transit access to downtown, CU, trails, and the RTD mass transit system at Boulder Junction for vehicle-free access to the entire Front Range, downtown Denver and DIA.

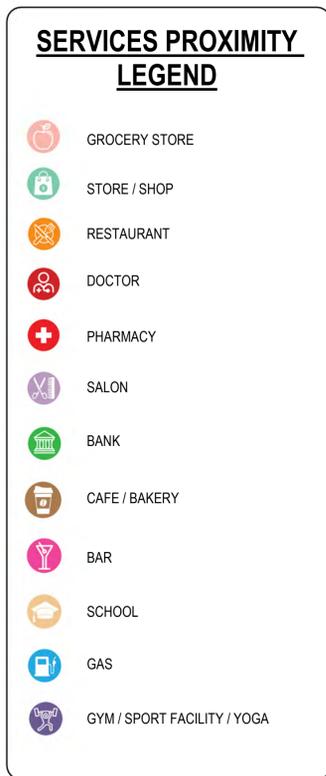
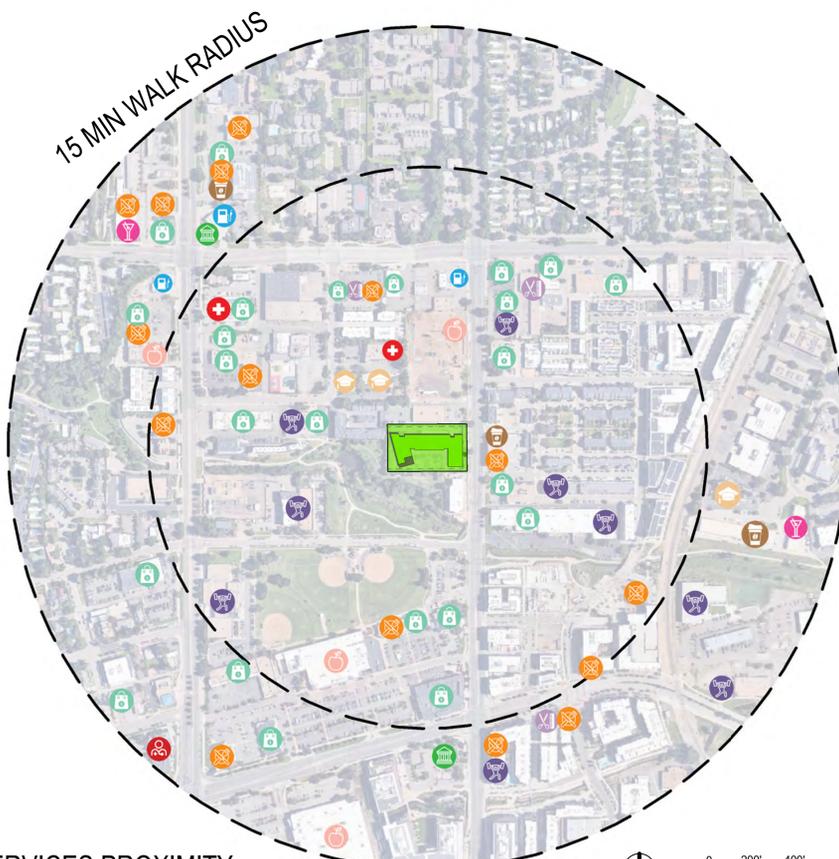
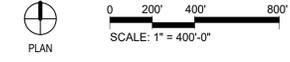
Combined with this “car optional” lifestyle, residents will also benefit from efficient and approachable unit sizes, as well as a diversity on-site amenities to promote a healthy and affordable lifestyle.



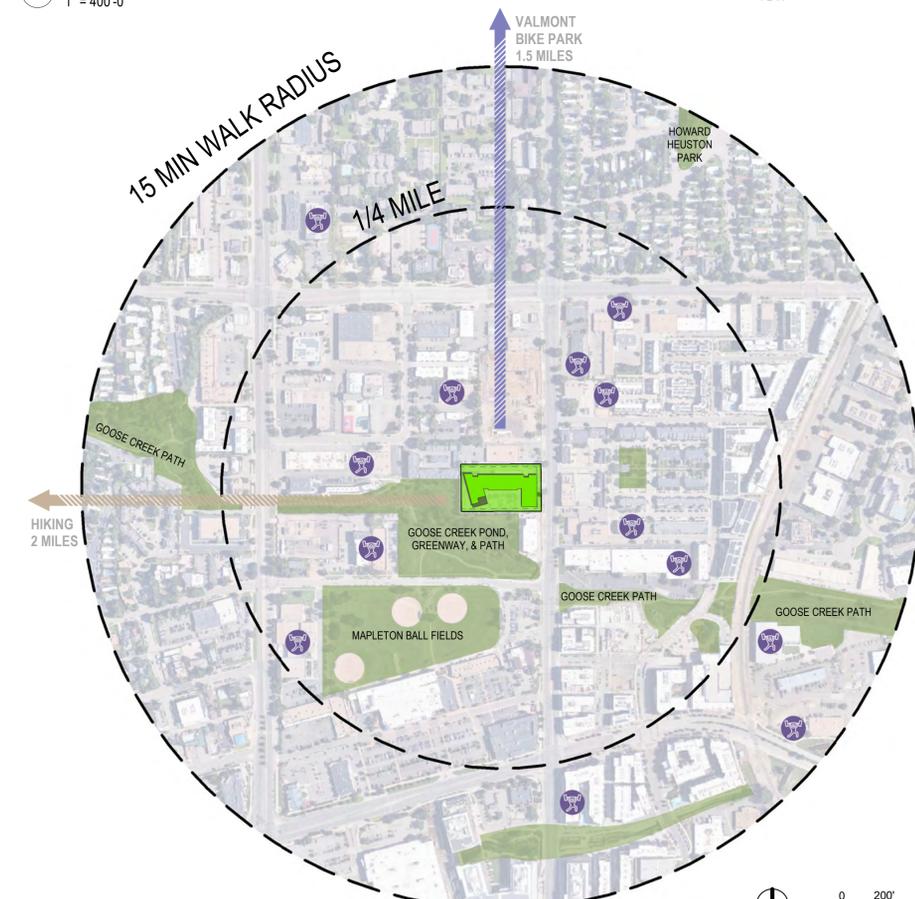
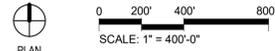
4 TRANSIT DIAGRAM  
1" = 300'-0"



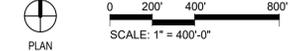
3 ADDING HOUSING TO A WALKABLE & ACCESSIBLE CITY  
1" = 400'-0"



2 SERVICES PROXIMITY  
1" = 400'-0"

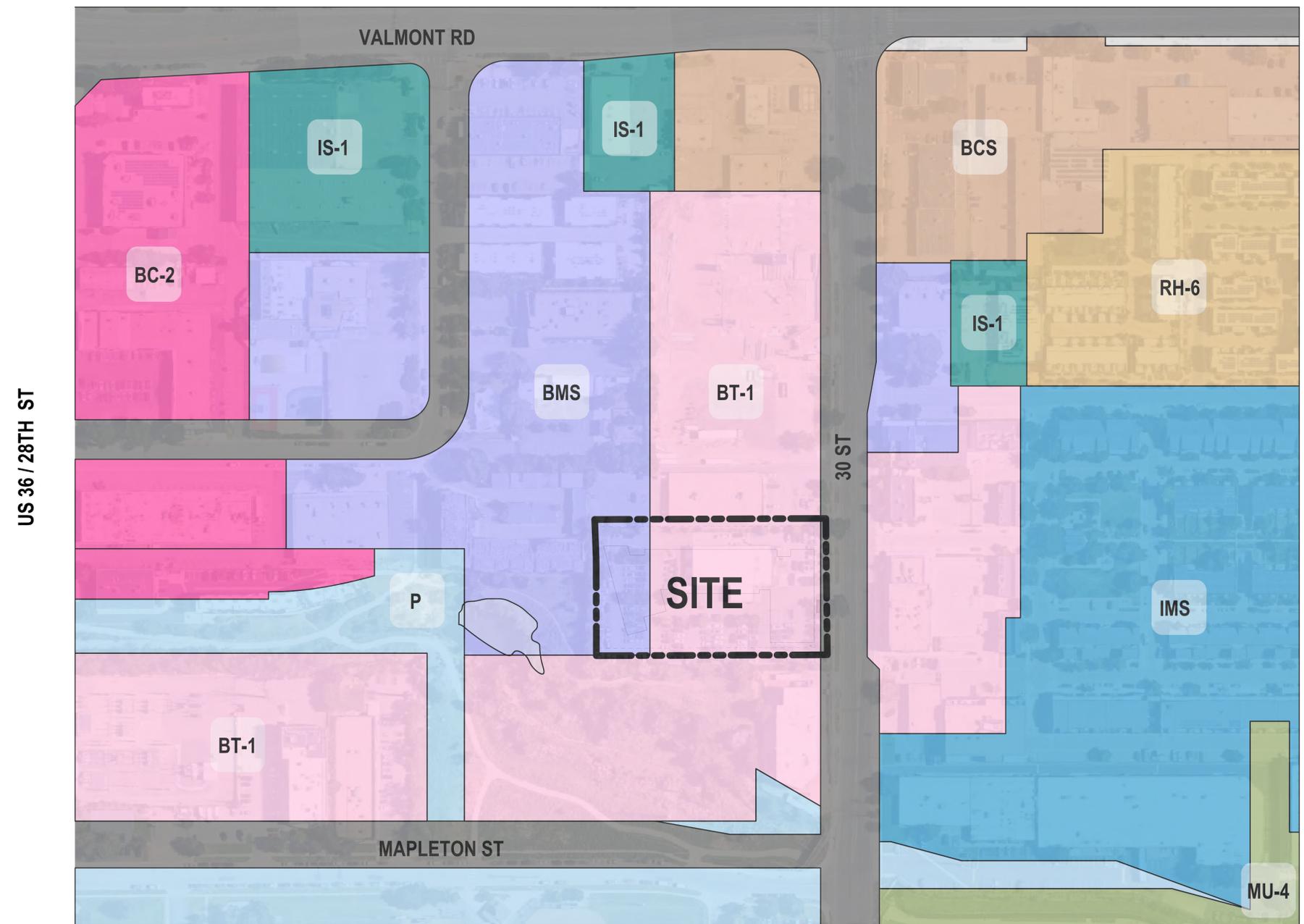


1 RECREATION PROXIMITY  
1" = 400'-0"



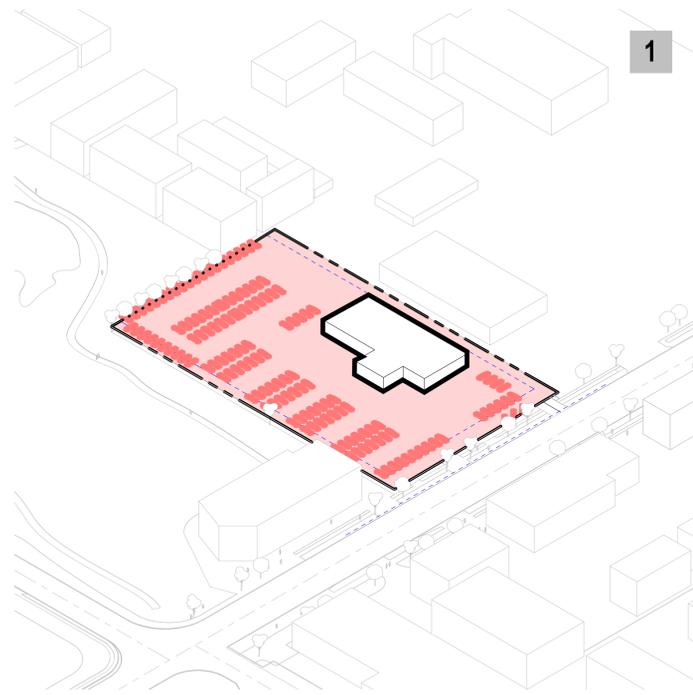
# NEIGHBORHOOD ADJACENCIES

ZONING LEGEND	
	BC-2 BUSINESS COMMUNITY-2
	IMS INDUSTRIAL MIXED SERVICES
	P PUBLIC
	BC-2 BUSINESS COMMUNITY-2
	BMS BUSINESS MAIN STREET
	BT-1 BUSINESS TRANSITIONAL-1
	IS-1 INDUSTRIAL SERVICE-1
	RH-6 RESIDENTIAL HIGH-6
	MU-4 MIXED USE-4



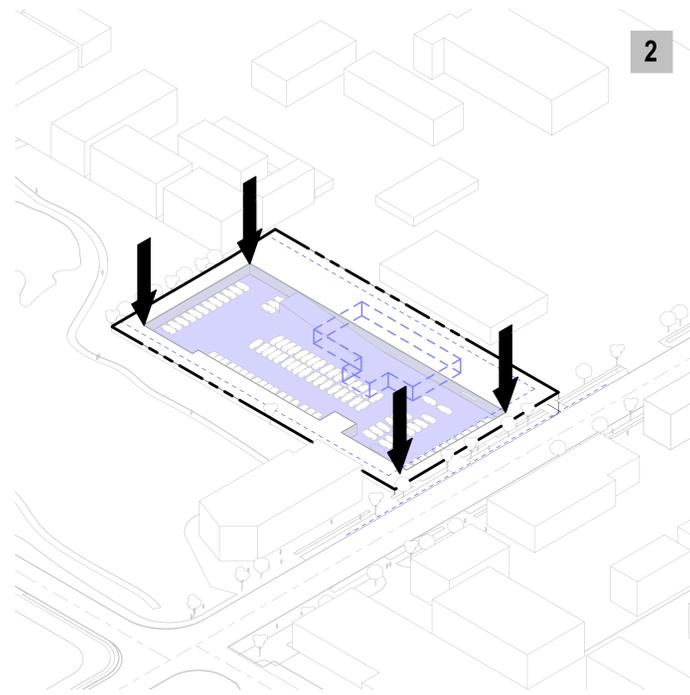
0 50' 100' 200'  
SCALE: 1" = 100'-0"

1 LEVEL 1  
1" = 100'-0"



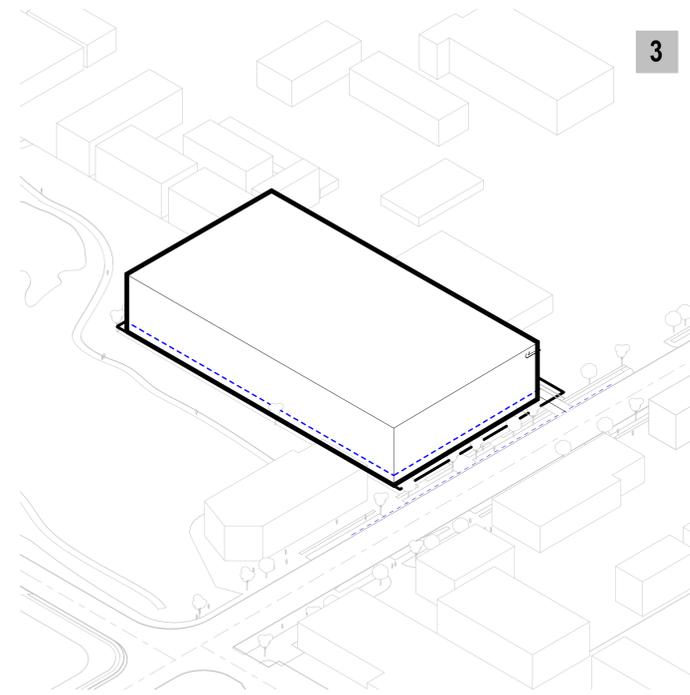
1

EXISTING CAR DEALERSHIP



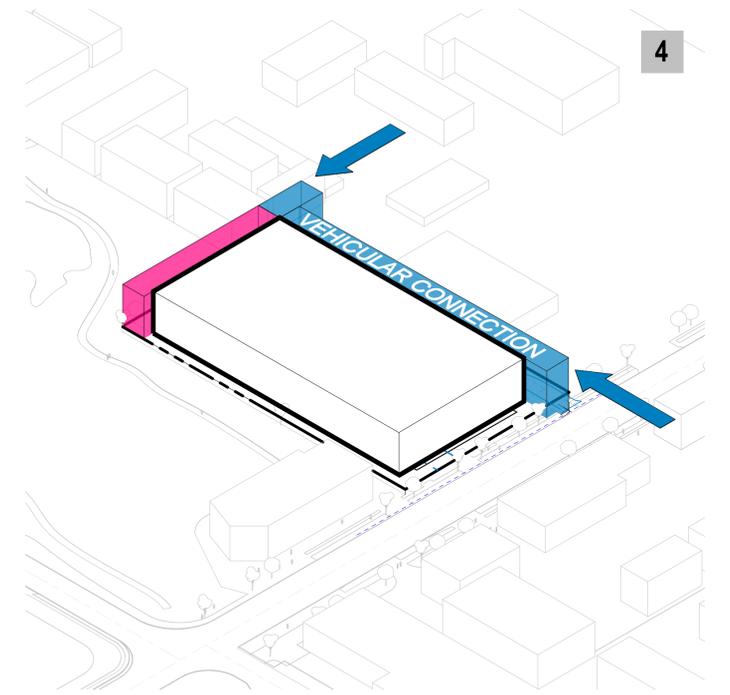
2

HIDE THE PARKING LOT



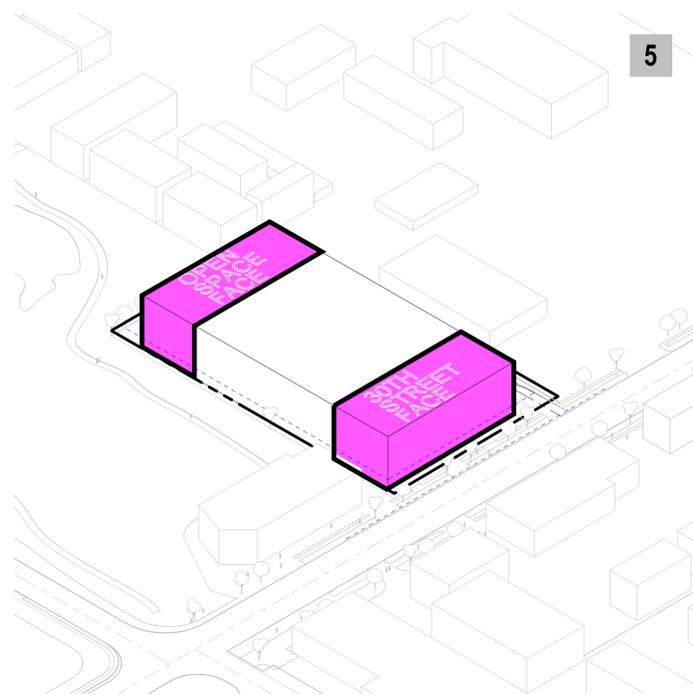
3

POTENTIAL BUILDING ENVELOPE



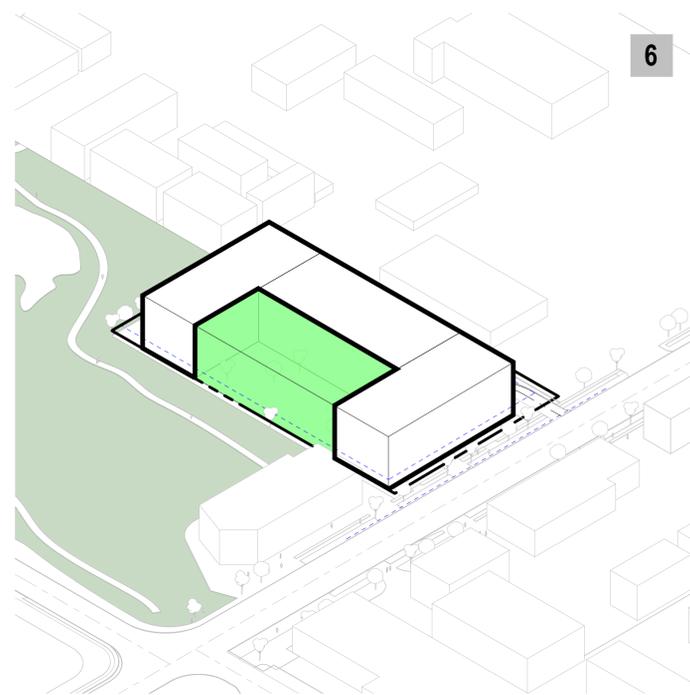
4

CREATE TRANSPORTATION CONNECTIONS



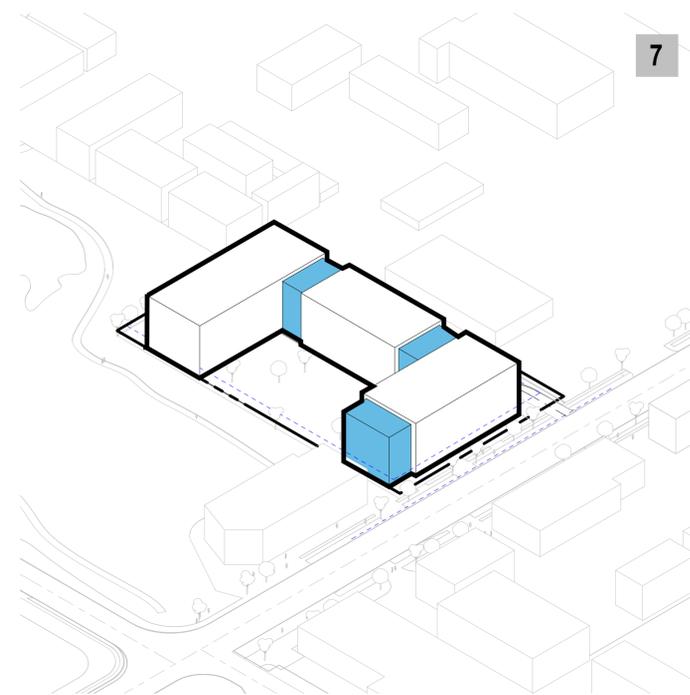
5

STABLISHING THE PUBLIC EDGES



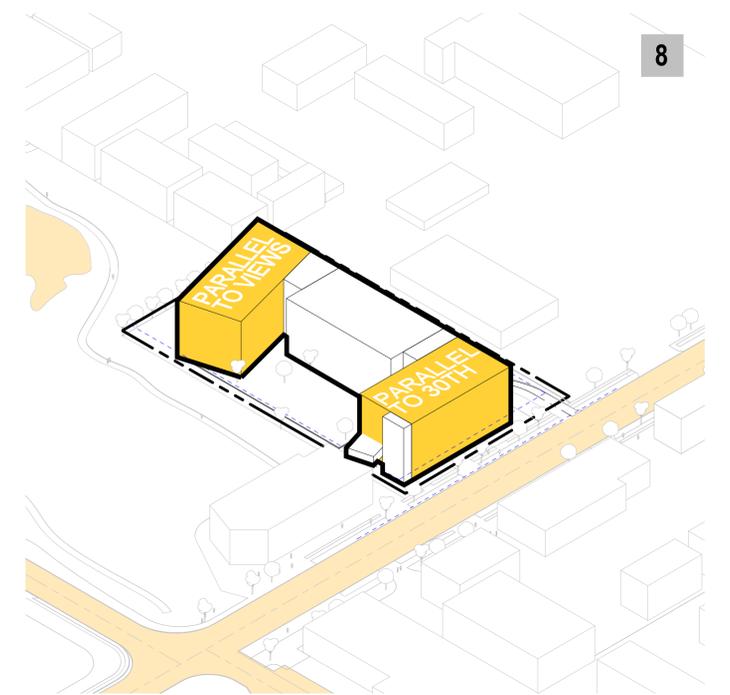
6

CREATE OPEN SPACE, LIGHT, & AIR.



