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Dear Boulder Town Council:

This letter is a public comment regarding the proposed paved pedestrian path.

Per our ordinances, this infrastructure development constitutes a land use decision and should follow the town's land use planning process.

PUBLIC USES AND UTILITIES are listed in the [Table of Uses](#) with a "Potentially Compatible" label for all zones except Commercial where it is prohibited. This means that "Public Uses and Utilities" require the approval of a Conditional Use Permit.

This use is [defined](#) as including "recreational facilities":

PUBLIC USES AND UTILITIES. A use operated exclusively by a public body or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including recreational facilities, administrative and service facilities, and public utilities, including water and sewer facilities, gas and electricity facilities, recycling and waste management, cable television facilities and telecommunications facilities, but excluding prisons. Proposed public facilities, including significant changes in or additions to existing facilities require a CUP.

Furthermore, a "facility" is defined as:

FACILITY. A structure or place that is built, installed or established to serve a particular purpose.

Clearly paving the path is a significant change to a place that is built to serve a particular purpose. The Town Park is zoned MDR on the map, in MDR a "PUBLIC USE AND UTILITY" requires the approval of a CUP.

Overall, this whole process makes sense--if the town were to install an amphitheater in the park you'd want the neighbors to be able to weigh in, right? Or a motocross track, or a sewage treatment plant, or any other infrastructure development. Essentially the idea here is that the town isn't exempt from its own land use ordinances: The town can't do whatever it wants wherever it wants while private landowners have to get CUPs and comply with ordinances.

If the town doesn't pursue a CUP, the normal appeals process within the land use ordinances could be followed which, I believe, would start with an appeal to the Zoning Administrator.

Sincerely,



Josh Ellis