Boulder County

Boulder County
Land Use Department
Publications

Special Use Review

Land Use Department
Courthouse Annex Building
2045 13th Street
PO Box 471
Boulder, CO 80302

Planning Division:
Phone: 303-441-3930
Fax: 303-441-4856
Email: planner@bouldercounty.org
Website: www.bouldercounty.org/lu

Office Hours:
Monday — Friday 8 a.m. to 4:30 p.m.
Closed Tuesdays 8 to 10 a.m.

Special Use Review

A Pre-application Conference with a planner is required prior to making any application for a Land Use review process. A pre-application conference may be scheduled by calling the Land Use Department at 303-441-3930.

Special Use Review is required for those uses listed in Article 4 of the Boulder County Land Use Code which specifically require this review process or which surpass certain triggers for the zoning district in which they are proposed to be located. The purpose of Special Use Review is to determine the compatibility of the use with the site and surrounding properties, and to determine the adequacy of services.

Special Review Process

A Pre-application Conference with a planner is required prior to making any application for a Land Use review process. A pre-application conference may be scheduled by calling the Land Use Department at 303-441-3930.

The Special Use Review process takes approximately four to six-months from the time of application through review by the Board of County Commissioners. Hearings before both the Planning Commission and the Board of County Commissioners are required, and other meetings before advisory boards may be convened. In addition to these public hearings, the proposal will be reviewed by various County Departments, other public agencies, and adjacent property owners.

Some property owners meet with their neighbors to discuss a Special Use proposal prior to making application. This often fosters an understanding of the needs of all parties prior to the hearing process, reducing the potential for conflict and allowing for changes in the proposal in response to those needs.

Issues Addressed Through Special Use Review

The following issues are frequently discussed during the Special Use Review process. Please note that this is not a complete list of all issues that may arise.

Intensity of Use

- How many vehicles will be coming and going from the site?
- How many people will be on the site at any given time?
- What are the hours of operation?
- Will the use generate noise, light, or odors?
- What size of buildings will be necessary for the use?

Services

- Will the use be served by a well and septic system or public water and sewer?
- What level of emergency service will the use require?
- Can emergency personnel get to the site?

Mitigation of Impacts

- What measures would be taken to reduce the impact of the use?
- How have the concerns of adjoining property owners been addressed?
- Is there a landscape plan?
- If new buildings are included, is the design compatible with surrounding areas?

Fees

A non-refundable deposit of $1,450 is required at the time of application for a Special Use Review. It is not uncommon for the final cost of processing a Special Use to exceed this amount. Please discuss fees and billing with the planner during your Pre-application Conference

General Explanation

A use permitted by special review may be established in a zoning district only upon approval of the Board of County Commissioners, after review by the Planning Commission, and subject to the conditions set forth in an approval of the use by the Board of County Commissioners.

Special Use Reviews typically include developments or uses that may potentially have a significant impact on the property, its resources, and the surrounding areas. These uses are developments such as a Fire Station, Accessory Dwelling, Telecommunications Facility, and Day Care Center (see the zoning designation for specific uses and more information). Special uses also include uses that generate traffic volumes in excess of 150 average daily trips per lot, uses that have an occupant load greater than or equal to 100 persons per lot, uses that have a wastewater flow greater than or equal to 2,000 gallons per day per lot, uses that have a total floor area greater than 25,000 square feet (35,000 sq. ft. in a community service area), or uses that have a second principal use that does not increase density (where allowed).

Some uses have maximum development limits prescribed in the Land Use Code including those in the Community and Lodging Use classifications.

The applicant(s) must first contact the Land Use Department to make an appointment for a Pre-application Conference with a Planner to discuss the proposal prior to its submittal. A pre-application conference with the Transportation Department may also be required. Contact the Transportation Department to make an appointment to discuss additional submittal requirements for the transportation and engineering portion of your application. Please refer to the Transportation Department Publication titled *Transportation Review of Development Proposals* for more information regarding possible additional submittal requirements.

The review process begins when the Land Use Department receives a complete application. **Applications for Special Use Review are accepted on the second Wednesday of each month**. After the application has been received, and prior to the initial hearing, the application will be referred out for review by various County Departments, public agencies (as necessary) and adjacent property owners. The Special Use Review process includes a 35-day referral period. Staff review of Special Use applications occur in the last week of the month after the referral deadline. At the staff review meeting, the staff determines if the application is sufficiently complete and if issues are sufficiently resolved for the application to proceed to a public hearing with the Planning Commission. The Planning Commission typically meets every third Wednesday of the month. A hearing before the Board of County Commissioners will be scheduled as soon as is practical after the decision of the Planning Commission. A Special Use Review process can typically take four to six months to complete.

For a detailed account of the following requirements, see Articles 3 and 4-600 of the Boulder County Land Use Code.

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Intake Stamp

Special Use Review Submittal Requirements Form

Please include a copy of this form with your application. For general information about preparing referrals, please read the publication "***Referral Packet Mailing Guidelines.***"

Project Name:	Date:
Pre-application Planner:	Process Type:

Application Materials

The following information may be required, depending on the type of proposal. Please indicate that the information has been enclosed with your application and referral packets by checking the box labeled "Attached" (Article 3-203 of the Land Use Code has detailed information about application materials).

Submittal Requirements Checklist

	Materials	Land Use Packet	Referral Packets	Attached
1	Special Use Review Submittal Requirements Form (this form)			
2	Application Form and Fee		✔	
3	Fee Agreement			
4	Vicinity Map			
5	Development Report or Narrative			
6	Traffic Report			
7	Water Information/Documentation			
8	Sanitary Sewer Service Information			
9	Site Plan			
10	Building Plans			
11	Building Elevation Drawings			
12	Grading Plan			
13	Landscaping Plan			
14	Title Information			
15	Referral Agency List			
16	Referral Packets			
17	Mineral Interest Certification			
18	$25.00 Public Notice Sign Deposit			
19	Other:			
20	Other:			

Certification

I certify that all required materials are properly in the referral packets for the above application, and that packets have the proper mailing and first class postage. I understand that error in preparation of the packets may result in a delay in processing the application.