7

SOFTENING THE BUILDING MASS

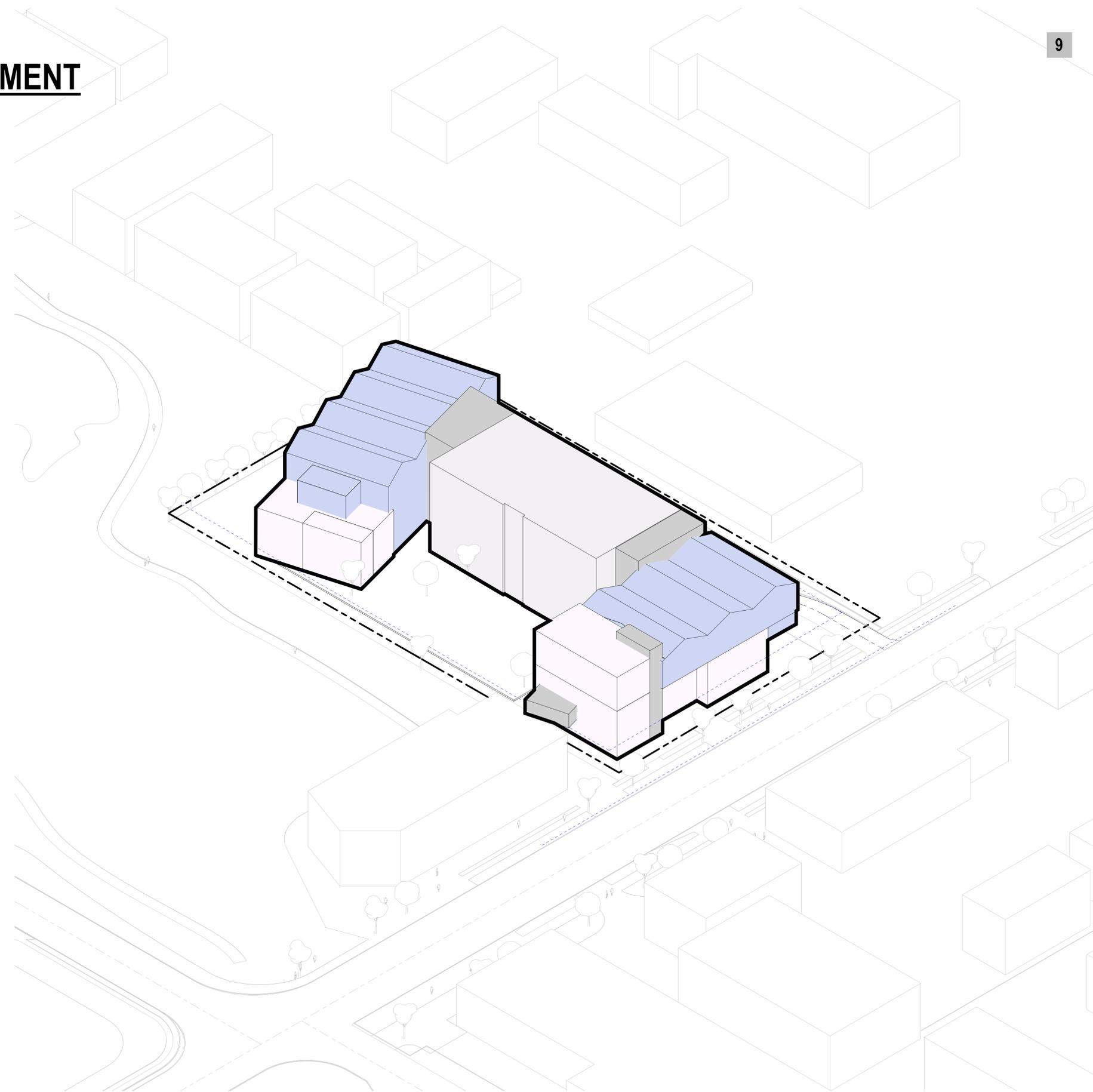


8

RESPONDING TO SITE CONTEXT

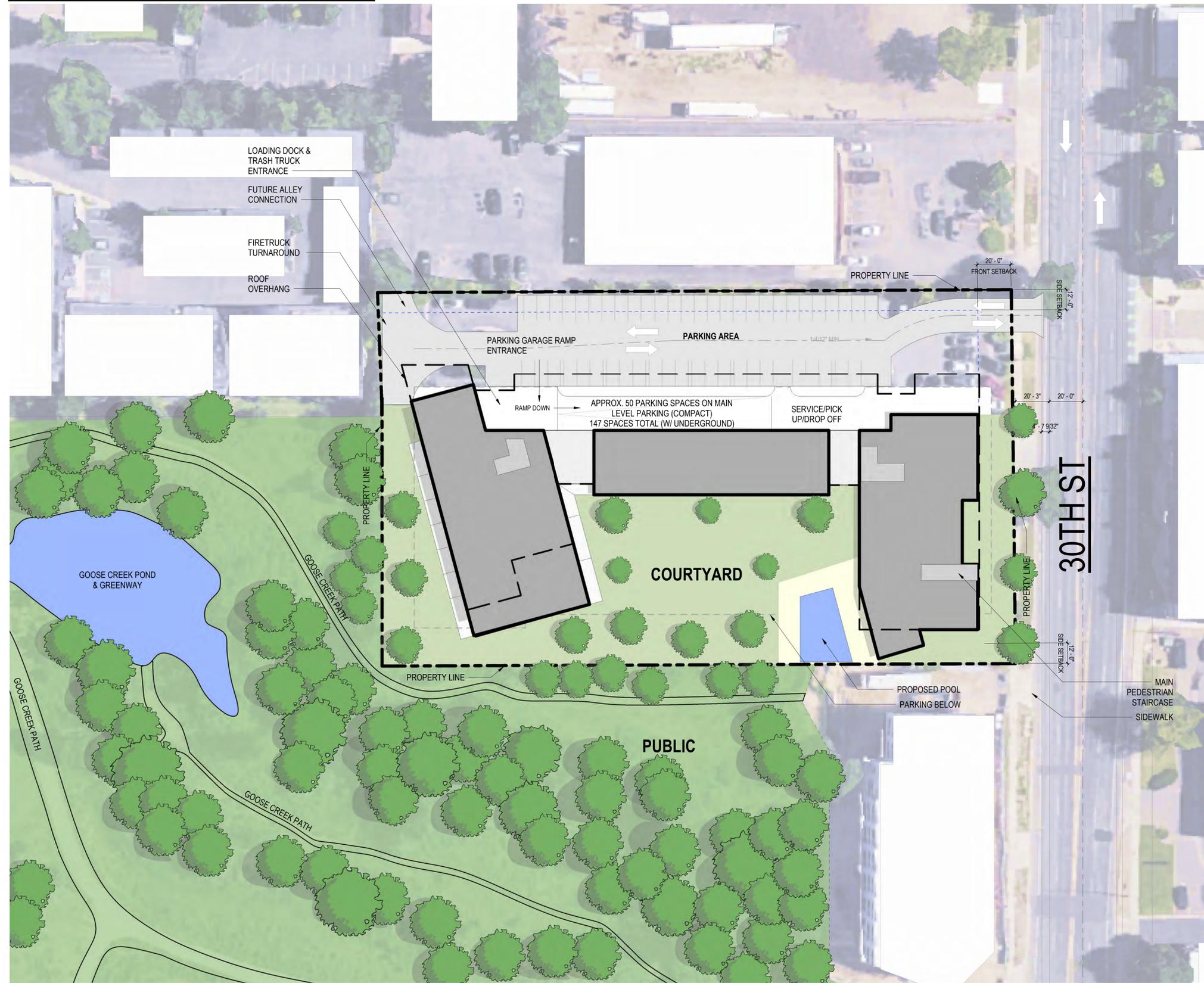
- (E) BUILDING
- HIDDEN PARKING
- PRIVATE DRIVEWAY
- BUILDING MASS
- MASSING VIEWS
- OPEN SPACE
- MASSING BREAKS
- MASSING ROTATION

# MASSING DEVELOPMENT



REFINED MASS FOR ARCHITECTURAL CHARACTER

# ILLUSTRATIVE SITE PLAN



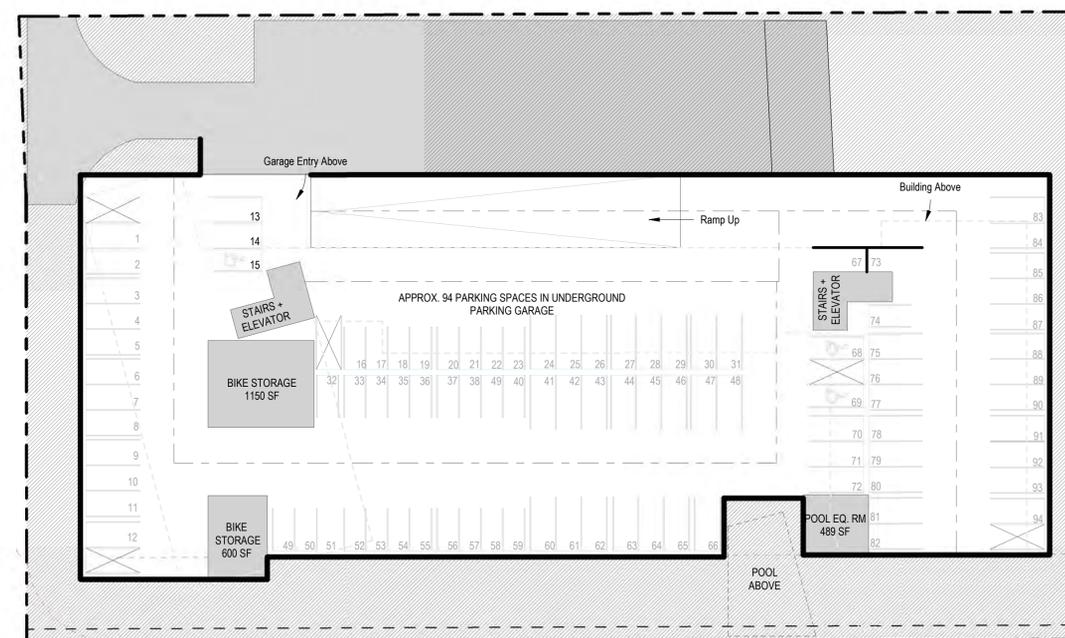
# ON SITE OPEN SPACE & PARKING



## PROJECT OPEN SPACE METRICS

TOTAL PARKING SPACES PROVIDED	146	SP
SITE OPEN SPACE	19,300	SF
TOTAL COURTYARD OPEN SPACE	13,586	SF
TOTAL OPEN SPACE	32,886	SF
TOTAL OPEN SPACE REQUIRED	22,618	SF

## UNDERGROUND PARKING:

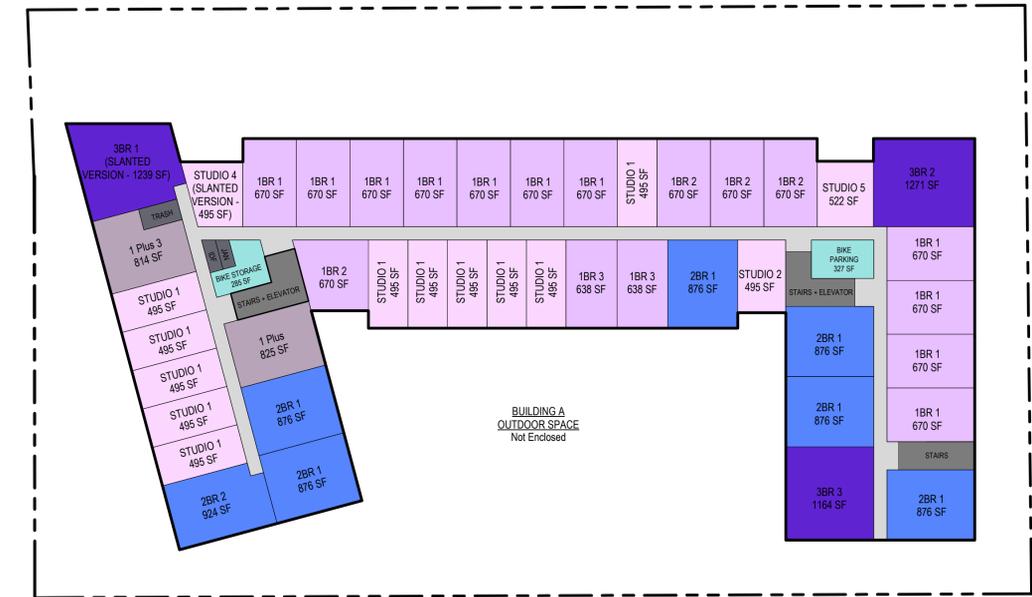


# UNIT MIX METRICS

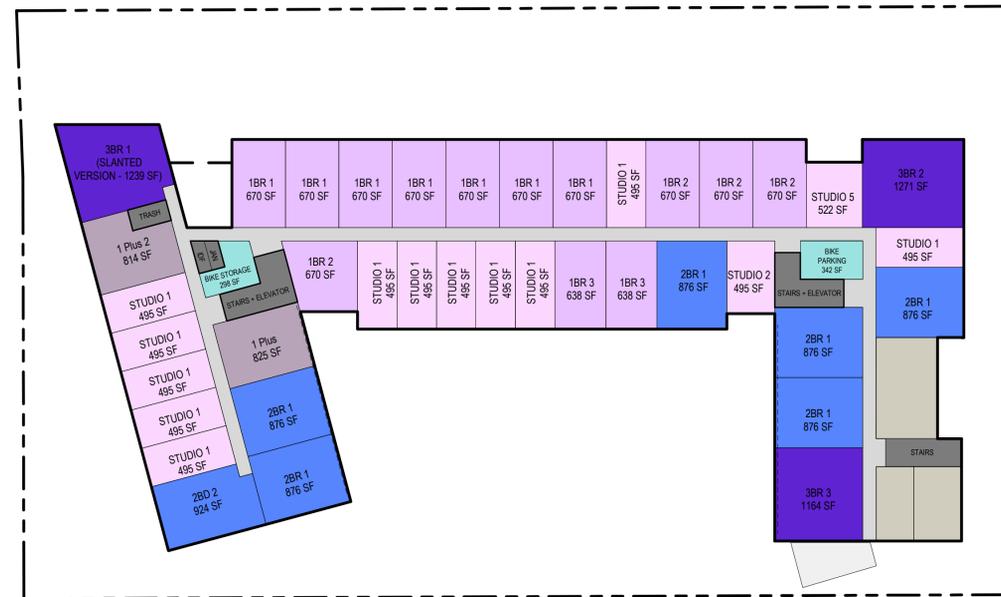
TOTALS	
NET SQUARE FOOTAGE FOR F.A.R.	118,927 SF
TOTAL RESIDENTIAL SQUARE FOOTAGE	98,633 SF
APPROX. UNITS	146
STUDIO COUNT (480 SF AVG.)	55
1BR COUNT (650 SF AVG.)	54
1 PLUS BR COUNT (800 SF AVG.)	6
2BR COUNT (850 SF AVG.)	22
3BR COUNT (1200 SF AVG.)	9
AVERAGE UNIT SIZE	676 SF
GROSS SITE AREA	83,771 SF
FLOOR AREA RATIO	1.42



4 LEVEL 4  
1/32" = 1'-0"



3 LEVEL 3  
1/32" = 1'-0"



2 LEVEL 2  
1/32" = 1'-0"



1 LEVEL 1  
1/32" = 1'-0"

STUDIOS
  1 BEDROOMS
  1 BEDROOM+
  2 BEDROOMS
  3 BEDROOMS
  SUPPORTING SPACES
  OUTDOOR SPACE
  LOBBY / AMENITY
  CIRCULATION
  BIKE PARKING







## 2555 30th Street Concept Review Written Statement

### Overview

2555 30<sup>th</sup> Street, named 30/Bluff, is a proposed infill redevelopment on the edge of Boulder Junction. The project will provide high quality, market rate housing designed to integrate with the variety of amenities the neighborhood already possesses, while capturing the unique spirit of Boulder in its design and common area programming. 30/Bluff will provide ~150 new residential units, in sizes ranging from studios to 3 bedrooms. The proposed building will replace an existing car dealership with high quality housing well located to take advantage of the site's transit access, directly supporting the goals of City initiatives such as the Boulder Valley Comprehensive Plan, the Transportation Master Plan, and Zoning for Affordable Housing.

The 30/Bluff development team of ElementProperties is fortunate to have played a role in the planning, placemaking, and creation of some of the initial phases of Boulder Junction with the S'PARK and Bluebird projects. These projects have provided Boulder with 233 new apartments, 24 for-sale townhomes, and 125 permanently affordable homes serving seniors, workforce, families, and recently homeless individuals, as well as innovatively designed office and retail spaces – all part of an emerging, vibrant and diverse place that the community contemplated for Boulder Junction in the Transit Village Area Plan (TVAP) and its subsequent updates.

30/Bluff aims to add to that vibrance and diversity by responding to the project site's unique characteristics:

- proximity and interface to Goose Creek and its active bikeway and naturescape,
- shared street frontage along an intense 30th Street corridor with new and modern architecture among existing structures of significance and scale, and
- exceptional views of the mountains to the west.

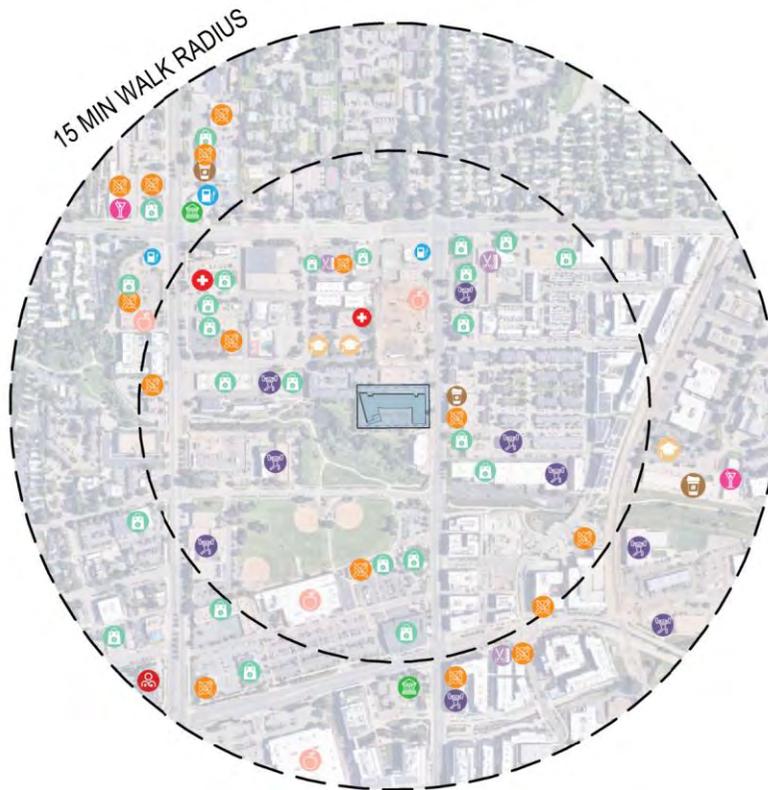
Coburn, the architect, was tasked with embracing the virtues of the site for views and natural surroundings, while designing for a sense of refuge on a busy transportation corridor. Ultimately we strike a balance between the needs of future residents for safe and healthy living and also serving the fabric of the neighborhood with a unique and innovative design at human scale and for energy performance.

Indeed, 30/Bluff has the potential to help fulfill Boulder Junction's aspirations for a walkable, transit-oriented, 15-minute neighborhood where residents can work, shop, socialize, and recreate – or better yet, create new connections, start a business, find a new hobby, make new friends, support local businesses, volunteer, make a contribution, and be a part of our community.

30/Bluff will represent an important component of a mosaic of housing types serving various income levels and walks of life in Boulder Junction and complement Element's new Bluebird PSH project to the south. Furthermore, its location and design will provide a number of benefits that encourage healthy and affordable living with unparalleled access to light, air, and views from the building's south-facing courtyard and decks, compact and "more-affordable" unit typologies, on-site co-working and collaborative spaces, a fitness gym and pool, rideshare lobby, parcel delivery lockers, and best-in-market secure bike parking.

If 30/Bluff is successful, we'll have responded to Boulder's latest zoning changes that codified this style of community living and encourage a de facto collective bargain against large and unaffordable luxury units. We'll have celebrated the virtues of the site for both residents and the public, inspired innovative design, and encouraged financial and environmental stewardship for our residents and the community.

## Project Site



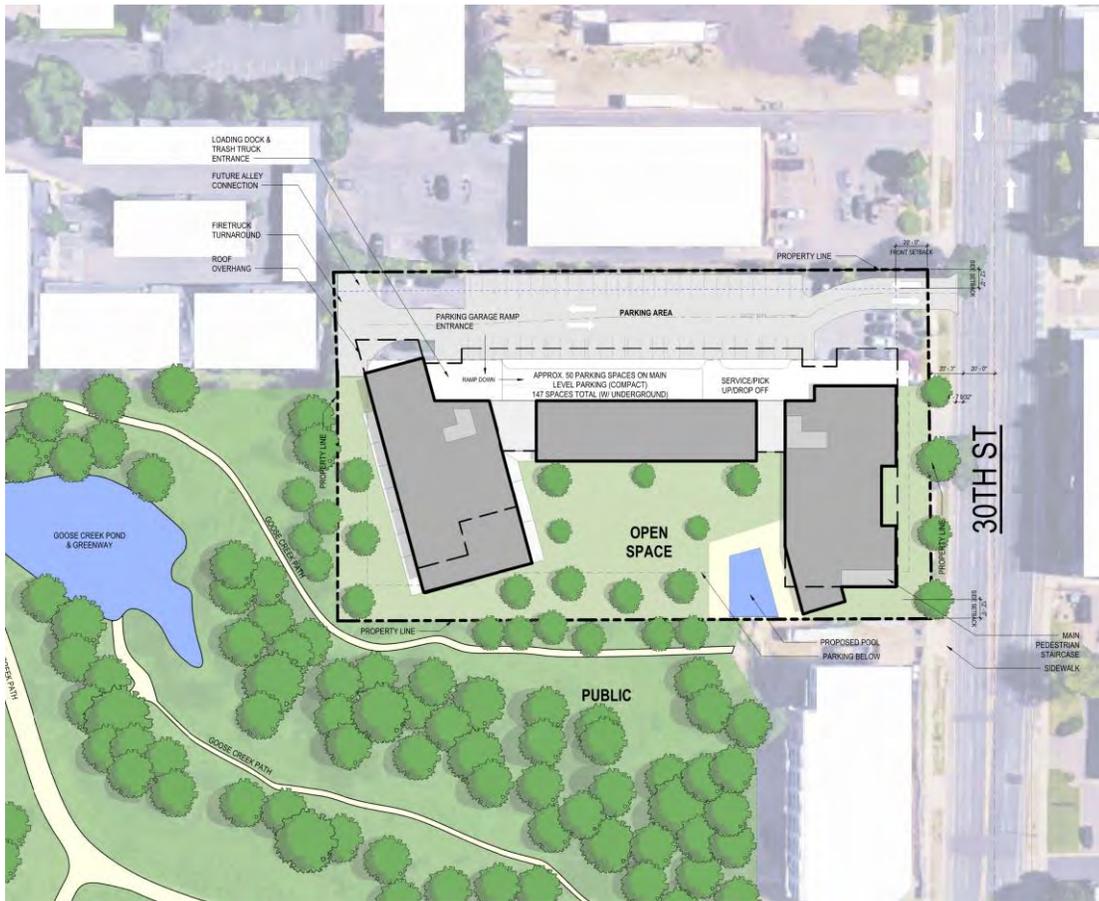
2555 30<sup>th</sup> Street, a 1.92 acre lot, is bordered on the south and west by Goose Creek Pond and Greenway, to the west by the 3-story Goose Creek Condominiums, to the north by an auto parts store, to the east by 30<sup>th</sup> Street, and due south by Bluebird: a Permanent Supportive Housing project. The site is currently home to an auto dealership, with a 8,851sf single story building surrounded by associated surface parking. The existing site is almost entirely hardscape.

Moving further from the site, and crossing 30<sup>th</sup> street, the Steelyards and S'Park developments have created a substantial mixed-use anchor to the Transit Village area. To the southeast, the theme is continued with the new 30PRL development rounding out the southern end of Boulder Junction. To the south of the site, residents have access to the Mapleton Ball fields for additional open space, and the Whole Foods retail center.

Heading southwest across the Goose Creek Greenway will bring residents to the Boulder Rock Club, a long time local institution. Another local institution, Dots Diner, is easily accessible to the northwest from the Goose Creek

Path. Continuing along Goose Creek to the west provides pedestrian and cycle friendly access across 28<sup>th</sup> Street, allowing residents to connect to downtown Boulder.

The selections mentioned above are merely the tip of the iceberg of the services and amenities within easy access of the site. This allows the project to advance the project started with the Transit Village Area Plan, fulfill the goals of the Boulder Valley Comprehensive Plan, and address the needs of the North 28<sup>th</sup> Street Transportation Network Plan. The redevelopment of 2555 30<sup>th</sup> is a positive step towards the future Boulder envisioned by Council, Planning Board, and Boulder residents for the Boulder Junction area.



## Project Design and Details

The project is designed to support the active lifestyle of a Boulder resident, providing just one parking space for each unit, ample bike and gear storage, and well-located to provide a “15 minute neighborhood” to its residents. The building form is designed to bring a new perspective to 30<sup>th</sup> street, providing an engaging experience to all speeds of passing transportation. The vehicle access across the north boundary of the site is proposed as a Public Access Easement to provide access to the north-south alley contemplated in the North 28<sup>th</sup> Street Transportation Network Plan west of the properties to the north.

