



Land Use

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BOULDER COUNTY BOARD OF COUNTY COMMISSIONERS

October 7, 2014 – 2:00 P.M.

Hearing Room, Third Floor
Boulder County Courthouse

PUBLIC HEARING

Docket DC-14-0004, Boulder County Land Use Code Text Amendments related to Article 19, Special Approval Procedures for Redevelopment and Hazard Mitigation Following Natural Disasters, and companion changes to Articles 4-400, 4-600, 4-800, 4-1000, the Boulder County Multimodal Transportation Standards, and other related sections of the Code as appropriate

Land Use Code text amendments to amend Article 19-200 (regulations addressing rebuilding and hazard mitigation of properties damaged or destroyed in the Front Range Flood); Article 4-400 (notification requirements for floodplain development permits); Article 4-800 (Site Plan Review standards related to hazard evaluation); Article 4-600 (Special Use criteria related to hazard evaluation); Article 4-1000 (nonconforming structures and uses); the Boulder County Multimodal Transportation Standards; and amendments to related sections of the Code as appropriate

*Staff: Cindy Pieropan, Flood Recovery Project Manager – Transportation Department;
Kim Sanchez, Planning Division Manager – Land Use Department*

SUMMARY

In October 2013, the Board of County Commissioners adopted new regulations in Article 19-200 of the Code in order to help govern and guide the reconstruction of destroyed or damaged structures in response to the Front Range Extreme Rain and Flood Event (September, 2013). As we are approaching the one year mark following the flood, staff is reviewing Boulder County's implemented regulations and policies related to recovery and rebuilding and has identified areas where these regulations, and other sections of the Land Use Code, may need adjustment or modification. On August 12, 2014, the Board authorized staff to pursue text amendments to deal with issues identified after one year's experience and to better prepare for any future events.

BACKGROUND

It is the County's aim to take every reasonable measure to lessen the catastrophic impacts of any natural disaster, to keep members of the public and their property safe from hazards, as well as to preserve the public's investment in critical infrastructure to the maximum extent practicable. As part of this effort, Boulder County will continue to strive for an appropriate balance between allowing flood-affected citizens to rebuild their homes, businesses, and lives, while assuring that future redevelopment is more resilient and significantly better fortified against natural hazards such

as flooding and flooding's associated forces like mudslides, landslides, debris flows, and erosion, as well as wildfire and other hazards.

The effort to further refine and address these risks and impacts is consistent with, and further implements, the goals and policies of the Boulder County Comprehensive Plan (BCCP). The Natural Hazards Element has several goals and policies supported by these proposed amendments. The following are stated goals of the BCCP:

L.1 Inappropriate development in natural hazard areas should be reduced as much as possible or eliminated in order to minimize potential harm to life, health and property.

L.2 Efforts to mitigate existing areas at risk to the impacts of natural hazards and disasters should be made to minimize the potential for harm to life, health, and property.

Particular Policies of the BCCP these actions help to achieve:

NH 1.03 The county should ensure to the extent possible that land use activities do not aggravate, accelerate, or increase the level of risk from natural hazards.

NH 1.03.01 Development activities should be designed to minimize alteration of the natural landform to the greatest extent possible, thus reducing slope instability and drainage problems.

NH 1.03.02 Areas (including any structures) around a proposed project should be protected from the potential adverse impacts caused by the project. These adverse impacts include, but are not limited to: a) disturbance of existing vegetation, which can lead to accelerated erosion and sedimentation; b) aggravation or acceleration of existing potential hazards (eg., rockfall, flooding, sediment accumulation, expansive soils)

NH 1.04 The level of risk from natural hazards should be reduced through positive county action such as guiding development away from areas prone to natural disturbances, mitigating existing development from hazards, and considering the impact on ability to provide emergency services.

NH 1.05 Upon county review of a new development proposal, all impacts and concerns should be considered, but safety and environmental concerns should take precedence over aesthetic concerns.

NH 2.01 Development in designated Geologic Hazard Areas (shown on the Geologic Hazard & Constraint Areas Map) should be discouraged. Development should only be allowed in these designated hazard areas when adequate mitigation or elimination of the potential hazards can be demonstrated.

NH 4.01 The county should strongly discourage and strictly control land use development from locating in designated floodplains, as identified in the Boulder County Zoning Maps.

This docket proposes amendments to Article 19 Procedures Following Disasters (first adopted in October 2010 following the Fourmile Canyon Fire, and subsequently amended in October 2013 to facilitate redevelopment after the September 2013 flood event), as well as various sections of Article 4 (namely 4-407 Floodplain Development Permit notice requirements during a declared

disaster, 4-601 Review Criteria related to hazards for Special Uses and Limited Impact Special Uses, and 4-806 Site Plan Review Standards related to hazards).

At this time, staff has drafted amendments to address the following issues:

- Add authority for the Land Use Director, Chief Building Official, and County Engineer to authorize temporary emergency procedures during a disaster
- Extend the period of time for Hazard Mitigation Review (HMR) approvals to remain in effect
- Extend the time period for nonconforming structures to rebuild
- Allow for administrative building lot recognitions in the HMR process
- Codify the Transportation Department's current policy regarding Flood Recovery Access Permits (FRAPs)
- Strengthen Hazard Mitigation Review, Site Plan Review, and Special Use review criteria to utilize information from developing studies, and mitigate hazards both on and off-site that could impact development
- Adjust the notification requirements for Floodplain Development Permits during a disaster
- Amend the Multimodal Transportation Standards to reference special access permits that may be issued during a disaster

As study of the September 2013 flood event proceeds, including of its causes and impacts and the community's response to its ravages, the Land Use Code and companion County regulations affecting land use and development undoubtedly will continue to require further adjustment in light of the developing facts, analysis, and conclusions.

DISCUSSION OF PROPOSED CHANGES

The full text of the proposed amendments can be found in Exhibit A. The discussion below will review and explain the proposed amendments section by section.

Changes to Art. 19/Hazard Mitigation Review, Site Plan Review, and Special Review Regulations

Article 19-200 (proposed to be renumbered Article 19-300), and the Hazard Mitigation Review process outlined in Subsection C of this Article, were intended as a first step in response to the September 2013 flood event. Land Use Code amendments to this Article and related sections of the Code are being proposed to address the issues identified thus far in applying these regulations over the eleven months following the flood.

Staff is proposing to allow certain temporary procedures that may be needed in the immediate and short-term periods post-event to be granted through authorization by the Land Use Director, Chief Building Official, or County Engineer. Amendments to the Purpose statement for Article 19 introduce this idea, and a new Section 19-100 outlines general procedures that may need to be implemented during an emergency including Damage Assessment, Development Suspension, Emergency Uses, Temporary Emergency Repair Permits, and Demolition, and Repair of Damaged Structures. These initial steps were very important following both the Fourmile Canyon Fire and the Front Range Extreme Rain and Flood Event (September, 2013), and staff recommends activating these emergency procedures should any future disaster occur.

The Hazard Mitigation Review (HMR) process substitutes for Site Plan Review in this current "interim" period while flood recovery is ongoing and studies regarding the county's new conditions are being conducted. HMR applies to structures that were damaged or destroyed by the September 2013 flood event and its forces. HMR approvals expire after one year, but the regulations currently allow for an extension for an additional year for good cause. Given there are still many unknowns

that may affect a property owner's timing to act on their HMR approval to rebuild (i.e., creek and road alignments, buy-out offers, etc.), staff is proposing to allow for HMR approvals to be extended for an undetermined amount of time depending on the particular circumstances.

A few clarifications are also proposed, including:

- Extend the time period for nonconforming structures to rebuild through September 30, 2016, which in essence means that a Variance is not needed to rebuild the same legally existing floor area in the setback that existed prior to the flood
- Allowing for the recognition of a legal building lot so long as there is not an increase in the allowable zoning density
- Referencing the nonconforming use and structure regulations (and retaining the existing process to request an extension to restore a damaged use pursuant to 4-1003.F)

Lastly, there are a number of ongoing studies that are taking place in the recovery phase, including hydrologic evaluations to determine peak flows, floodplain mapping studies, updated topographic data collection, and creek planning studies. The review criteria are being amended so staff can utilize information from developing studies; references to such information are being added to the HMR review criteria, as well as to the Special Use and Site Plan Review standards which evaluate the impacts of new uses or development. Additionally, staff finds it important to be able to identify and mitigate hazards that may exist both on and off-site that affect development on a subject parcel or the surrounding area.

Regulations Addressing Temporary Access Permitting

The Board of County Commissioners adopted Flood Recovery Access Permit (FRAP) policy as part of the emergency resolution, originally approved on October 29, 2013, to assist flood-affected residents in regaining access to their properties. The resolution expires at the end of September 2014, and, unless action is taken, the policy will sunset. As the policy is still necessary, the amendments proposed in this docket add the Flood Recovery Access Permit policy to the Land Use Code, ensuring the continued ability to use this temporary permit. The use of this permit will be limited to instances where:

- The final alignment and geometry of the connecting public road is uncertain, making it impossible for the County to provide the guidance an Applicant needs to construct a permanent access; or
- There is a funded plan, approved by the County or other appropriate jurisdiction, that includes alignment and geometric recommendations for the creek in question.

Nearly a year of experience implementing the policy and assisting residents in accessing properties has allowed staff to identify appropriate revisions to the policy. As a result, staff has modified the policy to improve existing processes, fill in procedural gaps and to ensure it is compatible with the requirements of federal programs that affect the County's flood recovery efforts.

Staff is proposing to amend Article 19 include the revised Flood Recovery Access Permit to the Land Use Code. This will allow the County to continue issuing this temporary permit in a limited manner and where it is appropriate.

Amendments to the Multimodal Transportation Standards (Section 2.3.3.2) are also proposed simply to reference these special access permits that may be issued during a disaster.

Changes Regarding Notification for Development in the Floodway

Following the major flood event of September 2013, staff has found it difficult to administer Article 4-400, section 4-407.D.1. which for **any** approved development in the floodway requires:

- 'notice' published in a newspaper and transmitted to property owners adjacent to the property,
- an opportunity for Board call-up at a public hearing, and
- that the permit not be effective until 14 days after permit issuance.

This provision is difficult to administer because of the emergency nature of post-disaster work which does not allow for a 14-day waiting period and because of the staff resources necessary to provide public notice for the extremely large number of floodway projects that occur post-flood.

Staff is proposing to add additional code section to 4-407.D to require that floodway permit applications during a declared local disaster be accompanied by public notice to adjacent property owners at the time of permit submittal instead of permit approval, and for the permit to be effective upon issuance. Staff also proposes to add a County Engineer waiver of notice requirements for emergency activities, minor disaster recovery repair work that does not cause a rise in the predicted 100-year water surface elevation, and for any development activities that take place entirely inside an existing building.

PUBLIC COMMENT

Staff referred to the Federal Emergency Management Agency (FEMA) and Colorado Water Conservation Board (CWCB) on September 10, 2014. FEMA responded with comments attached as Exhibit D. Generally, FEMA indicated they liked the County approach in adapting to the long term recovery needs and opportunities, but they recommended only allowing temporary activities for a maximum of six months (on a renewable basis). They also had some questions regarding how the County is tracking some of the information in the regulations, for which the County clarified we do have systems in place.

The proposed changes were emailed to the Land Use Code and flood listservs. Information related to this docket was also posted on the County's website:

www.bouldercounty.org/property/build/pages/lucodeupdatedc140004.aspx

One public comment was received and is attached as Exhibit E.

PLANNING COMMISSION PUBLIC HEARING

The Planning Commission reviewed the draft regulations at a public hearing on Wednesday, September 17, 2014. Planning Commission approved the docket and recommended approval to the Board of County Commissioners by a vote of 7-0, with the amended language in the addendum provided by staff prior to the hearing, which was based on feedback from FEMA regarding the timing of FRAP's. Some other minor clarifications were requested and have been made to this draft.

Two members of the public commented during the public hearing for the docket. Both had either questions or comments related to FRAP's.

CRITERIA REVIEW

No text amendment shall be adopted by the Board of County Commissioners unless the Board has Determined that:

1. the existing text is in need of the amendment;
2. the amendment is not contrary to the intent and purpose of this Code; and
3. the amendment is in accordance with the *Boulder County Comprehensive Plan*

The proposed changes were found to be necessary to address issues identified after one year's experience and to better prepare for any future events, and staff finds that the need for the amendments has been demonstrated. The amendments are not contrary to the intent and purpose of the Code, which generally are to rationally guide land development and protect the public health, safety, and welfare. The amendments retain all applicable land use review processes, except substitute the Hazard Mitigation Review process necessary to respond to the hazards created by or known from the Front Range Extreme Rain and Flood Event (September, 2013) and Flood Recovery Access Permitting process. The integrity of the Floodplain Overlay District review and compliance requirements, which are a necessary part of the County's continued participation in the National Flood Insurance Program, are embraced and maintained. Lastly, the amendments do not conflict with the Boulder County Comprehensive Plan, as the Comprehensive Plan urges caution when developing in areas that may be prone to natural hazards and also calls for protection of floodplains and flood-prone areas in the Natural Hazards Element.

Consequently, staff finds the criteria for text amendments in Article 16-100.B. of the Land Use Code are met.

