

MEMO

TO: Boulder Planning Commission, Other Interested Parties

FROM: Lee Nellis, FAICP

DATE: September 19, 2022

RE: Subdivision Sequel – Liberating Landowners to Implement Your Plan

You have now seen two versions of what happens when the focus of subdivision design is on lot size and shape, as mandated by the existing ordinances. Was what you saw the best way to support the general plan goals of protecting open space or providing for more affordable housing? Was it even the best way to support the landowners' goals, whether profit or stewardship?

It is not prudent for me to comment on specific development proposals, so I leave you to answer those questions, while submitting this proposition for your discussion. I think it is timely.

The current ordinances are making it difficult, nearly impossible, for Boulder to achieve its general plan goals. They are also making it more difficult for landowners to achieve their goals.

It is my observation that PC members know, or at least sense, that this is the case. It has been difficult, though, to act on that understanding. Changing the ordinances may be controversial and there is, understandably, the fear that changes will not have the intended results, that offering more flexibility in residential development will somehow "sell out" the community's character.

This memo addresses that fear.

What's Important?

First, I want you to think about what Boulder would look like at the 450-unit build-out that is currently permitted, in the form it is permitted. The Boulder of 2022 has a fair amount of variation in lot size and shape, a fair amount of mixing of uses and a varied character of housing. The pattern of land use change has mostly been organic. There are many places where people have done exactly what I suggested in the previous memo. They wrapped parcel boundaries around a good building site.

But the diversity of the existing pattern can't persist under the current zoning. Parcel sizes and shapes will become increasingly uniform, as will the type of housing that can be built given the costs of such parcels. Agriculture as a way of life will be reduced to the point of disappearing. I will not go into the impact on the spirit of community. You don't have to drive far to see that. If that's the future you want, we should revise the general plan to say so, and then we can all go hiking.

Second, I want you to think about how the Town now regulates commercial development. There is a checklist. Developers must respond to it, point-by-point. It guides the PC review. It provides a defensible basis for enforcement.

The checklist focuses on the performance of the proposed commercial use. It incorporates a few dimensional standards, but they play a minor role in a review that focuses on more important issues. To give a simple example of this, the commercial development standards keep the minimum setbacks formerly required in the commercial zoning district. But they focus far more on the effectiveness of landscaping as a buffer for adjoining uses and as part of the Town's visual character. If a buffer needs to be deeper than the minimum setback, the PC requires that.

In contrast to this case-by-case flexibility, two dimensional standards (lot size and shape) are driving what you see when you review residential development proposals. Does that make any sense at all?

The Path to What's Important

You could manage residential development the same way you do commercial, working toward an enforceable agreement for development that meets standards consistent with the general plan. And you could do so in a way that is appropriately, even tightly, bounded to get the results you want. You could even provide incentives for landowners to implement the general plan while achieving their goals.

To put it another way, you can revise the ordinances to allow change from the present requirements only when and where that change make a significant contribution to achievement of the Town's general plan goals. The current dimensional standards would stand UNLESS.

Unless what? Unless the proposed subdivision provided affordable housing or protected agricultural (and possibly other open) lands or, preferably, both. The question you face is not whether to change the rules and see what happens. The questions are, if you let them be, far more specific,

Would you flex the dimensional standards if 50% (pick a different number if you want) of the lots in a subdivision were dedicated to perpetually affordable housing?

Would you flex the dimensional standards if a landowner agreed to place a conservation easement on all of her or his irrigated land?

The option of creating a conventional subdivision of five-acre lots would (or at least, could) remain, but the ordinances would be revised to offer substantial incentives to do something more creative, more consistent with the general plan.

I will end this with a list of the steps that would have to be taken. I will not offer much detail here.

Step 1: Reaffirm the Plan Goals. Despite all we have discussed, and given the reality that different interpretations are possible, I still have not heard any serious disagreement among the PC about the desirability of having more attainable housing or protecting agricultural lands. So let's do that.

Step 2: Make the Plan Goals Enforceably Specific. This isn't going to be as difficult as it may sound. If you're going to protect Boulder's character, you have to protect the irrigated lands. You may want to add other open space – riparian lands come to mind – but this is straightforward. Making the housing goal more specific is a matter of balancing the incentive the town offers with what the market will support. You have to accept that there is some trial and error involved. You talk to the landowners, you pick a number, and you adapt as you go.

Step 3: Make Meeting the Plan Goals the Quickest Path to Approval. The subdivision procedures should be reformed and revised no matter what path the Town takes. But I propose that you allow subdivisions that meet plan goals to go directly from concept to pre-construction approval. Subdivisions that do not honor the plan goals, go through the concept, preliminary, "final" (which is really pre-construction) route. Conventional development will take longer. It will probably cost more. I would also always make proposals that support plan goals first on the agenda.

Step 4: Review Proposed Subdivision that Meet Plan Goals on a Performance Basis. We would create a checklist similar to the commercial development standards checklist. You have seen the starting point for this list in the minor subdivision rules that I proposed several months ago. That draft did not incorporate Step 2 above because I thought the Town needed a stopgap measure. Adding them is not difficult.

Step 5: Connect Landowners with Resources. I have this last, but it is possibly most important. Local landowners need to know how to interact with housing and land trusts and other programs that will support them in achieving the plan goals (and theirs). I think of the upcoming housing forum as the starting point for this.