

MEMO

TO: Boulder Planning Commission

FROM: Lee Nellis, FAICP

DATE: April 26, 2023

RE: Shortest Path to Approval of Housing at BES

This memo is a follow-up to a phone conversation with John Veranth. The PC discussed this topic in December 2022, when I proposed three different ways to accomplish the goal of allowing housing at BES. The most straightforward way is to amend the definitions and the Table of Development Standards. Here are the details of how to do that.

Amend the definitions at §153.011 as follows:

ACCESSORY BUILDING A subordinate building detached from, but located on the same lot or parcel, or a directly adjacent lot or parcel under the same ownership, as the principal use, the use of which is clearly incidental and accessory to that of the principal use. An Accessory Building shall contain no living facilities, unless it qualifies as a commercial or external accessory dwellings ~~are~~ as separately defined in this chapter.

ACCESSORY DWELLING UNIT, COMMERCIAL. A dwelling unit for an employee of or the owner that is on the same lot or parcel as a commercial use. It may be internal to a commercial structure or external. It must be approved as part of the CUP for a new commercial use or, where it is proposed to add an accessory dwelling to an existing commercial use, approved via an amendment to the existing CUP or via a new CUP specifically for the proposed accessory dwelling unit. ~~Nonconforming commercial uses may not add an accessory dwelling.~~

COMMERCIAL. The generic term this chapter uses to refer to the conduct of business, including, but not limited to, retail sales, the provision of services, and industrial activities. By itself, this term tells one nothing about which commercial uses are or are not permitted. Please refer to the table of uses and standards established by §§ [153.115](#) et seq. Standards that apply to "commercial" uses apply to all of them, except when a specific use is specifically exempted. This term specifically encompasses more specific terms that were used in this chapter prior to the 2021 amendments, including automotive care, commercial sales and services, lodging, professional offices, recreation facilities, restaurants, and veterinary clinics. This term also applies to institutional uses, specifically including municipal buildings and schools.

Amend the Table of Development Standards at §153.119 as follows:

Delete the 1000 SF maximum size of an accessory building from the column for the MDR zoning district and replace it with this: "An accessory building may not be larger than the principal building."

This would also be a good change to make in the HDR if you want to do that at this time. The 1000 SF limit is arbitrary, relating the size of an accessory building to the size of the principal

building is not. It's a little more complicated in the other zoning districts where there are larger accessory buildings for agriculture. Now is not the time to make changes there.

If you make these changes, a commercial accessory dwelling unit could be added to the school via a CUP. I see no reason not to schedule a hearing on these changes.

One Problem?

I did not anticipate the possibility that an RV pad be installed at BES when I wrote the memo for that December meeting. I do not think this is good long term idea (public institutions have an obligation, I think, to promote quality development), but can see it as a transitional solution. You would have to make one more amendment to allow BES to use an RV.

DWELLING. Any building or portion thereof designed or used as the more or less permanent residence or sleeping place of one or more persons, but not including a tent, recreational coach, hotel, motel, hospital or nursing home, except where use of a recreational vehicle for a commercial accessory dwelling is allowed for a set term by a CUP.

Note that this would give BES a privilege no other landowner enjoys. Temporary use of RVs as a dwelling is allowed by §153.201, but for only 90 days a year.

Supplemental Notes:

The term "school" is never defined in §153.011, the definitions section of the zoning ordinance. There is, therefore, no conflict within the definitions. The term "charter school" is defined, but that has no impact on this discussion.

The Table of Uses adopted at §153.117 already allows schools as potentially compatible in all zoning districts.

The Commercial Development Standards (§§153.415 et seq) are independent of any zoning district. They apply everywhere in Boulder where a commercial use is allowed by the Table of Uses, and schools are allowed in the MDR Zoning District where BES is located..