

MEMO

TO: Boulder PC, Interested Parties

FROM: Lee Nellis, FAICP

DATE: July 27, 2023

RE: Proposed Amendments – Installment 2, Revised

This memo proposes the amendments needed to institute the use of average lot sizes. While we have discussed this several times, it seems worthwhile to briefly repeat the reasons for making this change.

If the Town's goals include making it possible to provide more affordable housing and the protection of irrigated lands and other natural assets, the current zoning is unhelpful. It requires that all land divisions be five or more acres in extent. That a smaller lot might be more affordable is irrelevant. That a landowner could better manage her agricultural operation or leave a view corridor open by dividing 10 acres into one seven and one three-acre lots instead of two five-acre lots is irrelevant. I think the support expressed for averaging lot sizes at the June forum shows that most people in Boulder understand this and are ready to accept the flexibility needed to achieve the Town's and landowners' goals.

Several changes are needed to make lot-size averaging happen. You saw a few minor ones in the first installment of proposed amendments, which focused on Chapter 152, the subdivision regulations. This memo will focus on Chapter 153. It includes some necessary housekeeping in addition to the amendments enacting lot size averaging.

Preamble. I repeat the "Whereases" here, still seeking comment.

Definitions. These proposed amendments will make the definitions relating to land divisions in Chapters 152 and 153 match.

In the 'Hard to Believe' Department! It took several readings before this sunk in: The existing subdivision ordinance never explicitly allows the PC to make a recommendation about lot layout or any other design aspect of a subdivision to the TC. It lists improvements that may be recommended to the TC, but never says anything specific about other recommendations. There is a "kitchen sink" clause, but how helpful is that? It is a good thing this ordinance must be replaced! For the interim, I have proposed a design standard that will also appear in the amendments to the zoning. This change also provides a good spot to say something about lot size averaging in the subdivision ordinance, even though the proposed amendments to the zoning chapter are sufficient. What I added will seem vague, but it is better than no authority at all, and the PC will return to these ideas in the next round of amendments.

Table of Development Standards. I replaced the Table of Development Standards to incorporate lot-size averaging in the GMU and LDR zoning districts and made some improvements, including removing broadly applicable language that does not need to be in a

table that is organized by zoning district. This Table may seem a lot simpler than it is. I removed some of the ambiguity, but let's review the changes one-by-one.

What I Deleted

Lot Required. After the recent amendments to clarify the language applicable to land divisions, a building must be on a lot **or** a parcel.

Maximum Allowed Residential Density. This standard essentially just repeated the minimum lot sizes and has been just plain wrong ever since the Town allowed EADUs.

Foundation. This is redundant of and better covered by the building codes established in Chapter 151.

Utilities. Remove because it does not vary by zoning district. It is also redundant of other language in Chapter 153.

The New Table

Average Lot Size. This is a new row. Its use will be explained later in this memo.

Minimum Lot Size, Well. Also addressed later in this memo, but you can see that I am dividing the minimum lot size standard to set you up to be able to make potentially important distinctions in the next round of amendments.

Minimum Lot Size, Central Water. See above.

Maximum Lot Coverage. I have not proposed changing these standards, but they apply city thinking to rural lots, are indirectly inconsistent with the maximum building size, and should be discussed after the present round of amendments is complete.

Maximum Building Height. No change.

Minimum Front Yard. No change.

Minimum Rear Setback. No change.

Minimum Side Setback. No change.

Maximum Accessory Building Size. No change, but these standards are problematic, especially in the GMU zoning district, and interact with the maximum lot coverage in a way that may not have been properly considered when they were adopted. Talking about this should be on the PC's priority list after the current round of amendments.

Minimum Front Yard, Accessory. No change.

Minimum Rear Setback, Accessory. No change, though I think it might be worthwhile to talk about the use of the building code requirements in a place that is generally as spacious as Boulder. That discussion is not a priority.

Minimum Side Setback, Accessory. No change.

Averaging Lot Sizes. Instituting this option for landowners requires:

- new definitions, which are provided by these proposed amendments;
- a new row in the Table of Development Standards for "Average Lot Size," also provided here; and

- additional rows (I have shown two, plus a placeholder, anticipating their use in the next round of amendments, but this may vary) for minimum lot sizes.
- It also requires that averaging calculations be officially accepted as part of preliminary subdivision approval. That was covered by a change in §152.041(B) in the first installment of these proposed amendments.

Since averaging lot sizes will be allowed in any new subdivision in the GMU or LDR zoning districts, this is technically sufficient. But given that this possibility is new in Boulder and an important step toward implementing Town goals, more needs to be said.