Applicant's Printed Name:	Date:
Applicant's Signature:	Phone:

Special Use Submittal Requirement Checklist Information

1. **Application Form**

   The application form is to be completed and signed by all property owners (provided in the packet).

2. **Application Fee**

   The application fee listed under the ***Planning Review Fee Schedule*** publication is to be submitted with the application.

3. **Fee Agreement**

   A fee agreement is to be to be completed and signed (see Land Use publication ***Fee Agreement*** provided in this packet).

   Additional fees based on the amount of staff time involved in the review and processing of the application.

4. **Title Information/Building Lot Determination Letter**

   Included ownership information (list of all owners and interest owners) and title reports for all properties included in the special use request (see Land Use publication ***Title Information*** provided in this packet). Building lot Determination Letter from Boulder County.

5. **Vicinity Map**

   8½ inches x 11 inch map of the surrounding area.

6. **Site Plan**

   Original Site Plans are to be provided **to scale** and must be legible. Plans can be submitted up to 36 inches x 24 inches in size, or may be as small as 8½ inches x 11 inches as long as they are legible. Submitted Site Plans must depict existing boundaries and existing improvements, as well as any proposed additions (if applicable). Site Plans may consist of multiple sheets if necessary to properly depict existing and proposed information.

   To Scale: System of drawing a building so that each inch of a drawing corresponds to a certain dimension in reality. In the case of using a ¼ inch scale, a wall ¼of an inch long in a drawing represents a wall 1 foot long in reality.

7. **Building Elevations Drawings**

   Building Elevation Drawings are also to be provided **to scale** and must be legible. Plans can be submitted up to 36 inches x 24 inches in size, or may be as small as 8½inches x 11 inches as long as they are legible. The Building Elevation Drawings are drawings of each of the outside walls of a building. Building Elevation drawings of an entire building are to include all 4 sides: one drawing of the front; one drawing of the back; and one drawing each for each of the sides of the structure.

   Building Elevation Drawings should show the placement of such details as the windows, the doors, the height, pitch, and shape of the roof, and the type of texture or siding that will be placed on the exterior walls.

8. **Narrative/Development Report**

   Provide a detailed written description, discussion of applicable standards, and the justification for the proposal and development report as required and described in Article 3-203 (F) of the Boulder County Land Use Code (see excerpt provided in this packet).

9. **Referral Packets**

   As part of the Special Use application process the Boulder County Land Use Department refers applications to appropriate agencies, adjacent property owners, and/or other interested parties. The application materials/documents to be referred are collectively called the ***Referral Packet*.**

   It is the responsibility of the Applicant to assemble their Referral Packets in appropriate envelopes with the correct mailing addresses and postage. The completed Referral Packets should be submitted with the rest of the application materials.

10. **Adjacent Property Owners (APOs)**

    Property owners within 1,500 feet of properties under review are notified of the application and subsequent public hearings. No referral packets for APOs are required with submission of your application, as the Land Use Department sends postcard notification to these persons. Please be aware that you will be charged for postage of said postcards, with the exception of postcards sent for Site Plan Review and Site Plan Review Waiver dockets.

11. **Mineral Interest Certification**

    If the proposal includes any new surface development certification of notification of all affected mineral interest holders is required in accordance with Article 65.5 of Title 24, Colorado Revised Statutes (H.B. 01-1088, effective July 1, 2001).

12. **12. Post-Approval Requirements Including Development Agreement**

    Typically includes a development agreement meeting the requirements of Article 3-203 (H) of the Land Use Code, and must be reviewed and approved by County staff, signed by the Applicant and the Chair of the Board. The approved and executed development agreement shall be recorded in the real property records of Boulder County. The development agreement shall embody the terms and conditions of the site-specific development plan creating a vested property right pursuant to Section 3-207 of the Land Use Code. The Applicants are subject to all other post-approval requirements and conditions of the special use.

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Shaded Areas for Staff Only
Intake Stamp

Application Form

Project Number	Project Name

❏ Limited Impact Special Use ❏ Limited Impact Special Use Waiver ❏ Modification of Special Use ❏ Site Plan Review ❏ Site Plan Review Waiver ❏ Subdivision Exemption ❏ Exemption Plat ❏ 1041 State Interest Review ❏ Other:	Application Deadline: First Wednesday of the Month ❏ Variance ❏ Appeal	Application Deadline: Second Wednesday of the Month ❏ Sketch Plan ❏ Preliminary Plan ❏ Final Plat ❏ Resubdivision (Replat) ❏ Special Use/SSDP	❏ Rezoning ❏ Road/Easement Vacation ❏ Location and Extent ❏ Road Name Change

Location(s)/Street Address(es)				
Subdivision Name				
Lot(s)	Block(s)	Section(s)	Township(s)	Range(s)
Area in Acres	Existing Zoning	Existing Use of Property		Number of Proposed Lots
Proposed Water Supply		Proposed Sewage Disposal Method		

Applicants:

Applicant/Property Owner			Email Address	
Mailing Address				
City	State	Zip Code	Phone	Fax
Applicant/Property Owner/Agent/Consultant			Email Address	
Mailing Address				
City	State	Zip Code	Phone	Fax

Agent/Consultant			Email Address	
Mailing Address				
City	State	Zip Code	Phone	Fax

Certification (Please refer to the Regulations and Application Submittal Package for complete application requirements.)

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval.

I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All landowners are required to sign application. If additional space is needed, attach additional sheet signed and dated.