At the ground level, a sheltered plaza will indicate the main entrance at the northeast corner, lifting the mass above to welcome residents and giving space to passing pedestrians. Moving south along 30<sup>th</sup>, the space between building and street will expand the pedestrian realm, providing a transition that blurs from public to private as it links to the building’s coworking space. The coworking area will be a generous, double height, active use, set back from the building perimeter to add further depth to the façade. Adjacent to this coworking space, will be a stair and pedestrian entrance, providing convenient access for residents to encourage non-vehicular travel.

The west façade will provide a more measured response to Goose Creek and neighboring residential properties, providing a transition between the noise of 30<sup>th</sup> and the quiet contemplation of greenspace. The north façade will continue the lifted mass from the east, with an overhanging area serving to shelter deliveries, and hide access to the partially submerged parking. From the south, the building will wrap three sides of the central courtyard, providing a sheltered and communal retreat to residents. This sheltered retreat will provide visual interest to passersby on the Greenway, and link residents to their natural surroundings.

The overall volume of the building will follow an A-B-A scheme, breaking the building into smaller masses. Each of the sub-masses will be further broken down by planar and material transitions, avoiding a monolithic structure. The east wing of the building will parallel 30<sup>th</sup> Street, while the central bar of the building will respond to the lot boundary. Crossing the courtyard, the building will transition from the urban grid to a natural alignment, as the west wing angles in response to Goose Creek and views to the Flatirons.

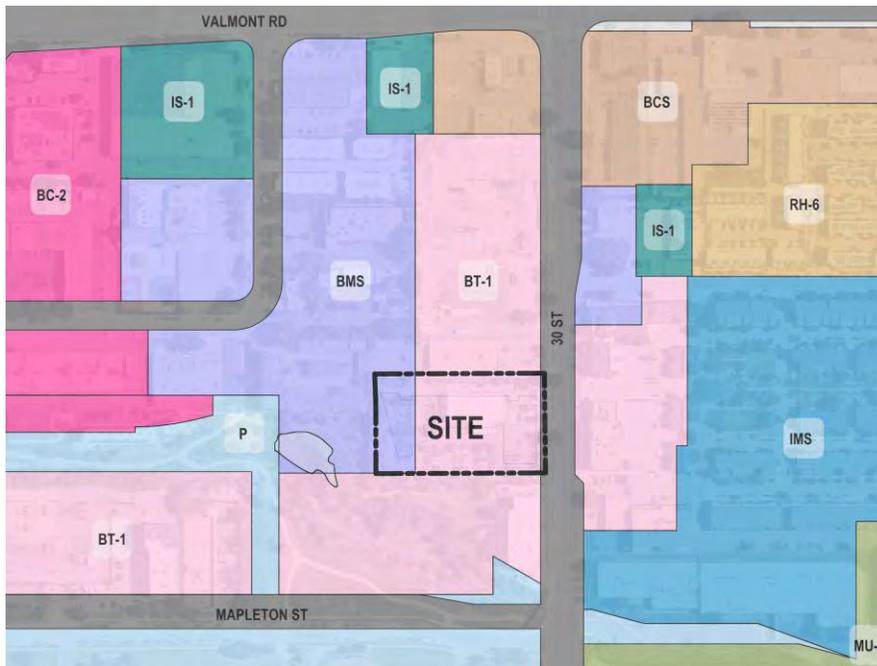
The following features are shown in the concept site plan:

- +/- 150 dwelling units, sized to meet the needs of Boulder residents.
- The majority of the parking will be partially submerged and well hidden from the street. Limited surface parking and drop-off areas will be located along the north lot line, set back from the street.
- All vehicular access will be provided via a single curb cut off of 30<sup>th</sup> Street.
- The building volume wraps around a central courtyard, providing communal outdoor space for all residents.
- Ground floor units are located only facing the courtyard or Goose Creek Greenway, and will be provided with private patio spaces.
- Upper level units on the West side of the building will feature private balconies.
- The structure will wrap around a South-facing courtyard, linking residents to Goose Creek and providing ample room for outdoor amenity spaces, including a pool. This courtyard will help ensure that all residents have ample access to light, air, and outdoor space.
- The southwest corner of the building will provide a 4<sup>th</sup> floor amenity deck for resident use, ensuring that all residents have equitable access to the best views in the building.
- The primary entrance will be on the northeast corner of the building, providing access to 30<sup>th</sup> street.
- The indent in the East façade created by the coworking space will also indicate an inviting pedestrian access

- The ground floor along the 30<sup>th</sup> Street façade will have a lively co-working space, providing an active use for pedestrian engagement.

## Land Use and Zoning

### Zoning

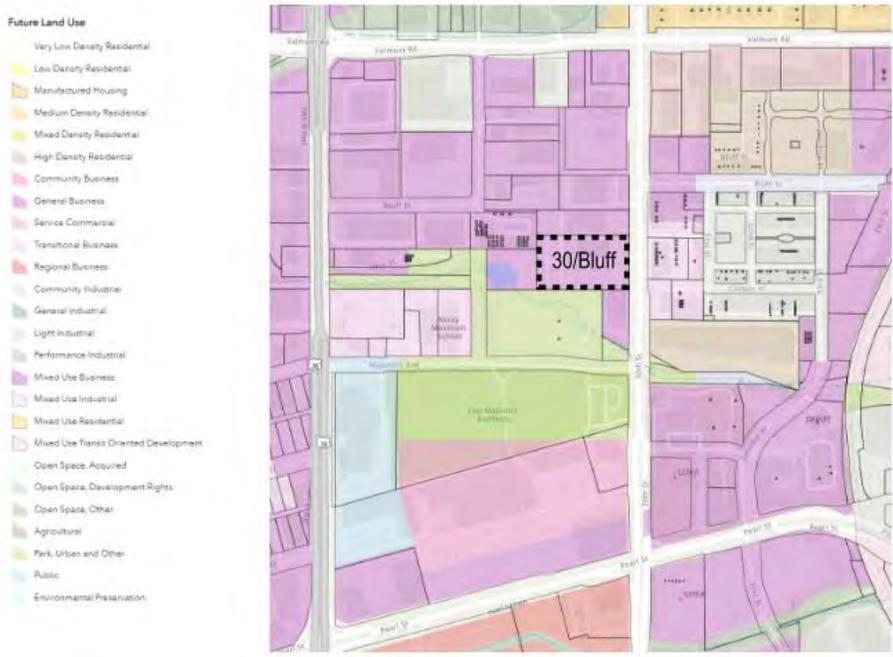


The parcel spans BMS and BT-1 zoning districts, with the majority of the parcel falling within the BT-1 district. The BMS (Business – Main Street) district is defined as “Business areas generally anchored around a main street that are intended to serve the surrounding residential neighborhoods. It is anticipated that development will occur in a pedestrian-oriented pattern, with buildings built up to the street; retail uses on the first floor; residential and office uses above the first floor; and where complementary uses may be allowed”. The BT-1 (Business – Transitional 1) district is defined as “Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.”

The project’s zoning response is based on prior precedents of split zoning – while the majority of the building lands in the BT-1 district and will adhere to the spirit and requirements of that district, the sections of the building within the BMS district will also adhere to the requirements of that district, including the requirements for private open space. This will add additional architectural interest to the building. The FAR maximums for the districts have been pro-rated based on the proportion of the site that falls into each district. The project sits within its allowable FAR of 1.5 for BMS and 1.4 for BT-1 with approximately 118,927 Total sf.

The project takes advantage of the updates to the BT-1 zone as provided in Zoning for Affordable Housing, ordinance 8599. The increased FAR and the change in open space requirement from 1200sf per unit to 30% open space per lot enable a greater number of units to be made available to Boulder residents.

**Boulder Valley Comprehensive Plan**



The parcel is designated Mixed-Use Business in the Boulder Valley Comprehensive Plan, described as “Consists of business or residential uses. Housing and public uses supporting housing will be encouraged and may be required.” The project will particularly embody the following principles of the BVCP:

**1.10 Growth Requirements** The overall effect of urban growth must add significant value to the community, improving quality of life. The city will require development and redevelopment to provide significant community benefits, achieve sustainability goals for urban form and maintain or improve environmental quality as a precondition for further housing and community growth.

30/Bluff will turn a site that is currently almost entirely hardscape, only housing cars and the sale of cars, into a vibrant community. The project will meet the City’s sustainability requirements, add to the pedestrian realm along 30<sup>th</sup>, and add significant planted area to the parcel.

**1.11 Jobs: Housing Balance** Boulder is a major employment center, with more jobs than housing for people who work here. This has resulted in both positive and negative impacts, including economic prosperity, significant in-commuting and high demand on existing housing. The city will continue to be a major employment center and



will seek opportunities to improve the balance of jobs and housing while maintaining a healthy economy. This will be accomplished by encouraging new housing and mixed-use neighborhoods in areas close to where people work, encouraging transit-oriented development in appropriate locations, preserving service commercial uses, converting commercial and industrial uses to residential uses in appropriate locations, improving regional transportation alternatives and mitigating the impacts of traffic congestion.

30/Bluff will provide additional housing in a location convenient to transit and employment centers, while removing a commercial use that is not contemplated for Boulder Junction and is out of step with the community's other goals around climate change and transportation. It will not remove any existing service commercial uses, will provide excellent access to alternative means of transportation and allow new residents to support existing and newly established retail and restaurant businesses in the Boulder Junction area.

**1.22 Channeling Development to Areas with Adequate Infrastructure** In order to protect and use past investments in capital improvements, new development and redevelopment will be located in areas where adequate public services and facilities presently exist or are planned to be provided under the city's CIP.

By redeveloping an existing parcel and transforming it from a car dealership to well-located housing, 30/Bluff will take advantage of existing city services and significant investments in the Boulder Junction area, such as active and passive transit options, wet and dry utilities infrastructure, significant parks and multi-use paths, and public-private partnerships for a vibrant and equitable neighborhood.

**2.03 Compact Development Pattern** The city and county will, by implementing the comprehensive plan (as guided by the Land Use Designation Map and Planning Areas I, II, III Map), ensure that development will take place in an orderly fashion, take advantage of existing urban services, and avoid, insofar as possible, patterns of leapfrog, noncontiguous, scattered development within the Boulder Valley. The city prefers redevelopment and infill as compared to development in an expanded Service Area to prevent urban sprawl and create a compact community.

As an infill redevelopment, 30/Bluff inherently supports a Compact Development Pattern, increasing the residential density of the neighborhood. It continues the redevelopment of the TVAP / Boulder Junction area, filling a void in the existing urban fabric.

**2.24 Commitment to a Walkable & Accessible City** The city will promote the development of a walkable and accessible city by designing neighborhoods and mixed-use business areas to provide easy and safe access by foot, bike and transit to places such as neighborhood centers, community facilities, transit stops or centers and shared public spaces and amenities (i.e., 15-minute neighborhoods). The city will consider additional neighborhood centers or small mixed-use retail areas where appropriate and supported by the neighbors they would serve. In some cases, the definition of mixed use and scale and character will be achieved through area planning.

The project's proximity to the Goose Creek Greenway, mass transit options, and the variety of services located within a 15-minute walk radius (please reference concept diagrams), provide future residents with a fully featured 15-minutes neighborhood. Groceries, services, and a variety of recreational activities are a short walk or bike ride away from the site.

**2.33 Sensitive Infill & Redevelopment** With little vacant land remaining in the city, most new development will occur through redevelopment in mixed-use centers that tend to be the areas of greatest change. The city will

gear subcommunity and area planning and other efforts toward defining the acceptable amount of infill and redevelopment and standards and performance measures for design quality to avoid or adequately mitigate negative impacts and enhance the benefits of infill and redevelopment to the community and individual neighborhoods. The city will also develop tools, such as neighborhood design guidelines, to promote sensitive infill and redevelopment.

30/Bluff will be a valuable addition at the intersection of several regional and area plans. As a residential development, it will help support existing businesses in the surrounding mixed-use center, while improving the streetscape along 30<sup>th</sup>. This combination will fulfill both the goals of the BVCP and support the design guidelines of the adjacent Boulder Valley Regional Center.

### Concept Review Guidelines

The following Concept Review guidelines have particular resonance to the design of this project.

**1. Characteristics of the site and surrounding areas**, including without limitation, its location, surrounding neighborhoods, development and architecture, any known natural features of the site including without limitation, mature trees, watercourses, hills, depressions, steep slopes, and prominent views to and from the site.

30/Bluff takes advantage of the surrounding neighborhood to provide access to necessary services, recreation and amenities to future residents and is in harmony with the predominantly 4-story buildings in the area. The project site overlooks the Goose Creek Greenway, providing immediate access to open space. The Greenway also buffers nearby structures, ensuring Flatiron views for residents and guests. The 4<sup>th</sup> floor amenity space is carefully located to take advantage of this and provide equitable access to the best views in the project.

**2. Community policy considerations**, Community policy considerations, including without limitation, the review process and likely conformity of the proposed development with the Boulder Valley Comprehensive Plan and other ordinances, goals, policies, and plans, including without limitation, sub-community and sub-area plans.

The project is designed to address the goals of the City and its people, as codified in the BVCP and relevant community and area plans. The site design responds to the North 28<sup>th</sup> Street Transportation Network Plan, respects the design guidelines of the Boulder Valley Regional Center, and supports the intent of the recent Zoning for Affordable housing initiative.

**5. Opportunities and constraints in relation to the transportation system**, including without limitation, access, linkage, signalization, signage and circulation, existing transportation system capacity problems serving the requirements of the transportation master plan, possible trail links, and the possible need for a traffic or transportation study.

30/Bluff is designed to integrate into the existing transportation system and meet the goals of the TMP and North 28<sup>th</sup> Street Transportation Network Plan. It will link residents to the Goose Creek Greenway, and vehicle access to the site is located to provide adequate space from curb cuts to the north and south, while aligning with access to the Steel Yards development across the street.

### Conclusion



---

30/Bluff works to fill a gap on 30<sup>th</sup> street, bringing new housing to an underserved area. The project will advance the goals of the BVCP and recent zoning changes designed to encourage the transformation of an underutilized lot into a much-needed housing for the community while improving the streetscape for all residents. Residents will be welcomed into the Boulder fabric, with convenient connections to the rest of the city, and expansive views of our surrounding natural world.

1889 York Street  
Denver, CO 80206  
(303) 333-1105  
FAX (303) 333-1107  
E-mail: [lsc@lscdenver.com](mailto:lsc@lscdenver.com)



March 1, 2024

Mr. Nicholas Kuhl  
Coburn Partners  
2718 Pine Street, #100  
Boulder, CO 80302

Re: 2550 30<sup>th</sup> Street  
Boulder, CO  
LSC #240150

Dear Mr. Kuhl:

In response to your request, LSC Transportation Consultants, Inc. has prepared this Trip Generation and Assignment Report to satisfy the Concept Review requirements for the proposed 2550 30<sup>th</sup> Street residential development in Boulder, Colorado.

### **IMPACT AREA**

Figure 1 shows the vicinity map.

#### **Area Roadways**

The major roadways in the site's vicinity are shown on Figure 1 and are described below.

- **30<sup>th</sup> Street** is a north-south, four-lane minor arterial roadway east of the site. The intersections with Mapleton Avenue and Bluff Street are stop-sign controlled. The posted speed limit in the vicinity of the site is 35 mph. There are dedicated bike lanes and detached sidewalks on both sides of the road adjacent to the site.
- **Mapleton Avenue** is an east-west, two-lane local roadway south of the site. The intersection with 30<sup>th</sup> Street is stop-sign controlled. The posted speed limit in the vicinity of the site is 25 mph. There are detached sidewalks on both sides.
- **Bluff Street** is an east-west, two-lane local roadway north of the site. The intersection with 30<sup>th</sup> Street is stop-sign controlled. No speed limit is posted. There is on-street parking and sidewalks on both sides.

### **PROPOSED LAND USE AND ACCESS**

The site is proposed to include about 146 multi-family dwelling units. Full movement access is proposed to 30<sup>th</sup> Street. The conceptual site plan is shown in Figure 2.

**ALTERNATIVE TRAVEL MODES**

An alternate travel mode share of 20 percent is expected and will be supported by a future Travel Demand Management (TDM) Plan.

**TRIP GENERATION**

Table 1 shows the estimated typical weekday, morning peak-hour, and afternoon peak-hour trip generation for the site based on the rates from *Trip Generation, 11<sup>th</sup> Edition, 2021*, by the Institute of Transportation Engineers (ITE).

The site is projected to generate about 984 vehicle-trips on the average weekday, with about half entering and half exiting the site during a 24-hour period. During the morning peak-hour, which generally occurs for one hour between 6:30 and 8:30 a.m., about 14 vehicles would enter and about 44 vehicles would exit the site. During the afternoon peak-hour, which generally occurs for one hour between 4:00 and 6:00 p.m., about 47 vehicles would enter and about 28 vehicles would exit the site. These volumes are expected to be reduced by about 20 percent due to alternative travel modes. This will be supported by a future Travel Demand Management (TDM) Plan.

**TRIP DISTRIBUTION**

Figure 3 shows the estimated distribution of site-generated traffic.

**TRIP ASSIGNMENT**

Figure 4 shows the assignment of site-generated traffic assuming no reduction for alternative travel modes to assure a conservative analysis.

\* \* \* \* \*

We trust this information will assist you in planning for the proposed 2550 30<sup>th</sup> Street residential development.

Respectfully submitted,

LSC Transportation Consultants, Inc.

By:  \_\_\_\_\_  
Christopher S. McGrath, P.E.  
Principal/President



CSM/wc

3-1-24

Enclosure: Table 1  
Figures 1 - 4

**Table 1  
ESTIMATED TRAFFIC GENERATION  
2550 30th Street  
Boulder, CO  
LSC #240150; March, 2024**

Trip Generating Category	Quantity	Trip Generation Rates <sup>(1)</sup>					Vehicle-Trips Generated				
		Average	AM Peak-Hour		PM Peak-Hour		Average	AM Peak-Hour		PM Peak-Hour	
		Weekday	In	Out	In	Out	Weekday	In	Out	In	Out
<b>CURRENTLY PROPOSED LAND USE</b>											
Multi-Family Housing	146 DU <sup>(3)</sup>	6.74	0.096	0.304	0.321	0.189	984	14	44	47	28
					20% ATM Reduction <sup>(4)</sup> =		197	3	9	9	6
					<b>Net Trips =</b>		<b>787</b>	<b>11</b>	<b>36</b>	<b>38</b>	<b>22</b>

Notes:

- (1) Source: *Trip Generation*, Institute of Transportation Engineers, 11th Edition, 2021
- (2) ITE Land Use No. 220 - Multifamily Housing (Low-Rise)
- (3) DU = Dwelling Units
- (4) The alternative travel mode reduction will be supported by a future Travel Demand Management (TDM) plan.

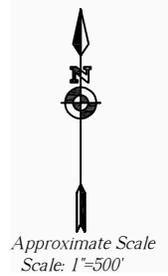


Figure 1  
**Vicinity  
Map**

2550 30th Street (LSC #240150)

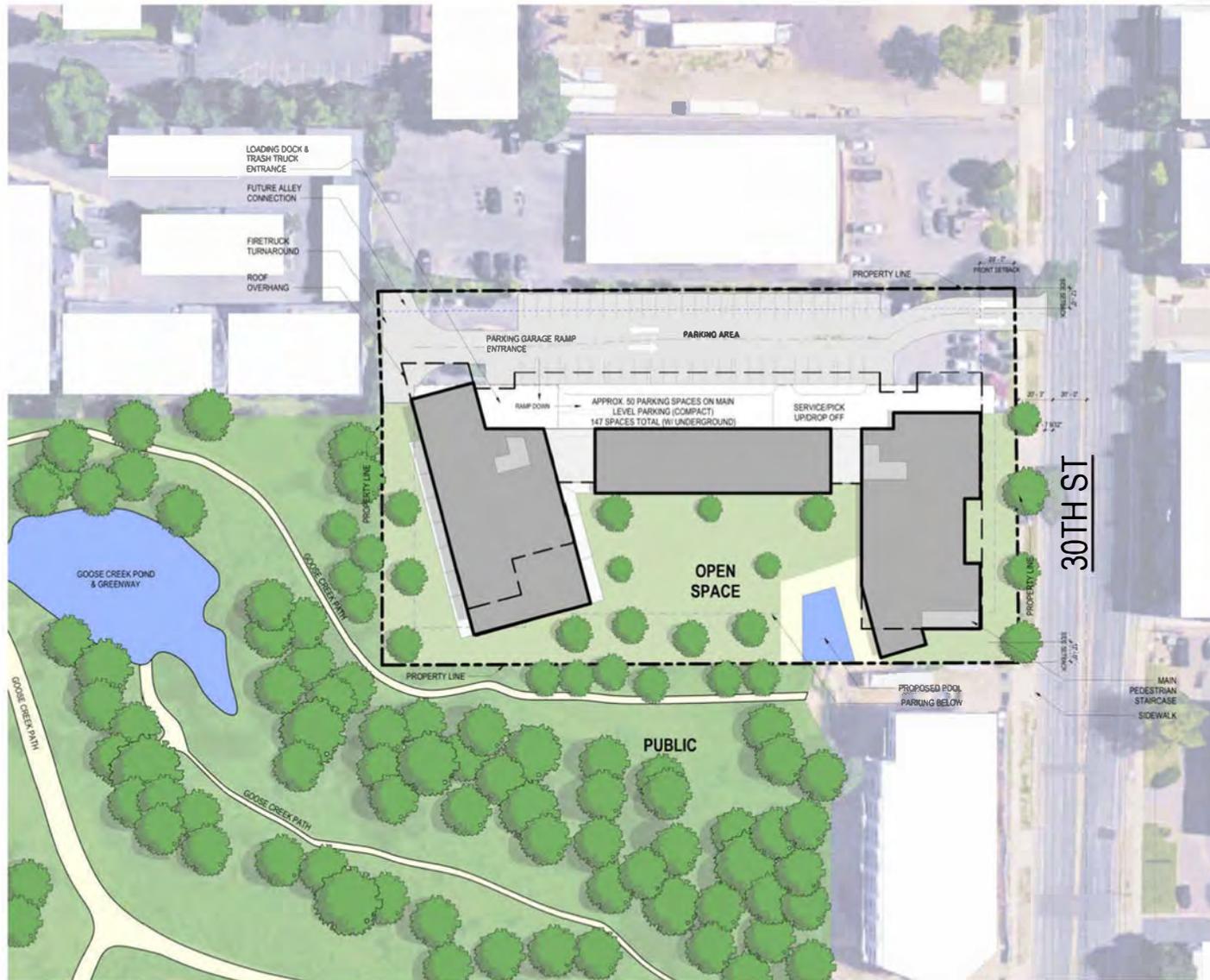
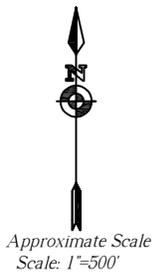
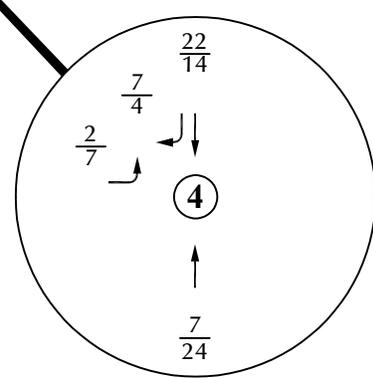
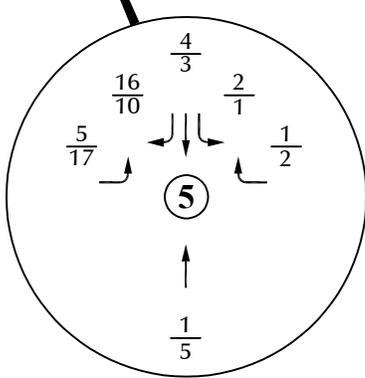
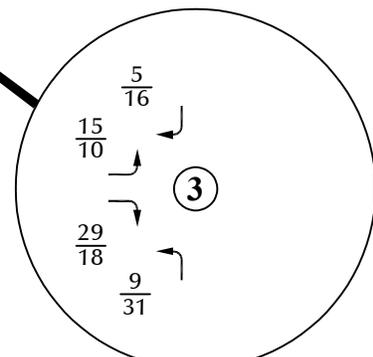
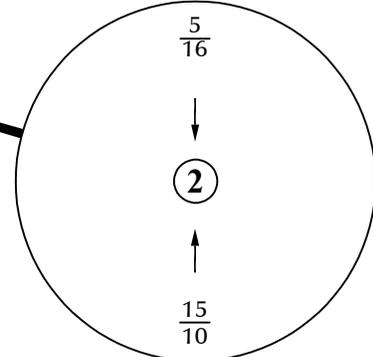
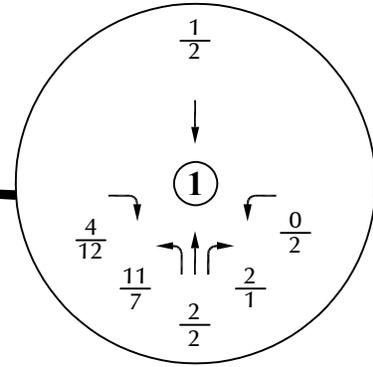


Figure 2  
**Site Plan**  
 2550 30th Street (LSC #240150)





LEGEND:

- $\frac{26}{35}$  = AM Peak Hour Traffic
- $\frac{35}{26}$  = PM Peak Hour Traffic
- 1,000 = Average Daily Traffic

Figure 4

*Assignment of Site-Generated Traffic*

2550 30th Street (LSC #240150)



**CITY OF BOULDER  
PLANNING BOARD ACTION MINUTES  
May 21, 2024  
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, Chair  
Mark McIntyre, Vice Chair  
ml Robles  
Claudia Hanson Thiem  
Mason Roberts (virtual)  
Kurt Nordback (virtual)

**PLANNING BOARD MEMBERS ABSENT:**

Laura Kaplan

**STAFF PRESENT:**

Alison Blaine, City Planner Senior  
Amanda Cusworth, Internal Operations and Board Support Manager  
Charles Ferro, Development Review Planning Senior Manager  
Brad Mueller, Director Planning & Development Services  
Thomas Remke, Board Specialist  
Laurel Witt, Assistant City Attorney II  
Vivian Castro-Wooldridge, Planning Engagement Strategist

**1. CALL TO ORDER**

**2. PUBLIC PARTICIPATION**

In Person: No one spoke.