RECOMMENDATION

STAFF RECOMMENDS THAT THE BOARD OF COUNTY COMMISSIONERS APPROVE Docket DC-14-0004: Authorization of Docket DC-14-0004, Boulder County Land Use Code Text Amendments related to Article 19, Special Approval Procedures for Redevelopment and Hazard Mitigation Following Natural Disasters, and companion changes to Articles 4-400, 4-600, 4-800, 4-1000, the Boulder County Multimodal Transportation Standards, and other related sections of the Code as appropriate.

Attachments

- Exhibit A Proposed Land Use Code Amendments
- Exhibit B Natural Hazard Element of the Boulder County Comprehensive Plan
(link: <http://www.bouldercounty.org/doc/landuse/bococompplan.pdf>)
- Exhibit C Boulder County Comprehensive Plan - Geologic Hazard and Constraint Map
(link: <http://www.bouldercounty.org/doc/landuse/bccpmapghca.pdf>)
- Exhibit D FEMA referral comments
- Exhibit E Public comment

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DOCKET DC-14-0004: PROPOSED TEXT AMENDMENTS TO ARTICLE 19, SPECIAL APPROVAL PROCEDURES FOR REDEVELOPMENT AND HAZARD MITIGATION FOLLOWING NATURAL DISASTERS, AND COMPANION CHANGES TO ARTICLES 4-400, 4-600, 4-800, 4-1000, THE BOULDER COUNTY MULTIMODAL TRANSPORTATION STANDARDS, AND OTHER RELATED SECTIONS OF THE CODE AS APPROPRIATE

Article 19 • ~~Special Approval Procedures for Redevelopment Following Natural Disasters~~

Purpose:

(Amend PURPOSE statement, as follows):

Boulder County is vulnerable to natural and human caused disasters that can damage property and cause injury or death, including wildfires, flood, hail storms, rock slides, blizzards, high winds, and tornadoes. Boulder County’s Land Use Code contains provisions for rebuilding structures damaged or destroyed by means outside the control of the property owner; however, specific disaster events may warrant modified permitting and approval procedures to allow property owners to rebuild in a timely, safe, and responsible manner while also encouraging reasonable improvements in redevelopment consistent with current regulations and the Comprehensive Plan.

In addition, to respond appropriately in a disaster emergency, extraordinary actions must be taken quickly and efficiently. Some actions must occur faster than previously established permit processing timelines allow. Some actions require uses not normally allowed in certain zones, or not allowed without discretionary review, or not allowed without certain public process.

This Article addresses disaster emergency response in two ways. First, Section 19-100 grants temporary authority to certain county staff, upon the declaration of a local, state, or federal disaster emergency affecting Boulder County. Second, sections 19-200 and 19-300 include regulations tied to specific disasters, namely the Fourmile Canyon Fire of September 2010 and the Front Range Extreme Flood and Rain Event of September 2013.

Exhibit A: Proposed Land Use Code Amendments

1 (Add a NEW ARTICLE 19-100 related to EMERGENCY PROCEDURES, as follows):

2 **19-100 Emergency Procedures and Permitting**

3 A. Duration – Upon the formal declaration of a local, state, or federal disaster emergency affecting
 4 Boulder County, the authority granted certain county staff by this section 19-100 is activated for
 5 six months, unless and until such authority is terminated, extended, or otherwise amended by the
 6 Board of County Commissioners.

7 B. Damage Assessment

8 1. If necessary, the County will conduct Damage Assessment pursuant to the Damage
 9 Assessment Annex to the Boulder County All Hazards Plan, as reflected by placards placed
 10 on structures classifying the nature of the damage to that structure.

11 2. Once a placard has been attached to a building, it shall not be removed, altered, or covered
 12 by anyone other than an authorized representative of the County or, in the alternative, without
 13 written consent by the County. Failure to comply with this prohibition may be considered a
 14 violation under the Boulder County Building Code or Articles 14 or 17 of the Land Use Code.

15 C. Development Suspension

16 1. The Land Use Director, County Engineer, or Chief Building Official shall have the authority to
 17 establish a moratorium on the issuance of permits they administer including but not limited to
 18 building permits, access permits, and acceptance of land use permit applications or other
 19 permit applications related to the use, development, and occupancy of private property
 20 authorized under the Land Use Code, adopted building codes, and related ordinances,
 21 provided that such action is reasonably justifiable to protect life and property and to conduct
 22 recovery activities in a prioritized and orderly fashion.

23 2. Any temporary cessation of land use permit applications will include applications currently
 24 under review governed by codified timeframes for that review (such as Site Plan Review).
 25 The review timeframe will be suspended from the date of the declared disaster and resume
 26 as soon as possible, but no later than the lifting of the Development Suspension.

27 3. Any Development Suspension is subject to the following:

28 a. Notice of the moratorium shall be posted in the usual place for posting Boulder County
 29 public notices and shall clearly identify the boundaries of the area in which the
 30 moratorium is in effect as well as the exact nature of the development permits temporarily
 31 held in abeyance.

32 b. Any moratorium imposed shall be subject to review by the Board of County
 33 Commissioners at the earliest possible time, but no later than 90 days after it begins, at
 34 which time the Board shall take action to terminate, extend, or otherwise modify such
 35 moratorium.

36 D. Special Authorization for Temporary Emergency Use

37 1. Notwithstanding the uses normally allowed within a particular zoning district, the Director,
 38 County Engineer, or Chief Building Official may authorize in any zoning district the temporary
 39 emergency use of property to aid in the immediate restoration of an area adversely impacted
 40 by a disaster, including without limitation:

41 a. Critical response facilities. Any police, fire, medical, or communications facility that will
 42 aid in the emergency recovery.

43 b. Critical infrastructure facilities. Any road, bridge, or other transportation facility, any water
 44 or sewer facility, or any natural gas or electric power or other public utility facility that will
 45 aid in emergency recovery.

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- 1 c. Temporary housing. Any temporary lodging set up for emergency personnel or shelters
 2 for disaster victims.
- 3 d. Debris collection and sort yards.
- 4 2. Any such special authorization must be made in writing and include findings that the
 5 proposed temporary use will not be detrimental to the immediate neighborhood, will not
 6 adversely affect the Comprehensive Plan, and will aid in the successful recovery of areas
 7 adversely impacted by the disaster. In making the determination, the Land Use Director,
 8 County Engineer, or Chief Building Official may require such information as they find
 9 necessary to determine the impacts of the proposed use, including without limitation the
 10 information listed in Land Use Code Section 3-100.D.1. Where necessary, conditions may be
 11 imposed on special authorizations to mitigate impacts.
- 12 E. Temporary Emergency Repair Permits
- 13 1. Immediately following a disaster, temporary emergency repairs to secure structures and
 14 protect property damaged in the disaster against further damage or to protect neighboring
 15 property may be made without permits. Work which constitutes “temporary emergency
 16 repairs” includes, without limitation, temporary roof repairs to prevent further water damage,
 17 temporary stabilization to shore up structures, temporary stabilization involving earthwork to
 18 avoid imminent collapse of structures or property, and temporary restoration of public
 19 recreational facilities such as trails and trailhead parking areas.
- 20 2. The Land Use Director must be notified of all such temporary emergency repairs within 10
 21 working days of the commencement of the repair work.
- 22 3. Permits may be required for permanent work. In particular, nothing in this section shall be
 23 construed to exempt property owners from complying with county floodplain regulations and
 24 any state or federal regulatory requirements such as U.S. Army Corps of Engineers permits.
- 25 F. Deconstruction/Demolition of Damaged Structures
- 26 1. Deconstruction permits are required for disaster recovery work, including
 27 deconstruction/demolition of damaged structures and certain debris removal work. The Chief
 28 Building Official may waive portions of the permitting requirements for such work, where
 29 appropriate in light of the nature of the disaster and the particular circumstances.
- 30 2. Where the need to address an immediate health and safety concern makes it unfeasible to
 31 obtain a deconstruction permit or a permit related to debris removal, property owners must
 32 contact the Chief Building Official to get verbal consent before commencing work. In
 33 addition, property owners must apply for the appropriate deconstruction and other permits
 34 within 72 hours of the commencement of the deconstruction or demolition.

35

36 **19-100200 Fourmile Canyon Fire (September, 2010)**37 *(Renumber this section and references to it throughout)*

38

39

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1 **19-~~200~~300 Front Range Extreme Rain and Flood Event (September,**
 2 **2013)**

3 *(Renumber this section and references to it throughout)*

4 *(No change to Subsection A)*

5

6 **B. General Duration and Applicability of Article 19-~~200~~300**

7 1. Subsection 4-802.B.3.a.'s six-month exemption period from Site Plan Review shall be deemed to have
 8 commenced on the effective date of these regulations (November 4, 2013), and shall continue until the
 9 Board determines the exemption period should be amended or terminated in light of ongoing response to
 10 the Extreme Rain and Flood Event ("the Post-Event Rebuilding Period").

11 2. During the Post-Event Rebuilding Period, this Article 19-~~200~~300 shall apply to any work for which a
 12 County building permit is required to rebuild or restore a legally existing structure damaged or destroyed
 13 by the 2013 Extreme Rain and Flood Event and its associated natural forces (unless the work is excluded
 14 from this Article 19-~~200~~300 under Subsection 6-C.2, below), and which the owner wishes to be exempt
 15 from Site Plan Review.

16 *(Add NEW #3)*

17 3. During the Post-Event Rebuilding Period, this Article 19-200300 shall apply to any work for which a
 18 County grading permit for earthwork between 50-500 cubic yards, and/or a floodplain development
 19 permit, is required to repair or restore property damaged by the 2013 Extreme Rain and Flood Event and
 20 its associated natural forces (unless the work is excluded from this Article 19-200300 under Subsection 6
 21 C.2, below), and which the owner wishes to be exempt from Site Plan Review.]

22

23 *(Reformat and add NEW provisions a.i and d.:)*

24 a. This Article 19-~~200~~300 may apply instead of Site Plan Review so long as the proposal is to
 25 rebuild or restore no more than the structure's original, legally preexisting floor area.

26 i. The applicability of Article 4-1002.D, which allows rebuilding of Nonconforming
 27 Structures, shall be extended through September 30, 2016.

28 b. The structure's location may be changed, provided the change in location significantly reduces
 29 the potential risks associated with future extreme rain and flood events or other known natural
 30 hazard areas or incidents (such as by moving the structure out of the mapped floodway or
 31 floodplain, or otherwise to a less hazardous location on the property).The relocation is subject to
 32 other provisions of this Code including but not limited to setback and floodplain requirements.

33 c. The structure's height must remain the same, unless the Director (under Subsection 43-9
 34 below) allows a reasonable height increase to accommodate a specific hazard mitigation
 35 requirement.

36 d. The Director must confirm that the subject property is a legal building lot. If the property is not a
 37 legal building lot due to a lot creation or boundary line adjustment that did not increase allowable
 38 zoning density, the Director may approve the lot subject to the applicable criteria of Section 9-102
 39 of this Code, without a subdivision exemption approval under Article 9-100. The Director may
 40 impose reasonable conditions in any such approval to allow the applicable criteria to be met. If
 41 the property is not a legal building lot due to a lot creation or boundary line adjustment that did
 42 increase allowable zoning density, then a subdivision exemption to recognize the lot under Article
 43 9-100 of this Code is required.

44 34. All requirements in Article 4-400 of this Code governing the Floodplain Overlay District shall continue
 45 to apply under this Article 19-~~200~~300, though Site Plan Review for a floodplain development permit (as

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1 otherwise required under Subsection 4-802.A.8. of this Code) shall not be necessary, so long as the
2 proposed work falls within the specifications of Subsection 2 and 3, above.

3 45. Legal structures proposed to be restored as provided in Subsection 2, above, are hereafter referred
4 to as “Eligible Structures.” Structures proposed for rebuilding or restoration that are not Eligible
5 Structures, shall be subject to the usual provisions of the Land Use Code, including the Nonconforming
6 regulations in Article 4-1000, which allow a damaged structure containing a nonconforming use to be
7 restored, and the nonconforming use to be reestablished within six months after the date on which the
8 nonconforming structure was damaged, unless that deadline is extended by the Board of County
9 Commissioners at a public hearing upon a showing of extraordinary circumstances by the property owner
10 or their agent; however, if the proposed work does not otherwise trigger Site Plan Review, and is not
11 excluded work under Subsection 6C.2, below, a Hazard Mitigation Review shall be performed under this
12 Article 19-~~200~~300.

13 C. Hazard Mitigation Review Process

14 *(Only the following provisions of Subsection C. are proposed to change:)*

15 5. Application for a HMR shall require ~~a pre-application conference (which in the discretion of the Director~~
16 ~~may be an on-site meeting), and an~~ application submittal, as set forth in Sections 4-803 and 4-804 of this
17 Code. The HMR application shall include information demonstrating that the Eligible Structure to be
18 rebuilt or restored is a legal structure that was damaged or destroyed by the 2013 Extreme Rain and
19 Flood Event or its associated physical forces, and must set forth specific information regarding the extent
20 of the damage which the Event caused to the Eligible Structure, to the subject property, to surrounding
21 properties and drainages, and to infrastructure serving the subject property. The Director may waive
22 application requirements deemed to be not relevant to evaluating the hazards related to any specific
23 proposal, and also may request additional information considered necessary to enable a thorough
24 evaluation of the application.