Signature of Property Owner	Printed Name	Date
Signature of Property Owner	Printed Name	Date

The Land Use Director may waive the landowner signature requirement for good cause, under the applicable provisions of the Land Use Code.

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Boulder County Land Use Department Publications

Planning Review Fee Schedule

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Planning Review Fee Schedule

The fee structure is adopted by the Board of County Commissioners, and attempts to recover actual costs of providing the services.

The non-refundable application fee/deposit is usually exceeded. The Land Use Department will bill on a monthly basis once the fee is exceeded. Amendments require the same non-refundable fee as the original process.

Every planning process is required to have a pre-application conference prior to an application being submitted.

Process	Non-Refundable Application Fee	Additional Billing*
Pre-application Conference in office	No Charge	N/A
Pre-application Conference on site	$208.00	N/A
Appeal of Administrative Decision	$750.00 deposit and time billed for staff up to a total amount of $2,000. If the appellant prevails with the Board of Adjustment, the deposit and any additional payments will be refunded.	$103.83/hr up to $2,000.00
Building Lot Determination: In a platted subdivision or previous Building Lot Determination completed in previous 5-year period.	$50.00	flat fee
Building Lot Determination: All others.	$75.00	flat fee
Comprehensive Plan change	$1,000.00	$103.83/hr
Correction Plat	$125.00	flat fee
Construction Development Permit (collected at Building Counter)	$857.00 (adopted June 2013)	N/A
DPR and Construction Development Permit inspections and ongoing monitoring	In house review of compliance reports/ documents $103.83/hr, with 2-hour minimum. Inspections 103.83/hr with 2-hour minimum.	$103.83/hr
Exemption Plat**	$1,575.00 $900 due at application, $675 due one week prior to hearing.	flat fee (if hours exceed 18 hours excess time to be billed at 103.83/hr)
Extension of Approval	$150.00	N/A
Hazard Mitigation Review	$260.00	N/A
Location and Extent	$500.00	$103.83/hr

*The hourly billing rate of $103.83/hr is for planner/engineer time. Administrative time will be billed for non-flat rate items at $30/hr. Public Notices required as part of a process will be billed for actual costs. Other agencies may require additional fees for review of land use applications, which fees must be paid separately.

**No charge for Exemption Plats and Subdivision Exemptions which remove a unit of density.

Process	Non-Refundable Application Fee	Additional Billing*
Limited Impact Special Review (except as noted below)	$750.00	$103.83/hr
Limited Impact Special Review for: ❏ Accessory Agricultural Sales 4-516(A) ❏ Accessory Farm Stand 4-516(H) ❏ Agricultural Accessory Dwellings (4-516(G)(1)(b) ❏ Demonstration Farm or Farm Camp 4-516(M) ❏ Farm Events 4-516(N) ❏ Farm Store 4-502(B) ❏ Seasonal Farm Stand 4-502(E) ❏ Watershed Restoration Project (grading 500 cubic yards or more)	$450.00	$300.00 hearing fee, to be collected prior to Board of County Commissioners hearing.
Limited Impact Special Review Waiver	$450.00	N/A
Preliminary Plan and/or Final Plat	$850.00	$103.83/hr
Renewable Energy System; Residential	$100.00	N/A
Renewable Energy System; non-Residential	$500 .00	N/A
Replat	$600.00	$103.83/hr
Rezoning	$750.00	$103.83/hr
Road Name Change	$200.00	N/A
Site Plan Review ❏ Proposal where the resulting Residential Floor Area exceeds the applicable Presumptive Size Maximum for the neighborhood. ❏ Commercial telecommunications facility. ❏ Establishment of use on a previously vacant or abandoned property. ❏ Changes in use in combination with structural or other significant physical improvements (i.e. parking increase).	$1,800.00 (flat fee)	N/A
Site Plan Review ❏ Proposals where the resulting Residential Floor Area is less than the applicable Presumptive Size Maximum for the neighborhood. ❏ Proposals for non-residential floor area not eligible for SPRW. ❏ Grading less than 500 cubic yards if not approved through waiver.	$1,250.00 (flat fee)	N/A
Site Plan Review ❏ Change in use other than to an Agricultural Use under 4-502 of the Land Use Code with no significant physical improvements.	$950.00 (flat fee)	N/A
Site Plan Review ❏ Change in use to an Agricultural Use under 4-502 of the Land Use Code with no significant physical improvements. ❏ Watershed Restoration project.	$475.00 (flat fee)	N/A
Site Plan Review Waiver	$600.00 (flat fee)	N/A
Site Specific Development Plan	$1,000.00 (flat fee)	N/A
Sketch Plan	$1,000.00	$103.83/hr
Subdivision or PUD (combined process SP/PP/FP/SSDP)	$1,450.00	$103.83/hr
Subdivision Exemption**	$500.00	$103.83/hr
Special District	$500.00	N/A
Special Use/SSDP	$1,450.00	$103.83/hr
Special Use Monitoring	$125.00	$103.83/hr
State Interest Reviews (1041)	$750.00	$103.83/hr

Process	Non-Refundable Application Fee	Additional Billing*
Substantial Modification Determinations *Complex determinations as identified by staff may require staff billing for additional time. Applicants will be notified and given a written estimate for amount anticipated and an additional deposit may be required. If determined to be a Major/Substantial modifications, these fees will be applied to the subsequent required process.*	$160.00	$103.83/hr
Vacation (road / easement)	$750.00	$103.83/hr
Variance	$500.00	$103.83/hr
Zoning Verification letter (when a formal zoning verification letter is requested) *Zoning compliance verification letter contains information regarding current zoning on the parcel, previous reviews and permits on the parcels and any known unresolved zoning or building code complaints on record.*	$125.00	$103.83/hr

*The hourly billing rate of $103.83/hr is for planner/engineer time. Administrative time will be billed for non-flat rate items at $30/hr. Public Notices required as part of a process will be billed for actual costs. Other agencies may require additional fees for review of land use applications, which fees must be paid separately.