Virtual:

1) Lynn Segal

**3. APPROVAL OF MINUTES**

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

**5. PUBLIC HEARING ITEMS**

- A. AGENDA TITLE:** Concept Plan Review and Comment for a redevelopment proposal of 2555 30th Street. The proposal includes demolition of the existing car dealership and redevelopment of the site with residential uses. The new development proposes approx. 150 units including studio, one-, two-, and three-bedroom units for a total of 118,927 square feet. Parking will include surface parking and a below grade garage. Reviewed under case no. LUR2024-00018.

**Staff Presentation:**

**A. Blaine** introduced the item and presented to the board.

**Board Questions:**

**A. Blaine** answered questions from the board.

**Applicant Presentation:**

**Scott Holton** and **Bill Hollicky** presented the item to the board.

**Applicant Questions:**

answered questions from the board.

**Public Comment:**

In Person: Nobody spoke.

Virtual:

- 1) Lynn Segal

**Board Discussion:**

**KEY QUESTION #1: Is the proposal consistent with policies of the BVCP and the vision for the area as shown in the Transit Village Area Plan (TVAP)?**

**KEY QUESTION #2: Does Planning Board have feedback to the applicant on the conceptual site plan and building design?**

**KEY QUESTION #3: Other key issues identified by the Board?**

**M. McIntyre** stated that he believes the project is consistent with policies of the BVCP and the vision for the area as shown in the Transit Village Area Plan. He is supportive of eliminating the alley to the south and converting it to open space, given that it creates high quality pedestrian and bike connections. Mark encouraged thoughtful programming of the open space and the creation of a car share program. He also provided feedback to the applicant on the building design.

**C Hanson Thiem** agreed with Mark's comments. She supports eliminating or relocating the proposed alley on the south side of the property. She believes making the area between 28<sup>th</sup> Street and 30<sup>th</sup> Street more permeable to bikes and pedestrians would support the goals of the Transit Village Area Plan. She reiterated the importance of connections to Goose Creek. She warned against being too prescriptive on

building uses in this site, and suggested that residential accessory uses on the ground floor may be an appropriate use.

**K. Nordback** stated that he believes it would be inappropriate to relocate the alley to the north side, but would support either leaving it as is or eliminating it and replacing it with a pedestrian connection on the south side. He agreed that connections to Goose Creek are important. He also believes the height is appropriate. He suggested looking for alternatives to the grade elevation, which he believes will create a poor pedestrian environment. Kurt provided feedback on the building design.

**M. Roberts** emphasized the importance of high quality pedestrian and bike connections. He believes the overall project is consistent with policies of the BVCP and the vision for the area as shown in the Transit Village Area Plan.

**ml Robles** believes the project is consistent with the policies of the BVCP. Staff pointed out there is an existing view shed across this site. She believes the project needs to contribute to the business main street outlined in the TVAP. She reminded the applicants that they should be able to show how they considered the requirements of TVAP when they return for site review. She reiterated the importance of activating public connections to comply with BT-1 zoning. She encouraged a reduction of mass and scale.

**J. Boone** agreed with his colleagues' general sentiment regarding connections. He noted that he appreciates the mix of unit types that are incorporated into the plan. He believes the alley makes sense as proposed by the developer. He echoed Mark's comments regarding the building design and encouraged increasing permeability of the site.

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

### **A. Matters: Updated Planning Board Rules of Meeting Procedure**

## **7. DEBRIEF MEETING/CALENDAR CHECK**

## **8. ADJOURNMENT**

The Planning Board adjourned the meeting at 8:46 p.m.

APPROVED BY

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

\_\_\_\_\_  
DATE



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Landmark Alteration Certificate application to construct a new two-story building, construct a rear addition to the primary building, and modify an existing accessory building at 1105 Spruce St., a contributing property in the Mapleton Hill Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code 1981

### **PRIMARY STAFF CONTACT**

Clare Brandt, Preservation Planner

### **BRIEF HISTORY OF ITEM**

Landmarks Board meeting June 5, 2024

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 4B - 1105 Spruce St Landmark Alteration Certificate**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE:** Landmark Alteration Certificate to construct a new two-story building, construct a rear addition to the primary building, and modify an existing accessory building at 1105 Spruce St., a contributing property in the Mapleton Hill Historic District.

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Brad Mueller, Director of Planning and Development Services  
Kristofer Johnson, Comprehensive Planning Senior Manager  
Chris Reynolds, Deputy City Attorney, City Attorney's Office  
Marcy Gerwing, Principal Historic Preservation Planner  
Clare Brandt, Historic Preservation Planner

**EXECUTIVE SUMMARY**

The proposal to construct a new two-story building, construct a rear addition to the primary building, and modify an existing accessory building at 1105 Spruce St., a contributing property in the Mapleton Hill Historic District, was conditionally approved by the Landmarks Board (4-0, R. Pelusio absent) at its June 5, 2024, meeting.

The decision was based upon the board's consideration that the proposal meets the Standards for Issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981 and is generally consistent with the [General Design Guidelines for Historic Districts and Individual Landmarks](#) and the [Mapleton Hill Historic District Guidelines](#).

The board's conditional approval is subject to a 16-day call-up period by City Council, no later than **June 21, 2024**.

**ATTACHMENTS**

Attachment A: Disposition for 1105 Spruce St., dated June 20, 2024.

Attachment B: June 5, 2024 [Landmarks Board Memo for 1105 Spruce St.](#) (link)

**Notice of Disposition**

You are hereby advised that on June 5, 2024, the following action was taken by the Landmarks Board:

- ACTION:** Recommended for conditional approval by a vote of **4-0** (Pelusio absent)
- APPLICATION:** Public hearing and consideration of a Landmark Alteration Certificate application to construct a new two-story building, construct a rear addition to the primary building, and modify an existing accessory building at 1105 Spruce St., a contributing property in the Mapleton Hill Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code 1981 and under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981 (HIS2023-00192).
- LOCATION:** 1105 Spruce St.
- OWNER:** Stephen D. Tebo DBA Tebo Properties
- APPLICANT:** Jeffrey Van Sambeek, Lodestone Design  
Kari Whitman, Kari Whitman Interiors

This decision was based on the Board's consideration that the proposal meets the Standards for Issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981 and is generally consistent with the [General Design Guidelines for Historic Districts and Individual Landmarks](#).

**Staff Presentation**

C. Brandt presented the application to the board, recommending the Landmarks Board approve the application with conditions.

**Applicant Presentation**

Jeffery Van Sambeek and Kari Whitman presented the application and answered questions from the board.

**Public Comment**

The following members of the public spoke:

1. Earl Neulight (emailed photograph)
2. Lynn Segal

Prior to the June 5, 2024, public hearing, the following members of the community wrote to the Landmarks Board regarding the application:

1. Erica Rice

**Motion**

On a motion by **J. Decker** seconded by **C. Castellano** the Landmarks Board voted **(4-0, Pelusio absent)** to adopt the staff memorandum dated June 5, 2024, as the findings of the board and conditionally approve a Landmark Alteration Certificate to construct a new two-story building, a rear addition to the house, and modify an existing accessory building at 1105 Spruce St., a contributing property in the Mapleton Hill Historic District, as shown on plans received May 13, 2024, finding that the proposal meets the Standards for Issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981 and is generally consistent with the General Design Guidelines, provided the stated conditions are met.

**Conditions of Approval**

1. The applicant shall be responsible for completing the work in compliance with the approved plans, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to final review and approval by the Landmarks Design Review Committee (LDRC) to ensure that the final design of the addition is consistent with the *General Design Guidelines*, the *Mapleton Hill Historic District Design Guidelines*, and the intent of this approval:
  - a) Submit details on the removal of existing rear addition to **historic house**, and new two-story rear addition including:
    - i) Revise design to delineate between old and new on the east elevation of the primary house in material, detailing or plane.
    - ii) Details of materials that demonstrate compatibility with the character of the existing historic structure.
  - b) Submit details of the proposed rehabilitation of **primary building** including:
    - i) Catalog of location and condition of existing windows at the primary building including the frames, glass, sash, muntin, sills, heads, moldings, surrounds and hardware, and proposed treatment for each (repair, rehabilitation, restoration or replacement).
    - ii) Provide details of new window size, type and detailing proposed at dormer.
    - iii) Provide details of the proposed repair of exterior features of the primary building including masonry, siding, roofing, and foundation.
  - c) Revise proposed modification of historic **carriage house** to show:
    - i) Retain north elevation dormer as existing. Revise modification to dormer on south elevation to maintain eave line of main roof.
    - ii) Retain existing window openings (including the position, size, proportion, etc.) at south elevation.

- iii) Use historic images and/or physical evidence to restore window openings at the north elevation to reflect historic size and proportion.
- iv) Retaining existing historic person door at east elevation, fixed in place to the exterior of the building.
- v) Catalog location and condition of existing windows at the carriage house including the frames, glass, sash, muntin, sills, heads, moldings, surrounds and hardware, and proposed treatment for each (repair, rehabilitation, restoration or replacement).
- vi) Revise new window opening on east elevation to reflect traditional proportions and size of windows found on building;
- vii) Provide details of new double carriage doors including design and materiality. Consider revising to operable carriage house doors rather than fixed.
- viii) Provide details of the proposed siding and roof repair.
- ix) Provide details of materiality, function, etc. or new windows and doors proposed.
- x) Provide details of skylights.
- d) Revise proposed **new construction** of new two-story building to demonstrate:
  - i) Simplify design of new building, including elimination of transoms, concrete lintels and simplification of porch roof. Explore asymmetry
  - ii) Revise design of east elevation to remove infill panel to avoid creating a false sense of history.
  - iii) Explore moving building footprint 2' east to align with the east elevation of the historic carriage house.
- e) Plans show construction of **new two-story building** will not require modification to the historic carriage house to meet fire separation requirements. If, during Building Permit Review, changes are required, revise design of new building, including its size and location, rather than modifying the character-defining features of the historic carriage house, including siding, eaves, dormer, windows and doors.
- f) Provide details of materials proposed for courtyard at the interior of the lot, two parking spaces, and hardscaping between buildings and demonstrate permeability.
- g) Provide details of any exterior mechanical systems, lighting and guttering not currently shown on plans.
- h) Identify mature trees proposed for removal on plans.

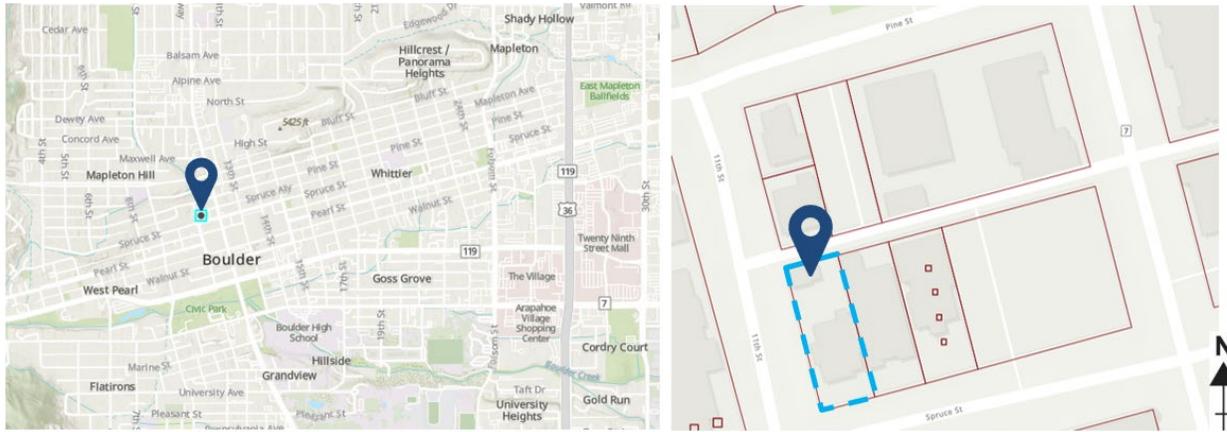


Figure 1. Left: Map of central Boulder showing Location of 1105 Spruce St. on the corner of Spruce and 11<sup>th</sup> Streets just north of downtown. Right: Location of 1105 Spruce Street on the northeast corner of 11<sup>th</sup> and Spruce Streets.



Figure 2. Southwest corner of 1105 Spruce St. with the accessory building at the rear, c.1890<sup>1</sup> (top left) and 1942-1961<sup>2</sup> (top right). Same view in 1986<sup>3</sup> (bottom left) and 2024 (bottom right, staff photograph).

<sup>1</sup> "Photo 1. House at 1105 Spruce with Mrs. Butsch on porch and fire hydrant at the corner of the street." C. 1890. Call number BHS 207-15-27. Boulder Historical Society/Museum of Boulder.

<https://localhistory.boulderlibrary.org/islandora/object/islandora%3A62769>

<sup>2</sup> "1105 Spruce Street real estate appraisal card." 1942-1961. Call number 880-Spruce-1105. Carnegie Library for Local History, Boulder. <https://localhistory.boulderlibrary.org/islandora/object/islandora%3A86888>

<sup>3</sup> Front Range Research Associates. "1105 Spruce Street historic building inventory record." 1986. Call number 780 Spruce 1105. Carnegie Library for Local History. <https://localhistory.boulderlibrary.org/islandora/object/islandora%3A47834>



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Landmark Alteration Certificate application to demolish an existing c. 1990s accessory building, construct a new 1 ½ story, two-car garage, and remodel the existing house at **432 Concord Ave.**, a non-contributing property in the Mapleton Hill Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code 1981

### **PRIMARY STAFF CONTACT**

Clare Brandt, Preservation Planner

### **BRIEF HISTORY OF ITEM**

Landmarks Board meeting June 5, 2024

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 4C - 432 Concord Ave. Landmark Alteration Certificate**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE:** Landmark Alteration Certificate to demolish an existing c. 1990s accessory building, construct a new 1½ story, two-car garage, and remodel the existing house at 432 Concord Ave., a non-contributing property in the Mapleton Hill Historic District.

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Brad Mueller, Director of Planning and Development Services  
Kristofer Johnson, Comprehensive Planning Senior Manager  
Chris Reynolds, Deputy City Attorney, City Attorney's Office  
Marcy Gerwing, Principal Historic Preservation Planner  
Clare Brandt, Historic Preservation Planner

**EXECUTIVE SUMMARY**

The proposal to demolish an existing c. 1990s accessory building, construct a new 1½ story, two-car garage, and remodel the existing house at 432 Concord Ave., a non-contributing property in the Mapleton Hill Historic District, was conditionally approved by the Landmarks Board (4-0, R. Pelusio absent) at its June 5, 2024, meeting.

The decision was based upon the board's consideration that the proposal meets the Standards for Issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981 and is generally consistent with the [General Design Guidelines for Historic Districts and Individual Landmarks](#) and the [Mapleton Hill Historic District Guidelines](#).

The board's conditional approval is subject to a 16-day call-up period by City Council, no later than **June 21, 2024**.

**ATTACHMENTS**

Attachment A: Disposition for 432 Concord Ave., dated June 20, 2024.

Attachment B: June 5, 2024 [Landmarks Board Memo for 432 Concord Ave.](#) (link)

**Notice of Disposition**

You are hereby advised that on June 5, 2024, the following action was taken by the Landmarks Board:

**ACTION:** Recommended for conditional approval by a vote of **4-0** (Pelusio absent)

**APPLICATION:** Public hearing and consideration of a Landmark Alteration Certificate application to demolish an existing c. 1990s accessory building, construct a new 1½ story, two-car garage, and remodel the existing house at 432 Concord Ave. (HIS2024-00038), a non-contributing property in the Mapleton Hill Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code 1981 and under the procedures prescribed by chapter 1-3, “Quasi-Judicial Hearings,” B.R.C. 1981 (HIS2024-00038).

**LOCATION:** 432 Concord Ave.

**OWNER / APPLICANT:** Jennifer Wells & Ian Arthur

This decision was based on the Board’s consideration that the proposal meets the Standards for Issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981 and is generally consistent with the [General Design Guidelines for Historic Districts and Individual Landmarks](#).

**Staff Presentation**

M. Gerwing presented the application to the board, recommending the Landmarks Board approve the application with conditions.

**Applicant Presentation**

Ian Arthur presented the application and answered questions from the board.

**Public Comment**

The following members of the public spoke:

1. Lynn Segal

Prior to the June 5, 2024, public hearing, the following members of the community wrote to the Landmarks Board regarding the application:

1. Barbara Fahey
2. Claudia Murphy

**Motion**

On a motion by **J. Decker** seconded by **C. Castellano** the Landmarks Board voted **(4-0, Pelusio absent)** to *adopt the staff memorandum dated June 5, 2024, as the findings of the board and conditionally approve a Landmark Alteration Certificate to construct a new two-story building, a rear addition to the house, and modify an existing accessory building at 1105 Spruce St., a contributing property in the Mapleton Hill Historic District, as shown on plans received May 13, 2024, finding that the proposal meets the Standards for Issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981 and is generally consistent with the General Design Guidelines, provided the stated conditions are met.*

**Conditions of Approval**

1. The applicant shall be responsible for completing the work in compliance with the approved plans, except as modified by these conditions of approval.
  
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to final review and approval by the Landmarks Design Review Committee (LDRC) to ensure that the final design of the addition is consistent with the *General Design Guidelines, the Mapleton Hill Historic District Design Guidelines*, and the intent of this approval. Revised architectural plans showing:
  - 1) House
    - a) Revised detailing to reflect that of contributing buildings in the district, including wider window trim, a wide trim board at the gable end, and corner boards.
    - b) Revised proportion of the paired double-hung windows on the first level of the façade to emphasize a vertical proportion; separate by trim.
    - c) Revised siding material from vertical, narrow board and batten to narrow horizontal lap siding or wood shake to reference exterior materials found on contributing buildings in the historic district.
    - d) Revised porch design from concrete to frame.
    - e) Revised paint scheme to reduce the contrast between the body of the house and the trim.
  
  - 2) Accessory Building
    - a) Reduced width of garage by at least 3 feet to minimize the width of the accessory building along the alley while still providing for a two-car garage. Increase size into interior of lot if needed. Explore other ideas on how to minimize the width along the alley.
    - b) Modified pitch of the accessory building roof to reflect that of the main house or the pitch of contributing accessory buildings in the historic district.
    - c) Revised design of the dormers based on revised pitch of primary roof form to be secondary to the overall roof form, and reflect a pitch and window pattern characteristic of contributing buildings in the district.
    - d) Revise window pattern and proportions on the south (alley) elevation to reflect traditional window patterns found on historic accessory buildings.
    - e) Explore porch entry rather than enclosed entry

- f) Revised hardscaping from concrete abutting the alley to gravel or other permeable material.
- 3) General
  - a) On site plan, note location of mature trees and whether they are proposed for removal.
  - b) Provide details for proposed grading and hardscaping.
  - c) Provide details of mechanical systems, lighting, gutters, trash service areas, screening and fencing.
  - d) Provide final details of windows, doors, siding, railing, roofing, and paint colors.

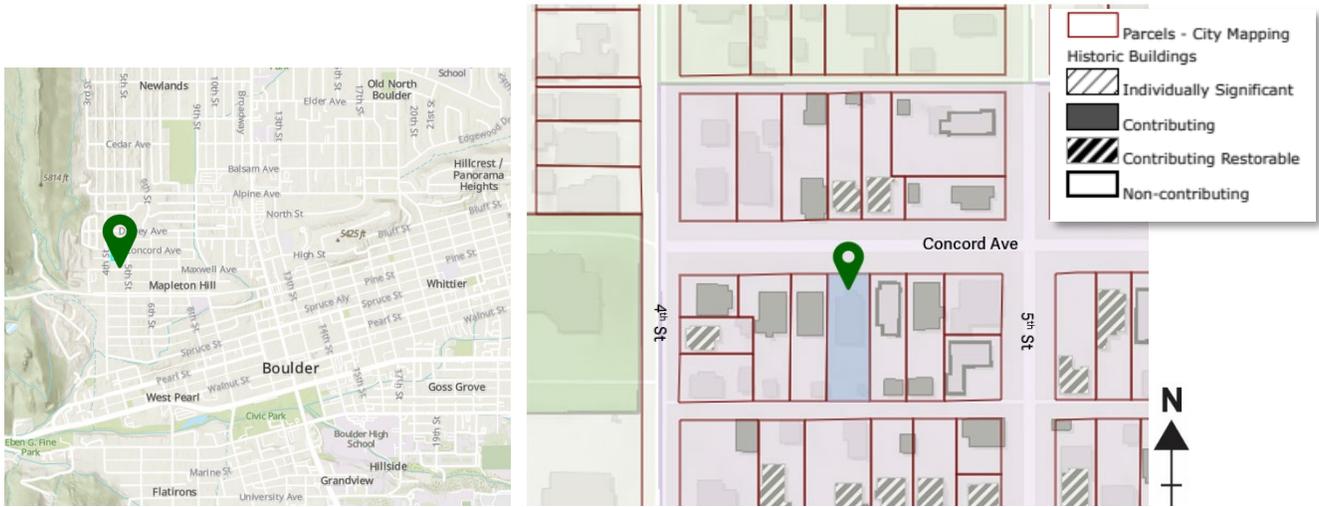


Figure 1. Left: Map of central Boulder showing location of 432 Concord Ave. west of Broadway and north of downtown. Right: Location map of 432 Concord Ave. midblock between 4<sup>th</sup> and 5<sup>th</sup> street.



Figure 2. Left: Photograph from Tax Assessor Card, c. 1952-1956, showing northwest corner of building newly relocated to 432 Concord Ave. Right: 432 Concord Ave. façade and northwest corner, 2024.



*Figure 3. Current photographs of house at 432 Concord Ave., including north façade (top left), northwest corner and west elevation (top right), northeast corner and east elevation (bottom left), rear or south elevation (bottom right). Images provided by applicant.*



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **AGENDA ITEM**

Second reading and consideration of a motion to adopt Ordinance 8634 designating the property at 904 Mapleton Ave., City of Boulder, Colorado, to be known as the Gardiner-Sandoe House, as an individual landmark under Chapter 9-11, "Historic Preservation," B.R.C. 1981; and setting forth related details. Reviewed under case number HIS2023-00262

### **PRIMARY STAFF CONTACT**

Clare Brandt, City Planner

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to adopt Ordinance 8634 designating the property at 904 Mapleton Ave., City of Boulder, Colorado, to be known as the Gardiner-Sandoe House, as an individual landmark under Chapter 9-11, "Historic Preservation," B.R.C. 1981; and setting forth related details.

### **ATTACHMENTS:**

#### **Description**

- ▣ **Item 5A - 2nd Rdg Ord 8634 904 Mapleton Ave**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Second reading and consideration of a motion to adopt Ordinance 8634 designating the property at 904 Mapleton Ave., City of Boulder, Colorado, to be known as the Gardiner-Sandoe House, as an individual landmark under Chapter 9-11, “Historic Preservation,” B.R.C. 1981; and setting forth related details.