25 7. Once the Director receives the referral comments of the County Engineer and County Public Health,
26 and considers any other relevant information of record (including any additional information which the
27 Director discovers through the process is necessary and reasonable to request to complete the review),
28 the Director shall make a decision on the HMR application. The Director shall base the decision on the
29 following standards:

30 a. The proposal shall not pose or create a significant potential safety hazard when evaluated
31 against evidence of actual damage caused by the 2013 Extreme Rain and Flood Event (including
32 by the Event’s related hazardous forces such as flooding, debris flows, rockfalls, mudslides,
33 topographic changes or instability, drainage channel shifts, area drainage system impairments or
34 failures, and soil saturation) and best available information (including but not limited to hydrologic
35 evaluations to determine peak flows, floodplain mapping studies, Colorado Geologic Survey
36 landslide or earth/debris flow data, updated topographic data, and creek planning studies).
37 Potential safety hazards to ~~on~~ the Eligible Structure being restored, ~~on~~ the subject property, ~~on~~
38 surrounding properties, and ~~on~~ public and private infrastructure serving the subject property or
39 other affected infrastructure must be identified and avoided or satisfactorily mitigated. In
40 particular, development shall avoid natural hazards, including those on the subject property and
41 those originating off-site with a reasonable likelihood of affecting the subject property. Natural
42 hazards include, without limitation, expansive soils or claystone, subsiding soils, soil creep areas,
43 or questionable soils where the safe-sustaining power of the soils is in doubt; landslides,
44 mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding corridors, alluvial
45 fans, floodways, floodplains, and flood-prone areas; and avalanche corridors; all as identified in
46 the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the HMR
47 process using the best available information.

48 b. The proposal shall not alter historic drainage patterns and/or flow rates or shall include
49 acceptable mitigation measures to compensate for anticipated drainage impacts.

50 c. If the Eligible Structure’s location is proposed or required to be changed, the new location shall
51 significantly reduce the potential risks associated with future extreme rain or flood events as

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1 identified by the best available information (including but not limited to hydrologic evaluations to
 2 determine peak flows, floodplain mapping studies, Colorado Geologic Survey landslide or
 3 earth/debris flow data, updated topographic data, and creek planning studies), or other known
 4 natural hazard areas or incidents; shall not create an unreasonable risk with respect to other
 5 natural hazards such as wildfire, subsidence, or erosion; and shall not cause unreasonable harm
 6 to significant historic structures or sites, or to significant natural ecosystems and environmental
 7 resources including but not necessarily limited to natural areas and natural landmarks, prominent
 8 topographic features and excessively steep slopes, riparian corridors and wetland areas, and
 9 significant plant communities, wildlife habitat, and wildlife migration corridors, as identified on the
 10 Comprehensive Plan or through the HMR process.

11 d. If the Director finds that any of the foregoing standards conflict, the Director shall evaluate the
 12 applicability and importance of each of the conflicting standards under the facts of the specific
 13 HMR application, and make a reasonable attempt to balance the conflicting standards in reaching
 14 a decision, with appropriate priority being given to fulfilling the purposes of this Article 19-~~200~~300.

15 13. Any final HMR approval shall expire one calendar year after its date of issuance, unless within that
 16 year the applicant presents the Director with a written request for an extension. If a timely extension
 17 request is received, the Director may allow the HMR approval to ~~remain in effect for up to an additional~~
 18 ~~calendar year be extended,~~ upon a showing of good cause, and provided the circumstances surrounding
 19 the approval's issuance under this Article 19-~~200~~300 have not substantially changed.

20
 21 *(Add a NEW Subsection 19-300.D for FLOOD RECOVERY ACCESS PERMITS):*

22 19-300.D Flood Recovery Access Permit (FRAP)

23 1. Purpose, Application, and Duration

- 24 a. This Subsection 19-300.D. applies to the repair and restoration of accesses to private
 25 property that existed prior to the September 2013 flood in Boulder County and that
 26 were damaged as a result of that flood. The intent is to allow property owners to
 27 construct a temporary but safe access from public roads to private property as quickly
 28 as possible in locations where re-construction of a permanent access is not possible due
 29 to damaged waterways or public rights-of way. There may be circumstances where it is
 30 not possible to issue a FRAP.
- 31 b. The FRAP addresses access from maintained and unmaintained public roads, including
 32 access across regulated and unregulated waterways. Access from a private road or
 33 across a non-public easement is not addressed here, with the exception of crossing a
 34 regulated floodplain or major drainage.
- 35 c. The issuance of a FRAP is intended to recognize and accommodate the time needed to
 36 repair public infrastructure and regulated waterways following the September 2013
 37 flood while enabling property owners to regain access to their property. FRAPs are
 38 temporary permits for accesses which are unable to meet the requirements of
 39 subsections 3-100.B.1.a, 4-400, and 19-200.D.1 and Multi-Modal Transportation
 40 Standards subsections 2.3.3.2, 5.5, and 5.10 due to the unrepaired damage to adjacent
 41 waterways and public rights-of-way. All FRAPs shall have an expiration date of six
 42 months from issuance, which may be extended at the discretion of the County Engineer
 43 if the adjacent public infrastructure has not been repaired such that a permanent access
 44 may be constructed.

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- 1 d. FRAPs shall not be issued beyond September 30, 2016.
- 2 2. Eligibility for a New or Extended FRAP
- 3 a. An assessment of the access condition shall be performed by the Transportation
- 4 Department within 10 business days of a new FRAP or FRAP extension request.
- 5 b. At least one of the following criteria must be met to apply for a FRAP:
- 6 i. the connecting public road is in need of major repair and reconstruction such
- 7 that if a permanent private access were constructed, it would not be possible
- 8 for the County to guarantee that it would physically connect with the final
- 9 repaired or reconstructed public road; or
- 10 ii. there is an adopted public plan to adjust the course, size, or creek bed elevation
- 11 for the adjacent waterway with funding available to implement that plan.
- 12 c. An expiring FRAP for a temporary structure, built and installed per the issued FRAP, may
- 13 be extended consistent with 5(g) below, if:
- 14 (i) At least one of the conditions in 2(b) above are met, or
- 15 (ii) if the County Engineer determines both that the access does not or will not
- 16 create an immediate hazard and that a temporary solution is preferable because
- 17 there are unresolved issues such as waterway restoration and location,
- 18 availability of funding assistance, or other outstanding issues which may impact
- 19 the design and construction of a permanent solution.
- 20 3. Submittal Requirements for FRAP application
- 21 a. For an access that does not cross a waterway, the applicant must submit:
- 22 i. Description of damage to access;
- 23 ii. Verification of legal access; and
- 24 iii. Description of work and material to be used to repair or restore the access.
- 25 b. For a culvert installation, the applicant must submit:
- 26 i. Description of damage to culvert crossing;
- 27 ii. Verification of legal access;
- 28 iii. Culvert size, number and type;
- 29 iv. Storm size that installed culvert(s) shall accommodate;
- 30 v. Quantity and type of fill material; and
- 31 vi. Cross-section of location where culvert(s) shall be installed.
- 32 c. For the construction or repair of a bridge, the applicant must submit:
- 33 i. Description of damage to structure;
- 34 ii. Description of the size and materials of the pre-flood bridge;
- 35 iii. Verification of legal access;
- 36 iv. Hydraulic and hydrologic analysis provided by a licensed engineer;
- 37 v. Structure design provided by a licensed engineer; and
- 38 vi. Cross-section of location where bridge shall be installed.
- 39 4. FRAP Review Criteria

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- 1 a. The County Engineer will review and evaluate FRAP applications for compliance with the
2 following criteria and approve, conditionally approve, or deny the FRAP application as
3 appropriate.
- 4 i. Location. Accesses shall be located to align as close as possible with pre-flood
5 positions. Any change to an access location shall be based on the
6 recommendation by the inspector as determined during the initial assessment.
7 Location changes that reduce potential hazards or negative environmental
8 impacts may be permitted.
- 9 ii. Culvert and Structure Design.
- 10 1. An 18" (minimum) diameter culvert shall generally be required for
11 accesses that do not cross a regulated waterway for the purpose of
12 conveying storm drainage in the roadway consistent with the Boulder
13 County Multimodal Transportation Standards.
- 14 2. Where an access crosses a waterway, the crossing shall meet the
15 following criteria:
- 16 a. Where creek geometry allows, the capacity of a temporary
17 crossing structure or culvert may not be less than that of the
18 pre-flood structure;
- 19 b. Where a damaged or destroyed structure across a regulated
20 stream is replaced by a culvert, the culvert must be sized by the
21 County Engineer.
- 22 3. Based on data gathered by the inspector, the county shall perform the
23 calculations and provide culvert or structure design information to the
24 Applicant. The Applicant may retain a qualified, registered engineer to
25 design and size structures to access property, if desired, at his/her own
26 expense.
- 27 b. Risk to public health and safety. To the greatest extent possible, in the professional
28 judgment of the County Engineer, the temporary culvert or structure must:
- 29 i. Not be severely undersized;
- 30 ii. Be constructed so as to minimize the risk of dislodging or breaking apart and
31 entering the waterway during another high water event;
- 32 iii. Be constructed so as to minimize adverse effects on the efficiency of the
33 floodway, changes in the direction of flow, and increases in the base flood
34 elevations;
- 35 iv. Not threaten the integrity of adjacent or nearby public infrastructure during a
36 high water event;
- 37 v. Not increase the flood hazard risk on an insurable structure; and
- 38 vi. Not pose significant risks to nearby accesses serving multiple residences or
39 properties.
- 40 5. Conditions on FRAP Approvals

Docket DC-14-0004 – BOCC 10/7/2014**Exhibit A: Proposed Land Use Code Amendments**

- 1 a. Any project to restore an access onto county rights-of-way must obtain all applicable
2 local, state, and federal permits. Dependent upon the location and the specific nature
3 of the activity or structure to be installed, building, grading, and floodplain development
4 permits may be required in addition to a FRAP.
- 5 b. As applicable, the County Engineer may condition FRAP approval on compliance with
6 design requirements, including without limitation:
- 7 i. Site specific findings of the County inspector based on his or her assessment;
8 ii. Structure design requirements determined by the County or by a licensed civil
9 or structural engineer in the State of Colorado; and
- 10 iii. Other access design conditions such as drainage, sight distance, and geometric
11 needs.
- 12 c. The County Engineer will inspect completed temporary accesses upon notification by
13 the Applicant or upon determination that an inspection is needed. This inspection shall
14 ensure compliance with county requirements. Any work or material which does not
15 conform to the conditions made as part of the issued permits shall be brought to the
16 attention of the Applicant for immediate correction.
- 17 d. Once construction is complete and approved, the County Engineer will provide a final
18 signed FRAP as proof of approval.
- 19 e. The Applicant shall be responsible for maintaining temporary accesses. Where
20 applicable, the County Engineer may condition FRAP approval on restoration of the
21 right-of-way once the FRAP has expired.
- 22 f. In the event the County realigns or widens the road in a manner that necessitates the
23 removal or relocation of a temporary access or temporary work done by the property
24 owner in the public right-of-way, the removal or relocation shall be at the Applicant's
25 expense upon written notification by the County. The relocation or removal must be
26 completed within 60 days after notification, unless the County Engineer in his sole
27 discretion grants additional time. (As a separate matter, where the County requires
28 new property rights to relocate a right-of-way or other transportation facility, the
29 County will acquire such rights using standard procedures for determining
30 compensation.)
- 31 g. Prior to the date of expiration noted on the FRAP approval, the County Engineer will
32 review the condition of the adjacent waterway, applicable state and federal regulatory
33 requirements, and public rights-of-way to determine if a permanent access may be
34 permitted. Upon application to and recommendation by the County Engineer, and
35 based upon best available information at the time, the FRAP may be extended for up to
36 six months at a time, for a combined total of no more than three years.
- 37 6. Permanent Access
- 38 a. Prior to the expiration of a FRAP or notification by the County that a permanent access
39 may be permitted, whichever occurs first, FRAP recipients shall either (i) submit the
40 appropriate applications to verify that the temporary access meets the criteria for a
41 permanent access, or (ii) commence design and construction of a permanent access.