The best way to present this idea to applicants and the public is probably in a plain language handout or flyer similar to the one I prepared about the subdivision process. I will work on that if the PC agrees to move these proposed amendments forward, but I also think it needs to be in the ordinances somewhere. Fortuitously, there is a reserved section just before the Table of Development Standards, making renumbering for a new section easy. Note that Item (D) in the new §153.119 is essentially a placeholder anticipating that we will make the reasons for lot size averaging more specific as part of the incentives adopted in the next round of amendments.

Commercial Development Standards Worksheet. This administrative form will be deleted from the ordinance so that it may be improved and updated as experience indicates. This is consistent with the treatment of all other such forms in these proposed amendments.

Ordinance 2023 - _____

Whereas Boulder Town desires to implement its General Plan by encouraging the provision of more affordable housing, continuing agricultural operations, and open space protection;

Whereas current Boulder Town ordinances specify fixed lot size and shape requirements that do not allow consideration of infrastructure availability, access, terrain, and current and future agricultural operations; and

Whereas Boulder Town desires to permit more subdivision design flexibility for landowners to provide housing while protecting agricultural land and other natural assets:

NOW BE IT ORDAINED BY THE TOWN COUNCIL OF BOULDER TOWN THAT THE BOULDER TOWN CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

Amendments to Chapter 152

Add the following definitions to §152.006 in alphabetical order:

AVERAGE LOT SIZE. The average (mean) of the sizes of lots within a subdivision. This is calculated by dividing the total area of the parcel or lot being divided by the total number of building lots proposed. Lots that are separately demarked for common use or open space protection are not building lots, nor are rights-of-way, public or private. Lot size averaging may be applied to a lot or parcel only as it existed on the date lot size averaging was adopted into this Code or, to say this another way, lot size averaging may be applied to any area only once.

LOT COVERAGE. The percentage of the total area of a lot or parcel which is occupied by all buildings, covered structures, or other impervious surfaces.

Revise § 152.045 PRELIMINARY SUBDIVISION APPLICATION APPROVAL PROCEDURES; PLANNING COMMISSION RECOMMENDATION as follows: Split the present (1) into two items and renumbering accordingly.

(C) *Planning Commission recommendation.*

- (1) Following consideration of the preliminary subdivision application, and all information and materials presented, the Planning Commission may recommend approval of the preliminary subdivision application as presented, recommend approval of the preliminary subdivision application with conditions, or recommend denial of the preliminary subdivision application. In support of its recommendation, the PC must find that the proposed lot layout is respectful of and compatible with the: (1) terrain, avoiding natural hazards while preserving agricultural opportunities, riparian areas and wetlands, views, and other natural assets; (B) safe, adequate access to each lot; and (C) neighboring uses. The PC's recommendation may include lot size averaging as it is authorized in Chapter 153 of this Code.

- (2) The Planning Commission may also recommend onsite and offsite improvements, facilities and amenities, the cost of which is provided 100% by the applicant for subdivision approval, and determined necessary by the Planning Commission to protect the health, safety and welfare of anticipated residents of the subdivision, or the existing residents of the town, including, but not limited to:

The lettered list following this language is not changed.

Amendments to Chapter 153

Revise **§153.011 DEFINITIONS**, revising, deleting, or inserting definitions in alphabetical order as follows:

AVERAGE LOT SIZE. The average (mean) of the sizes of lots within a subdivision. This is calculated by dividing the total area of the parcel or lot being divided by the total number of building lots proposed. Lots that are separately demarked for common use or open space protection are not building lots, nor are rights-of-way, public or private. Lot size averaging may be applied to a lot or parcel only as it existed on the date lot size averaging was adopted into this Code or, to say this another way, lot size averaging may be applied to any area only once.

LOT. ~~A parcel of land or unit of land described by metes and bounds and held or intended to be held in separate lease or ownership, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract into two or more smaller units.~~ A lot is any area of land that is separately demarked on a recorded subdivision plat, whether called a lot or not.

LOT, COVERAGE. The percentage of the total area of a lot or parcel which is occupied by all buildings, covered structures, or other impervious surfaces ~~or other covered structures.~~

LOT LINE ADJUSTMENT. A lot line adjustment occurs when the owners of adjoining lots within a recorded subdivision agree to change lot lines or when the owner of a lot within a subdivision agrees with the owner of an adjoining parcel to change boundaries between the lot and the parcel. A lot line adjustment cannot create a new parcel or lot. It can be used to change the boundary between a right-of-way and adjoining lots. For the regulation of lot line adjustments, please see § 152.116.

MINIMUM LOT SIZE. The smallest lot or parcel on which any use will be permitted. §153.267 of this Code allows for exceptions for existing small lots.