Owner / Applicant: Anne Leah Sandoe and Samuel Sandoe

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Brad Mueller, Director of Planning and Development Services  
Kristofer Johnson, Comprehensive Planning Senior Manager  
Chris Reynolds, Deputy City Attorney, City Attorney’s Office  
Marcy Gerwing, Principal Historic Preservation Planner  
Clare Brandt, Historic Preservation Planner

**EXECUTIVE SUMMARY**

The purpose of this agenda item is for City Council to consider second reading of an ordinance designating the property at 904 Mapleton Ave. as an individual landmark under the city’s Historic Preservation Ordinance. The council must determine whether the proposed individual landmark designation of the property meets the purposes and standards of the Historic Preservation Ordinance (*Sections 9-11-1 and 9-11-2, B.R.C. 1981*). This includes that the landmark designation:

- 1. Will promote the public health, safety, and welfare by protecting, enhancing, and perpetuating buildings, sites, and areas of the city reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past.*

2. *Will develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.*
3. *Will draw a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage by ensuring that demolition of buildings and structures important to that heritage will be carefully weighed with other alternatives and that alterations to such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them.*

The property owners are in support of the designation. If approved, this ordinance (see **Attachment A**), would result in the designation of the property as an individual landmark. The findings are included in the ordinance. The second reading for this designation is a quasi-judicial public hearing.

**STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

Motion to adopt Ordinance 8634 designating the property at 904 Mapleton Ave., City of Boulder, Colorado, to be known as the Gardiner-Sandoe House, as an individual landmark under Chapter 9-11, "Historic Preservation," B.R.C. 1981; as well as adopt the staff memorandum dated June 20, 2024 as the findings and conclusions of council, and setting forth related details.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic – Studies have found that historic preservation adds to economic vitality and tourism. Exterior changes to individually landmarked buildings require a Landmark Alteration Certificate, issued by the Planning & Development Services Department at no charge. Most Landmark Alteration Certificates are reviewed and approved by staff within two weeks, however the additional review process for more complex changes may add time and design expense to a project.
- Environmental - The preservation of historic buildings is inherently sustainable. Owners of individually landmarked buildings are encouraged to reuse and repair as much of the original building as possible when making exterior alterations, thereby reducing the amount of building material waste deposited in landfills. The General Design Guidelines also encourage increasing the energy-efficiency of existing buildings.
- Social - The Historic Preservation Ordinance was adopted to "...enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage." Section 9-11-1 (a), B.R.C., 1981. The

primary beneficiaries of historic designation are the property owners of a historic landmark and adjacent neighbors, who are ensured that the character of the immediate area will be protected through the design review process. The greater community also benefits from the preservation of the community's character and history.

### **OTHER IMPACTS**

- Fiscal - The designation of individual historic landmarks is an anticipated and ongoing function of the Historic Preservation Program.
- Staff time - This designation application is within the staff work plan.

### **LANDMARKS BOARD ACTIONS & FEEDBACK**

On May 1, 2024, the Landmarks Board voted (**5-0**) to recommend that the City Council designate the property as a local historic landmark, finding that it meets the standards for individual landmark designations in sections 9-11-1 and 9-11-2, B.R.C. 1981, and is consistent with the criteria specified in section 9-11-5(c), B.R.C. 1981.

### **PUBLIC FEEDBACK**

One member of the public spoke at the designation hearing.

### **ANALYSIS**

#### **Code Criteria for Review**

Section 9-11-6(b), *Council Ordinance Designating Landmark or Historic District*, of the historic preservation ordinance specifies that in its review of an application for local landmark designation, the council must consider “whether the designation meets the purposes and standards in Subsections 9-11-1(a) and Section 9-11-2, *City Council May Designate Landmarks and Historic Districts*, B.R.C. 1981, in balance with the goals and policies of the Boulder Valley Comprehensive Plan.” The City Council shall approve by ordinance, modify and approve by ordinance, or disapprove the proposed designation.

**9-11-1, *Legislative Intent*, B.R.C. 1981** states:

- (a) The purpose of this chapter is to promote the public health, safety, and welfare by protecting, enhancing, and perpetuating buildings, sites, and areas of the city reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this chapter to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.
- (b) The City Council does not intend by this chapter to preserve every old building in the city but instead to draw a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage by ensuring that demolition of buildings and structures important to that heritage will be carefully weighed with other alternatives and that alterations to

such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them.

- (c) The City Council intends that in reviewing applications for alterations to and new construction on landmarks or structures in a historic district, the Landmarks Board shall follow relevant city policies, including, without limitation, energy-efficient design, access for the disabled, and creative approaches to renovation.

**9-11-2, *City Council may Designate Landmarks and Historic Districts, B.R.C. 1981*** states:

- (a) Pursuant to the procedures in this chapter the City Council may by ordinance:
  - (1) Designate as a landmark an individual building or other feature or an integrated group of structures or features on a single lot or site having a special character and historical, architectural, or aesthetic interest or value and designate a landmark site for each landmark;
  - (2) Designate as a historic district a contiguous area containing a number of sites, buildings, structures or features having a special character and historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;
  - (3) Designate as a discontinuous historic district a collection of sites, buildings, structures, or features which are contained in two or more geographically separate areas, having a special character and historical, architectural, or aesthetic interest or value that are united together by historical, architectural, or aesthetic characteristics; and
  - (4) Amend designations to add features or property to or from the site or district.

Upon designation, the property included in any such designation is subject to all the requirements of this code and other ordinances of the city.

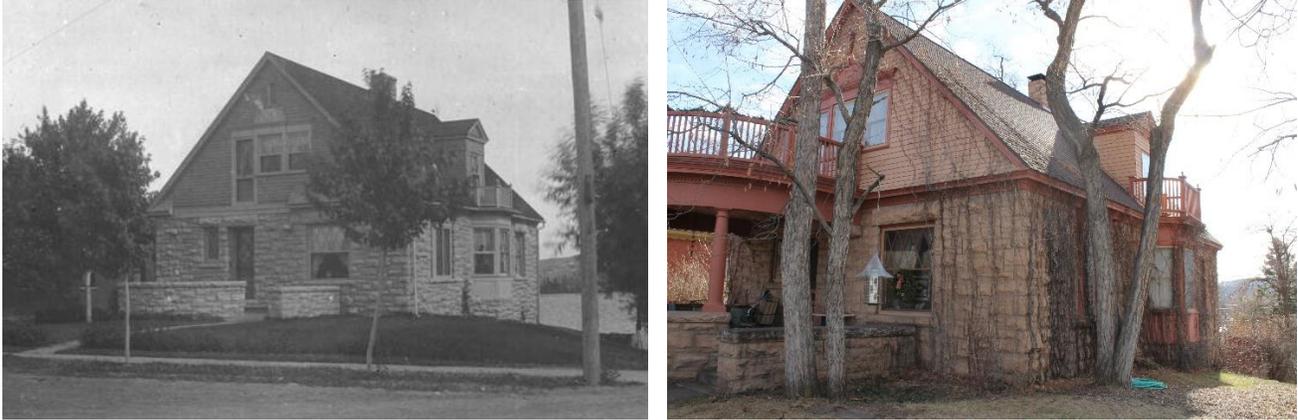


Figure 1. Left: Northwest corner of 904 Mapleton Ave. in 1900 before the completion of the front porch, showing the façade Palladian window/door and west elevation bay window with roof deck above.<sup>1</sup> Carnegie Library for Local History. Right: Similar northwest corner view in 2023 showing the façade and west elevation bay window with roof deck.

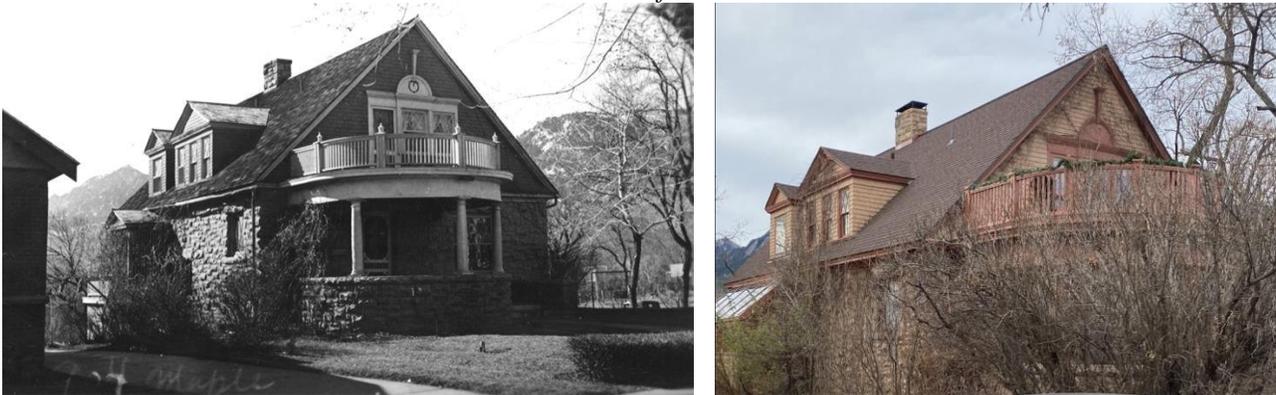


Figure 2. Left: Northeast corner of 904 Mapleton Ave. 1929-1949<sup>2</sup> showing the east elevation dormers and original side entry porch replaced with a shed-roof addition. Right: Similar northeast corner view in 2023 showing east elevation dormers and shed roof addition below. Staff photograph.

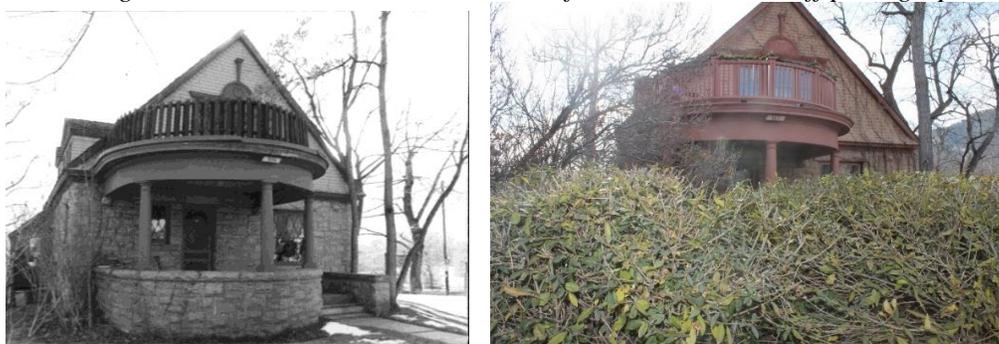


Figure 3. Left: façade of 904 Mapleton Ave. in 1986 showing the semi-circular porch, frieze board, and railing.<sup>3</sup> Right: Current 2023 view showing porch repaired and railing restored based on historic images. Staff photograph.

<sup>1</sup> Watts, Hugh. "Green photograph album: page ninety." 1900. Call Number BHS 125-1-90. Boulder Historical Society/Museum of Boulder. <https://localhistory.boulderlibrary.org/islandora/object/islandora%3A67909>

<sup>2</sup> Boulder County Real Estate Appraisal. "904 Mapleton Avenue real estate appraisal card." 1929-1961. Call Number 880-Mapleton-904. Carnegie Library for Local History, Boulder. <https://localhistory.boulderlibrary.org/islandora/object/islandora%3A86035>

<sup>3</sup> Front Range Research Associates. "904 Mapleton Avenue historic building inventory record." 1986. Call Number 780 Mapleton 904. Carnegie Library for Local History, Boulder. <https://localhistory.boulderlibrary.org/islandora/object/islandora%3A37342>

**Summary of Significance**

To assist in the interpretation of the historic preservation ordinance, the Landmarks Board adopted an administrative regulation in 1975 establishing [Significance Criteria for Individual Landmarks](#) (link). For additional information on the history of the property, please see the [May 1, 2024 Landmarks Board Memorandum](#) (link).

**ANALYSIS:**

*A. Would the designation protect, enhance, and perpetuate a property reminiscent of a past era(s), event(s), and person(s) important in local, state, or national history in Boulder or provide a significant example of architecture of the past?*

Staff considers, and the Landmarks Board found, that the proposed designation will protect, enhance, and perpetuate a property reminiscent of a past era of history in that the building is architecturally significance as an Edwardian Vernacular house constructed out of local Dakota sandstone by stone-masons Andrew Fraser and Donald Grant; its historic significance for its association with the house’s original owner, Frank Gardiner, and James Sandoe, who was instrumental in establishing the annual Colorado Shakespeare Festival in Boulder, and for the Sandoe family, who have been careful stewards of the property for more than 80 years; and for its environmental significance as a contributing property in the Mapleton Hill Historic District.

*B. Does the proposed application develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the City’s living heritage?*

Staff considers, and the Landmarks Board found, that the proposed designation will maintain an appropriate setting and environment for the buildings and sites, and enhance property values, stabilize the neighborhood, promote tourist trade and interest, and foster knowledge of the city’s living heritage.

**HISTORIC SIGNIFICANCE:**

**Summary:** The house located at 904 Mapleton Ave. meets the following historic significance criteria:

**1. Date of Construction:** 1895-1897

**Elaboration:** The house was constructed for Frank and Isabelle Gardiner.

**2. Association with Persons or Events:** Associated with the Gardiner and Sandoe families.

**Elaboration:** Frank Gardiner was a retailer in Boulder, who operated a grocery, bakery and later a second-hand furniture store. James Sandoe was instrumental in establishing the annual Colorado Shakespeare Festival in Boulder, by directing the first Shakespearean performance at the University of Colorado, Boulder’s Mary Rippon Theater. The Sandoe family have been careful stewards of the property for more than 80 years.

3. **Distinction in the Development of the Community:** Mapleton Hill Historic District  
**Elaboration:** The area represents Boulder’s growth at the turn of the twentieth century. The original owner, Frank Gardiner, was a local businessman who operated a grocery, bakery and later a second-hand furniture store.
4. **Recognition by Authorities:** The house was surveyed in the Boulder Historic Places Inventory in 1977, which included 130 of Boulder’s most prominent historic buildings. It was designated as a contributing property in the 1982 designation of the Mapleton Hill Historic District and was again surveyed by Front Range Research Associates in 1986.<sup>4</sup>

The 1986 survey states “This house was built in about 1895 by Frank J. Gardiner. It was constructed of Dakota sandstone from a quarry north of the Sanitarium, by stone mason Andrew Fraser. Mr. Gardiner came to Boulder in 1891 and established a grocery store. He also started a bakery and a second-hand furniture store.” The survey states the house has historical significance for its association with significant persons and for its contribution to a historic district, reading “The Gardiner house represents the work of noted stone mason Andrew Fraser. Fraser also built several University buildings, the Fraser Home and Carnegie Library. Owner Frank Gardiner established a grocery, bakery and second-hand furniture store in Boulder, thereby contributing to the town’s economic growth.”

#### **ARCHITECTURAL SIGNIFICANCE:**

**Summary:** The house at 904 Mapleton Ave. meets the following architectural significance criteria.

1. **Recognized Period or Style:** Edwardian Vernacular<sup>5</sup>  
**Elaboration:** The house is an example of a variant of the Edwardian Vernacular style popular in Boulder at the turn of the twentieth century. Character-defining features include its one-and-a-half story front gable form, masonry and frame construction, elaborate curved porch with classical columns, and decorative detailing including wood shakes, Palladian window and door composition, dentils and wreath motif.
2. **Architect or Builder of Prominence:** Andrew Fraser and Donald Grant (firm Grant and Fraser, stone-masons), and Grover and Kelliger (carpenters)  
**Elaboration:** Donald Grant was born in Scotland around 1855 and emigrated in about 1879. He lived in Boulder from before 1900 until his death in 1919. Andrew Fraser emigrated from Scotland in about 1882 and settled first in Kansas before moving to Colorado around 1891 and Boulder the following year. Their firm, Grant and Fraser is credited with constructing many prominent buildings in Boulder, including the University of Colorado Armory Hall at 1511 University Ave. and the First Congregational Church at 1128 Pine St. They were likely also

<sup>4</sup> Front Range Research Associates. “904 Mapleton Avenue historic building inventory record.” 1986. Call Number 780 Mapleton 904 . Carnegie Library for Local History, Boulder. <https://localhistory.boulderlibrary.org/islandora/object/islandora%3A37342>

<sup>5</sup> Pearce, Sarah J. *Field Guide To Colorado's Historic Architecture & Engineering*. Denver, CO: Colorado Historical Society, 2008. <https://www.historycolorado.org/sites/default/files/media/document/2017/1625Field.pdf>

involved in construction of the National State Bank building at 1242 Pearl St. and the Carnegie Library at 1125 Pine St..

3. **Artistic Merit:** Skilled masonry using Dakota sandstone and carpentry work  
**Elaboration:** A letter from 1951 notes that “it was built of the Dakota sandstone, a very hard crystalline sandstone quarried up Sanitas Ravine back of the Sanitarium, a stone so difficult to work that the masons soon quite using it, taking instead the more easily worked Lyons sandstone.” Additionally, the detailed carpentry on the exterior includes the fine curved front porch.
4. **Example of the Uncommon:** Original upper decks and balconies  
**Elaboration:** Although upper roof decks and balconies themselves are not uncommon, the original doors accessing the roof decks are unusual for the period, as are the number of roof decks. The original design includes a door and roof deck giving views to the north (front porch), south and west sides of the house.
5. **Indigenous Qualities:** Local stone quarried from the Shinkle Quarry found along the “Dakota Ridge hogback just west of Boulder. At places along Dakota Ridge the sandstone is firmly cemented by silica cement and makes a strong durable building stone. But the Dakota “J” sandstone has proved as difficult to quarry and work as the Lyons is easy. The problem is that the Dakota “J” sandstones are massive beds, laid down as channels and sand bars through the Cretaceous delta complex. Because of its massive character, the sandstone does not easily split into building stone sized blocks. Instead it had to be sawed, adding a costly step in the quarrying process that prevented competition with quarries extracting the Lyons Sandstone.”<sup>6</sup>

#### **ENVIRONMENTAL SIGNIFICANCE:**

**Summary:** The house located at 904 Mapleton Ave. meets the following environmental significance criteria.

1. **Site Characteristics:** The site falls steeply to the south with the house at the top of the hill facing Mapleton Ave. The Farmer’s Ditch flows from the west across the southern property line.
2. **Compatibility with Site:** Consistent with similar houses in the district, the house is set back from the street and is surrounded by mature vegetation.
3. **Geographic Importance:** The house is centrally located within the Mapleton Hill Historic District at the prominent intersection with 9<sup>th</sup> Street.
4. **Environmental Appropriateness:** None observed.
5. **Area Integrity:** The property is located in the Mapleton Hill Historic District.

---

<sup>6</sup> Pettem, Silvia and Ed Raines “Use of Native Stone in Boulder.” 1999. Boulder Historic Context Project / Boulder Planning Department.

**Elaboration:** The house contributes to the architectural variety and character of the Mapleton Hill Historic District.

**Landmark Name**

Staff recommends the property be known as the **Gardiner-Sandoe House** to recognize the original owner, Frank Sandoe, and the longest owners, the Sandoe family, and their contributions to Boulder. This is consistent with the Landmark Board’s Guidelines for Names of Landmarked Structures and Sites (1988) and the National Register of Historic Places Guidelines for Designation. See [Guidelines for Names of Landmarked Structures and Sites](#) (link).

**Boundary Analysis**

Staff recommends that the boundary be established to follow the property lines of the lot, consistent with current and past practices and the National Register Guidelines for establishing landmark boundaries. This boundary is supported by the property owners.

**Alternatives**

**Modify the Application:** The City Council may modify the landmark boundary and landmark name.

**Deny the Application:** If the City Council finds the application does not meet the criteria for landmark designation, it would vote to deny the application.

**ATTACHMENTS**

Attachment A – Ordinance 8634

Attachment B – [Significance Criteria for Individual Landmarks](#) (1975) (link)

Attachment C – [May 1, 2024 Landmarks Board Memorandum](#) (link)

ORDINANCE 8634

AN ORDINANCE DESIGNATING THE PROPERTY AT 904 MAPLETON AVE., CITY OF BOULDER, COLORADO, ALSO KNOWN AS THE GARDINER-SANDOE HOUSE, A LANDMARK UNDER CHAPTER 9-11, "HISTORIC PRESERVATION," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. The City Council enacts this ordinance pursuant to its authority under Chapter 9-11, "Historic Preservation," B.R.C. 1981, to designate as a landmark a property having a special character or special historic, architectural, or aesthetic interest or value.

Section 2. The City Council finds that: 1) on Dec. 14, 2023, the property owners submitted a landmark designation application for the property; 2) the Landmarks Board held a public hearing on the proposed designation on May 1, 2024, and recommended that the City Council approve the proposed designation.

Section 3. The City Council also finds that upon public notice required by law, the City Council held a public hearing on the proposed designation on June 20, 2024, and upon the basis of the presentations at that hearing finds that the property at 904 Mapleton Ave. possesses special historic and architectural value warranting its designation as a landmark.

Section 4. The characteristics of the subject property that justify its designation as a landmark are: 1) its historic significance for its date of construction of 1895 for Frank and Isabelle Gardiner; for its association with Frank Gardiner, who operated a grocery, bakery and later a second-hand furniture store in Boulder; and for its association with the Sandoe family, who have owned and lived in the house since 1947; and for the association with James Sandoe, who was instrumental in establishing the annual Colorado Shakespeare Festival in Boulder by directing the first Shakespearean



1 as depicted in the proposed landmark boundary map, attached hereto as Exhibit A.

2 Section 7. The City Council directs that the Planning and Development Services  
3 Department give prompt notice of this designation to the property owner and cause a copy of this  
4 ordinance to be recorded as described in Subsection 9-11-6(d), B.R.C. 1981.

5 Section 8. The City Council deems it appropriate that this ordinance be published by title  
6 only and orders that copies of this ordinance be made available in the office of the City Clerk for  
7 public inspection and acquisition.

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY THIS 6<sup>th</sup> day of June 2024.

\_\_\_\_\_  
Aaron Brockett,  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED, this 20<sup>th</sup> day of June

2024.

\_\_\_\_\_  
Aaron Brockett,  
Mayor

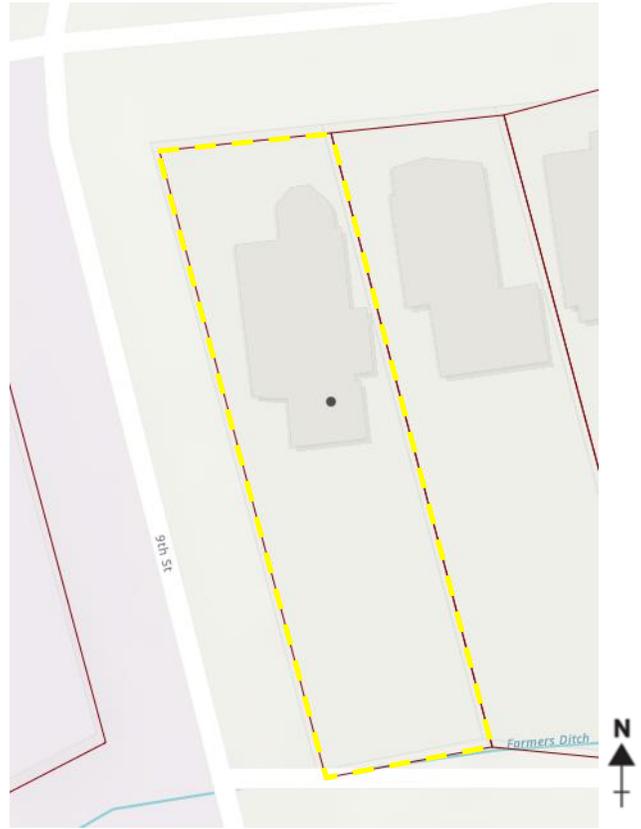
Attest:

\_\_\_\_\_  
City Clerk

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**Exhibit A – Landmark Boundary Map for 904 Mapleton Ave.**

**904 Mapleton Ave., Boulder, Colorado**  
**LOT 10 BLK 151 SQUIRES TO BOULDER O T WEST**





**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Boards and Commissions Appointments

**PRIMARY STAFF CONTACT**

Elesha Johnson, City Clerk

**ATTACHMENTS:**

**Description**

- ▣ **Item 5B - Boards and Commissions Appointments**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE:** June 20, 2024

**AGENDA TITLE**

Council Nominations and Appointments of Candidates for the 2024 Boards and Commissions Extended Recruitment

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Pam Davis, Assistant City Manager  
Elesha Johnson, City Clerk  
John Morse, Elections Administrator

**EXECUTIVE SUMMARY**

On March 14, 2024 City Council appointed members to fill vacancies within the City's Boards and Commission as part of the final step in the 2024 recruitment process. Council elected at that meeting to extend the recruitment period an additional 5 weeks for the following six (6) Boards or Commissions:

- Beverage Licensing Authority
- Boulder Junction Access District – Parking Commission
- Boulder Junction Access District – Travel Demand Management Commission
- Cannabis Licensing and Advisory Board
- Design Advisory Board
- Downtown Management Commission

Council will hold a public hearing, nominate and appoint applicants to the above specified boards and commissions at the June 20th, 2024, Regular Meeting.