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- 1 b. Prior to approval of a permanent access application, applicants with a substantially
2 damaged dwelling in the floodplain must demonstrate that (i) the repaired or
3 reconstructed building can comply with all county regulations, including those governing
4 the floodplain, and (ii) a compliant onsite wastewater system is in place or is in the
5 process of being repaired or replaced.
- 6 c. All permanent accesses must comply with Boulder County regulations including without
7 limitation the Boulder County Land Use Code (including the floodplain regulations), the
8 Boulder County Multimodal Transportation Standards, the Boulder County Building
9 Code, and the Boulder County Storm Drainage Criteria Manual, as applicable.
- 10 d. Construction of a permanent access shall be completed within 6 months of whichever of
11 the following occurs first: (i) the date the FRAP expires, (ii) the date the County notifies
12 the property owner that a permanent access may be permitted, or (iii) the date of the
13 sale of the property, per property transfer regulations adopted by the Board of County
14 Commissioners under separate cover.
- 15 e. The County Engineer may provide an extension to the deadline to construct a
16 permanent access upon finding in writing that there are design or other physical,
17 regulatory, or programmatic constraints or opportunities beyond the Applicant's control
18 which prevent completion of the construction of an approved permanent access and the
19 Applicant has been working in good faith to design and construct a permanent access
20 within the required timeframes set out in these regulations.
- 21 7. Removal of Unsafe Culverts and Structures
- 22 a. Where the Extreme Rain and Flood Event damaged a property access point, the
23 property owner must undertake one of the following actions:
- 24 i. Make permanent repairs to the access by obtaining all required permits
25 ii. Make temporary repairs to the access by obtaining a FRAP and, as soon as
26 possible thereafter, make permanent repairs by obtaining all required permits
27 iii. Safely deconstruct the access point and remove all materials and debris from
28 the floodplain, creek channel, and public right-of-way, as applicable.
- 29 b. Temporary culverts and structures must be removed at the property owner's expense
30 within 14 days after written notification by the County that the culvert or structure
31 poses a risk to public health and safety. Removal or replacement shall be required if, in
32 the judgment of the County Engineer, the culvert or structure:
- 33 i. Does not comply with the Culvert and Structure Design requirements identified
34 in the FRAP Review Criteria above;
- 35 ii. Is currently an obstruction in the waterway as determined by the County
36 Engineer or the Office of Emergency Management;
- 37 iii. Is constructed so as to be at risk of dislodging or breaking apart and entering the
38 waterway during another high water event;
- 39 iv. Is severely undersized;
- 40 v. Threatens the integrity of adjacent or nearby public infrastructure during a high
41 water event;

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- 1 vi. Increases the flood hazard risk on an insurable structure;
- 2 vii. Creates a risk to nearby accesses serving multiple residences or properties; or
- 3 viii. Presents additional risks or hazards not specified here in the professional
- 4 judgment of the County Engineer, including situations where the County has
- 5 previously issued a FRAP, and the County Engineer has received new
- 6 information indicating the structure is a risk to public health and safety.
- 7 c. Any culvert or structure damaged in Extreme Rain and Flood Event and subsequently
- 8 deemed a risk to public health and safety by the County Engineer and not timely abated
- 9 by the property owner is subject to enforcement under the Multimodal Transportation
- 10 Standards or the Land Use Code, as appropriate.

11

~~D-E~~. Applicability of Other Regulations; Enforcement

(Renumber this Subsection)

14

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Docket DC-14-0004 – BOCC 10/7/2014**Exhibit A: Proposed Land Use Code Amendments**1 **4-400 Floodplain Overlay District**2 **4-407 Floodplain Development Permit**3 *(Add NEW provisions 4-407.D. 2 and 3, as follows):*4 **D. Board of Commissioners Review**5 1. In the event that the County Engineer determines that a floodplain development permit application for
6 any development in the floodway meets the applicable standards for approval, the permit will not be
7 effective until 14 days after the date of permit issuance.

8 a. At the time of permit approval, the County Engineer shall do the following:

9 (i) within seven days, publish a public notice of the proposed use and the permit issuance in a newspaper
10 of general circulation in Boulder County;

11 (ii) shall transmit a copy of the notice to property owners adjacent to the property in question; and

12 (iii) forward to the Board of County Commissioners a written statement which shall include (1) the location
13 and a description of the proposed use under the permit; (2) the reasons for approval of the permit; and (3)
14 any conditions the County Engineer placed on the issuance of the permit.15 b. Upon receiving the Director's statement, and before the effective date of the permit, the Board may call
16 the permit up for review at a public hearing.

17 (i) This hearing shall constitute a revocation of the permit.

18 (ii) At the public hearing, the Board shall consider evidence related to the permit which may be presented
19 by the County Engineer, the applicant, or interested members of the public.20 (iii) The Board shall determine whether the application meets the requirements of this article, and if it so
21 finds, shall issue the permit, with such conditions as the deemed appropriate.

22

23 **2. During a declared local disaster emergency, for development in the floodway:**24 **a. At the time of floodplain development permit application submittal, the County Engineer**
25 **shall transmit a notice of the proposed use to, at a minimum, property owners adjacent to the**
26 **property in question.**27 **b. The permit will be effective on the date of permit issuance.**28 **3. The County Engineer may waive any or all requirements listed in 4.407.D.1. and 4.407.D.2 for the**
29 **following floodway development:**30 **a. Emergency activities required for the immediate protection of life, safety, or property, or**
31 **to restore essential public services,**32 **b. Minor disaster recovery repair work that does not cause a rise in predicted 100-year**
33 **water surface elevation as determined by a licensed engineer, and**34 **c. Any development activities that take place entirely inside an existing building,**

35

1 4-600 Uses Permitted by Special Review and Limited Impact Special
2 Review

3 4-601 Review Criteria

4 A. A use will be permitted by Special Review or Limited Impact Special Review only if the Board finds that
5 the proposed use meets the following criteria as applicable:

6 *(ADD a NEW criterion 12):*

7 12. The use will not result in unreasonable risk of harm to people or property – both onsite and in the
8 surrounding area – from natural hazards. Development or activity associated with the use must avoid
9 natural hazards, including those on the subject property and those originating off-site with a reasonable
10 likelihood of affecting the subject property. Natural hazards include, without limitation, expansive soils or
11 claystone, subsiding soils, soil creep areas, or questionable soils where the safe-sustaining power of the
12 soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding
13 corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and avalanche corridors; all as
14 identified in the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the Special
15 Review or Limited Impact Special Review process using the best available information. Best available
16 information includes, without limitation, updated topographic or geologic data, Colorado Geologic Survey
17 landslide or earth/debris flow data, interim floodplain mapping data, and creek planning studies.

18 *(AMEND 4-601.B as follows):*

19 B. If the proposed use is approved or conditionally approved, the Board may impose such conditions and
20 safeguards to insure compliance with the requirements, standards, and conditions of this Section 4-600.
21 Where development or activity associated with the proposed use cannot completely avoid one or more
22 natural hazard, whether because no other site on the subject property can be reasonably designated or
23 developed for the use or because the proposed site is the best location due to the need to avoid or
24 minimize significant adverse impacts under other applicable review criteria, the use may be
25 conditionally approved only if one or more measures will satisfactorily mitigate all significant natural
26 hazard risk posed by the proposed use to the subject property and to the surrounding area. The
27 violation of any condition, safeguard, or commitment of record shall be sufficient grounds for revocation of
28 the Special Review approval by the Board, after a public hearing held in accordance with provisions of
29 Paragraph 3-205(C).

30

Docket DC-14-0004 – BOCC 10/7/2014**Exhibit A: Proposed Land Use Code Amendments**1 **4-800 Site Plan Review**2 **4-806 Site Plan Review Standards**

3 A. All Site Plan Review applications shall be reviewed in accordance with the following standards which
 4 the Director has determined to be applicable based on the nature and extent of the proposed
 5 development. When two or more of the standards listed below conflict, the Director shall evaluate the
 6 applicability and importance of each of the conflicting standards under the facts of the specific application
 7 and make a reasonable attempt to balance the conflicting standards in reaching a site plan decision.

8 *(Only the following standards of Subsection 4-806.A. are proposed to change:)*

9 *(Consolidate Stds. 4 and 8.)*

10 ~~4. Plans for the proposed development have satisfactorily mitigated any geologic hazards, such as~~
 11 ~~expansive soils, subsiding soils, questionable soils where the safe sustaining power of the soils is in~~
 12 ~~doubt, or contaminated soils, landslides, unstable slopes, rockfalls, and avalanche corridors, as identified~~
 13 ~~in the Comprehensive Plan, or through the Site Plan Review process. The proposed development shall~~
 14 ~~avoid natural hazards, including those on the subject property and those originating off-site with a~~
 15 ~~reasonable likelihood of affecting the subject property. Natural hazards include, without limitation,~~
 16 ~~expansive soils or claystone, subsiding soils, soil creep areas, or questionable soils where the safe-~~
 17 ~~sustaining power of the soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes,~~
 18 ~~and rockfalls; flash flooding corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and~~
 19 ~~avalanche corridors. Natural hazards may be identified in the Comprehensive Plan Geologic Hazard and~~
 20 ~~Constraint Areas Map or through the Site Plan Review process using the best available information. Best~~
 21 ~~available information includes, without limitation, updated topographic or geologic data, Colorado~~
 22 ~~Geologic Survey landslide or earth/debris flow data, interim floodplain mapping data, and creek planning~~
 23 ~~studies. Development within or affecting such natural hazards may be approved, subject to acceptable~~
 24 ~~measures that will satisfactorily mitigate all significant hazard risk posed by the proposed development to~~
 25 ~~the subject property and surrounding area, only if there is no way to avoid one or more hazards, no other~~
 26 ~~sites on the subject property can be reasonably developed, or if reasonably necessary to avoid significant~~
 27 ~~adverse impacts based upon other applicable Site Plan Review criteria.~~

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29 6. The proposed development shall not alter historic drainage patterns and/or flow rates or shall include
 30 acceptable mitigation measures to compensate for anticipated drainage impacts. The best available
 31 information should be used to evaluate these impacts, including but not limited to hydrologic evaluations
 32 to determine peak flows, floodplain mapping studies, updated topographic data, Colorado Geologic
 33 Survey landslide, earth/debris flow data, and creek planning studies.

34

35 ~~8. The development shall avoid flash flood corridors, alluvial fans, floodplains, and unique geologic,~~
 36 ~~geomorphic, paleontological, or pedologic features, as identified in the Comprehensive Plan or through~~
 37 ~~the Site Plan Review process. Development within or affecting such hazards may be approved, subject to~~
 38 ~~acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject~~
 39 ~~property can be reasonably developed, or only if reasonable necessary to avoid significant adverse~~
 40 ~~impacts based upon other applicable Site Plan Review criteria.~~

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Docket DC-14-0004 – BOCC 10/7/2014**Exhibit A: Proposed Land Use Code Amendments**

1 (*Amend BOULDER COUNTY MULTIMODAL TRANSPORTATION STANDARDS, as follows*):

2 2.3.3.2 *Access Permits*

3 The County regulates access to the right-of-way through the access permit process to maintain
4 safe traffic flow; to maintain road drainage facilities; and to protect the functional level of the
5 County's roads. Pursuant to state statute no person shall construct any driveway providing
6 vehicular access to or from any County right-of-way without an Access Permit. Requirements for
7 access permits are found in Boulder County Access Permit Requirements as adopted under
8 separate cover. Note: Special access permits may be available for a limited period following a
9 local disaster emergency. Refer to Article 19 of the Land Use Code. For access design standards,
10 refer to Sections 5.4 and 5.5. Pursuant to the provisions of Section 4-1200 of the Land Use Code,
11 any person aggrieved by an inability to obtain an Access Permit may appeal to the Boulder
12 County Board of Adjustment.

13



Boulder County Comprehensive Plan

NATURAL HAZARDS

Goals, Policies, & Maps Element

Natural hazards are those natural events which may result in a threat to human life, or which endanger the works of man. Although termed “natural” hazards, it is important to note that such occurrences are often induced by people, and by definition, would not exist if not for the presence of past actions of people.

Policies and implementation measures established in this element of the comprehensive plan are directed at 1) avoiding the placement of people and structures where these natural events occur and 2) mitigating existing areas at risk; thereby minimizing the future loss of life, property and resource damage in the county resulting from natural disasters and hazards. Through the enacting of measures contained in the natural hazards element, all planning and development decisions will come to be made upon conscious determination of the level of risk entailed. This will necessitate that accurate information on all known hazards be available to decision makers, and that the location, density or intensity of development will be limited by the degree of natural hazard present, or conditioned upon mitigation of the hazard.

The purpose of the Natural Hazards Element is to avoid or reduce risk to an acceptable level.

Minimizing risk is an essential focus of public safety planning. Every land use or public facility action taken by local government should be based on a recognition that some risk exists. The level of risk involved then becomes critical in determining when government involvement becomes necessary or desirable. When the level of risk is unacceptable, government action may be necessary to protect citizens and property. If it is not necessary to take a risk because individual or public goals can be achieved at the same time, or with less total cost by other means, without taking the risk, then the risk involved is avoidable.

The **purpose** of the Natural Hazards Element is to avoid or reduce risk to an acceptable level which balances the cost of incorporating safety measures in planning and development actions with the benefit of protecting life and property. “Acceptable risk” is the level of hazard below which no specific action by local government is deemed necessary, other than making the risk known. It is the standard around which this element is designed. Land use and public facility actions taken by the county are presumed

AMENDMENT STATUS

Goals & Policies	Associated Maps	Background Element
Created 10/18/95	N/A	Created 10/18/95



to be based on a finding that the risk involved does not exceed any acceptable level.

A philosophical question which often results from discussions of planning for public safety is one of: “How much should a person be protected from his/her own actions?” It is perhaps reasonable to conclude that an individual does not warrant special protection from his or her own personal foolishness or ignorance. Unfortunately, personal safety issues often become public safety issues where natural hazards are concerned. For instance, it may appear to be appropriate to allow a person to build a home in a known floodway, assuming that the person is only threatening himself/herself. In reality, however, such a person may quickly sell the house to some unsuspecting person who inherits the risk. If the house is destroyed and its parts wash away, they may increase the hazards downstream by creating a dam at a bridge or other bottleneck. If the house is not destroyed, it may have the effect of raising the water levels elsewhere. Additionally, flood insurance is publicly subsidized, and measures to protect the public investment are in the best interest of all.