**No charge for Exemption Plats and Subdivision Exemptions which remove a unit of density.

Additional Billing

- ❏ Additional or repeated inspections: $155.75
- ❏ Re-application fee for incomplete applications:
  - 1st re-application: $75.00 or 10% of application fee, whichever is greater.
  - 2nd or more re-application: $155.75 or 15% of application fee, whichever is greater.

Other Development Review Fees and Waivers

- ❏ A Public Notice Sign Deposit (refundable if sign is returned) of $25.00 is required at time of application, as applicable.
- ❏ Fees for applications not specifically listed in this fee schedule will be determined by the Land Use Director based on the hourly rate and actual time spent.
- ❏ Fees for certain conditional use permit and site plan applications may be reduced, at the discretion of the Board of County Commissioners subsequent to the conclusion of the review process, when the County's cost of review is less than the applicable fee.

Payment

Checks should be made out to **Boulder County Treasurer**.

Credit/Debit Card Convenience Fee

A Credit/Debit Card Convenience Fee of 2.5% applies to all credit card and debit card transactions.

Boulder County

Boulder County Land Use Department Publications

Fee Agreement

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Fee Agreement

Agreement for payment of Land Use Department Application Fees and for processing of Application in accordance with the Boulder County Land Use Code.

I/We (applicant),

as Property Owner of Record/Applicant ("APPLICANT"), AGREE AS FOLLOWS with the County of Boulder and its Land Use Department (collectively "COUNTY"), in consideration of the County's acceptance of Applicant's application for the land use approval as further described below:

1. Applicant has submitted to County an application for approval of:

   Application Type:

2. Applicant acknowledges and understands that Board of County Commissioners has established and amends from time to time a fee structure for County Land Use Department applications for most applications, this includes a non-refundable deposit which must be paid prior to the Department's acceptance of any application for processing, and provision for billing the Applicant for any costs of processing applications which may accrue above the non-refundable deposit amount. The Applicant acknowledges and agrees that this Agreement shall govern the payment of fees for the processing of the Application.

3. The Application shall not be accepted for processing unless the property owner of record of the property included in the Application signs this Agreement. In the case of multiple property owners, the Director of the County Land Use Department ("Director") shall have the discretion to determine which owner(s) shall sign.
   A person other than the property owner of record may sign the Application and this Agreement only if the Land Use Director, for good cause shown, waives the requirement for landowner signature under the applicable provisions of the Land Use Code.

4. The Applicant shall be billed by the County Land Use Department ("the Department") for all direct and indirect costs (including but not limited to staff time of the Department, the County Attorney's Office, and the County Transportation, Public Health, and Parks Departments); mailing, copying, recording, and publication fees and costs; and authorized consultants' fees incurred by the County), which the Department has accrued to date in processing the Application. The Department will continue to bill the Applicant until all costs have accrued and are paid.

5. The Applicant agrees to pay all such bills in full, and by whatever manner of payment is specified as acceptable by the Director, by delivery made to the Department no later than one month after the billing date. The Director shall have the discretion to suspend processing of the Application if any payments under this Agreement are not made on time. This suspension may involve the postponement of scheduled Planning Commission or Board of County Commissioner hearings or meetings, and the incurrence of additional costs such as for remodification or republication. Similarly, the Director shall have the discretion to terminate the processing of any Application for which any billed payment is more than three months overdue.

6. The person/address whom the Applicant designates to receive all billings for fees under this Agreement are as follows:

Mailing Address		
City:	**State:**	**ZIP Code:**

Any billing mailed to this person/address and not returned to the Department shall be deemed received. The Applicant may change the billing address under this Paragraph by providing written notification of such change to the Department.

7. In the event of nonpayment of fees, the County shall have the right to file a fee collection action against any or all of the persons signing this Agreement or the Application as Applicant. Any resulting judgment for fees may be enforced in any legal manner whatsoever and may be filed as a judgment lien against the real property which is the subject of the Application, as well as against any real property owned in whole or in part by any judgement debtor hereunder.

8. Any agreement by the Director or County to forego any of the judicial or administrative remedies available to them under this Agreement in response to the late payment or nonpayment of fees, shall not in any way constitute a waiver of the Director's or County's rights to collect fees or appropriately adjust the processing of the Application as provided herein.

9. In submitting the Application and signing this Agreement, the Applicant acknowledges and agrees that the Application is subject to the applicable processing and public hearing requirements set forth in the Boulder County Land Use Code. The Applicant acknowledges that the Applicant has obtained or has access to the Boulder County Land Use Code, and that, prior to filing the Application, the Applicant has had the opportunity to consult the relevant provisions governing the processing of and decision on the Application.

10. In submitting the Application and signing this Agreement, the Applicant acknowledges and agrees that the Applicant is authorized to make available to the County, for purposes of copying and distributing for public review, all of the documents and information which the Applicant submits with or in support of the Application. Upon demand from the County, the Applicant agrees to indemnify and defend the County and its officials, agents and employees, and to hold them harmless from, any action, claim, suit, loss, cost, damage, or expense which may be brought or assessed against the County or any of its officials, agents or employees on account of any allegation by the Applicant or any person that the County may have violated federal copyright law, or violated any law, agreement, or provision allegedly protecting the confidentiality of or restricting public review of the Application materials which the Applicant submits to the County for review as part of the Application.