Extended recruitment for the above boards and commissions opened on March 15<sup>th</sup>, 2024, and ran through midnight, April 19<sup>th</sup>, 2024. The city's Communications and Engagement Department collaborated with the City Clerk's Office to facilitate the same outreach to Boulder residents by posting multiple advertisements before, during, and towards the end of recruitment on: Facebook, LinkedIn, Twitter, and Nextdoor.

Boards and commissions interviews were conducted via Zoom from May 6<sup>th</sup> - May 16<sup>th</sup>:

- Interviews were conducted with one council member and one or more staff member(s) who directly support the board being applied to with a 15-minute duration.
- The City Clerk's team acted as zoom facilitators and provided technical support, generated links, and managed appointments.
- The Council Boards & Commissions Subcommittee utilized the same questions from the annual recruitment to be asked of the applicant and were provided to applicants in advance.
- Three questions were asked of the candidate with the opportunity for the candidate to ask questions of the interviewers.

The following is an excerpt from **Title 2 of the Boulder Revised, "Appendix – Council Procedure, IX - Nominations and Elections,"** outlining the process for nominating and appointing board and commission members.

### **IX. - Nominations and Elections.**

e. **Nominations.** At the conclusion of public testimony, council will consider nominations for mayor and mayor pro tem. Any council member may nominate anyone that expressed an interest and made a speech at the second Tuesday in November, including himself or herself, for either position. Provided, however, that the requirement of prior expression of interest shall be waived for any council member whose election was not decided before the second Tuesday in November. Nominations for mayor and acting mayor (generally referred to as mayor pro tem) are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may at this time withdraw his or her name from nomination. Silence by the nominee shall be interpreted as acceptance of candidacy.

f. **Order of Vote.** A motion then is made and seconded to close the nominations and acted on as any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.

g. **Ballots.** If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.

h. **Elimination Process.** If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or

less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.

i. **Impasse Process.** In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor or mayor pro tem.

j. **Appointment of Board Alternates.** In the event that the Boulder Revised Code provides for the appointment of temporary alternate board members, such members shall be appointed as follows: The most recently departed member of the board needing a temporary alternate, who is eligible and able to serve, shall be appointed. In the event that more than one member departed at the same time, alternates shall be chosen in reverse alphabetical order, with appointments alternating between the eligible and able former members who departed at the same time. In the event that the most recently departed member is not eligible or able to serve, the next previously departed member shall be chosen, applying the procedure above if there is more than one potential appointee. No person shall be eligible for a temporary alternate appointment if he or she was removed from the board by the council. A temporary alternate shall be appointed only when a member's absence either results in the lack of a quorum or may prevent the board from taking action. No person appointed as a temporary alternate shall serve at two consecutive meetings of the board to which he or she is appointed unless it is necessary to complete an agenda item that has been continued to another meeting.

k. **Boards and Commissions.** Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.

l. **Advertising of Vacancies After Partial Terms.** Prior to advertising board and commission vacancies, when a person has already served on the board or commission and is seeking reappointment, council should make the decision of whether or not to advertise that particular vacancy.

The table below lists all available seats for each board and commission and their accompanying terms.

<u>BOARD/ COMMISSION</u>	<u>AVAILABLE SEAT(S)</u>	<u>ACTION NEEDED</u>
Beverage Licensing Authority	Seat #4	Appoint member to <b>unexpired</b> 4-yr term through 3/31/2028
	Seat #5	Appoint member to 5-yr term through 3/31/2029
Boulder Junction Access District Parking Commission	Seat #1	Appoint member to <b>unexpired</b> 4-yr term through 3/31/2028, <i>must be property owner or rep</i>
	Seat #3	Appoint member to <b>unexpired</b> 2-yr term through 3/31/2026, <i>must be property owner or rep</i>
	Seat #5	Appoint member to 5-yr term through 3/31/2029
Boulder Junction Access District Travel Demand Management Commission	Seat #3	Appoint member to <b>unexpired</b> 2-yr term through 3/31/2028, <i>must be property owner or rep</i>
	Seat #5	Appoint member to 5-yr term through 3/31/2029
Cannabis Licensing & Advisory Board	Seat #6	Appoint resident to <b>unexpired</b> 3-yr term through 3/31/2027 – <i>must be a MJ Business owner or representative</i>
	Seat #7	Appoint resident to <b>unexpired</b> 1-yr term through 3/31/2025
Design Advisory Board	Seat #4	Appoint member to a 5-yr term through 3/31/2029
Downtown Management Commission	Seat #3	Appoint member to <b>unexpired</b> 4-yr term through 3/31/2028, <i>must be property owner/rep</i>
	Seat #4	Appoint member to 5-year term through 3/31/2029, <i>must be property owner/rep</i>

### MATTERS TO CONSIDER IN MAKING APPOINTMENTS

For this recruitment period, there were **8 open seats**, **10 applications submitted** and **2 applications that were deemed ineligible or were withdrawn** prior to the interviews.

### ATTACHMENTS

Attachment A – 2024 Applicant List by Board

Attachment B – [2024 Application Packet Link](#)

2024 Boards and Commissions Database

# Applicant List

## **Beverage Licensing Authority Applicants**

Action Requested:     Seat #4 - Appoint member to unexpired 4-year term through 3/31/2028  
                              Seat #5 - Appoint member to 5-year term through 3/31/2029

Brendan Hagerty

### **1 Application for Beverage Licensing Authority**

## **Cannabis Licensing and Advisory Board Applicants**

Action Requested:     Seat #6 - Appoint member to unexpired 3-year term through 3/31/2027 must be MJ Business  
                              Owner or Rep  
                              Seat #7 - Appoint member to 1-year term through 3/31/2025

Del Kreiser

### **1 Applications for Cannabis Licensing and Advisory Board**

## **Design Advisory Board Applicants**

Action Requested:     Seat #4 - Appoint member to 5-year term through 3/31/2029

Gayl Gray  
Tracy Zaik  
Rebecca Cole  
Harriet Ingham  
Marine Siohan  
Chester Harvey

### **6 Application for Design Advisory Board**

## **Downtown Management Commission Applicants**

Action Requested:     Seat #3 - Appoint member to unexpired 4-year term through 3/31/2028, must be property owner/rep  
                              Seat #4 – Appoint member to 5-year term through 3/31/2029, must be property owner/rep

Andy Nathan  
Erica Dahl

### **2 Applications for Environmental Advisory Board**

## **No applications were received for:**

Boulder Junction Access District Parking Commission  
Boulder Junction Access District Travel Demand Management Commission



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Follow-up Discussion with Council on Ballot Measures

**PRIMARY STAFF CONTACT**

NA

**ATTACHMENTS:**

**Description**

- **Item 6A - Follow-up Discussion with Council on Ballot Measures**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 20, 2024**

**AGENDA TITLE**

Follow-up discussion with council on Ballot Measures and consideration of a motion to direct the city attorney to draft for first reading amendments to Charter Sections 7, 9, 130 and a new Charter section 21A, as decided on by council, to be submitted to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 5, 2024

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Erin Poe, Deputy City Attorney  
Mark Woulf, Assistant City Manager  
Pam Davis, Assistant City Manager  
Elesha Johnson, City Clerk

**EXECUTIVE SUMMARY**

At the study session on May 9, 2024, the council requested that staff present draft changes to the city's Charter regarding Sec. 7 - Compensation, Sec. 9 - Meetings of council, Sec. 130 - General provisions concerning advisory commissions, and a new Charter section, Sec. 21A - Executive Sessions, as recommended by the Charter Review Committee and the Board and Commission Committee. Staff have drafted potential changes for council review as shown in **Attachment A**, Council Compensation Charter Changes, **Attachment B**, Executive Sessions Charter Changes, and **Attachment C**, Advisory Commissions Charter Changes. If council decides to move forward with these Charter changes, the next step will be first readings of ballot item ordinances.

In summary, the draft changes include:

1. Sec. 7 - increase council compensation from a stipend per meeting to an amount based on Area Median Income to reflect the increased quantity and complexity of council work.
2. Sec. 9 - authorize council to meet in executive sessions under the circumstances allowed by Colorado public meeting laws.
3. Sec. 130 - authorize council to set the terms, eligibility, and meetings schedule of Charter Sec. 130, advisory commissions differently than the default terms set forth in Sec. 130. The City Council would be able to authorize by ordinance the terms and eligibility criteria for members as is currently done for duties by ordinance.

## STAFF RECOMMENDATION

### **Suggested Motion Language:**

If council would like to move forward any of the three draft Charter changes, staff suggests the following motion:

Motion to direct the city attorney to draft for first reading amendments to Charter Sections 7, 9, 130 and a new Charter section 21A, as decided on by council, to be submitted to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 5, 2024

## ANALYSIS

Charter amendments are governed by state law. A home rule charter amendment may be initiated by the adoption of an ordinance by the governing body submitting the proposed amendment to a vote of the registered electors of the municipality. C.R.S. § 31-2-210. Once the City Council has determined which changes to the city's Charter it supports, the next step will be to pass by ordinance a ballot title for each of the proposed amendments. First reading for ballot items is proposed for July 18, 2024, with second reading and public hearing proposed for August 1, 2024. The ordinances will set the ballot language in the form of "yes/no" questions for voters to consider at the general election to be held on Tuesday, November 5, 2024.

### 1. Council Compensation.

City Council members receive \$244.14 per meeting for 52 meetings per calendar year (\$12,695.28 for 2024). This is calculated from the \$100 per meeting stipend set by Charter Sec. 7 which provides an annual escalation in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of

Labor Statistics. The amendment shown in **Attachment A** would base council compensation on the Area Median Income (AMI) for the area including Boulder. A similar council compensation provision was adopted by voters in Fort Collins in 2022. In Fort Collins, the mayor receives 75%, the mayor pro tem 60%, and other council members 50%. For the City of Boulder, in 2024 this equates to \$76,650 for the mayor, \$61,320 for the mayor pro tem, and \$51,100 for other council members.

The draft language in **Attachment A** includes a provision to calculate the AMI annually instead of the current practice of adjusting annually based on the increase of the Consumer Price Index.

## 2. Executive Sessions.

Executive sessions are allowed by C.R.S. § 24-6-402(4) open meeting law so that local public bodies may have non-public discussions of designated subjects. The statutory exceptions are drafted close to verbatim in **Attachment B** so that the council would have the same authority as allowed by state law. Another benefit of mirroring the language of state law would be that case law interpreting those provisions could be used when analyzing whether a circumstance meets the requirements for an executive session.

In summary, the allowed situations for an executive session under state law are:

- A. The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest.
- B. Conferences with an attorney for the purposes of receiving legal advice on specific legal questions.
- C. Matters required to be kept confidential by federal or state law or rules and regulations.
- D. Specialized details of security arrangements or investigations, including defenses against terrorism.
- E. Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.
- F. Personnel matters.
- G. Consideration of any documents protected by the mandatory nondisclosure provisions of the “Colorado Open Records Act”.
- H. In addition to interviewing finalists in a public forum, the council may interview finalists in executive session.

In addition to the above subjects, **Attachment B** includes a ninth subject to encompass situations which would allow executive sessions if state law is amended to include new subjects. As shown in **Attachment B**, the draft changes would amend Sec. 9 of the city’s Charter and refer to a new Charter section, Sec. 21.A. - “Executive Sessions”.

## 3. Advisory Commissions.

City Council received an update and provided feedback on the initial recommendations from the Boards and Commissions Assessment on November 9, 2023. Initial recommendations included a variety of changes that would help improve member experience, role clarity, recruitment, and representation. Council indicated interest in many of the recommendations, especially in areas that related to broadening participation on boards and commissions, including barriers to participation.

Many aspects of boards and commissions, including term lengths, residency requirements, membership criteria, compensation, and meeting frequency, are set in City Charter Section 130. Due to the limitations of addressing these barriers to participation without amending Charter, staff and Council's Subcommittee on Boards and Commissions brought forward a recommendation to pursue an option that would provide council more flexibility in developing a new board and commission program.

Council provided feedback at the May 9, 2024, study session to limit any proposed changes such that they do not have an undue impact on the capacity of staff to bring forward the previous items (council pay and executive session changes) and the focus is on Charter Section 130 without impacting the scope of authority of boards and commissions and other Charter defined boards and commissions.

The draft changes to Charter Sec. 130 allow for greater flexibility in the compositions and operations of Sec. 130, advisory commissions. On its own, the drafted Charter changes shown in **Attachment C** would not change any board or commission. In order to implement change, the council would also need to adopt an ordinance with the changes desired for a specific board or commission. Currently, Sec. 130 sets forth the terms and eligibility for most boards and commissions as follows:

- five or seven members,
- terms of five years,
- members not all of one gender identity,
- members who are well known for their ability, probity, public spirit, and particular fitness to serve on such respective commissions,
- at least eighteen years old,
- resided in the city of Boulder for at least one year immediately prior to their appointment, and
- shall hold monthly meetings.

The draft language shown in **Attachment C**, keeps the current requirements found in Sec. 130 as a default for current Sec. 130 boards and to new boards unless council makes changes by ordinance.

If Sec. 130 is amended to allow for greater flexibility the council could impact most boards by amending enabling ordinances. The structure would be similar to how BOZA is established in Charter Sec. 84A. That section states, "The membership, terms of office, method of appointment and all other matters relating to the board of zoning adjustment

shall be as the city council shall by ordinance provide.” This is the system that Fort Collins uses, which is the basis for the proposed changes.

However, there are some boards that have terms and member levels set by different Charter sections and those separate Charter sections would not change unless ballot items were brought forward separately. Boards with individual Charter sections are:

- Arts Commission (Sec. 135): seven members, (Sec. 136), five-year term implied
- Parks and Recreation Advisory Board (Sec. 157): seven members, five-year terms (Sec. 158)
- Open Space Board of Trustees (Sec. 173): five members (Sec. 172), five-year terms
- Planning Board (Sec. 74): seven members, five-year terms (Sec. 75)

Also shown in **Attachment C** is draft changes to the removal language found in Sec. 130. Charter Sec. 130 currently includes the provisions that, “The council shall have the power to remove any commissioner for non-attendance to duties or for cause.”

**Attachment C** has the following language regarding removal:

All board and commission members serve at the pleasure of council. The council may remove members for nonattendance to duties, conduct unbecoming a member, and any other reason not prohibited by law.

The intent of this language is to allow council to have broad removal authority while attempting to ensure that a future council would not discriminate on attendees for characteristics such as race or religion. The proposed language is more consistent with the removal language in B.R.C. Section 2-3-1 which states that council, “May remove any member by majority vote for conflict of interest violation, any other violation of applicable law, regulation, or policy, nonattendance to duty, failure to attend three consecutive regularly scheduled meetings without a leave of absence approved by a majority of the board or commission, or any other cause; and...”

Staff and Subcommittee supported work to design a revised boards and commissions program and prepare related code changes will happen in parallel with the proposed Charter changes. This work includes internal process improvements, role clarification and best practices, and recommendations to inform potential future code amendments for Charter Sec. 130 advisory commissions related to terms, eligibility, and other matters. Council will receive updates on the progress of this work throughout the remainder of the year.

## **NEXT STEPS**

City Council may decline to move any city Charter change forward on June 20, 2024, at first or second reading. Staff will take direction from council on June 20 and make

changes as needed to the draft Charter changes. The proposed schedule is as follows for any matters the council decides to move forward:

- First reading is scheduled for July 18, 2024.
- Second reading and public hearing is scheduled for August 15, 2024.

**ATTACHMENTS** (*new language is in red, deleted language in strikethrough*)

A – Council Compensation Charter Changes

B – Executive Sessions Charter Changes

C – Advisory Commissions Charter Changes

**ATTACHMENT A**  
**Council Compensation**

**Sec. 7. - Compensation.**

~~Council members and the mayor shall receive as compensation \$100.00 per meeting for fifty-two meetings per calendar year, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, 1990. Council members serving on January 1, 2022 and thereafter, and the mayor elected in November 2023 and thereafter, may elect to receive benefits under the same terms and conditions that are available to full-time city employees including without limitation participation in city health, vision, dental, and life insurance plans. This compensation shall be averaged over the calendar year and paid on the same schedule as city employees, or such other schedule as determined by the City Manager.~~

**REPLACEMENT LANGUAGE:**

For the purpose of this section, Area Median Income means the Area Median Income reported annually for a single person household by the United States Department of Housing and Urban Development, or by any successor United States Government department, agency, or instrumentality, for the metropolitan statistical area which includes the City of Boulder, Colorado.

- (a) Commencing in 2026, compensation for members of the City shall be as follows:
  - (1) For the Mayor: seventy-five percent of Area Median Income.
  - (2) For the Mayor Pro Tem: sixty percent of Area Median Income.
  - (3) For all other council members: fifty percent of Area Median Income.
- (b) Council compensation shall be adjusted annually beginning January 1 based on the AMI calculation for the previous year and averaged over the calendar year. Compensation shall be paid on the same schedule as city employees, or such other schedule as determined by the City Manager.
- (c) Although members of the City Council are generally not considered city employees, Council members may elect to receive benefits under the same terms and conditions that are available to full-time city employees including without limitation participation in city health, vision, dental, and life insurance plans.

## ATTACHMENT B

## Executive session charter change

**Sec. 9. - Meetings of council.**

At 5:00 p.m. on the day of the first business meeting of the council in December following each general municipal election, the council shall meet at the usual place of holding meetings, at which time the newly elected council members shall take office. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution and shall meet in regular session at least once in each calendar month. The mayor, acting mayor, or any five council members may call special meetings upon at least twelve hours' written notice to each council member, served personally on each, or left at each member's place of residence.

**Except as provided in Charter Sec. 21A.,** All meetings of the council or committees thereof shall be public.

The council shall have the authority to appoint council committees. Such committees shall generally consist of no more than two council members and in no event shall be equal or greater than a quorum of council. Other council members may attend any council committee meeting to observe but shall not participate.

The council shall appoint a committee of not more than two council members and any number of non-council members to screen applications for city manager, city attorney, and municipal court judge, to evaluate the performance of the persons occupying such positions, and to consider recommending disciplinary actions relating to such persons. Such committee may conduct its business in private, ~~provided that the council as a whole takes action to determine finalists at a public meeting, to determine compensation at a public meeting, and to take disciplinary action at a public meeting.~~

**NEW SECTION****Sec. 21A. - Executive Sessions.**

- (a) The City Council, and any committee of the City Council, may, by two-thirds majority vote of those members present and voting, hold an executive session upon announcement of the topic for discussion in the executive session, which announcement shall include a specific citation to the provision of this section that authorizes the City Council or council committee to meet in executive session, and shall identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is to be held. Said executive session may be held only at a regular or special meeting and only for the purposes of considering any of the following matters and providing direction, through individual expressions of opinion, to city staff or other persons with regard to such matters:
- (1) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; except that no executive session shall be held for the purpose of concealing the fact that a member of the local public body has a personal interest in such purchase, acquisition, lease, transfer, or sale;

## ATTACHMENT B

## Executive session charter change

- (2) Conferences with an attorney for the purposes of receiving legal advice on specific legal questions;
  - (3) Matters required to be kept confidential by federal or state law or rules and regulations. The specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session shall be announced;
  - (4) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;
  - (5) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators;
  - (6) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. This shall not apply to discussions concerning any member of the local public body, any elected official, or the appointment of a person to fill the office of a member of the local public body or an elected official or to discussions of personnel policies that do not require the discussion of matters personal to particular employees;
  - (7) Consideration of any documents protected by the mandatory nondisclosure provisions of the "Colorado Open Records Act," part 2 of article 72; except that all consideration of documents or records that are work product as defined in § 24-72-202(6.5) or that are subject to the governmental or deliberative process privilege shall occur in a public meeting unless an executive session is otherwise allowed pursuant to § 24-6-402(4);
  - (8) In addition to interviewing finalists in a public forum, interview finalists in executive session. The council may instruct personnel and representatives to begin contract negotiations with one or more candidates in executive session, including the necessary process to prioritize, for the purposes of negotiation, one or more finalists after required public forums have been completed; and
  - (9) Any other discussion allowed by C.R.S. § 24-6-402, as amended, to be held in executive session.
- (b) No final legislative action shall be taken by the city in executive session. Such final legislative action may be taken only in an open meeting.

## ATTACHMENT B

### Executive session charter change

- (c) Executive sessions shall be closed to the general public, but the City Council may permit any person or group to attend such sessions. Council members not present and voting for a regular or special council meeting may nonetheless participate in an executive session that is part of that meeting using remote technology.

ATTACHMENT C  
Advisory Commissions

**Sec. 130. - General provisions concerning advisory commissions.**

~~The council by ordinance may create and provide for such advisory commissions as it may deem advisable.~~

- (a) The council may, by ordinance, establish appointive boards and commissions. The ordinance establishing such boards and commissions shall:
- (1) prescribe the powers, duties, and operating procedures of the board and commission;
  - (2) establish the terms of office of the board or commission members, including initial overlapping terms, if needed;
  - (3) establish the eligibility criteria of board and commission members; and
  - (4) state whether the board or commission shall have alternate members authorized to vote when serving in the absence of regular members.
- (b) ~~In the absence of an ordinance specifying the terms set forth in subsection (a) above, each board and commission~~ Except as otherwise specified in this charter, each of the existing advisory commissions, shall be composed of five city residents. ~~For any advisory commissions appointed after January 1, 2019, the council shall specify in the ordinance forming the advisory commission whether the commission shall have five or seven members, for any advisory commission created by ordinance adopted in March 2018, the council may, by subsequent ordinance, specify that the commission shall have seven members. All members of a commission shall be appointed by the council, not all of one gender identity, who are well known for their ability, probity, public spirit, and particular fitness to serve on such respective commissions and who are at least eighteen years old and who have resided in the city of Boulder for at least one year immediately prior to their appointment to serve on the commission. All commissions shall hold regular monthly meetings. When first constituted, the council shall designate the terms for which each member is appointed so that the term of one commissioner shall expire on December 31 of each year; and thereafter the council shall by March of each year appoint one member to serve for a term of five years. The council shall have the power to remove any commissioner for non-attendance to duties or for cause. All vacancies shall be filled by the council. When first appointed and annually thereafter following the council's appointment of the commissioner, each commission shall organize by appointing a chair, a vice chair, and a secretary; all commissioners shall serve without compensation, but the secretary of any commission, if not a member, may receive a salary to be fixed by the council; any commission shall have power to make rules for the conduct of its business.~~
- (c) All board or commission members shall serve until their successors are appointed.
- (d) All board and commission members serve at the pleasure of council. The council may remove members for nonattendance to duties, conduct unbecoming a member, and any other reason not prohibited by law. Any vacancy during the unexpired term of any member shall be filled by the council for the remainder of the term. Each board and commission shall choose its own officers from among its members. The council may change any or all of the powers, duties and procedures of any board or commission not set by this Charter and may abolish any board or commission which is not required by this Charter or law.

ATTACHMENT C  
Advisory Commissions

~~Special meetings may be called at any time upon due notice by a majority of the members. A majority of the members shall constitute a quorum, and the affirmative vote of at least a majority of the members shall be necessary to authorize any action by the commission.~~

~~All commissions shall keep accounts and records of their respective transactions, and at the end of each quarter or more often, if requested by the council, and at the end of each fiscal year shall furnish to the council a detailed report of receipts and expenditures and a statement of other business transacted.~~

~~The chair of a commission shall preside at the meetings thereof and sign, execute, acknowledge, and deliver for the commission all contracts and writings of every kind required or authorized to be signed or delivered by the commission. The signature of the chair shall be attested by the secretary.~~

~~The commissions shall have the right to the floor of the council to speak on plans and expenditures proposed or to appeal for a decision in a failure to agree with another commission or the manager.~~

~~Wherever there shall be suitable accommodations in the city building, the offices of the commissions shall be maintained there.~~



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**INFORMATION ITEM**

Snow & Ice Update

**PRIMARY STAFF CONTACT**

Scott Schlecht - Transportation Maintenance Senior Manager

**ATTACHMENTS:**

**Description**

- ▣ **Information Item A: Snow and Ice Update**



**INFORMATION ITEM  
MEMORANDUM**

To: Mayor and Members of Council

From: Nuria Rivera-Vandermyde, City Manager  
Natalie Stiffler, Director of Transportation & Mobility  
Scott Schlecht, Transportation Maintenance Manager  
Daniel Sheeter, Principal Transportation Planner  
Karen Stiner, Senior Budget Analyst  
Lucy O’Sullivan, Transportation Planner  
Ben Manibog, Senior Project Manager

Date: June 20, 2024

**Subject: Information Item: Snow and Ice Response Review Project Update**

---

**EXECUTIVE SUMMARY**

This report provides the City Council with an update on the Transportation & Mobility Snow and Ice Response Review project and preliminary budget estimates.