Planning for public safety is based upon various assumptions and probabilities. Terms like “100-year flood or 100-year storm” are used to describe the probability of such a storm or flood happening with a one percent chance of such an occurrence in any given year. Considering the uncertainties associated with natural events, it is apparent that virtually all of the hazards listed in this element may occur at any time. Some are likely to occur during certain seasons, and some will occur only at very infrequent intervals (earthquakes). Still, there is always a certain amount of risk associated with developments of any kind.

This element discusses the various natural hazards which warrant concern in

Boulder County. It attempts to indicate the relative severity of risk associated with each type of hazard, and it points out the need for cautious decision-making which assures that acceptable risk will be used as the basic standard against which all projects will be evaluated. Decision makers may be forced to utilize incomplete data at times, acting on projects without having detailed information on certain types of natural hazards. This is unavoidable, to a certain extent, pending the completion of more detailed research. Such research may never provide all the information needed though, and decision makers are forced to use the best information available, combined with common sense, to determine whether any given project remains within the realm of acceptable risk. It should be noted one of the goals of the natural hazards element indicates that the term “risk” relates to threats to either life or property. The finding that the level of risk associated with a given project is acceptable or unacceptable may be somewhat of a subjective evaluation of the decision makers. This may be true for all types of hazards other than flood hazards where federal flood insurance regulations limit the amount of discretion available to the county.

The Natural Hazards Element is directly related to plan elements dealing with land use, environmental quality, and resource management. Its relationship to the *Land Use Code* and county building codes is critical; these codes should include measures to reduce the effects of natural hazards. This element is also related to the environmental resources, economy, transportation, open space, recreation, solid waste, and public facilities and services portions of the comprehensive plan, in that the policies and strategies proposed (or the mitigating measures not taken) will have an impact upon land and financial resources with the county.

The Natural Hazards Element includes policies pertaining to the types of natural hazards of concern in Boulder County.

● **Issues and Concerns**

With tens of thousands of people moving to Colorado each year, building in the once inaccessible mountain areas and on lands once used for agriculture have become a growing concern.

Most of Boulder County is vulnerable to some form of natural disturbance.

Recent disaster events have focused increased attention at both local and state government levels on the need to mitigate such events where possible and to prepare to cope with them when unavoidable.

Natural Hazards Goals

B.2 Air, water and noise pollution and overall environmental degradation should be reduced as much as possible or eliminated in order to prevent potential harm to life, health and property.

L.1 Inappropriate development in natural hazard areas should be reduced as much as possible or eliminated in order to minimize potential harm to life, health and property.

L.2 Efforts to mitigate existing areas at risk to the impacts of natural hazards and disasters should be made to minimize the potential for harm to life, health, and property.

Policies

● **General**

NH 1.01 The total economic, environmental and social costs associated with natural hazards should be reduced first, by avoiding potential hazard situations/areas; second, by applying environmentally appropriate mitigation in areas that cannot be avoided;

and, third, by prevention measures accompanied with education and incentives for mitigation.

NH 1.02 Natural hazards potentially affecting the county should continue to be identified and made known to the public and public officials. The county should promote a high level of public awareness about the risks of these identified hazards which may impact people, property, and the environment. The county should be an informational resource to Boulder County citizens on issues and data related to natural hazards.

NH 1.03 The county should ensure to the extent possible that land use activities do not aggravate, accelerate, or increase the level of risk from natural hazards.

NH 1.03.01 Development activities should be designed to minimize alteration of the natural landform to the greatest extent possible, thus reducing slope instability and drainage problems.

NH 1.03.02 Areas (including any structures) around a proposed project should be protected from the potential adverse impacts caused by the project. These adverse impacts include, but are not limited to:
 a) disturbance of existing vegetation, which can lead to accelerated erosion and sedimentation;
 b) aggravation or acceleration of existing

Development should be guided away from areas prone to natural hazards.

<p>Geologic hazard & constraint policies can be found in this element as well as the Geology Element.</p>		<p>potential hazards (eg., rockfall, flooding, sediment accumulation, expansive soils)</p>	<p>tion of the potential hazards can be demonstrated.</p>
	<p>NH 1.04 The level of risk from natural hazards should be reduced through positive county action such as guiding development away from areas prone to natural disturbances, mitigating existing development from hazards, and considering the impact on ability to provide emergency services.</p>	<p>NH 2.01.01 (Also Policy GE 1.01) The county shall strongly discourage intensive uses in Major Hazard Areas as identified in the Geologic Hazard & Constraint Areas Map.</p>	
	<p>NH 1.05 Upon county review of a new development proposal, all impacts and concerns should be considered, but safety and environmental concerns should take precedence over aesthetic concerns.</p>	<p>NH 2.01.02 (Also Policy GE 1.02) The county shall discourage intensive uses in Moderate Hazard Areas as identified in the Geologic Hazard & Constraint Areas Map.</p>	
	<p>NH 1.06 Recognizing that natural hazards cross jurisdictional boundaries, planning efforts should be promoted that foster cooperation and coordination among agencies and organizations involved in the mitigation of the risks associated with the hazards.</p>	<p>NH 2.01.03 (Also Policy GE 1.03) Where in the public interest it may be desirable to permit intensive uses, the county shall direct such uses toward Geologic Constraint Areas rather than toward Geologic Hazard Areas as identified in the Geologic Hazard & Constraint Areas Map.</p>	
	<p>● Specific Hazards</p> <p>Geologic Hazards and Constraints</p> <p>For definitions and text discussion on geologic hazards, refer to the <i>Boulder County Comprehensive Plan</i> Geologic Element.</p>		
	<p>NH 2.01 Development in designated Geologic Hazard Areas (shown on the Geologic Hazard & Constraint Areas Map) should be discouraged. Development should only be allowed in these designated hazard areas when adequate mitigation or elimina-</p>	<p>NH 2.01.04 (Also Policy GE 1.05) The county shall require the evaluation of all geologic hazards and constraints where such hazards or constraints may exist in unincorporated areas of the county as related to new intensive uses. Such evaluations shall be conducted by either a member of the American Institute of Professional Geologists, a member of the Associa-</p>	

tion of Engineering Geologists, an individual registered as a geologist by a state, or a “professional geologist” as defined in C.R.S. 34-1-201(3). Such evaluations should incorporate analytical methods representing current, generally accepted, professional principles and practice.

NH 4.03 Critical facilities (schools, churches, hospitals, and other facilities as defined by the Federal Emergency Management Agency, FEMA) should be sited outside the delineated floodplain areas.

NH 4.04 The county, either individually or in partnership with others, should examine alternatives for acquiring and/or relocating existing structures prone to flooding.

Erosion

NH 3.01 Erosion from development and other land use activities should be minimized, and disturbed or exposed areas should be promptly restored to a stable, natural, and/or vegetated condition using native plants and natural materials.

NH 4.05 The county should continue to develop and refine the county-wide Pre-Disaster Flood Mitigation Plan.

NH 4.06 The county will continue to participate and implement the Community Rating System program as part of the National Flood Insurance Program (NFIP).

NH 3.02 Drainage from development or any alterations to historic drainage patterns shall not increase erosion either on site or on adjacent properties.

Wildfire

NH 5.01 The county recognizes the wildland urban interface as an area particularly at risk to wildland fires or wildfires.

County policies & regulations strongly discourage development in designated floodplains.

Flooding

NH 4.01 The county should strongly discourage and strictly control land use development from locating in designated floodplains, as identified in the *Boulder County Zoning Maps*.

NH 5.02 Fire should be recognized as a natural and/or human-caused occurrence with certain benefits to the ecosystem. The county should strive towards balancing the natural processes of the ecosystem with development concerns so that residents may co-exist in a fire-dependent ecosystem.

NH 4.02 The county should strongly discourage and strictly control land use development from locating in areas below dams, spillways, and levees that would require the State Engineer to upgrade the classification of these structures.

NH. 5.03 Development/site plan reviews in areas identified to be at risk of wildfires should address site location, building construction and design, landscaping/defensible space/fuel management, access and water availability.

Forest land ecosystem management can reduce wildfire hazards.

These factors should be analyzed from the standpoint that wildfires may present a hazard to development and/or development may present an ignition hazard to the forest.

- NH 5.04 Boulder County should continue to encourage interjurisdictional and interagency cooperation to further the goals of protection of life and property from wildfires. The Boulder County Wildfire Mitigation Group should continue to work cooperatively to develop and implement programs to reduce the hazard of wildfire. This should include the following subject areas: public education and awareness, fuel reduction and prescribed burn programs, ecosystem/vegetation management, Wildfire Hazard Identification and Mitigation System, (WHIMS), codes and regulations, and pre-suppression.
- NH 5.05 Boulder County should be surveyed and mapped to locate the extent of wildfire hazards and areas at risk using the Wildfire Hazard Identification and Mitigation System (WHIMS).
- NH 5.06 Accepted methods of forest land ecosystem management should be used to reduce all severe wildfire hazard areas to a low or moderate rating, particularly in those areas inhabited with human development as defined by WHIMS.
- NH 5.07 The county should encourage private and public landowners to manage their forests to preserve the forests' ecosystem processes by developing and maintaining a diversity of species, ages, and stand densi-

ties to serve as a natural deterrent to pest and fire outbreaks. The county should implement measures to guard against the danger of fire in developments within and adjacent to forests or grasslands.

- NH 5.08 The county should continue to work in partnership with the local fire protection districts and departments in improving fire protection services to address the increasing concerns of wildfire and the increase in development in the mountainous areas of the county.

Radiation

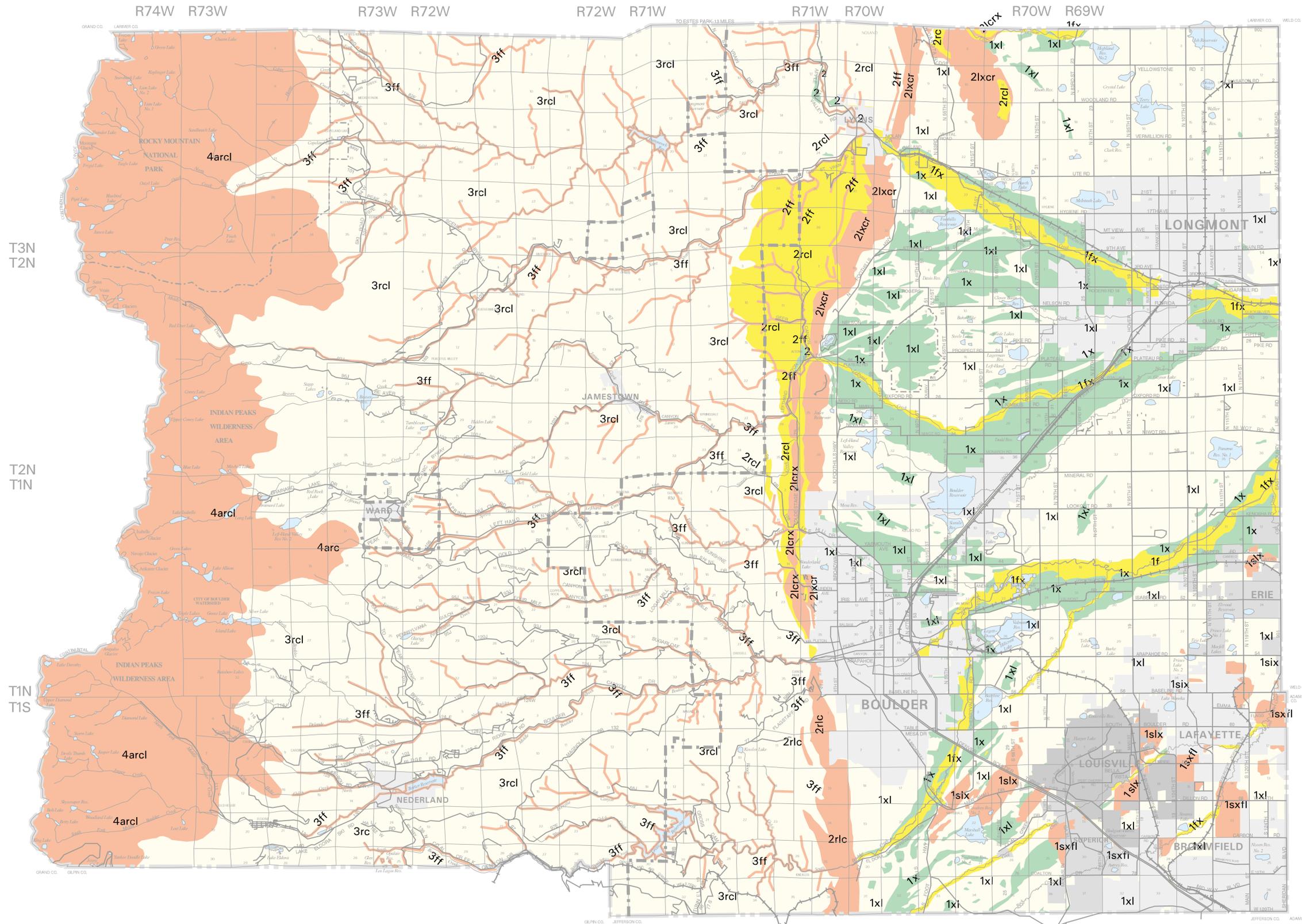
- NH 6.01 Existing structures and new construction in areas which have been identified as having high levels of natural radioactivity shall be mitigated through the use of building codes and techniques.