PARCEL. A parcel is any area of land that is not a lot. In the administration of this Code, there are no lots outside of recorded subdivisions, there are no parcels within recorded subdivisions.

PARCEL BOUNDARY ADJUSTMENT. A parcel boundary adjustment occurs when the owners agree to adjust the boundary between adjoining parcels. A parcel boundary

adjustment cannot create a new parcel or lot. It can be used to change the boundary between a right-of-way and a parcel. For the regulation of parcel boundary adjustments, please see § 152.115.

RIGHT-OF-WAY. ~~Land occupied or intended to be occupied by a public or private trail, road or other public transportation use; or railroad, electric transmission line, or other utility uses. Rights-of-Way are separately owned, generally linear areas of land that provide circulation, irrigation, or utility service to adjoining lots or parcels.~~

RIGHT-OF-WAY (LOT). ~~A strip of land not less than 16 feet in width connecting a lot to a street for use as private access to that lot.~~

SUBDIVISION. Any land that is divided, re-subdivided or proposed to be divided into two or more lots, plots, parcels, sites, units or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions. Subdivision includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument. Subdivision does not include a bona fide division of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates this code or a parcel boundary adjustment as defined by § 152.006(C) of this code.

Shift §153.119 back to §153.118, which is now just a placeholder, revise it as follows and replace the attached table as shown below.

§ 153.119 TABLE OF DEVELOPMENT STANDARDS.

The Table of Development Standards accompanies the Table of Uses. This table identifies the maximum residential density allowed, required setback and yard standards, building height standards, site coverage standards and other requirements for the uses allowed within each zoning district. The standards adopted in this table apply to all lots, parcels, buildings, structures, and uses unless they are specifically exempted by other requirements of this Code.

| Development Standards | Zoning Districts | | | | |
|---------------------------------|------------------|---------|-------------------------|--------|----------|
| | GMU | LDR | MDR | HDR | C |
| Density Standards | | | | | |
| Average Lot Size | 5 acres | 5 acres | averaging not permitted | | see note |
| Minimum Lot Size, Well | 1 acre | 1 acre | 2.5 acres | 1 acre | |
| Minimum Lot Size, Central Water | 1 acre | 1 acre | 2.5 acres | 1 acre | |
| placeholder | | | | | |

| | | | | | |
|---|--------------------------|-----|-----|-----|----------|
| Maximum Lot Coverage | 20% | 20% | 30% | 40% | |
| Dimensional Standards, Principal Buildings | | | | | |
| Maximum Building Height | 30 ft | | | | |
| Minimum Front Yard | 30 ft. | | | | see note |
| Minimum Rear Yard | 30 ft. | | | | |
| Minimum Side Yard | 10 ft. | | | | |
| Dimensional Standards, Accessory Buildings | | | | | |
| Maximum Accessory Building Size | 1000 SF | | | | see note |
| Maximum Building Height | 30 ft | | | | |
| Minimum Front Yard | 30 ft. | | | | see note |
| Minimum Rear Yard | Must comply with the IBC | | | | |
| Minimum Side Yard | Must comply with the IBC | | | | |

D

Note: With the exception of building height, the dimensions of commercial development will usually be controlled by the need to comply with the standards of §153.415 or §153.430. Where compliance with those standards does not result in a larger setback or a lower lot coverage, commercial uses must comply with the standards established here for the LDR.

Replace the existing §153.119 (which was renumbered by the previous amendment) with the following.

§153.119 LOT SIZE AVERAGING.

This Code allows lot size averaging in new subdivisions or re-subdivisions in the GMU and LDR zoning districts to help implement the Town’s general plan and offer flexibility to landowners. An applicant may:

- (A) use the average lot size listed in the Table of Development Standards adopted in §153.118 above as a uniform minimum lot size, or
- (B) propose any combination of lot sizes that are larger than the applicable minimum lot size established by that Table and result in an average lot size no smaller than that required by the Table.
- (C) The bases for the lot size average calculation shall be the total area of the parcel or lot being divided on the date this section, §153.119, was adopted into the Boulder Town Code of Ordinances and the proposed number of building lots, not including areas separately demarked for common use or open space protection or rights-of-way, public or private.

- (D) Lot size averaging may be applied to any area of land only once.
- (E) In either case, all lots must comply with all requirements of this Code, and
- (F) the PC must find that the proposed lot layout is respectful of and compatible with the: (1) terrain, avoiding natural hazards while preserving agricultural opportunities, riparian areas and wetlands, views, and other natural assets; (2) safe, adequate access to each lot; and (3) neighboring uses.

Replace §153.416 in its entirety. Leave this number as a placeholder so that renumbering at the section level is not necessary.