The project’s purpose is to review the City of Boulder’s Snow and Ice Response program’s service, understand the community’s preferences and needs, assess industry service levels, and consider program changes to better meet goals and expectations.

[On December 21, 2023, staff brought an information item to council](#) detailing draft program recommendations for the project based on analysis and community input. The item also outlined plans for additional community engagement in January and February 2024.

The core of the project recommendations is to establish a storm size response framework that clearly defines which transportation facilities will be cleared and the level of service the community can expect based on the severity of the storm.

The storm size response framework recommends expanding the snow and ice response network to include clearing snow from additional bus stops and streets to improve multimodal travel and accessibility. It also suggests supplemental sidewalk clearing by contractors to assist residents who are physically unable to clear sidewalks themselves, providing them with assistance to remain compliant with city code requirements.

To reach the recommended level of service and response timeframes, five medium-sized snow plows, eight T&M full-time employees (FTEs), and support from Utilities Maintenance FTEs would be required. Immediate implementation would require a start-up cost in Year 1 estimated at \$2.69M. The addition of eight FTEs would help address the challenges experienced in past years with recruiting temporary snowplow drivers. Relying solely on seasonal staffing for this essential public safety service has proven to be unreliable. Due to a lack of qualified snowplow drivers across all departments during storm events, T&M staff are often required to work overtime and are unable to take time off during the winter season. Increased staffing would help address this issue, improve employee morale, and make driver positions more attractive to potential candidates.

Recognizing the citywide and departmental constrained budget condition, staff will utilize the recommended storm size response framework to prioritize snow and ice response within the existing budget. If the budget condition improves, the report provides financial information for individual project elements. Through 2024, staff will continue to advance non-budget portions of the project including final refinements to program criteria and racial equity analysis including infrastructure comparisons around racial equity and the use of crash data.

Following direction and confirmation from the 2025 budget process, staff will develop materials to communicate the program's new changes for the upcoming 2024/2025 winter season to the community.

### **FISCAL IMPACT**

The Snow and Ice Response program is managed by the Transportation & Mobility Department (T&M) with an adopted 2024 budget of \$1.67M. The annual budget is developed each year for predicted average weather patterns and events.

One or more significant snowfall events, or extenuating circumstances, can increase costs more than those allocations. If additional funding is required, reserves may be allocated through the city's supplemental appropriations process. In addition, for the T&M department budget, the Boulder Police Department accounts for costs involving sidewalk snow removal enforcement.

Due to the constrained departmental budget condition, no base cost increases or enhancements will be proposed for 2025 or future years at this time. Staff will utilize the recommended storm size response framework (see **Attachment A**) to prioritize snow and ice response within the existing budget. Staff identified additional program recommendations that require an estimated \$2.69M in Year 1 and an additional \$1.39M in subsequent years. These recommendations are broken down for discussion purposes in the Analysis section and are summarized in **Table 4**.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic: Safe and efficient travel via local streets, sidewalks, multi-use paths and the transit network affects the overall economic health of Boulder. The Snow and Ice Response Program seeks to limit impacts to the economy due to snowstorm events; however, significant events may result in a reduction of economic activity.
- Environmental: Snow and ice response operations and sidewalk snow removal efforts support multimodal transportation, which benefits air quality. The Snow and Ice Response Program utilizes pre-treatment, anti-icing and de-icing materials that provide a reduced environmental impact when compared to other products. The street sweeping program seeks to remove and safely dispose of residual de-icing material from all snow routes within 72 hours following a storm event when weather allows.
- Social: Snow and ice response operations and sidewalk snow removal efforts support mobility for a diversity of travelers and provide accessibility to employment centers, schools, recreational opportunities and shopping centers.
- Racial Equity: Snow and ice response operations provides access to a plowed street within 2-3 blocks of every residential building throughout the city. Additionally, in neighborhoods where the majority of residents park on-street, we have received mixed feedback about whether they want their streets plowed. We will continue to assess how best to handle operations on streets where on-street parking is highly utilized, acknowledging the need to balance safety and access.

## **BACKGROUND**

The project's purpose is to review the Snow and Ice Response program's service, understand community preferences and needs, assess industry service levels, and consider changes to the program to better meet goals and expectations.

Boulder's Snow and Ice Response program is a significant investment of city resources. It supports the city's Sustainability, Equity, and Resilience Framework's (SER) and the Transportation Master Plan's visions of a safe, accessible, and sustainable multimodal transportation system connecting people with each other and where they want to go.

The program's existing level of service is not clearly defined, resulting in inefficiencies and increased costs to deliver snow services. The community has a range of expectations for snow response level of service and an unclear understanding of what services are provided and why.

The Snow and Ice Response Review project began in Fall 2022 and will conclude in 2024. Staff will prioritize a subset of recommended changes in this report for integration with the existing program for the 2024/2025 snow season. Due to the constrained departmental budget condition, no base cost increases or enhancements will be proposed for 2025. The current schedule is as follows:

- Fall 2022: Define the issue and provide contextual background.
- Winter 2022/2023: Seek community feedback on existing program operations.
- Spring-Summer 2023: Evaluate feedback and identify options.
- Winter 2023/2024: Seek community feedback on options for program changes.
- **Spring-Summer 2024: Select overall recommended program changes and rationale; prioritize a subset of recommendations for implementation.**
- Summer-Fall 2024: Reflect recommended modifications in 2025 departmental budget request.
- Fall 2024: Communicate program changes to community.
- Winter 2024/2025: First round of program implementation.

The Snow and Ice Response program focuses on facilities maintained by the Transportation & Mobility Department. Systemwide, the department collaborates with agency partners also responsible for clearing streets and paths under their purview, including the Utilities and Parks and Recreation departments, The University of Colorado – Boulder, Boulder County, the Colorado Department of Transportation (CDOT), Regional Transportation District (RTD), homeowners associations, and other private entities.

[On December 21, 2023, staff brought an information item to the council](#) detailing draft program recommendations for the project based on analysis and community input. The item also outlined plans for additional community engagement in January and February 2024. The core of the recommendations is to establish a storm size response framework that clearly defines which transportation facilities will be cleared and the level of service the community can expect based on the severity of the storm.

In Winter 2024, the city shared and sought feedback on draft recommended changes to the Snow and Ice Response Program based on community input received in the first round of engagement (Winter 2022/2023) and an analysis of existing program and departmental data. The draft recommended changes were presented in a virtual on-demand open house and questionnaire (both offered in English and Spanish). The questionnaire received 198 responses, split between 99% English responses and 1% Spanish responses. City staff also met with key stakeholders to collect feedback, including Community Connectors-in-Residence, the Center for People with Disabilities, National Federation for the Blind, Community Cycles, Boulder Transportation Connections and Boulder Chamber.

In the questionnaire and stakeholder meetings, staff sought feedback on the revised program purpose and goals and the draft recommended storm size response framework. Respondents supported (44%) or strongly supported (27%) the revised program purpose and goals and felt that the storm size response framework “mostly increased” (33%) or “definitely increased” (29%) their understanding of the city’s snow and ice response. Respondents presented mixed opinions about how the proposed recommendations improve multimodal travel and accessibility for all compared to the existing program – 14% responded that the recommendations “definitely

improve” multimodal travel and accessibility, 34% “mostly improve”, 32% “a little improved”, and 19% “not at all improved”.

Several additional themes emerged from the community and stakeholders:

- Multimodal travel and accessibility for all should be improved. Augmenting sidewalk clearing and scaling up shoveled areas can help achieve accessibility for all.
- The storm size response framework needs clarification before being finalized. The framework should be communicated to the public through a variety of methods to increase understanding.
- The Shovel-a-Stop program should be elevated to increase volunteers and the number of transit stops shoveled.

## **ANALYSIS**

### ***Budget Neutral Condition***

Due to the constrained departmental budget condition, no base cost increases or enhancements will be proposed for 2025 or future years at this time. Staff will utilize the recommended storm size response framework to prioritize snow and ice response within the existing budget. Other recommended elements that do not require new or adjusted funding levels will also be implemented, including the updated program purpose and goals, level of service criteria aligned with current resources, updated standard operating procedures, and the commitment to expanded data and communications.

### ***Storm Size Response Framework***

Staff developed a prioritized framework for service that is supported by data. This approach allows the city, together with partners, to continue to provide snow and ice response to the community, while also allowing flexibility to scale the program up or down based on available staff, funding and changing infrastructure throughout Boulder.

The current program primarily uses street classification to prioritize snow clearing across the city. Major streets are prioritized into primary and secondary routes and cleared on a recurring basis depending on conditions such as traffic, time of day the storm begins and snowfall rate. Conditional routes are cleared after major storms and/or prolonged periods of forecasted below-freezing temperatures.

The recommended storm size response framework uses forecasted storm size to guide resource deployment on streets, multi-use paths and shoveled areas. The framework divides snow and ice response into small (trace – 3 inches), medium (3 – 8 inches), and large (8+ inches) snow events. When snowfall exceeds the forecast, the department will strive to meet the higher level of service commitment as resources allow. Additionally, the city’s snow team may pre-treat streets and paths, provided that:

- The precipitation will start with snow (not rain or sleet).
- There is enough time to apply between snow events.

To better plan for more active snow seasons and associated budget estimates, staff broke out the previous historic snow data to show how much each year can vary in **Table 1**.

**Table 1:** Historic snow events by size from 2010 – 2021

Snow event size	Yearly average	Yearly minimum	Yearly maximum
<b>Small (Trace – 3 inches)</b>	24	16 (2011)	32 (2010)
<b>Medium (3 – 8 inches)</b>	9	5 (multiple)	14 (2019)
<b>Large (8 or more inches)</b>	3	1 (multiple)	6 (2020)
<b>Annual total snow events</b>	36	25 (2012)	46 (2013)

Source: NOAA

The storm size response framework outlines three street categories for prioritization, which adds 4.7 lane miles to the plow network. **Table 2** highlights these additional lane miles.

**Table 2:** Recommended changes to plowed streets

Street lane miles	Existing		Recommended		Change
	Primary	188.4 mi	First	196.7 mi	8.3 mi increase
Secondary	213.6 mi	Second	204.2 mi	9.4 mi decrease	
Conditional	26.8 mi	Third	32.5 mi	5.7 mi increase	
<b>Total</b>	<b>428.8 mi</b>	<b>Total</b>	<b>433.5 mi</b>	<b>4.7 mi increase</b>	

This restructuring of the program allows staff to focus on priorities we heard from the community: major streets, key pedestrian crossings, multi-use paths and critical bike routes. Focusing on the amount of snowfall makes communicating the city’s snow response more understandable to the public compared to the existing system.

It is important to note that due to limited staff and equipment, the storm size framework timeframes (see **Attachment A**) may not be met under the budget neutral condition. The additional program recommendations detailed below would be able to fully operationalize the storm size response framework using an enhanced budget.

***Enhanced Budget Condition***

Additional program recommendations would expand the snow-ice clearing network to include more shoveled transit stops and streets. To reach the recommended level of service and response timeframes outlined in the storm size framework, five medium-sized snow plows and eight full-time employees (FTEs) would be required. In total, the start-up cost in Year 1 is estimated at \$2.69M. After Year 1, an additional \$1.39M each year would be required to maintain the new, expanded program (see **Table 4**). The additional program recommendations are detailed below.

*Shoveled Areas*

In the community and stakeholder engagement, staff heard that focusing clearing services on the most used transit stops does not meet the needs of the disability community. Basing snow

clearing on high-use stops may not cover where they live or need to go, forcing them to wait until snow and ice has melted to be able to access the bus for travel.

In the recommendations, staff proposed an additional 36 transit stops for contractor clearing for a total of 77 stops. The city also runs a Shovel-a-Stop program where volunteers clear transit stops in their neighborhoods, covering another 38 stops, for an overall total of 115 city transit stops serviced. Clearing these additional transit stops is estimated to cost \$45,000 a year. **Table 3** outlines these recommended increases.

**Table 3: Recommended increases to plowed transit stops**

	<b>Existing</b>	<b>Recommended</b>	<b>Change</b>
<b>Transit stops</b>	<b>Total: 79</b> 41 contractor 38 adopted	<b>Total: 115</b> 77 contractor 38 adopted	36 additional transit stops

With the recommended additions and including transit stops cleared by RTD, CU-Boulder, and other agencies, all stops with ridership of more than 35 riders a day will be cleared of snow. As an optional increase, it would cost approximately \$380,000 per year to clear the remaining 343 transit stops in the city.

*Sidewalks and Multi-Use Paths*

The recommendations include a new program for residential exemptions to supplement code-required clearing of snow from sidewalks by adjacent property owners. Residents that are unable to clear their own sidewalks due to physical limitations and that are not paired with a volunteer from the [Snow Busters Program](#) may qualify for an exemption.

Community members that qualify for an exemption will be added to contracted shoveling locations for the duration of the winter season. Adding this program improves the continuity of our sidewalk network and reduces travel difficulties for limited mobility users. This program is used by peer cities and was a common theme in community feedback. The program recommendations assume 250 locations using the residential exemption which accounts for a budget increase of \$300,000 a year.

The overall recommendations also account for an increase in requests related to disability access. A contingency of \$25,000 annually was added to cover additional clearing at vital transit stops that do not meet the ridership cutoff (35 riders a day).

All multi-use paths maintained by Transportation & Mobility will continue to be cleared and no changes in service are recommended.

*Equipment and Labor*

The recommended level of service increase to meet the new criteria requires an additional five medium-sized snow plows. If no staff are hired and no plows are purchased, the transportation network will still be cleared. However, the response time needed to clear snow would increase past the recommended timeframes, especially for large-sized snow events (more than 8 inches).

Each plow costs \$315,000 with a yearly operations and maintenance upkeep of \$15,000. The plows have a usable life of seven years. To replace each plow after its usable life, the replacement funding is broken up into yearly installments of \$47,000. This totals to an upfront Year 1 investment of \$1,650,000 and an ongoing increase of \$320,000 a year, assuming immediate program implementation.

Each plow needs two FTEs to cover its operation, meaning ten FTE's responsibilities overall for the new additions. Remaining driver roles within existing utilities maintenance staffing can cover two of the positions leaving eight FTEs to hire. The average annual cost per position is an estimated \$83,750 for a total ongoing increase of \$670,000 a year.

The addition of eight FTEs would help address the challenges experienced in past years with recruiting temporary snowplow drivers. Relying solely on seasonal staffing for this essential public safety service has proven to be unreliable. Due to a lack of qualified snowplow drivers across all departments during storm events, T&M staff are often required to work overtime and are unable to take time off during the winter season. Increased staffing would help address this issue, improve employee morale, and make driver positions more attractive to potential candidates.

*Flexibility and Future Planning*

**Table 4** describes estimated costs for the program's additional set of recommendations assuming an immediate (2024/2025 winter season) implementation timeline.

**Table 4: Program estimated costs with immediate implementation**

<b>Program recommendations</b>	<b>Year 1 upfront costs</b>	<b>Year 2 and onward annual costs</b>
New snow plows (5)	\$1,650,000	\$320,000
Hired FTEs (8)	\$670,000	\$691,000
New shoveled areas-transit stops (36)	\$45,000	\$47,000
ADA transit stop requests (5)	\$25,000	\$26,000
Residential exemptions (250)	\$300,000	\$310,000
<b>Recommendations total</b>	<b>\$2,690,000</b>	<b>\$1,394,000</b>
<b>Optional increases</b>		
Clear all transit stops (343)	\$380,000	\$392,000
<b>Recommendations and optional total</b>	<b>\$3,070,000</b>	<b>\$1,786,000</b>

**NEXT STEPS**

Due to the constrained departmental budget condition, no base cost increases or enhancements will be proposed for 2025 or future years at this time. Staff will utilize the recommended storm size response framework to prioritize clearing snow and ice within the existing budget. Other recommended elements that do not require new or adjusted funding levels will also be implemented, including the updated program purpose and goals, level of service criteria aligned with current resources, updated standard operating procedures, and the commitment to expanded data and communications.

Through 2024, staff will continue to advance these non-budget-related portions of the project including final refinements to program criteria and racial equity analysis including infrastructure comparisons around racial equity and the use of crash data. The first step of our operations review will begin this year starting with updating the plow driver’s manual and standard operating procedures to incorporate recommended response timeframes and how to clear snow from newer infrastructure like protected intersections and protected bike lanes. After confirmation of the program criteria, staff will also conduct a route planning review to add streets to existing routes or flag for future implementation as resources allow.

Following direction and confirmation from the budget process, staff will develop informational materials to communicate the program’s new changes for the upcoming 2024/2025 winter season to the community.

**ATTACHMENTS**

**Attachment A:** DRAFT Recommended storm size response framework graphic dated June 2024

Snow Total									
 <b>0 to 3 inches</b> (up to the height of a credit card)			 <b>3 to 8 inches</b> (the height of a credit card to about the height of a water bottle)			 <b>8+ inches</b> (about the height of a water bottle and higher)			
	Before Storm	During Storm	After Storm	Before Storm	During Storm	After Storm	Before Storm	During Storm	After Storm
<b>1st Priority Streets</b>			Clear by <b>12</b> hours after snow stops			Clear by <b>12</b> hours after snow stops			Clear by <b>24</b> hours after snow stops
<b>2nd Priority Streets</b>						Clear by <b>24</b> hours after snow stops			Clear by <b>36</b> hours after snow stops
<b>3rd Priority Streets</b>									Clear by <b>48</b> hours after snow stops
<b>Off-Street Paths</b>			Clear by <b>12</b> hours after snow stops			Clear by <b>24</b> hours after snow stops			Clear by <b>48</b> hours after snow stops
<b>Shoveled Areas*</b>			Clear by <b>12</b> hours after snow stops			Clear by <b>24</b> hours after snow stops			Clear by <b>24</b> hours after snow stops

\*Sidewalks adjacent to both residential and commercial properties are to be cleared of snow and ice no later than 24 hours after snowfall stops, per Boulder Revised Code, Section 8-2-13.



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

Update on May 17th Chat with Council

**PRIMARY STAFF CONTACT**

Megan Valliere, Assistant to City Council

**ATTACHMENTS:**

**Description**

- **Information Item B: Update on May 17th Chat with Council**



**INFORMATION ITEM  
MEMORANDUM**

To: Mayor and Members of Council

From: Nuria Rivera-Vandermyde, City Manager  
 Mark Woulf, Assistant City Manager  
 Ryan Hanschen, Community Engagement Manager  
 Megan (Meggs) Valliere, Assistant to City Council

Date: June 20, 2024

**Subject: Information Item: Update on May 17<sup>th</sup> Chat with Council**

**EXECUTIVE SUMMARY**

Event Summary:

Focus Audience for this Chat with Council Engagement	Small and Micro Business Owners
Date and Location	May 17 <sup>th</sup> , 2024 Four Corners Hair Boutique
Council Participants	Taishya Adams Tina Marquis
Number of Event Participants	13 small and micro business owners
City Staff in Attendance	Ryan Hanschen, Community Engagement Manager Patrick Dorion, Business Equity Program Manager Megan Valliere, Assistant to City Council



### **FISCAL IMPACT**

Nominal costs related to event catering that fit within the current budget.

### **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

As Chats with Council are designed to advance meaningful and inclusive community engagement, the sustainability impacts of each event are anticipated to be positive and include fostering connection, participating in constructive dialogue with elected officials, and cultivating a deeper trust in city government.

### **BACKGROUND**

In 2019, Boulder City Council committed to continue trying new approaches to engage community members who do not typically participate in council matters and formal meetings. The purpose of Chats with Council is to give a more diverse set of community members a convenient, drop-in opportunity to engage with their elected officials. These engagement opportunities are designed to promote short, two-way conversations about issues that matter most to residents and others in the city. The idea originated from council members, who are often as frustrated as community members by the lack of time to have meaningful conversations during open comment or public hearings.

Past sessions have featured one to three participating councilmembers at each event, with no formal agenda or presentation. Community members are welcome to come by anytime during sessions and stay for as long – or as short – as they wish.

When everyone participating wants to discuss one topic, the conversations can be more in-depth. If there are a variety of topics participants wish to discuss, a staff coordinator captures the topics and seeks to make time for as many of these as possible. Some experimentation has also occurred around smaller, more focused audiences, especially when there are specific language needs, as well as rotating stations that can be particularly effective when the participant group is large. Some sessions have also featured walks that combine elements of a tour with more casual conversation.

Chats are designed to provide a forum for an initial contact between community members and City Council, and council members are then encouraged to share what they heard with their colleagues and continue conversations with community members as desired. While staff facilitates post-event follow-up in the form of a brief questionnaire and shares notes from the event with community members, staff do not possess capacity to create ongoing feedback loops or communication mechanisms for each Chat with Council.

## **ANALYSIS**

### **Themes**

- Not All Small Businesses are the Same: Distinction between small business and micro business, and the need for the city to have specific strategies for supporting micro businesses
- Capacity Building and Partnership: A need for mentorship, capacity building, cross sector collaboration and partnership, visibility, and capital for micro businesses – including accounting systems, grant writing, expanding business – especially when not all individuals are beginning from the same point
- Micro Business Engagement: Engage more with micro businesses on decisions that impact them and the local economy, to help lay the groundwork for future vibrancy
- Minimum Wage: Micro businesses will face unintended consequences and disproportionate impact if the minimum wage is raised. Specifically, they are struggling to pay employees now, and a raise could result in layoffs and fewer job openings. Additionally, inequitable wage gaps are currently being experienced between front/back of house at restaurants, which would be exacerbated by a minimum wage increase.
- Property Challenges: Corporations are buying up commercial real estate, dividing an offer into smaller offices/space then leasing at very high rates. Additionally, lessees of older commercial buildings are concerned about these buildings being demolished over time.

### **Notes**

#### **Not All Small Businesses are the Same**

- At the outset of the session, Community Connector (and host of this Chat with Council) Ja'mal Gilmore set the stage for the conversation by calling attention to the distinction between small businesses (under 100 employees) and micro-businesses (under 10

employees). He shared that this Chat with Council was primarily focused on micro-businesses.

- A micro business owner articulated that even Taco Bell or McDonald's franchises can be classified as small businesses. "Small business does not include me." Several micro business owners shared eagerness for more tax incentives for micro businesses.
- A participant observed that small business owners are not all starting from the same point. Some do well, especially in real estate, while others struggle more significantly.

### Capacity Building and Partnership

- A primary theme in one small group conversation – capacity. Micro businesses have less access to capital or financing, which leads to less visibility (e.g., fewer available marketing funds) as well as limitations on the location of their space.
  - Larger businesses or organizations have the capacity to write grants, complete reports, and fill out paperwork. Other barriers include language access with immigrant business owners, who may be world renown artists but do not know how to fill out the paperwork.
  - According to some attendees, professionals have moved away from Boulder because of this – it's expensive and there's no support.
  - In order to have a sustainable business, micro business owners must invest in their future – new accounting systems, growing revenue, and expanding business.
- Participants shared that it would be helpful if there were additional resources for new entrepreneurs, including:
  - Classes for new business owners that shared information about leasing commercial space, payroll tax offsets, and other helpful business knowledge.
  - Proposal for a grant-writing program or an opportunity to pool applications – a workshop may not give enough experience or time. Someone to support proposals and streamline proposals. "I shouldn't have to be an expert in grants or paperwork."
  - A mentorship program for new business owners to learn from experienced professionals.
  - Small business assistance from the City of Boulder.
- Several resources are provided through the Small Business Development Center (SBDC) and the Boulder Chamber of Commerce, but participants shared their thoughts on why these resources often do not meet their needs.
  - Some participants were aware of programs and support available through the SBDC and the Boulder Chamber, but those offerings were not sufficient for their microbusinesses.
  - One participant stated that the programming by the Small Business Development Center often comes from a "one size fits all" approach, which is not always what business owners need. Additionally, this person stated that it is difficult to

- navigate the process for receiving the minority/women owned business enterprise certification.
- Many participants commented on a perceived lack of investment in economic vitality by the city.
    - One business owner shared that when events happen on Pearl St., micro-businesses on side streets are often closed off from the action and don't receive patron traffic when these large events happen. They asked how the city can provide more visibility to businesses on the west end. This business owner also shared that the first year after COVID was great for her business but that things have slowed down considerably since then.
    - Relatedly, another participant shared that in their experience, the city has not laid the groundwork for vibrancy and shuts down after 8pm. They commented that our community needs students and their contributions to small businesses and shared a desire to not become an enclave of wealthy white people. They noted that elementary school populations are declining and questioned what Boulder would look like in 20-23 years.
    - A participant stated that businesses are an anchor to community, a way to build wealth, what do individuals bring to a community? Why are Black business owners all gone? Innovate to make our city livable, density with a human spirit. The city is very tight with money when it comes to creativity and innovation. Participants agreed that there are tradeoffs between taxes and services, programming, and resources.
    - Participants wondered if it would be possible to follow up with small business owners who have left Boulder, for a type of "exit interview to learn more about why they leave the City of Boulder. It is important to understand what the barriers were for those who tried and failed."
  - The group discussed the opportunity for cross-industry partnerships between small and micro-business owners.
    - In a discussion about the Boulder art market and the types of art that people generally purchase in this community, several business owners in the artistic sector mentioned the importance of word of mouth and bringing awareness to local galleries and artists.
    - During the meeting, a restaurant owner with empty wall space proposed collaborating with galleries to showcase art and provide exposure for galleries and artists. Another takeaway is that, when given the opportunity, businesses can support other businesses. Other ideas included businesses with conference room spaces making those spaces available to businesses without commercial space for workshops.
    - This conversation led to comments that business owners should continue to collaborate and support one another in the post-pandemic era in ways that directly result in greater success for businesses, including higher sales, greater exposure, and reputation building.