Seismicity

- NH 7.01 Efforts should be made to keep apprised of new siting and building standards that are predicated on potential impacts from seismic events such as earthquakes.

Extreme Weather Conditions

- NH 8.01 Efforts should be made to keep apprised of new siting and building standards that are predicated on potential impacts from extreme weather conditions such as high winds, heavy snows/hail, lightning, and occasional and irregular temperature extremes.



Legend

**RELATIVE GEOTECHNICAL RATING:
GEOLOGIC HAZARD AREAS**

- Major**
Extensive Problems
High Risk
- Moderate**
Significant Problems
Provisional Risk

GEOLOGIC CONSTRAINT AREAS

- Moderate**
Significant Problems
Provisional Risk
- Minor**
Few Problems
Nominal Risk
- Incorporated Areas
(As of April 20, 1999)

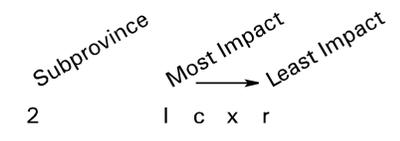
MAP SYMBOL DEFINITIONS

- First Number Indicates Subprovince
 1 Piedmont
 2 Foothills
 3 Montane
 4 Alpine

Subsequent Placed Letters Indicate Geologic Hazard or Constraint in Order of Impact
(See Example Given)

- a Snow Avalanche
- c Soil Creep
- f Flooding
- ff Flash Flooding Corridors and Associated alluvial (Debris) Fans
- l Landslides, Mudslides, Mudfalls, Debris Fans
- r Rockfalls, Rock Avalanches
- s Subsidence (Abandoned Coal Mines)
- x Expansive Soil or Claystone

EXAMPLE:



Notes

Refer to the Colorado Inactive Mine Reclamation Plan completed in February, 1982 by the State of Colorado Department of Natural Resources, Mined Land Reclamation Division, for additional information on sites of environmental hazards resulting from past metal and coal mining activity. (Planning Commission - November 10, 1982, Board of County Commissioners - December 20, 1982).

Map scale and reproduction method limit precision in physical features and boundary locations.
PRINTED - APRIL 22, 1999

Revisions

- Adopted - Planning Commission - March 22, 1978
- Approved - County Commissioners - April 6, 1978

0 1 2 3 4 5
MILES

**COMPREHENSIVE
PLAN MAP**

Geologic Hazard & Constraint Areas

From: Gease, Michael <Michael.Gease@fema.dhs.gov>
Sent: Monday, September 15, 2014 10:54 AM
To: Sanchez, Kimberly
Subject: Comments on DC-14-0004
Attachments: DC-14-0004_ 9 17 2014mkgedits.docx

Hi Kim. Attached please find my comments. I do like the County approach in adapting to the long term recovery needs and opportunities, but I recommend basically changing text to only allow temporary activities for a maximum of six months (renewable), and more cross references and documentation. I know the attached may be in advance of more formal comments, but I wanted to ensure on your tight deadline that you had my input. Thanks for the opportunity to comment. Michael

Michael K. Gease, CFM

Natural Hazards Program Specialist

FEMA Region VIII, Mitigation Division

Desk 303-235-4814

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Exhibit A: Proposed Land Use Code Amendments

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DOCKET DC-14-0004: PROPOSED TEXT AMENDMENTS TO ARTICLE 19, SPECIAL APPROVAL PROCEDURES FOR REDEVELOPMENT AND HAZARD MITIGATION FOLLOWING NATURAL DISASTERS, AND COMPANION CHANGES TO ARTICLES 4-400, 4-600, 4-800, 4-1000, THE BOULDER COUNTY MULTIMODAL TRANSPORTATION STANDARDS, AND OTHER RELATED SECTIONS OF THE CODE AS APPROPRIATE

Article 19 • Special Approval Procedures for Redevelopment Following Natural Disasters

Purpose:

(Amend PURPOSE statement, as follows):

Boulder County is vulnerable to natural and human caused disasters that can damage property and cause injury or death, including wildfires, flood, hail storms, rock slides, blizzards, high winds, and tornadoes. Boulder County's Land Use Code contains provisions for rebuilding structures damaged or destroyed by means outside the control of the property owner; however, specific disaster events may warrant modified permitting and approval procedures to allow property owners to rebuild in a timely, safe, and responsible manner while also encouraging reasonable improvements in redevelopment consistent with current regulations and the Comprehensive Plan.

In addition, to respond appropriately in a disaster emergency, extraordinary actions must be taken quickly and efficiently. Some actions must occur faster than previously established permit processing timelines allow. Some actions require uses not normally allowed in certain zones, or not allowed without discretionary review, or not allowed without certain public process.

This Article addresses disaster emergency response in two ways. First, Section 19-100 grants temporary authority to certain county staff, upon the declaration of a local, state, or federal disaster emergency affecting Boulder County. Second, sections 19-200 and 19-300 include regulations tied to specific disasters, namely the Fourmile Canyon Fire of September 2010 and the Front Range Extreme Flood and Rain Event of September 2013.

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(Add a NEW ARTICLE 19-100 related to EMERGENCY PROCEDURES, as follows):

19-100 Emergency Procedures and Permitting

- A. Duration – Upon the formal declaration of a local, state, or federal disaster emergency affecting Boulder County, the authority granted certain county staff by this section 19-100 is activated for six months, unless and until such authority is terminated, extended, or otherwise amended by the Board of County Commissioners.
- B. Damage Assessment
1. If necessary, the County will conduct Damage Assessment pursuant to the Damage Assessment Annex to the Boulder County All Hazards Plan, as reflected by placards placed on structures classifying the nature of the damage to that structure.
 2. Once a placard has been attached to a building, it shall not be removed, altered, or covered by anyone other than an authorized representative of the County or, in the alternative, without written consent by the County. Failure to comply with this prohibition may be considered a violation under the Boulder County Building Code or Articles 14 or 17 of the Land Use Code.
- C. Development Suspension
1. The Land Use Director, County Engineer, or Chief Building Official shall have the authority to establish a moratorium on the issuance of building permits, access permits, acceptance of land use permit applications or other permit applications related to the use, development, and occupancy of private property authorized under the Land Use Code, adopted building codes and related ordinances, provided that such action is reasonably justifiable to protect life and property and to conduct recovery activities in a prioritized and orderly fashion.
 2. Any temporary cessation of land use permit applications will include applications currently under review governed by codified timeframes for that review (such as Site Plan Review). The review timeframe will be suspended from the date of the declared disaster and resume as soon as possible, but no later than the lifting of the Development Suspension.
 3. Any Development Suspension is subject to the following:
 - a. Notice of the moratorium shall be posted in the usual place for posting Boulder County public notices and shall clearly identify the boundaries of the area in which the moratorium is in effect as well as the exact nature of the development permits temporarily held in abeyance.
 - b. Any moratorium imposed shall be subject to review by the Board of County Commissioners at the earliest possible time, but no later than 90 days after it begins, at which time the Board shall take action to terminate, extend, or otherwise modify such moratorium.
- D. Special Authorization for Temporary Emergency Use
1. Notwithstanding the uses normally allowed within a particular zoning district, the Director, County Engineer, or Chief Building Official may authorize in any zoning district the temporary emergency use of property to aid in the immediate restoration of an area adversely impacted by a disaster, including without limitation:
 - a. Critical response facilities. Any police, fire, medical, or communications facility that will aid in the emergency recovery.
 - b. Critical infrastructure facilities. Any road, bridge, or other transportation facility, any water or sewer facility, or any natural gas or electric power or other public utility facility that will aid in emergency recovery.
 - c. Temporary housing. Any temporary lodging set up for emergency personnel or shelters for disaster victims.

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- 1 d. Debris collection and sort yards.
- 2 2. Any such special authorization must be made in writing and include findings that the
3 proposed temporary use will not be detrimental to the immediate neighborhood, will not
4 adversely affect the Comprehensive Plan, and will aid in the successful recovery of areas
5 adversely impacted by the disaster. In making the determination, the Land Use Director,
6 County Engineer, or Chief Building Official may require such information as they find
7 necessary to determine the impacts of the proposed use, including without limitation the
8 information listed in Land Use Code Section 3-100.D.1. Where necessary, conditions may be
9 imposed on special authorizations to mitigate impacts.
- 10 E. Temporary Emergency Repair Permits
- 11 1. Immediately following a disaster, the Land Use Director may authorize certain temporary
12 emergency repairs to secure structures and
13 protect property damaged in the disaster against further damage or to protect neighboring
14 property may be made without permits. Work which constitutes “temporary emergency
15 repairs” includes, without limitation, temporary roof repairs to prevent further water damage,
16 temporary stabilization to shore up structures, temporary stabilization involving earthwork to
17 avoid imminent collapse of structures or property, and temporary restoration of public
18 recreational facilities such as trails and trailhead parking areas.
- 19 2. The Land Use Director must be notified of all such temporary emergency repairs within 10
20 working days of the commencement of the repair work.
- 21 3. Permits may be required for permanent work. In particular, nothing in this section shall be
22 construed to exempt property owners from complying with county floodplain regulations and
23 any state or federal regulatory requirements such as U.S. Army Corps of Engineers permits.
- 24 F. Deconstruction/Demolition of Damaged Structures
- 25 1. Deconstruction permits are required for disaster recovery work, including
26 deconstruction/demolition of damaged structures and certain debris removal work. The Chief
27 Building Official may waive portions of the permitting requirements for such work, where
28 appropriate in light of the nature of the disaster and the particular circumstances.
- 29 2. Where the need to address an immediate health and safety concern makes it unfeasible to
30 obtain a deconstruction permit or a permit related to debris removal, property owners must
31 contact the Chief Building Official to get verbal consent before commencing work. In
32 addition, property owners must apply for the appropriate deconstruction and other permits
33 within 72 hours of the commencement of the deconstruction or demolition.

Comment [mkg1]: How will this be tracked?

Comment [mkg2]: Cite criteria including 4-400 and 4-407

Comment [mkg3]: How will records be kept to track for any subsequent permanent work?

34 **19-400200 Fourmile Canyon Fire (September, 2010)**

35 *(Renumber this section and references to it throughout)*

36

37

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1 ~~19-200300~~ Front Range Extreme Rain and Flood Event (September,
 2 2013)

3 *(Renumber this section and references to it throughout)*

4 *(No change to Subsection A)*

5
 6 B. General Duration and Applicability of Article 19-~~200300~~

7 1. Subsection 4-802.B.3.a.'s six-month exemption period from Site Plan Review shall be deemed to have
 8 commenced on the effective date of these regulations (November 4, 2013), and shall continue until the
 9 Board determines the exemption period should be amended or terminated in light of ongoing response to
 10 the Extreme Rain and Flood Event ("the Post-Event Rebuilding Period").

11 2. During the Post-Event Rebuilding Period, this Article 19-~~200300~~ shall apply to any work for which a
 12 County building permit is required to rebuild or restore a legally existing structure damaged or destroyed
 13 by the 2013 Extreme Rain and Flood Event and its associated natural forces (unless the work is excluded
 14 from this Article 19-~~200300~~ under Subsection ~~6-C.2~~, below), and which the owner wishes to be exempt
 15 from Site Plan Review.

16 *(Reformat and add NEW provisions a.i and d.):*

17 a. This Article 19-~~200300~~ may apply instead of Site Plan Review so long as the proposal is to
 18 rebuild or restore no more than the structure's original, legally preexisting floor area.

19 i. The applicability of Article 4-1002.D, which allows rebuilding of Nonconforming
 20 Structures, shall be extended through September 30, 2016.

21 b. The structure's location may be changed, provided the change in location significantly reduces
 22 the potential risks associated with future extreme rain and flood events or other known natural
 23 hazard areas or incidents (such as by moving the structure out of the mapped floodway or
 24 floodplain, or otherwise to a less hazardous location on the property). The relocation is subject to
 25 other provisions of this Code including but not limited to setback and floodplain requirements.

26 c. The structure's height must remain the same, unless the Director (under Subsection ~~4-9~~
 27 below) allows a reasonable height increase to accommodate a specific hazard mitigation
 28 requirement.

29 d. The Director must confirm that the subject property is a legal building lot. If the property is not a
 30 legal building lot due to a lot creation or boundary line adjustment that did not increase allowable
 31 zoning density, the Director may approve the lot subject to the applicable criteria of Section 9-102
 32 of this Code, without a subdivision exemption approval under Article 9-100. The Director may
 33 impose reasonable conditions in any such approval to allow the applicable criteria to be met. If
 34 the property is not a legal building lot due to a lot creation or boundary line adjustment that did
 35 increase allowable zoning density, then a subdivision exemption to recognize the lot under Article
 36 9-100 of this Code is required.

37 3. All requirements in Article 4-400 of this Code governing the Floodplain Overlay District shall continue to
 38 apply under this Article 19-~~200300~~, though Site Plan Review for a floodplain development permit (as
 39 otherwise required under Subsection 4-802.A.8. of this Code) shall not be necessary, so long as the
 40 proposed work falls within the specifications of Subsection 2, above.