11. In submitting the Application and signing this Agreement, the Applicant acknowledges and agrees that the County Land Use Department and any other County staff involved in processing the Application or their duly authorized representatives will need to enter upon the property which is the subject of the Application and conduct inspections thereof to evaluate the Application pursuant to the applicable criteria of the Land Use Code, and perform related tasks. The Applicant hereby consents to allow the County staff or their designees to enter upon and inspect the subject property at any time for this purpose without obtaining the Applicant's separate consent at the time of inspection. This consent extends to inspections while the Application is in process, as well as after it has been approved to assure that any imposed conditions of approval are met.

12. The Applicant agrees to waive any requirements for the Applicant's written consent to extend voluntarily any public hearing or other deadline associated with processing the Application, if the Applicant or its representative agrees orally to any such extension.

13. The Applicant acknowledges that the Applicant executes this Agreement freely, voluntarily, and without threat of compulsion. The Applicant understands that the Applicant may consult an attorney or any other person concerning the Application or this Agreement prior to executing this Agreement, if the Applicant so chooses.

14. Acceptance of the Application for filing and receipt of the Application fee deposit do not necessarily mean that the Application is complete under the applicable requirements of the Land Use Code.

15. This Agreement shall become effective once signed by the Applicant and the County. It shall remain in effect throughout the processing of the Application Form, and until all obligations of the Applicant under this Agreement and under any County approval of the Application Form are met.

16. This Agreement shall be construed and enforced in accordance with the law of the State of Colorado.

Applicant Signature:

Property Owner must sign this document per Paragraph 3.

Property Owners Signature:	**Date:**
Property Owners Signature:	**Date:**

Property Owners Signature:	**Date:**
Property Owners Signature:	**Date:**

Boulder County:

Land Use Director or Designee:	**Date:**

For Land Use Department Use

Docket Name:	**Docket Number:**	**Deposit Amount: $**	**Date Received:**

Code Excerpts

Special Use & Limited Impact Special Use

Excerpt from Article 4 • Zoning

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

A land use designated as a special use in a zoning district is one that – because of its inherent nature, extent and external effects – may be allowed to establish if subject to special review to assure the use is located, designed, and operated in harmony with neighboring development and the surrounding area and does not adversely affect the public health, safety, and welfare. The purpose of the review process is to determine the compatibility of the use with the site and surrounding land and uses and the adequacy of services. Public review is necessary because the effect of a special use on the surrounding environment cannot be determined adequately in advance of the use being proposed for a particular location. During the review process, the county considers location, design, configuration, intensity, and impacts by comparing the proposal to the code criteria, intergovernmental agreements, established hazard areas, parcel specific conditions, site context and any other applicable regulations to assure that the use can operate in a sustainable way with minimal danger or impact to the users, the natural environment, or the developed environment.

A. A use permitted by special review may be established in a zoning district only upon approval of the Board, after review by the Planning Commission, subject to conditions and mitigation measures.

B. A use permitted through limited impact special review may be established in a zoning district only upon approval of the Board subject to conditions and mitigation measures.

4-601 Review Criteria

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

1. except as otherwise noted, the use will comply with the minimum zoning requirements of the zoning district in which the use is to be established, and will also comply with all other applicable requirements;

2. the use will be compatible with the surrounding area. In determining compatibility, the Board should consider the location of structures and other improvements on the site; the size, height and massing of the structures; the number and arrangement of structures; the design of structures and other site features; the proposed removal or addition of vegetation; the extent of site disturbance, including, but not limited to, any grading and changes to natural topography; and the nature and intensity of the activities that will take place on the site. In determining the surrounding area, the Board should consider the unique location and environment of the proposed use; assess the relevant area that the use is expected to impact; and take note of important features in the area including, but not limited to, scenic vistas, historic townsites and rural communities, mountainous terrain, agricultural lands and activities, sensitive environmental areas, and the characteristics of nearby development and neighborhoods;

3. the use will be in accordance with the Comprehensive Plan;
4. the use will not result in an over-intensive use of land or excessive depletion of natural resources. In evaluating the intensity of the use, the Board should consider the extent of the proposed development in relation to parcel size and the natural landscape/topography; the area of impermeable surface; the amount of blasting, grading, or other alteration of the natural topography; the elimination or disruption of agricultural lands; the effect on significant natural areas and environmental resources; the disturbance of plant and animal habitat, and wildlife migration corridors; the relationship of the proposed development to natural hazards; and available mitigation measures such as the preservation of open lands, the addition or restoration of natural features and screening, the reduction or rearrangement of structures and land disturbance, and the use of sustainable construction techniques, resource use, and transportation management;
5. the use will not have a material adverse effect on community capital improvement programs;
6. the use will not require a level of community facilities and services greater than that which is available;
7. the use will support a multimodal transportation system and not result in significant negative impacts to the transportation system or traffic hazards;
8. the use will not cause significant air, odor, water, or noise pollution;
9. the use will be adequately buffered or screened to mitigate any undue visual impacts of the use;
10. the use will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County; and
11. the use will establish an appropriate balance between current and future economic, environmental, and societal needs by minimizing the consumption and inefficient use of energy, materials, minerals, water, land, and other finite resources.
12. The use will not result in unreasonable risk of harm to people or property – both onsite and in the surrounding area – from natural hazards. Development or activity associated with the use must avoid natural hazards, including those on the subject property and those originating off-site with a reasonable likelihood of affecting the subject property. Natural hazards include, without limitation, expansive soils or claystone, subsiding soils, soil creep areas, or questionable soils where the safe-sustaining power of the soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and avalanche corridors; all as identified in the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the Special Review or Limited Impact Special Review process using the best available information. Best available information includes, without limitation, updated topographic or geologic data, Colorado Geologic Survey landslide or earth/debris flow data, interim floodplain mapping data, and creek planning studies.

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

C. An application for a use by Special Review shall include a development agreement which must be submitted and approved by the Board.

