

MEMO

TO: Boulder Planning Commission, interested parties

FROM: Lee Nellis, FAICP

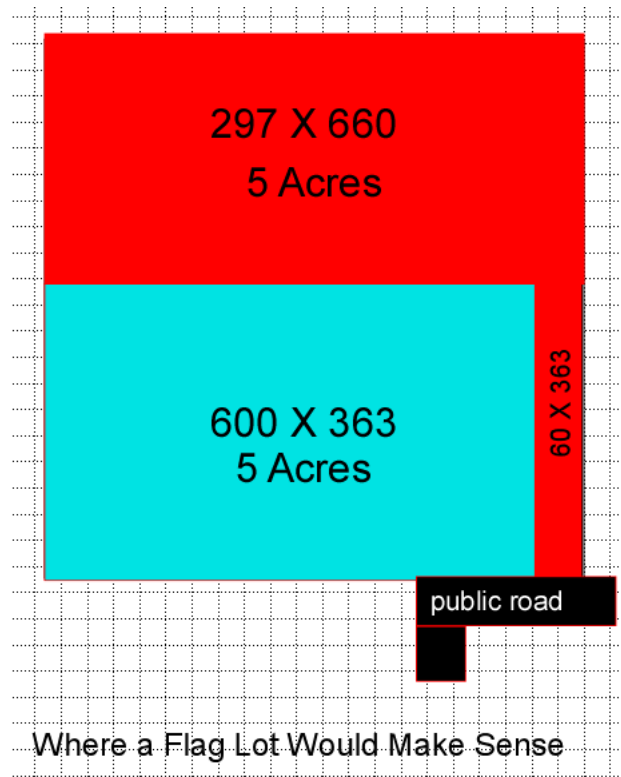
DATE: May 18, 2022

RE: Flag Lots - Subdivision Standards in General

The purpose of this memo is to address the lot-width ratio requirement that the Planning Commission “parked” at the last meeting. I also use the lot-width issue as an example of the deficiencies of the existing subdivision ordinance.

A Flag Lot Story

Imagine a 10-acre parcel that fronts on a public road for a short distance. The lower portion is irrigated. The upper is rocks and junipers, but includes a spot suitable for a dwelling and an on-site wastewater system. The owner would like to retain the irrigated land and existing house, but sell the upper portion. The illustration below shows how this could look. There may not be a place exactly like this in Boulder, but it is easy enough to imagine this or something quite similar coming before the Planning Commission.



Where it would have to be rejected. But why wouldn't the Town permit this?

There isn't enough road frontage for two lots that meet the 3:1 lot width ratio requirement to have direct access to the road. So, this could not be permitted until the changes you sent to the Town Council last Thursday are approved, clearly allowing access via an easement. But even if there was more road frontage, how would a requirement that forced the owner to break up a useful patch of irrigated land to create another lot make sense?

Let's also imagine, to explore possibilities, that the irrigated portion of the lot is a little wider than the 330 feet that is the minimum lot depth needed to add up to five acres and thus split the parcel. The combination of the minimum lot depth that is necessary (it is not explicitly required, but the minimum lot size necessitates it) and the need for access make it difficult for the owner to achieve a perfectly reasonable goal.

Allowing a flag lot solves the problem. The flag is large enough to make both lots 5-acres, while allowing the lower lot to be a little wider (and 60 feet shorter). This solution looks different and, to some perhaps, awkward on paper. But if you were driving along that road would you notice anything out-of-place? You would not. You'd pass a driveway for the lower house, then another driveway for a house you could see above. You would have no idea whether the second driveway was on an easement or part of the lot above. You would have to be paying close attention to realize that the two lots were not the same width.

Permitting a flag lot would allow the owner's goals to be met. It would also allow the Town to approve this land division with confidence that the upper lot has legal access that will not, at some future time, become a point-of-contention between neighbors that inevitably involves the Town.

Proposed Lot Layout Standard

All it would take to enable the Planning Commission to approve the commonsense solution shown in the story above is the adoption of a standard something like this:

Lot layout shall be compatible with the: (A) terrain, avoiding natural hazards while preserving views and other natural assets; (B) providing safe access to each lot; and (C) blending harmoniously with (alternatively, we could say, not disrupting, but I like to go with positive language) existing uses.

We need to talk about this. An improved version of the standard may well result from discussion. But I don't think you'd find that a long skinny lot injected into a neighborhood of more conventionally shaped lots is compatible. It would disrupt the spacing or rhythm of neighboring homes. In the case above, it would definitely disrupt the pattern of irrigation. It could also be incompatible with the terrain or, if it causes driveways to be jammed together, safe access. Allowing a flag lot would provide safe access to a reasonable building site, while helping maintain the utility of an irrigated field. That's the type of solution we ought to be seeking, but could not reach using the current ordinance.

Replacing the Present Subdivision Ordinance

The existing subdivision ordinance establishes complicated procedures and application requirements, but says next to nothing about how the Town wants subdivisions to be designed. Think about how that contrasts with the change we made in how commercial uses are regulated. We went from a vague, “kitchen sink” statement about what could be considered in reviewing conditional uses to a checklist of reasonably specific standards that explain what the Town wants. The checklist is also much easier to administer. We need to replace the current subdivision ordinance in the same way.