41 4. Legal structures proposed to be restored as provided in Subsection 2, above, are hereafter referred to
 42 as "Eligible Structures." Structures proposed for rebuilding or restoration that are not Eligible Structures,
 43 shall be subject to the usual provisions of the Land Use Code, including the Nonconforming regulations in
 44 Article 4-1000; however, if the proposed work does not otherwise trigger Site Plan Review, and is not
 45 excluded work under Subsection ~~6C.2~~, below, a Hazard Mitigation Review shall be performed under this
 46 Article 19-~~200300~~.

Comment [mkg4]: Don't you need a site plan review to determine whether it is substantially damaged, or a combination of damage repair and improvements, which would kick in specific standards for elevating (residential) or floodproofing or elevating (non-residential)

Comment [mkg5]: Cite criteria including 4-400

Comment [mkg6]: See comment above at B.2 how would the process include a substantial damage determination?

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1 C. Hazard Mitigation Review Process

2 *(Only the following provisions of Subsection C. are proposed to change:)*

3 5. Application for a HMR shall require ~~a pre-application conference (which in the discretion of the Director~~
4 ~~may be an on-site meeting), and~~ an application submittal, as set forth in Sections ~~4-803 and~~ 4-804 of this
5 Code. The HMR application shall include information demonstrating that the Eligible Structure to be
6 rebuilt or restored is a legal structure that was damaged or destroyed by the 2013 Extreme Rain and
7 Flood Event or its associated physical forces, and must set forth specific information regarding the extent
8 of the damage which the Event caused to the Eligible Structure, to the subject property, to surrounding
9 properties and drainages, and to infrastructure serving the subject property. The Director may waive
10 application requirements deemed to be not relevant to evaluating the hazards related to any specific
11 proposal, and also may request additional information considered necessary to enable a thorough
12 evaluation of the application.

13 7. Once the Director receives the referral comments of the County Engineer and County Public Health,
14 and considers any other relevant information of record (including any additional information which the
15 Director discovers through the process is necessary and reasonable to request to complete the review),
16 the Director shall make a decision on the HMR application. The Director shall base the decision on the
17 following standards:

18 a. The proposal shall not pose or create a significant potential safety hazard when evaluated
19 against evidence of actual damage caused by the 2013 Extreme Rain and Flood Event (including
20 by the Event's related hazardous forces such as flooding, debris flows, rockfalls, mudslides,
21 topographic changes or instability, drainage channel shifts, area drainage system impairments or
22 failures, and soil saturation) and best available information (including but not limited to hydrologic
23 evaluations to determine peak flows, floodplain mapping studies, Colorado Geologic Survey
24 landslide or earth/debris flow data, updated topographic data, and creek planning studies).
25 Potential safety hazards to ~~on~~ the Eligible Structure being restored, ~~on~~ the subject property, ~~on~~
26 surrounding properties, and ~~on~~ public and private infrastructure serving the subject property or
27 other affected infrastructure must be identified and avoided or satisfactorily mitigated. In
28 particular, development shall avoid natural hazards, including those on the subject property and
29 those originating off-site with a reasonable likelihood of affecting the subject property. Natural
30 hazards include, without limitation, expansive soils or claystone, subsiding soils, soil creep areas,
31 or questionable soils where the safe-sustaining power of the soils is in doubt; landslides,
32 mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding corridors, alluvial
33 fans, floodways, floodplains, and flood-prone areas; and avalanche corridors, as identified in the
34 Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the HMR process
35 using the best available information.

36 b. The proposal shall not alter historic drainage patterns and/or flow rates or shall include
37 acceptable mitigation measures to compensate for anticipated drainage impacts.

38 c. If the Eligible Structure's location is proposed or required to be changed, the new location shall
39 significantly reduce the potential risks associated with future extreme rain or flood events as
40 identified by the best available information (including but not limited to hydrologic evaluations to
41 determine peak flows, floodplain mapping studies, Colorado Geologic Survey landslide or
42 earth/debris flow data, updated topographic data, and creek planning studies), or other known
43 natural hazard areas or incidents; shall not create an unreasonable risk with respect to other
44 natural hazards such as wildfire, subsidence, or erosion; and shall not cause unreasonable harm
45 to significant historic structures or sites, or to significant natural ecosystems and environmental
46 resources including but not necessarily limited to natural areas and natural landmarks, prominent
47 topographic features and excessively steep slopes, riparian corridors and wetland areas, and
48 significant plant communities, wildlife habitat, and wildlife migration corridors, as identified on the
49 Comprehensive Plan or through the HMR process.

50 d. If the Director finds that any of the foregoing standards conflict, the Director shall evaluate the
51 applicability and importance of each of the conflicting standards under the facts of the specific

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1 HMR application, and make a reasonable attempt to balance the conflicting standards in reaching
 2 a decision, with appropriate priority being given to fulfilling the purposes of this Article 19-~~200~~300.

3 13. Any final HMR approval shall expire one calendar year after its date of issuance, unless within that
 4 year the applicant presents the Director with a written request for an extension. If a timely extension
 5 request is received, the Director may allow the HMR approval to ~~remain in effect for up to an additional~~
 6 ~~calendar year be extended~~, upon a showing of good cause, and provided the circumstances surrounding
 7 the approval's issuance under this Article 19-~~200~~300 have not substantially changed.

8

9 (Add a NEW Subsection 19-300.D for FLOOD RECOVERY ACCESS PERMITS):

10 **19-300.D Flood Recovery Access Permit (FRAP)**

11 1. Purpose, Application, and Duration

- 12 a. This Subsection 19-300.D. applies to the repair and restoration of accesses to private
 13 property that existed prior to the September 2013 flood in Boulder County and that
 14 were damaged as a result of that flood. The intent is to allow property owners to
 15 construct a temporary but safe access from public roads to private property as quickly
 16 as possible in locations where re-construction of a permanent access is not possible due
 17 to damaged waterways or public rights-of way. There may be circumstances where it is
 18 not possible to issue a FRAP.
- 19 b. The FRAP addresses access from maintained and unmaintained public roads, including
 20 access across regulated and unregulated waterways. Access from a private road or
 21 across a non-public easement is not addressed here, with the exception of crossing a
 22 regulated floodplain or major drainage.
- 23 c. The issuance of a FRAP is intended to recognize and accommodate the time needed to
 24 repair public infrastructure and regulated waterways following the September 2013
 25 flood while enabling property owners to regain access to their property. FRAPs are
 26 intended to be temporary permits for accesses which are unable to meet the
 27 requirements of subsections 3-100.B.1.a, 4-400, and 19-200.D.1 and Multi-Modal
 28 Transportation Standards subsections 2.3.3.2, 5.5, and 5.10 due to the unrepaired
 29 damage to adjacent waterways and public rights-of-way. All FRAPs shall have an
 30 expiration date of a maximum of six months from issuance, which may be extended at the
 31 discretion of the County Engineer if the
 32 adjacent public infrastructure has not been repaired such that a permanent access may
 33 be constructed. Property owners are responsible for obtaining a permanent access
 34 permit and constructing the permanent access as soon as it is possible to do so and prior
 35 to the expiration of the FRAP.
- 36 d. FRAPs shall not be issued beyond September 30, 2016.

37 2. Eligibility for a FRAP

- 38 a. An assessment of the access condition shall be performed by the Transportation
 39 Department within 10 business days of a FRAP request.
- 40 b. At least one of the following criteria must be met to apply for a FRAP: (i) the connecting
 41 public road is in need of major repair and reconstruction such that if a permanent
private access were constructed, it would not be possible for the County to guarantee

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1 that it would physically connect with the final repaired or reconstructed public road; (ii)
 2 there is an adopted public plan to adjust the course, size, or creek bed elevation for the
 3 adjacent waterway with funding available to implement that plan.

4 3. Submittal Requirements for FRAP application

5 a. For an access that does not cross a waterway, the applicant must submit:

- 6 i. Description of damage to access;
 7 ii. Verification of legal access; and
 8 iii. Description of work and material to be used to repair or restore the access.

9 b. For a culvert installation, the applicant must submit:

- 10 i. Description of damage to culvert crossing;
 11 ii. Verification of legal access;
 12 iii. Culvert size, number and type;
 13 iv. Storm size that installed culvert(s) shall accommodate; and
 14 v. Quantity and type of fill material.
 15 vi. Cross-section of location where culvert(s) shall be installed.

16 c. For the construction or repair of a bridge, the applicant must submit:

- 17 i. Description of damage to structure;
 18 ii. Description of the size and materials of the pre-flood bridge;
 19 iii. Verification of legal access;
 20 iv. Hydraulic and hydrologic analysis provided by a licensed engineer;
 21 v. Structure design provided by a licensed engineer; and
 22 vi. Cross-section of location where bridge shall be installed.

23 4. FRAP Review Criteria

24 a. The County Engineer will review and evaluate FRAP applications for compliance with the
 25 following criteria and approve, conditionally approve, or deny the FRAP application as
 26 appropriate.

- 27 i. Location. Accesses shall be located to align as close as possible with pre-flood
 28 positions. Any change to an access location shall be based on the
 29 recommendation by the inspector as determined during the initial assessment.
 30 Location changes that reduce potential hazards or negative environmental
 31 impacts may be permitted.

32 ii. Culvert and Structure Design.

- 33 1. An 18" (minimum) diameter culvert shall generally be required for
 34 accesses that do not cross a regulated waterway for the purpose of
 35 conveying storm drainage in the roadway consistent with the Boulder
 36 County Multimodal Transportation Standards.
 37 2. Where an access crosses a waterway, the crossing shall meet the
 38 following criteria:
 39 a. Where creek geometry allows, the capacity of a temporary
 40 crossing structure or culvert may not be less than that of the
 41 pre-flood structure;

Comment [mkg7]: For culverts there may need to be a hydrologic and hydraulic analysis performed if in regulatory floodway and channel

Comment [mkg8]: Is this inspection conducted a PE or engineering technician? Change in location, size, etc. could trigger need for an engineering analysis if it becomes permanent work.

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- 1 b. Where a damaged or destroyed structure across a regulated
 2 stream is replaced by a culvert, the culvert must be sized by the
 3 County Engineer.
- 4 3. Based on data gathered by the inspector, the county shall perform the
 5 calculations and provide culvert or structure design information to the
 6 Applicant. The Applicant may retain a qualified, registered engineer to
 7 design and size structures to access property, if desired, at his/her own
 8 expense.
- 9 b. Risk to public health and safety. To the greatest extent possible, the temporary culvert
 10 or structure must:
- 11 i. Not be severely undersized;
 12 ii. Be constructed so as to minimize the risk of dislodging or breaking apart and
 13 entering the waterway during another high water event;
 14 iii. Be constructed so as to minimize adverse effects on the efficiency of the
 15 floodway, changes in the direction of flow, and increases in the base flood
 16 elevations;
 17 iv. Not threaten the integrity of adjacent or nearby public infrastructure during a
 18 high water event;
 19 v. Not increase the flood hazard risk on an insurable structure; and
 20 vi. Not pose significant risks to nearby accesses serving multiple residences or
 21 properties.
- 22 5. Conditions on FRAP Approvals
- 23 a. Any project to restore an access onto county rights-of-way must obtain all applicable
 24 local, state, and federal permits. Dependent upon the location and the specific nature
 25 of the activity or structure to be installed, county building, grading, and floodplain
 26 development permits may be required in addition to a FRAP.
- 27 b. As applicable, the County Engineer may condition FRAP approval on compliance with
 28 design requirements, including without limitation:
- 29 i. Site specific findings of the inspector based on his or her assessment;
 30 ii. Structure design requirements determined the County or by a qualified,
 31 registered civil or structural engineer in the State of Colorado; and
 32 iii. Other access design conditions such as drainage, sight distance, and geometric
 33 needs.
- 34 c. The County Engineer will inspect completed temporary accesses upon notification by
 35 the Applicant or upon determination that an inspection is needed. This inspection shall
 36 ensure compliance with county requirements. Any work or material which does not
 37 conform to the conditions made as part of the issued permits shall be brought to the
 38 attention of the Applicant for immediate correction.
- 39 d. Once construction is complete and approved, the County Engineer will provide a final
 40 signed FRAP as proof of approval.

Comment [mkg9]: Using what criteria?

Comment [mkg10]: By what criteria would this be determined?

Comment [mkg11]: What technical standards protect the County from liability?