D. Where appropriate, in order to enable the proposed use to meet the standards set forth in (A) above, the Board may require the dedication of a perpetual conservation easement upon so much of the site as may be determined necessary to mitigate impacts of special uses.

Excerpt from Article 3 • Processes

3-203 Standards for Submittal Requirements

E. Development Report

1. A development report is required for subdivision requests to plat unsubdivided land, PUDs, special review approvals, rezonings, and exemptions. At a minimum the development report shall include the following information, unless specifically waived by the Director.
   - **a.** An address list of all owners and their addresses of real property adjacent to the subject property.
   - **b.** A description of site features such as streams, areas subject to flooding, lakes, high ground water areas, topography, vegetative cover, climatology, and other features that may aid in the evaluation of the proposed development.

c. A description of soil characteristics of the site which have a significant influence on the proposed use of the land.

d. The long and short term effect on flora and fauna shall be determined through field surveys, and/or expert opinions. The applicant shall address any material adverse impacts of the development on these biological systems, including plans for the mitigation of these impacts. Wildlife impact reports shall be required in accordance with Section 7-1700.

e. The effect on significant cultural (archaeological and historic) resources and on other designated environmental resources, including but not limited to critical wildlife habitats, shall be assessed and plans for protection of such resources included. Wildlife impact reports shall be required in accordance with Section 7-1700.

f. An evaluation of any potential radiation hazard that may have been identified by the State or County Public Health Departments.

g. An evaluation of the expected demands and effects of the development on the ability of local governments and quasi-governmental agencies to provide water, sanitation, natural gas, electricity, access, fire, schools, hospitals, police, flood protection, solid waste disposal, and other services to this development while maintaining adequate levels of service to other areas.

h. Provision of financial guarantees for public or communal improvements.

F. Engineering Report

1. Engineering reports may be required depending on the application, site conditions and scope of the project. Applicants should discuss these reports with staff during the pre-application conference.

a. Geology Report. A report on the geologic characteristics of the area including any potential natural or man-made hazards which would have a significant influence on the proposed use of the land, a determination of what effect such factors would have, and proposed corrective or protective measures.

b. Soils Report. A description of soil characteristics of the site which have a significant influence on the proposed use of the land.

c. Sewage Collection. Plans for an adequate and safe sanitation system must be provided. This system must be designed, constructed and maintained in accordance with all applicable regulations and requirements of the Boulder County Public Health Department and other applicable regulatory agencies.

(i) Connection to a public sewer system is preferable. If a public sanitation system is not available within a reasonable distance of the subject property, then adequate treatment facilities must be planned to dispose of the sewage.

(ii) Sewer system design must be based on the maximum number of estimated users of the development, and must be approved by the Boulder County Public Health Department prior to application.

d. Water Supply and Distribution. A report on the environmental effects of the development addressing the effect on the existing water supply. An adequate supply of water must be provided for the development.

(i) The source and method of distribution must be approved by the Boulder County Public Health Department and other applicable regulatory agencies. The source of the water supply should be sufficient to meet all the present and future domestic and agricultural requirements of the proposed area.

(ii) Proof of contract with supplier or well log and completion report showing sustained yield. For domestic water proof that the supply meets the Colorado Primary Drinking Water Standards must be provided.

(iii) The relation of the subject parcel to floodplains, the nature of soils and subsoils, and their ability to adequately support waste disposal, the slope of the land, the effect of sewage effluents, and the presence of streams as related to pollution shall be evaluated.

(iv) The applicable health and water resource agency's regulations shall be considered.

e. Grading Report.

f. Drainage Report.

g. Engineering report for structural features such as retaining walls and bridges.

h. Transportation System Impact Analysis. An assessment of the transportation impacts of the development as described in the Transportation Standards.

Boulder County

Boulder County
Land Use Department
Publications

Title Information

Land Use Department
Courthouse Annex Building
2045 13th Street
PO Box 471
Boulder, CO 80302

Planning Division:
Phone: 303-441-3930
Fax: 303-441-4856
Email: planner@bouldercounty.org
Website: www.bouldercounty.org/lu

Office Hours:
Monday — Friday 8 a.m. to 4:30 p.m.
Closed Tuesdays 8 to 10 a.m.

Title Information

Title information is required for the processing of certain types of Land Use applications. Information contained in the Title Report allows the Land Use Department to be reasonably sure that all parties with an interest in the property are notified. The notification allows these parties to review the development proposal and submit comments to protect their interest in the property.

Owner Information

It is the responsibility of the Applicant to make a reasonable and diligent search of the public records to locate, and identify as part of the application, all owners and interest holders in the subject property as of the time of the application filing. These owners and interest holders include but are not necessarily limited to fee owners, easement owners, lessees, and lienholders, and mortgagees in the subject property's surface, subsurface, or above surface (including land, water, mineral, air, or other real property which is part of the subject property).

The Applicant shall provide the current names and addresses of these owners and interest holders, along with information describing the nature of their respective right, interest or estate.

Title Reports

To fulfill the requirements of the Land Use Code, the Applicant, at a minimum, shall provide from a licensed title insurance or abstract company either:

1. A title commitment for the subject property (no more than six months old); or,
2. A copy of the existing title insurance policy on the subject property with a letter from the issuing company providing updated title information. If the title information indicates the existence of a severed mineral estate, the Applicant shall be responsible for making a diligent and good faith effort to ascertain the current names and addresses of the owners and interest holders in the severed estate.

An O & E (owners and encumbrances) report **shall not** be considered sufficient to provide the title information required in this Subsection.

Title work must be current within six months of the application submittal date.

Other Required Information

The Applicant shall have the responsibility to search other records which may be reasonably available and known to the Applicant which may provide the information required in the Code.

In addition to the information required above, the Applicant shall identify any holdings of the Applicant adjacent to the subject property, and shall provide an accurate legal description of the subject property.

