

Commission Member John Veranth Subdivision Options for Discussion

The fundamental question is whether to continue past Boulder Town practice of allowing private driveways to access lots in minor subdivisions versus requiring all newly created lots to have direct access to a dedicated public street.

I have prepared markups of the “October version” showing how the ordinance would look under both options. I do not claim to have found every necessary change. Once we decide on whether or not to allow private driveways we can do a more thorough editing of the selected option.

Option 1 - Allow Private driveways:

Add the following definitions to 152.011 in alphabetical order:

Easement: An easement is created by a recorded document that establishes the right of a party who or which is not the owner to use land in ways and for purposes that are clearly specified in that document. Easements may also be created or recognized by court decree or other legal means. While it is typical for an easement to be lineal and used as a driveway or trail, or for irrigation works or utilities, an easement, like a conservation easement, may cover any part or even all of a property. **Easements are included within the area of the lot(s) they affect.**

Private Driveway Access Easement: A recorded easement created as part of the subdivision process for vehicle access across intervening land between a dedicated public street and any lot .

Right-of-Way: A right-of-way is a linear area that is used or **proposed as part of the subdivision application** to be used as a street or trail, and/or for irrigation works or utilities, and/or other public purposes and that has been or will be dedicated to the public. **The area of a right-of-way is outside any lot.**

Replace the definition of “Street” as follows:

Street. A street is a transportation route that occupies a right-of-way dedicated ~~to or~~ owned by a public entity and that provides direct or limited access to lots or other parcels of land. A street may include, but is not limited to, a cartway (the driving surface), bike lanes, sidewalks, utilities, and irrigation works, as well as bridges, culverts, signs, traffic signals, and other facilities that support its use. The term “street” includes all synonyms: road, highway, etc.

Amend 152.041 as follows:

(H) *Subdivision roads and streets and driveways.*

(1) The preliminary subdivision plat, and other application materials, shall identify the proposed **road, street, and driveway layout**. Proposed subdivision streets shall make provision for the continuation of the existing pattern of streets, where one exists, and where so doing is consistent with the terrain and adjoining land uses. The preliminary subdivision plat shall also provide for the future extension of the proposed streets onto adjoining properties where so doing is consistent with the terrain and adjoining land uses as required by the Town Council. **Comment: Relocated text from October draft.**

(2) (a) ~~The Town Engineer, as appointed by the Council, may review the proposed street and road design for compliance with the requirements of the town.~~ The proposed street and road layout shall provide adequate and safe access to all proposed lots and proposed and existing roads and streets. ~~Minimum lot sizes as required by the town's Zoning Ordinance shall be exclusive of road easements and rights of way.~~ If the subdivision will be accessed from a state highway, an appropriate access permit, as required by the state's Department of Transportation, shall be provided with the application materials. **Comment: The reference to engineer here is redundant since engineering review at applicant's expense is covered by 152.042. The sentence on lot sizes is redundant with the definitions.**

(2) (b) ~~As required by § 153.190 of this code of ordinances, all lots shall have frontage upon a dedicated or publicly approved road or street, or right of way providing direct access to a dedicated or publicly approved road or street. All lots shall have frontage, as required by the minimum lot width requirements for the zoning district in which the lot is located, as provided by § 153.119 of this code of ordinances.~~ **Deletion is needed to allow private driveway easements as the lot access.**

Edit current 152.041 (H) (5) as follows;

~~For the purposes of this section, a **STREET** shall be defined as any vehicular way providing access to two or more lots. The Planning Commission and Town Council have some latitude in applying this section to subdivisions proposing the creation of four or less lots, where, in their sole discretion, this section would create an undue hardship for the applicant. **New subdivision streets** may remain in private ownership as a "private street" or be dedicated to the town as a "public street." **Private and public streets shall meet the design standards of sections [redacted].** A private right of way may be used to access up to four lots; provided, such private right of way has direct access to a dedicated or publicly approved road or street. A private driveway is not required to meet the requirements of this section, except a private driveway is required to meet all public safety requirements, as may be required by the town's Fire Marshal.~~

Add to 152.041 (H)

In subdivisions with four or fewer lots the access to each lot may be either from frontage on an existing public street or from a private driveway access easement that meets the

requirements of the Utah Wildland-Urban interface code. Maintenance of private driveway access easements is the responsibility of the owners of the accessed lots.

Amend 153.119 Table of Development Standards as follows:

Strike out “Minimum lot size required (~~exclusive of road easements~~)

Comment this is superceded by the new definitions of streets and easements.

Modify the requirement for lot width 1/3 of lot depth in GMU and LDR.

Comment: the requirement does not serve a goal in the general plan and encourages urban-type lots that do not consider the unique topography and existing irregular parcel shapes in Boulder. Relaxing this standard would allow creative solutions such as flag lots or parcels shaped by terrain features.

Comment: Overall this is minimally restrictive wording that preserves current Boulder Town practice and preserves the informal rural appearance described in the General Plan

Option 2 - Require Public Streets

Replace the definition of “Street” as follows:

Street. A street is a transportation route that occupies a right-of-way dedicated to or owned by a public entity and that provides direct or limited access to lots or other parcels of land. A street may include, but is not limited to, a cartway (the driving surface), bike lanes, sidewalks, utilities, and irrigation works, as well as bridges, culverts, signs, traffic signals, and other facilities that support its use. The term “street” includes all synonyms: road, highway, etc.

Comment: the October definitions of Right of Way and Easements are retained in both options.

Amend 152.041 as follows:

(H) *Subdivision ~~roads and~~ streets.*

(1) The preliminary subdivision plat, and other application materials, shall identify the proposed road and street layout. Proposed subdivision streets shall make provision for the continuation of the existing pattern of streets, where one exists, and where so doing is consistent with the terrain and adjoining land uses. The preliminary subdivision plat shall also provide for the future extension of the proposed streets onto adjoining properties where so doing is consistent with the terrain and adjoining land uses as required by the Town Council. Comment: Relocated text from October draft.

(2) (b) All streets proposed to be created by the subdivision, whether proposed to remain private or proposed to be dedicated to the town, shall meet the requirements of section ____.

(2) (b) (1) As required by § 153.190 of this code of ordinances, all lots shall have frontage upon a dedicated public street, or recorded private street providing access to a dedicated public street. All lots shall have frontage, as required by the minimum lot width requirements for the zoning district in which the lot is located, as provided by § 153.119 of this code of ordinances.

Retain 152.041 (H) (3)

All streets proposed to be created shall identify a permanent method of street maintenance. If the proposed street is not proposed for dedication to the town, or if the town is unwilling to accept dedication, an appropriate method for long-term maintenance of the private street must be proposed, for approval by the Town Council. Acceptance of dedication of a proposed street is at the full discretion of the Town Council.

Comment: This wording Requires Town Council approval of the arrangements for maintenance of any private street.

Subdivision Issues We Need To Consider Later

- 1) Whether current road standards are consistent with the desired community appearance described in the general plan.
- 2) A clause prohibiting creating landlocked parcels during subdivision.
- 3) A clause requiring two means of emergency access for groups of homes exceeding ____ lots.