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- 1 e. The Applicant shall be responsible for maintaining temporary accesses. Where
- 2 applicable, the County Engineer may condition FRAP approval on restoration of the
- 3 right-of-way once the FRAP has expired.
- 4 f. In the event the County realigns or widens the road in a manner that necessitates the
- 5 removal or relocation of a temporary access or appurtenant facilities associated with
- 6 the property, the relocation or removal shall be at the Applicant’s expense upon written
- 7 notification by the County. The relocation or removal must be completed within 60
- 8 days after notification, unless the County Engineer in its sole discretion grants additional
- 9 time. (As a separate matter, where the County requires new property rights to relocate
- 10 a right-of-way or other transportation facility, the County will acquire such rights using
- 11 standard procedures for determining compensation.)
- 12 g. Prior to the date of expiration noted on the FRAP approval, the County Engineer will
- 13 review the condition of the adjacent waterway and public rights-of-way to determine if
- 14 a permanent access may be permitted. Upon application to and recommendation by
- 15 the County Engineer, and based upon best available information at the time, the FRAP
- 16 may be extended for **no more than three years.**

17 6. Permanent Access

- 18 a. Prior to the expiration of a FRAP or notification by the County that a permanent access
- 19 may be permitted, whichever occurs first, FRAP recipients shall either (i) submit the
- 20 appropriate applications to verify that the temporary access meets the criteria for a
- 21 permanent access, or (ii) commence design and construction of a permanent access.
- 22 b. Prior to approval of a permanent access application, applicants with a substantially
- 23 damaged dwelling in the floodplain must demonstrate that (i) the repaired or
- 24 reconstructed building can comply with all county regulations, including those governing
- 25 the floodplain, and (ii) a compliant onsite wastewater system is in place or is in the
- 26 process of being repaired or replaced.
- 27 c. All permanent accesses must comply with Boulder County regulations including the
- 28 Boulder County Land Use Code (including the floodplain **regulations**), the Boulder
- 29 County Multimodal Transportation Standards, and the Boulder County Storm Drainage
- 30 Criteria Manual.
- 31 d. Construction of a permanent access shall be completed within 6 months of the following
- 32 dates: (i) the expiration date of the FRAP or the date of notification from the County
- 33 that a permanent access may be permitted, whichever is earliest; or (ii) **sale of the**
- 34 **property.**
- 35 e. The County Engineer may provide a single three-month extension to the deadline to
- 36 construct a permanent access upon finding in writing that there are design or other
- 37 physical constraints beyond the Applicant’s control which prevent completion of the
- 38 construction of an approved permanent access and the Applicant has been working in
- 39 good faith to design and construct a permanent access within the required timeframes
- 40 set out in these regulations.

41 7. Removal of Unsafe Culverts and Structures

Comment [mkg12]: FEMA would only support a maximum of six months total as a temporary measure. There would be a need to go to permanent design after six months.

Comment [mkg13]: Cross reference the criteria here e.g., 4-400

Comment [mkg14]: How will this be enforced? How will this be binding on the property buyer?

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- 1 a. Where the Front Range Extreme Rain and Flood Event damaged a property access point,
- 2 the property owner must undertake one of the following actions:
- 3 i. Make permanent repairs to the access by obtaining all required permits
- 4 ii. Make temporary repairs to the access by obtaining a FRAP and, as soon as
- 5 possible thereafter, make permanent repairs by obtaining all required permits
- 6 iii. Safely deconstruct the access point and remove all materials and debris from
- 7 the floodplain, creek channel or public right-of-way.
- 8 b. Temporary culverts and structures must be removed at the property owner’s expense
- 9 within 14 days after written notification by the County that the culvert or structure
- 10 poses a risk to public health and safety. Removal or replacement shall be required if, in
- 11 the judgment of the County Engineer, the culvert or structure:
- 12 i. Does not comply with the Culvert and Structure Design requirements identified
- 13 in the FRAP Review Criteria above;
- 14 ii. Is currently an obstruction in the waterway as determined by the County
- 15 Engineer or the Office of Emergency Management;
- 16 iii. Is constructed so as to be at risk of dislodging or breaking apart and entering the
- 17 waterway during another high water event;
- 18 iv. Is severely undersized;
- 19 v. Threatens the integrity of adjacent or nearby public infrastructure during a high
- 20 water event;
- 21 vi. Increases the flood hazard risk on an insurable structure;
- 22 vii. Creates a risk to nearby accesses serving multiple residences or properties; or
- 23 viii. Presents additional risks or hazards not specified here in the professional
- 24 judgment of the County Engineer.
- 25 c. Any culvert or structure damaged in Front Range Extreme Rain and Flood Event and
- 26 subsequently deemed a risk to public health and safety by the County Engineer not
- 27 timely abated by the property owner will be enforced under the Multimodal
- 28 Transportation Standards or the Land Use Code, as appropriate.

Comment [mkg15]: A Conditional Letter of Map revision would be necessary to demonstrate this to the compliance of FEMA

D-E. Applicability of Other Regulations; Enforcement
(Renumber this Subsection)

Comment [mkg16]: Where is the text here. Are there any changes?

32
33

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1 **4-400 Floodplain Overlay District**

2 **4-407 Floodplain Development Permit**

3 *(Add NEW provisions 4-407.D. 2 and 3, as follows):*

4 **D. Board of Commissioners Review**

5 1. In the event that the County Engineer determines that a floodplain development permit application for
6 any development in the floodway meets the applicable standards for approval, the permit will not be
7 effective until 14 days after the date of permit issuance.

8 a. At the time of permit approval, the County Engineer shall do the following:

9 (i) within seven days, publish a public notice of the proposed use and the permit issuance in a newspaper
10 of general circulation in Boulder County;

11 (ii) shall transmit a copy of the notice to property owners adjacent to the property in question; and

12 (iii) forward to the Board of County Commissioners a written statement which shall include (1) the location
13 and a description of the proposed use under the permit; (2) the reasons for approval of the permit; and (3)
14 any conditions the County Engineer placed on the issuance of the permit.

15 b. Upon receiving the Director's statement, and before the effective date of the permit, the Board may call
16 the permit up for review at a public hearing.

17 (i) This hearing shall constitute a revocation of the permit.

18 (ii) At the public hearing, the Board shall consider evidence related to the permit which may be presented
19 by the County Engineer, the applicant, or interested members of the public.

20 (iii) The Board shall determine whether the application meets the requirements of this article, and if it so
21 finds, shall issue the permit, with such conditions as the deemed appropriate.

22
23 2. During a declared local disaster, for development in the floodway:

24 a. At the time of floodplain development permit application submittal, the County Engineer
25 shall transmit a notice of the proposed use to property owners adjacent to the property in
26 question.

27 b. The permit will be effective on the date of permit issuance.

28 3. The County Engineer may waive any or all requirements for notice listed in 4.407.D.1. and
29 4.407.D.2 for the following floodway development:

30 a. Emergency activities required for the immediate protection of life, safety, or property, or
31 to restore essential public services.

32 b. Minor disaster recovery repair work that does not cause a rise in predicted 100-year
33 water surface elevation, and

34 c. Any development activities that take place entirely inside an existing building.

Comment [mkg17]: Impacts may go beyond just the immediately adjacent property owners

Comment [mkg18]: How will this be determined? Would need an engineering analysis and possible FEMA coordination

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Exhibit A: Proposed Land Use Code Amendments

1 **4-600 Uses Permitted by Special Review and Limited Impact Special**
 2 **Review**

3 **4-601 Review Criteria**

4 A. A use will be permitted by Special Review or Limited Impact Special Review only if the Board finds that
 5 the proposed use meets the following criteria as applicable:

6 *(ADD a NEW criterion 12):*

7 12. The use will not result in unreasonable risk of harm to people or property – both onsite and in the
 8 surrounding area – from natural hazards. Development or activity associated with the use must avoid
 9 natural hazards, including those on the subject property and those originating off-site with a reasonable
 10 likelihood of affecting the subject property. Natural hazards include, without limitation, expansive soils or
 11 claystone, subsiding soils, soil creep areas, or questionable soils where the safe-sustaining power of the
 12 soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding
 13 corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and avalanche corridors, as
 14 identified in the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the Special
 15 Review or Limited Impact Special Review process using the best available information. Best available
 16 information includes, without limitation, updated topographic or geologic data, Colorado Geologic Survey
 17 landslide or earth/debris flow data, interim floodplain mapping data, and creek planning studies.

18 *(AMEND 4-601.B as follows):*

19 B. If the proposed use is approved or conditionally approved, the Board may impose such conditions and
 20 safeguards to insure compliance with the requirements, standards, and conditions of this Section 4-600.
 21 Where development or activity associated with the proposed use cannot completely avoid one or more
 22 natural hazards, whether because no other site on the subject property can be reasonably designated or
 23 developed for the use or because the proposed site is the best location due to the need to avoid or
 24 minimize significant adverse impacts under other applicable review criteria, the use may be
 25 conditionally approved only if one or more measures will satisfactorily mitigate all significant natural
 26 hazard risk posed by the proposed use to the subject property and to the surrounding area. The
 27 violation of any condition, safeguard, or commitment of record shall be sufficient grounds for revocation of
 28 the Special Review approval by the Board, after a public hearing held in accordance with provisions of
 29 Paragraph 3-205(C).

Comment [mkg19]: Clarify the technical standard for this

Comment [mkg20]: typo

30

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Exhibit A: Proposed Land Use Code Amendments

1 **4-800 Site Plan Review**

2 **4-806 Site Plan Review Standards**

3 A. All Site Plan Review applications shall be reviewed in accordance with the following standards which
 4 the Director has determined to be applicable based on the nature and extent of the proposed
 5 development. When two or more of the standards listed below conflict, the Director shall evaluate the
 6 applicability and importance of each of the conflicting standards under the facts of the specific application
 7 and make a reasonable attempt to balance the conflicting standards in reaching a site plan decision.

8 *(Only the following standards of Subsection 4-806.A. are proposed to change:)*

9 *(Consolidate Stds. 4 and 8.)*

10 ~~4. Plans for the proposed development have satisfactorily mitigated any geologic hazards, such as~~
 11 ~~expansive soils, subsiding soils, questionable soils where the safe-sustaining power of the soils is in~~
 12 ~~doubt, or contaminated soils, landslides, unstable slopes, rockfalls, and avalanche corridors, as identified~~
 13 ~~in the Comprehensive Plan, or through the Site Plan Review process. The proposed development shall~~
 14 ~~avoid natural hazards, including those on the subject property and those originating off-site with a~~
 15 ~~reasonable likelihood of affecting the subject property. Natural hazards include, without limitation,~~
 16 ~~expansive soils or claystone, subsiding soils, soil creep areas, or questionable soils where the safe-~~
 17 ~~sustaining power of the soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes,~~
 18 ~~and rockfalls; flash flooding corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and~~
 19 ~~avalanche corridors. Natural hazards may be identified in the Comprehensive Plan Geologic Hazard and~~
 20 ~~Constraint Areas Map or through the Site Plan Review process using the best available information. Best~~
 21 ~~available information includes, without limitation, updated topographic or geologic data, Colorado~~
 22 ~~Geologic Survey landslide or earth/debris flow data, interim floodplain mapping data, and creek planning~~
 23 ~~studies. Development within or affecting such natural hazards may be approved, subject to acceptable~~
 24 ~~measures that will satisfactorily mitigate all significant hazard risk posed by the proposed development to~~
 25 ~~the subject property and surrounding area, only if there is no way to avoid one or more hazards, no other~~
 26 ~~sites on the subject property can be reasonably developed, or if reasonably necessary to avoid significant~~
 27 ~~adverse impacts based upon other applicable Site Plan Review criteria.~~

28

29 6. The proposed development shall not alter historic drainage patterns and/or flow rates or shall include
 30 acceptable mitigation measures to compensate for anticipated drainage impacts. The best available
 31 information should be used to evaluate these impacts, including but not limited to hydrologic evaluations
 32 to determine peak flows, floodplain mapping studies, updated topographic data, Colorado Geologic
 33 Survey landslide, earth/debris flow data, and creek planning studies.

34

35 ~~8. The development shall avoid flash flood corridors, alluvial fans, floodplains, and unique geologic,~~
 36 ~~geomorphic, paleontological, or pedologic features, as identified in the Comprehensive Plan or through~~
 37 ~~the Site Plan Review process. Development within or affecting such hazards may be approved, subject to~~
 38 ~~acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject~~
 39 ~~property can be reasonably developed, or only if reasonable necessary to avoid significant adverse~~
 40 ~~impacts based upon other applicable Site Plan Review criteria.~~

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1 (Amend BOULDER COUNTY MULTIMODAL TRANSPORTATION STANDARDS, as follows):

2 2.3.3.2 Access Permits

3 The County regulates access to the right-of-way through the access permit process to maintain
4 safe traffic flow; to maintain road drainage facilities; and to protect the functional level of the
5 County’s roads. Pursuant to state statute no person shall construct any driveway providing
6 vehicular access to or from any County right-of-way without an Access Permit. Requirements for
7 access permits are found in Boulder County Access Permit Requirements as adopted under
8 separate cover. Note: Special access permits may be available for a limited period following a
9 local disaster emergency. Refer to Article 19 of the Land Use Code. For access design standards,
10 refer to Sections 5.4 and 5.5. Pursuant to the provisions of Section 4-1200 of the Land Use Code,
11 any person aggrieved by an inability to obtain an Access Permit may appeal to the Boulder
12 County Board of Adjustment.

13

From: sylvia.dane1@gmail.com
Sent: Tuesday, September 16, 2014 8:34 PM
To: Sanchez, Kimberly
Subject: Re: Proposed Changes to HMR

After reading the proposed changes to be presented tomorrow, 9/17/2014 to the Planning Commission, I have only one concern. The notification procedure for applications for bridges/culverts on private property.

I understand that such structures may impact other property owners in the area, but given the strict requirements based on scientifically based information from FEMA, the CWCB, and the Geologic Board, I suggest that it is unnecessary to notify neighbors every time someone applies for a bridge permit. Given that there are nearly a dozen bridges in close proximity to our home, I see no need to be involved in such permitting nor would I want to involve neighbors who are unaffected by my own structure.

I do, however, find it important to notify all property owners who use or own property adjacent to a bridge and involve them in the process.

Sylvia Dane