Boulder County

Boulder County
Land Use Department
Publications

Referral Packet Guidelines

Land Use Department
Courthouse Annex Building
2045 13th Street
PO Box 471
Boulder, CO 80302

Planning Division:
Phone: 303-441-3930
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Closed Tuesdays 8 to 10 a.m.

Referral Packet Guidelines

As part of a Land Use review process the Boulder County Land Use Department refers applications to appropriate agencies, adjacent property owners, and other interested parties for their review. Collectively the agencies, adjacent property owners, and other interested parties are referred to as the Referral Agencies.
The application materials/documents to be reviewed are collectively called the Referral Packet.

Referral Agencies

Agencies

Referral Packets may be required for Federal, State, County, and Municipal government agencies, Special Districts, and other agencies that may have an interest in the proposal. Please be aware that you will be charged for postage for each agency, with the exception of Boulder County Government Agencies.

Adjacent Property Owners (APOs)

Property owners within 1,500 feet of properties under review are notified of the application and subsequent public hearings. No referral packets for APOs are required with submission of your application, as the Land Use Department sends postcard notification to these persons. Please be aware that you will be charged for postage of said postcards, with the exception of postcards sent for Site Plan Review and Site Plan Review Waiver dockets.

Other Parties

Referral Packets are required for all parties (lien holders, mortgage holders, etc.) discovered in the title research to have an interest in the property. See the handout titled Title Information Required for Boulder County Land Use Applications for information regarding title commitment along with property interest notification.

Referral Packet Preparation

1. Your pre-application planner will identify which agencies you will be required to make referral packets for and which application materials/documents must go in each packet.
2. Once you have collected all of the application materials/documents make the required number of copies and place the required materials in mailing envelopes (please use white envelopes when possible as these are recyclable).
3. Add the correct mailing and return addresses to each envelope. The Land Use Department's address must be used as the return address:

   Boulder County Land Use Department
   PO Box 471
   Boulder, CO 80306
4. Please do not seal or fasten the envelopes, as the Land Use Department will add additional materials to the packets before mailing them.
5. One copy of Referral Agency List provided to you by the pre-application planner shall be submitted with the referral packets.

It is the responsibility of the Applicant to assemble their Referral Packets; applications will not be accepted without the required referral packets.

Boulder County Land Use Department

Courthouse Annex Building
2045 13th Street • PO Box 471
Boulder, Colorado 80302

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Office Hours: Monday — Friday 8 a.m. to 4:30 p.m.
Closed Tuesdays 8 to 10 a.m.

Intake Stamp
Docket#:

Applicant's Certificate of Compliance

With Article 65.5 of Title 24, Colorado Revised Statutes (H.B. 01-1088, Effective July 1, 2001).

Note to Applicant & Land Use Department:

This form must be completed for any application for development under the Boulder County Land Use Code which (1) requires a public hearing before the Planning Commission or Board of County Commissioners, and which (2) is either (a) any kind of planned unit development, subdivision, or resubdivision/replat sketch plan, preliminary plan, or final plat application, or (b) an application for any other type of Land Use Code approval which anticipates new surface development ("a Subject Application").

I. The Applicant must complete the following certification as a prerequisite to the Land Use Department accepting as complete any Subject Application which is tendered for processing to the Land Use Department on or after July 1, 2001. [Applicants for an approval of an application such as Site Plan Review, which is granted administratively and may not require a public hearing, do not need to complete the following certifications unless and until their application is appealed to or called up for a public hearing]:

I, _____, Applicant for the following named development under the Boulder County Land Use Code _____ (Docket # _____) ("the proposed Development"), hereby certify that I or my agent have examined the records in the Office of the Boulder County Clerk and Recorder to determine if any owners or lessees of any severed mineral estate in the property which is the subject of the Proposed Development ("the Subject Property") (i.e., owners or lessees of mineral rights constituting less than full fee title in the Subject Property) can be identified, as required by Article 65.5 of Title 24, Colorado Revised Statutes (also known as "H.B. 01-1088" ("the Act")). Further, based on this examination, I have determined that (check applicable entry):

❑ No such mineral estate owners or lessees exist in the Subject Property.

❑ Mineral estate owners or lessees exist in the Subject Property to whom notice of the County's initial public hearing on my application will need to be sent as required by the Act.

Certification:

I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge.

Applicant Signature:	Applicant Name:	Date:
Applicant Signature:	Applicant Name:	Date:

Note: The same person(s) signing the development/docket application form on behalf of the Applicant must also sign the foregoing certification.

II. If the Applicant has certified above that mineral estate owners or lessees exist in the Subject Property to whom notice of the County's initial public hearing on the Subject Application will need to be sent as required by Article 65.5 of Title 24, Colorado Revised Statutes (H.B. 01-1088, effective July 1, 2001) ("the Act"), then the Applicant must complete the following additional certification as a prerequisite to the Land Use Department proceeding with the initial public hearing (before the Planning Commission or Board of County Commissioners, as applicable) on the Subject Application:

I, _____, Applicant for the following named development under the Boulder County Land Use Code _____ (Docket # _____) ("the Proposed Development"), hereby certify that I or my agent have sent a notice, by first-class mail, not less than thirty days before the date scheduled for the initial public hearing on the Subject Application/Proposed Development, to: (1) all mineral estate owners or lessees in the Subject Property, containing the time and place of the initial public hearing, the nature of the hearing, the location of the Subject Property, and the name of the Applicant, and (2) the County, containing the name and address of all mineral estate owners or lessees in the Subject Property, all as required by the Act. I further acknowledge and agree that while the County has no obligation whatsoever to check or independently determine my compliance with the Act, to the extent information becomes know to the County indicating that I have failed to comply with the public hearing notice requirement of the Act, the County may, in its discretion, refuse to set, continue, reschedule, or vacate any public hearing on the Subject Application to enable proper notice to mineral estate owners or lessees under the Act, and may take such other action regarding any approval of the Subject Application as authorized by the Act. I further acknowledge and agree that to the extent any other state statute or provision of the County's Land Use Code purport to entitle me to action or a decision on the Subject Application within a designated period of time, this certification and agreement constitute a written waiver of any such entitlement to the extent necessary for me to comply with the public hearing notice requirements of the Act.