- Some people expressed the sentiment that city support is incredibly important, but businesses must also partner with each other outside formal mechanisms to support one another.

### Micro Business Engagement

- In terms of positive interactions between the city and the business community, one participant shared a story about the beginning of the COVID-19 pandemic. They shared that the closure of West Pearl St. was incredibly difficult for business owners and that while everyone wanted to support better public health outcomes, it was extremely frustrating that the public health emergency order was renewed every six months, seemingly without any outreach to the business community. This created a tense, adversarial relationship between business owners and the city. Eventually, the city responded with stronger public outreach to the business community.
  - The takeaway from this comment was that business owners are hoping that, going forward, the city will conduct thorough engagement with the business community prior to making any consequential policy decisions that will impact the local economy.

### Minimum Wage

- A restaurant owner discussed the inequities associated with the existing tipping model, as front of house staff (often CU students with privileged identities) walk away with incredibly high per hour wages due to tips while back of house staff (often low-income folks and people of color) are barely clearing the statutory minimum wage.
  - This business owner suggested a service fee model in place of a tipping model, which is a strong interim solution to the larger problem of the United States tipping culture. They shared that while a service fee model provides more equitable pay structures within restaurants, they are challenging for business owners since businesses are taxed on service fee revenue but not tips. For learning and context, this business owner recommended researching a new policy in San Francisco that has made it more challenging to implement service fees.
  - In this same conversation, this business owner said that an unintended consequence of a minimum wage increase would be that existing inequities in the restaurant tipping system would be exacerbated.
- A micro business owner shared that if the city raised the minimum wage, micro businesses would need to lay off staff.

### Property Challenges

- A long-term business owner from the community shared that they were incredibly worried about older buildings being demolished around town. They shared that the building their business leases is older, and they wondered if there are any protections for

business owners with existing leases and whether they would get any say in the demolition of these buildings.

- One business owner mentioned a concern about predatory business practices on behalf of third-party companies. These companies will purchase commercial space and break it into several smaller 100 square foot parcels and charge incredibly high rent on these parcels. Then, other property owners will benchmark commercial space rent according to these inflated prices, ultimately raising the cost of commercial space in general.

**Specific Community Recommendations (derived from the notes above):**

Recommendation	Additional Details
Additional resources for small and micro business owners	<ul style="list-style-type: none"> <li>- Tax incentives</li> <li>- Small business assistance</li> <li>- Classes and/or workshops regarding leasing commercial space, payroll tax offsets, and grant writing</li> <li>- A small and micro business mentorship program</li> </ul>
City support for and investment in the larger economic and business environment	<ul style="list-style-type: none"> <li>- Provide more visibility for businesses on the west end</li> <li>- Encourage the conditions necessary to achieve economic vibrancy and promote diversity in the business community and the community at large</li> <li>- Institute mechanisms to learn more about why business owners who have closed or left the city have done so to better understand barriers</li> </ul>
Engagement	<ul style="list-style-type: none"> <li>- More thorough engagement with the business community prior to making any consequential policy decisions that will impact the local economy</li> <li>- Keep participants engaged in the city’s upcoming economic vitality work</li> </ul>

**NEXT STEPS**

Following the event on May 17th, city staff followed up with participants, sharing the general themes that were recorded through small group conversations, the webpage for the city’s economic vitality program, the contact information for appropriate staff who can continue to answer questions, and the contact form for City Council and city staff.

Additionally, these themes and notes will be transmitted to additional city staff who were not able to participate in the event but would benefit from hearing community conversations between council, staff, and small and micro business owners.

Participants in this Chat with Council will also be notified of upcoming opportunities to engage with the city regarding the economic vitality/development plan that council identified as a priority for this term.



## **COVER SHEET**

### **MEETING DATE**

**June 20, 2024**

### **BOARDS AND COMMISSIONS ITEM**

04.15.24 WRAB Signed Minutes

### **PRIMARY STAFF CONTACT**

Karen Sheridan, WRAB Secretary

### **ATTACHMENTS:**

#### **Description**

- ▣ **04.15.24 WRAB Signed Minutes**

**CITY OF BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING MINUTES**

<b>Name of Board / Commission:</b> Water Resources Advisory Board	
<b>Date of Meeting:</b> 15 April 2024	
<b>Contact Information for Person Preparing Minutes:</b> Karen Sheridan, 303-441-3208	
<b>Board Members Present:</b> John Berggren, Amy Broughton, Steve Maxwell, Lauren Koopman, Katie Bridges	
<b>Staff Present:</b> Joe Taddeucci, Director of Utilities Joanna Bloom, Utilities Deputy Director of Policy and Planning Chris Douville, Utilities Deputy Director of Operations Kim Hutton, Water Resources Manager Meghan Wilson Outcalt, Water Quality Senior Manager Karen Sheridan, Board Secretary	
<b>Agenda Item 1 – Call to Order</b>	<b>[6:00 p.m.]</b>
<b>Agenda Item 2 – Swearing in of New Board Member: Katie Bridges</b> <span style="float: right;"><b>[6:02 p.m.]</b></span>	
Board secretary led new member, Katie Bridges, in taking Oath of Office.	
<b>Agenda Item 3 – Election of Board Officers</b>	<b>[6:03 p.m.]</b>
<p>A. <b>Chair</b>  <b>Motion:</b> Maxwell moved to elect Berggren as Chair  <b>Second:</b> Broughton  <b>Motion Passes: 5:0</b></p> <p>B. <b>Vice Chair</b>  <b>Motion:</b> Broughton moved to elect Maxwell as Vice Chair  <b>Second:</b> Berggren  <b>Motion Passes: 5:0</b></p> <p>C. <b>Secretary</b>  <b>Motion:</b> Maxwell moved to elect Broughton as Secretary  <b>Second:</b> Koopman  <b>Motion Passes: 5:0</b></p> <p>D. <b>Greenways Advisory Committee (GAC) Representative</b>  <b>Motion:</b> Broughton moved to elect Berggren as Representative  <b>Second:</b> Maxwell seconded  <b>Motion Passes: 5:0</b></p>	
<b>Agenda Item 4 – Approval of 22 January 2024 Meeting Minutes</b>	<b>[6:05 p.m.]</b>
<b>Motion to approve: Berggren Seconded by: Broughton</b> <b>Vote: 4:0, Bridges abstained</b>	
<b>Agenda Item 5 – Public Participation and Comment</b>	<b>[6:07 p.m.]</b>
<p>Lynn Segal: What I wanted to speak about tonight is two things; the water treatment issue with Xcel Energy and Boulder’s Water supply in general, considering the growth that is upcoming with the state government. First of all, Xcel; we really need to have our own municipal electric supply. Xcel is completely out of bounds. They had full opportunity to down the electricity during the Marshall Fire; they did not. They even had a line that wasn’t disconnected but was messed up and it needed attention and they hadn’t attended to it in the year proceeding the Marshall Fire. An internal employee alerted them of this. Well, this affects you, and when we don’t have our own municipal electric supply, we cannot coordinate, we can react. And that is what Xcel does is react. And their reaction costs us who knows how much this last event that when truly, in fact, we have had winds like this for decades and they have never had an outage. I had a tree down on my property on December 30, the day of the Marshall Fire. They did not come for 3 days. The tree fell on my line, so for three days I was terrified that it could break and then I would have a live event starting at my house. So even when they know what is going on they don’t do anything, and then they overreact with a smaller event. And it has not been super dry by any means; meteorologists have proven that in this last event. So, the other thing is just having good enough, you know. And then when we have our own municipal electric supply we can</p>	

coordinate with any generators that we need. Maybe we're going to not have such huge reactivity-type events and we aren't going to need the type of generators we need to keep the water treated. And as far as growth, I am working lately on demolishing houses, which seems to be Boulder's plan lately. And the cost of this and the subsidy this is to the developers to build more and just tear things down and build them up without a water supply that can take care of that. So, do something.

**Staff Response to Public Comment:**

- Comment that there will be a brief update tonight under Matters from Staff about the Xcel outage.

**Agenda Item 6 – Water Supply Update**

[6:12 p.m.]

Kim Hutton, Water Resources Manager, presented this item.

**EXECUTIVE SUMMARY**

This memo provides an update on 2024 water supply conditions and the city's drought stage determination procedures as set forth in the Drought Plan. While an official determination is not made until early May per that Plan, at this time we do not anticipate declaring a Drought Alert Stage or implementing water use restrictions in 2024. Snowpack above the city's watershed is slightly above average, and reservoir storage is currently trending just below normal and is expected to fill during runoff. The city will continue to monitor conditions closely and will encourage efficient water use throughout the year. The purpose of this memo is to provide a water supply update and an opportunity for the board to ask questions.

**WRAB Board Discussion Included:**

- Question about the current PSI.
- Question if the renegotiation of some of the management control of the river will impact the availability of water to us and other CBT users.
- Question if there are plans for onsite signage identifying the pilot project area.
- Question if there are additional state funds coming in for turf removal this year.
- Question who currently provides water conservation education.

**Agenda Item 7 – Industrial Pretreatment Enforcement Response**

[6:52 p.m.]

Memo only, no staff presentation

**EXECUTIVE SUMMARY**

The city's Industrial Pretreatment Program (IPT) has modified its Enforcement Response Plan (ERP) to provide clearer guidance to staff on what enforcement actions to take in the event of a violation of the industrial pretreatment section of the Boulder Revised Code (BRC). This update was made in response to a 2019 audit finding from the U.S. Environmental Protection Agency (EPA), which directly oversees the city's program. The ERP does not change code and is in line with previous practice. EPA requires the city to issue public notification of these changes and offer an opportunity for the public to provide comments.

**WRAB Board Discussion Included:**

No questions or discussion.

**Agenda Item 8 – Matters from Board**

[6:53 p.m.]

No matters presented.

**Agenda Item 9 – Matters from Staff**

[6:53 p.m.]

- Xcel Power Outage Event
  - Grid power lost to critical facilities.
  - Betasso ran on onsite emergency generator.
  - 63<sup>rd</sup> water treatment plant offline for construction. No impacts.
  - Hydro facilities taken offline during power outage.
  - Water Resource Recovery Facility experienced power shutoff to both substations.
  - City management and department management and operational staff crucial to averting environmental disaster.

- Impacts to traffic, recreation centers, other city services.
- Xcel will attend council meeting this week.
- Question if city and Xcel will collaborate on planning for appropriate future responses.
- Industrial Pretreatment
  - Packet memo satisfied EPA requirement.
  - Program ensures discharges into sanitary system from industries and businesses meet certain standards and do not cause harm.
  - Updates made to industrial pretreatment code in Boulder Revised Code in 2023.
  - Enforcement Response Plan updated in 2024.
  - Public notification made directly to industries, through public notice in Daily Camera, and in conversations with businesses.
  - Comments accepted for next three weeks.
- New PFAS Drinking Water Standard (EPA)
  - EPA finalized standards for six PFAS compounds in April 2024.
  - Manmade class of compounds, ubiquitous in environment, used in a lot of household products. Anything oil, water, or stain resistant may have PFAS chemicals in it.
  - City monitored for 29 compounds, including the 6 not regulated, and all were nondetectable.
  - No additional treatment should be required for the new standards.
  - Additional monitoring and reporting requirements begin in 2027.
- Eurasian Water Milfoil (EWM)
  - Originally found in 2022 in Boulder Reservoir, increasing in density in 2023.
  - Collaborative management options with Parks & Recreation (P&R) and Northern Water.
  - Impacts currently mostly on recreation.
  - P&R exploring treatments focused on mechanical removal, possible movement of swim beach.
  - No current impacts to water quality. EWM not near intake and reservoir is used only as backup water supply.
  - Long-term management options being explored including routine vegetation surveys, exploration of treatment options.
  - Working with consultant with extensive background in treatment of EWM in reservoirs.
  - Unlikely to be eradicated.

**Agenda Item 10 – Discussion of Future Schedule** **[7:15 p.m.]**

- May: Capital Improvement Program (CIP) Introduction.
- June: Capital Improvement Program (CIP) Discussion, Feedback.
- July: Capital Improvement Program (CIP) Recommendations; Water Service Line Inventory Update
- August: No meeting

**Agenda Item 11 – Adjournment** **[7:20 p.m.]**

**Motion to adjourn by: Broughton Seconded by: Koopman**  
**Motion Passes 5:0**

**Date, Time, and Location of Next Meeting:**

The next WRAB meeting will be held in hybrid format on **Monday, May 20, 2024 at 6:00 p.m.**

APPROVED BY:

Board Chair: John Berggren

Date: 5/21/2024

ATTESTED BY:

Board Secretary: Jason Sheridan

Date: 5.21.2024

**An audio recording of the full meeting for which these minutes are a summary is available on the Water Resources Advisory Board web page via the Access Meeting Agendas and Materials link.**

[Water Resources Advisory Board | City of Boulder \(boulder.colorado.gov\)](http://boulder.colorado.gov)



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**BOARDS AND COMMISSIONS ITEM**

04.17.24 EAB Signed Minutes

**PRIMARY STAFF CONTACT**

Jonathan Koehn, Director

**ATTACHMENTS:**

**Description**

- ▣ **April 17, 2024 Environmental Advisory Board Minutes**

**CITY OF BOULDER, COLORADO  
BOARDS AND COMMISSIONS  
MEETING SUMMARY**

**NAME OF BOARD/COMMISSION:** Environmental Advisory Board

**DATE OF MEETING:** April 17, 2024

**NAME/TELEPHONE OF PERSON PREPARING SUMMARY:**

Heather Sandine, 303-441-4390

**NAMES OF MEMBERS, STAFF AND INVITED GUESTS:**

**Environmental Advisory Board Members Present:** Hernan Villanueva, Brook Brockett, Alex Bothwell, Hannah Davis, Anie Roche

**Environmental Advisory Board Members Absent:** None

**City Staff Members & Presenters Present:** Jonathan Koehn, Yael Gichon, Carolyn Elam, Crystal Launder, Laurel Mattrey, Heather Sandine

**1. CALL TO ORDER**

- A. **B. Brockett** declared a quorum and called the meeting to order at **6:01**
- B. **H. Sandine** reviewed the meeting protocols.

**2. APPROVAL OF MINUTES**

- A. On a motion by **B. Brockett**, seconded by **A. Bothwell**, the Environmental Advisory Board (EAB) approved the March 6, 2024 meeting minutes.

**3. SWEARING IN NEW BOARD MEMBER**

- A. **A. Roche** was sworn in and signed her oath of office.

**4. PUBLIC PARTICIPATION**

- A. **Trish Emser** joined the meeting to speak about bike theft in Boulder. She would like to see the city provide more secure bike locks. Bike security is a basic need for the community, and lack of security disproportionately impacts the young and poor.

**5. DISCUSSION ITEMS**

**A. Climate Pollution Reduction Grant (CPRG)**

i. Overview

- On a motion by **B. Brockett**, seconded by **H. Villanueva** the board amended the agenda to remove this item due to the fullness of the agenda.

**B. Healthy, Resilient, Fossil-Free Buildings (HRFFB) Kickoff**

i. Overview

- **C. Elam** introduced **C. Launder & L. Mattrey**. The group spoke about buildings as a source of emissions and the City's upcoming process to address them. Buildings are the largest source of emissions in Boulder. The approximately 44,000 residential and 3,700 commercial buildings represent more than two-thirds of the community's emissions. Natural gas use in buildings contributes to poor indoor air quality. The average person spends 90% of their time indoors, and that is expected

to increase with increasing poor air quality and extreme temperatures.

- The group explained the goals of the HRFFB roadmap: for all buildings to be net zero by 2035, for buildings to be more resilient, to advance social resilience, and to stabilize energy costs. To meet these goals, the community must transition buildings to electric. The City hopes to provide incentives to replace gas appliances with electric ones. Throughout the development of the HRFFB roadmap, staff will consider policy needs, partnership opportunities, workforce capacity and equity risks, and will engage with the community for input. Staff recommends improving the least resilient buildings and those that will increase equity first, all while considering displacement risk, finding ways to offset cost, and increasing economic resilience by reducing energy costs.
- Key strategies include updating SmartRegs, improved finance tools, navigational services, replacement of gas appliances with electric ones upon the end of the life of the gas appliance, enhanced education and outreach, and promotion of solar garden expenses for income qualified residents. Commercial buildings will be included as well, with a focus on offices, mixed use, retail and lodging.
- **L. Mattrey** clarified that the roadmap is not related to embodied carbon, but rather for operational emissions. She added that there are several programs in place to improve the residential buildings. These programs include SmartRegs, Energy Smart, the Colorado Affordable Residential Energy Program, and the Healthy and Resilient Mobile Homes grant program. The Building Performance Ordinance (BPO) and Partners for a Clean Environment (PACE) are existing programs for commercial buildings.
- Next steps:
  - 2024 Quarters 2 through 4: Hire consultant.
  - 2024 Quarters 2 and 3: Building decarbonization research and analysis.
  - 2024 Quarters 3 and 4: Community engagement, Council and board presentations.
  - 2024 Quarter 4 and 2025 Quarter 1: Roadmap recommendations developed and presented.
- Questions for the EAB
  - Does EAB have questions about the city's existing voluntary and regulatory energy-efficiency programs?
  - Does EAB have any initial feedback on the proposed key strategies?
  - What do you think we should explore through our public process?
  - Does EAB have input on the proposed schedule and approach to community engagement?

#### ii. Clarifying Questions & Discussion

- **B. Brockett** asked if the mobile home repair program could expand to include homes in addition to those damaged by the Marshall fire and related wind event.
- **L. Mattrey** responded that the program is flexible and provides grants for additional repairs.
- **H. Villanueva** asked how often the SmartRegs Program is updated.
- **C. Elam** replied that the program has not been updated. The City wants to ensure we are not causing increased costs for renters, however, the consequences of not

updating those impacts renters in other ways.

- **A. Bothwell** asked if there is a similar rebate programs for residential units.
- **L. Mattrey** responded that the EnergySmart program has rebates for residential units.
- **H. Davis** asked what can be done now to help people understand the importance of this transition and become advocates of it.
- **C. Elam** responded that education will be key. People often have misconceptions about their gas appliances. Staff has explored the idea of demonstration commercial kitchens to dispel some of those misconceptions.
- **A. Bothwell** asked how staff intends to engage with the public across the categories of cost, efficiency, and health impacts.
- **C. Elam** responded that peer to peer learning can be critical.
- **H. Villanueva** asked what sorts of strategies staff will use to drive change.
- **C. Elam** responded that staff would use education along with policy, regulation, financial support, and voluntary tools. There may be state law changes that support the transition apart from any City action.
- **A. Roche** asked if there will be additional funds to drive the transition. She specifically wanted to know if public/private partnerships are being considered.
- **C. Elam** responded that the department has a budget of \$5 million from the Climate Tax. Staff will leverage partnerships and any federal dollars received and is considering public-private partnerships.
- **A. Bothwell** asked if there is flexibility to change course within the roadmap to adjust for changes.
- **L. Mattrey** confirmed yes and emphasized the importance of flexibility.
- **H. Davis** asked how the Boulder Valley Comprehensive Plan (BVCP) is intertwined with the roadmap.
- **J. Koehn** explained the BVCP is an agreement between the city and the county. He said the plan will have an update in 2025 and staff will ensure the update is aligned with the roadmap.
- **H. Villanueva** asked if the option ending SmartRegs is possible.
- **C. Elam** responded that an energy code ordinance could apply to all buildings, rather than just those that are rentals. Staff may learn about additional options through the roadmap development process.

### **C. Gas Powered Landscaping Equipment Update**

#### **i. Overview**

- **C. Elam** provided an update on the City's assessment of gas-powered landscaping equipment and related environmental impacts. In 2022, Council directed staff to explore the possibility of banning or regulating the use or sale of gas-powered equipment. Staff hired a contractor, American Greenzone Alliance (AGZA) to conduct analysis and engage with the community. The contractor used the City's Racial Equity Instrument to understand equity-related impacts potential regulations or ban could have. A list of challenges and opportunities was identified. Staff also launched a pilot program, in collaboration with the county's PACE program, to provide education, outreach and financial assistance to landscapers considering the transition to electric equipment. Under this program, vouchers of 80% of the cost

- (up to \$10K), a free charging hub, fire blanket and fire extinguishers were provided.
- Next steps: Staff will return to council with an update in May. The update will include a matrix of a variety of options and recommendations, resource estimates for a potential regulatory strategy, pilot results, and lessons learned. The pilot program will continue into a second year and will include workshops, vouchers, tracking of supply chain and operational challenges, and allow landscapers a full season of operation experience with electric equipment.
- ii. Clarifying Questions & Discussion
  - **H. Davis** requested a list of landscapers using electric equipment to be added to the PACE website.

**6. OLD BUSINESS/UPDATES**

**B. None**

**7. MATTERS FROM THE ENVIRONMENTAL ADVISORY BOARD, CITY MANAGER AND CITY ATTORNEY**

**A. Update & Debrief of Regional Environmental Board Gathering**

- **H. Villanueva & J. Koehn** updated the board on the regional environmental board gathering. The facilitator divided boards into small groups to introduce themselves and discuss current workplan items and priorities. The group expects to establish a steering committee that will study items with potential regional impact. Each municipality has rules that may govern gatherings, so each board will check with their respective City Attorney's Office for clarification of those rules.

**B. Reminders from the City Attorney's Office**

- i. **J. Koehn** reminded the board about policies pertaining to communications from the City Attorney's Office (CAO). Specifically, staff and board members should not share any advice from the CAO with anyone outside of the city organization.

**C. Council Calendar Preview**

- i. Overview
  - **J. Koehn** reviewed upcoming council items.
- ii. Clarifying Questions & Discussion
  - None

**8. DEBRIEF MEETING/CALENDAR CHECK**

On a motion by **B. Brockett**, seconded by **H. Villanueva**, the next EAB meeting was rescheduled from May 1 to **June 5 at 6 PM.**

**9. ADJOURNMENT**

The Environmental Advisory Board adjourned at **8:14 PM.**

Approved:

Chair

06/05/24

Date



**COVER SHEET**

**MEETING DATE**

**June 20, 2024**

**AGENDA ITEM**

World Refugee Day Declaration

**PRIMARY STAFF CONTACT**

Megan Valliere, Assistant to the City Council

**ATTACHMENTS:**

**Description**

- ▣ **World Refugee Day Declaration**

## **World Refugee Day**

**June 20, 2024**

World Refugee Day celebrates the strength and courage of individuals who were forced to flee their homes in search of safety and is an occasion to build empathy and understanding for their plight.

Every person has a right to seek safety, regardless of who they are or what they believe. Whenever people are forced to flee, they have a right to be protected and treated with dignity.

World Refugee Day shines a light on the rights, needs, and dreams of refugees. It helps to mobilize political will so that refugees can not only survive, but also thrive. While refugees should be recognized and protected every day, international days like World Refugee Day help to promote awareness of the struggles of those fleeing persecution.

The day also marks the 44<sup>th</sup> anniversary of the Refugee Act of 1980 which created the Federal Refugee Resettlement Program to provide refugees with the right to asylum. This is also the seventh year that Boulder has been a sanctuary city. As a sanctuary city, Boulder can pass laws to protect immigrants even if they do not align with federal immigration policy. Through the Refugee Act and Boulder's status as a sanctuary city, we as a community have helped in international relief efforts and in expanding protections for countless refugees.

We, the City Council of the City of Boulder, Colorado declare June 20, 2024, as

## **World Refugee Day**

And urge all community members to take cognizance of this event and participate fittingly in its observance.



---

**Aaron Brockett, Mayor**

