# Recommended Ordinances for Town Council Prepared September 20, 2023

Transmittal Report by John Veranth and Tina Karlsson

At the September 14 meeting the Planning Commission voted unanimously to send two proposed land use ordinances to Town Council with the recommendation to schedule a public hearing and consider for approval vote at the October 5 meeting. These ordinances received no negative public comment at the Planning Commission hearing and the text has been carefully reviewed and edited based on feedback received.

The major changes resulting from the proposed ordinance and the reasons for recommending these changes are summarized in ordinary language below. The attached draft ordinances in official format have *additions to the current codified ordinance language underlined* and *deletions indicated by strikeout*.

## Ordinance to Improve Consistency in the Subdivision and Zoning Chapters

This ordinance, informally called “housekeeping,” makes changes to improve the clarity of the language, corrects situations where the codified ordinance text contains contradictory provisions, and removes provisions that are inconsistent with actual town practice. This ordinance does not contain any substantive land use policy changes.

The major changes to subdivision procedures are in Section 152.041, “Preliminary Subdivision Application.” The replacement text better describes the procedural steps and the information required to be shown on the plat. It eliminates language regarding “drawings prepared in pen” and “12 paper copies,” and other obsolete provisions. It fixes an item regarding private driveways and lot area that was intended for inclusion in Ordinance 2022-1.

The codified ordinances currently contain a direct contradiction in the allowed period of construction on infrastructure. The normal Boulder practice has been that construction takes place after preliminary application approval and before final plat approval. The contradictory wording has been corrected. In addition, the Planning Commission realized that a written development agreement between the town and the applicant has been implied by the ordinances for decades. A development agreement details the design specifications and construction schedule for all required subdivision infrastructure. Ordinance change regarding development agreements is not required at this time, but will be addressed as part of bringing our land use ordinances in compliance with the 2023 state law changes.

The language regarding construction timing also clarified situations where approval of the preliminary application would constitute final approval of the subdivision. This simplified process would apply to subdivisions creating only one new lot and not requiring any infrastructure improvements. An example is creating a new lot that has access to an existing street and is within the required distance from a fire hydrant.

Administrative clarifications are also made in this ordinance. It consolidates several references regarding the Town Council setting fees to cover the costs of review. References to building permits have been consolidated in the correct numbered section. The Zoning Administrator is now clearly responsible for preparing the application forms and instructions so that changes in administrative documents do not require amending the ordinances. Generic language “provided by the town” replaces specific references to documents being provided by specific town employees since the Town Clerk, the Planning Clerk, and the Zoning Administrator all do citizen contact. The definitions from Ordinance 2022-1 have been slightly reworded. The requirement to post notices in the newspaper has been deleted.

The codified ordinances include 10 flowchart figures that contain errors and are redundant with ordinance text. The figures will be removed but may still be used as informal educational instructions by the Zoning Administrator.

Major changes to the subdivision and zoning chapters are required by Utah state law (SB 174) by December 31, 2024. This is an interim action to address recent preliminary and conceptual subdivision applications and any additional applications in the next year.

The Boulder Planning Commission recommends Town Council approval of this proposed ordinance.

## Ordinance Changing Lot Size Requirements

This ordinance, informally called “lot averaging,” is intended to allow landowners more freedom to design proposed subdivisions in a way that considers infrastructure availability, access, terrain, and agricultural operations. The current subdivision standards in the GMU and LDR zones set a fixed minimum lot size of 5 acres. The proposal is to change this standard to an average of 1 building lot per 5 acres with a minimum lot size of 1 acre where averaging is taking place. This alternative provides many options to design a subdivision that makes sense for Boulder, does not increase the ultimate buildout housing density, and maintains the five-acre minimum in cases where a landowner does not utilize lot size averaging.

The current, inflexible provisions have forced landowners to propose subdivision layouts of five-acre rectangles, regardless of topographic features, and results in breaking up irrigated fields, in inordinately long driveways, and in other elements that are undesirable to the landowner and not consistent with Boulder’s General Plan goals. Under current standards a 20-acre agricultural parcel with a road on one side could only be divided into four rectangular lots of five acres each, with a long driveway and water line to the rear lots. Under the proposed standards the parcel could be divided many different ways. For example: 20 acres could be divided into four building lots of one acre each, located along a frontage street, plus dedicated open space / agricultural area of 16 acres. Areas designated on the plat for common use or open space protection are not counted as building lots because no dwellings are allowed. The averaging provisions will be permanently documented by showing the averaging calculation on the plat.

Allowing use of average lot size in place of a fixed minimum was strongly supported at the community housing forum because it would allow a landowner to create smaller, more affordable lots while still retaining ownership of productive irrigated land. Positive responses were received at the Planning Commission public hearing and from owners of parcels that could potentially benefit from this option.

The Boulder Planning Commission recommends Town Council approval of this proposed ordinance.