Certification:

I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge.

Applicant Signature:	Applicant Name:	Date:
Applicant Signature:	Applicant Name:	Date:

Note: The same person(s) signing the development/docket application form on behalf of the Applicant must also sign the foregoing certification.

Boulder County

Boulder County
Land Use Department
Publications

BOCC Guidelines for Land Use Hearings

Land Use Department
Courthouse Annex Building
2045 13th Street
PO Box 471
Boulder, CO 80302

Planning Division:
Phone: 303-441-3930
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Closed Tuesdays 8 to 10 a.m.

BOCC Guidelines for Land Use Hearings

Overview of the Hearing Process

1. Convening and introduction by the Chair
2. Commissioners' Site Visit impressions
3. Staff Presentation – Basic cases 10 minutes. Involved cases 20 minutes
   a. Board questions
4. Applicant – 20 minutes (see below)
   a. Board questions
5. Public Hearing – 3 minutes per speaker (see below)
6. Staff response to issues raised
7. Applicant response
8. Commissioners' discussion and decision

Applicant Presentations

1. Applicant presentations should be no longer than 20 minutes. Planners will notify the applicant of this requirement at the time a hearing with the Commissioners is requested.
2. If the applicant wishes to exceed 20 minutes, he/she needs to notify the planner as soon as possible. Requests will be forwarded to the Commissioners for their consideration at the next agenda PMI. If the Commissioners decide to grant an extension of time and the scheduled date/time for the hearing does not allow for it, the applicant may be asked to reschedule, rather than inconveniencing other applicants who already have been scheduled for that day.
3. At the beginning of the meeting, the chair of the board will remind the applicant of the time allotted for the presentation. The presentation will be timed, so the applicant knows when time is running out.
4. The presentation time does not include any questions from the Board and the time it takes to answer them. Commissioners will attempt to hold their questions until the applicant has finished presenting. If a question is asked during the presentation, the timer will be stopped and restarted after the question has been answered.
5. If the applicant exceeds the allotted time, the chair may interrupt and end the presentation, at the chair's discretion.
6. Requests by the applicant to extend the presentation time on the day of the hearing may only be granted with an affirmative vote of the Board.

Public Hearing

1. Comments are generally limited to three minutes, unless otherwise determined by the Board of Commissioners.
2. Presenters may pool time, at three minutes per person, so long as everyone who is pooling time is present at the time of the presentation.
3. Any organized groups are allowed to present first, with rules for pooling time to be followed.
4. The presentations will be timed, so that the presenter knows when time is running out.
5. The presentation time does not include any questions from the Board and the time it takes to answer them. Commissioners will attempt to hold their questions until the presentation is finished. If a question is asked during the presentation, the timer will be stopped and restarted after the question has been answered.
6. If the presenter exceeds the allotted time, the chair may interrupt and end the presentation, at the chair's discretion.
7. Once everyone has had the chance to speak, the chair may open the hearing for additional comments from those who have previously presented, at the chair's discretion.

Code Excerpts

Post Approval Requirements

Excerpt from Article 3 • Processes

3-206 Post Approval Requirements

A. No activity or use authorized pursuant to an approval granted subject to the provisions of this Article shall be permitted or allowed to commence unless all post- approval requirements as required by this Code and all conditions of approval have been met.

B. Development Agreements

1. For special use approvals and final plat or final plat replat approvals under the Subdivision Regulations, a development agreement must be reviewed and approved by County staff, signed by the applicant, and then signed by the Chair of the Board. The approved and executed development agreement shall be recorded in the real property records of Boulder County at the same time the other required post-approval documents implementing the approval are recorded. The development agreement shall embody the terms and conditions of the site specific development plan creating a vested property right pursuant to Section 3-207.

2. The development agreement typically will include the following (as applicable):

a. description of the approved development,

b. site plan depicting the approved development,

c. provisions for construction of improvements,

d. performance guarantees and letters of credit,

e. evidence of payment of sewer and water tap fees and other necessary fees,

f. phasing schedule,

g. evidence of transfer of water rights,

h. agreements to provide 'as built' plans,

i. methods of providing perpetual maintenance of common property and equipment,

j. provisions for a home owners association,

k. methods for amending the agreement,

l. enforcement provisions, and

m. language establishing a vested property right in conformity with Part I of Article 68 of Title 24, C.R. S., as amended.

3. The development agreement shall be signed by all owners of the subject property.

DEVELOPMENT AGREEMENT

GOVERNING DEVELOPER'S OBLIGATIONS IN

[SPECIFY DOCKET NAME]

(Boulder County Land Use Docket # SU-*[SPECIFY DOCKET NUMBER]*)

THIS AGREEMENT is made this _____ day of _____, 201_, by and between the Board of County Commissioners of Boulder County, Colorado ("County"), and *[SPECIFY DEVELOPER NAME]* ("Developer") (collectively, "the Parties").

WHEREAS, under Article 4-___*[SPECIFY LAND USE CODE ZONING USE PROVISION]* and Article 4-600 of the Boulder County Land Use Code ("Land Use Code"), Developer has submitted to County a special use request to *[SUMMARIZE SPECIAL USE REQUEST]*, which request County has approved in Land Use Docket # SU-*[SPECIFY DOCKET NUMBER]* ("the Docket"), as set forth in County Resolution No. *[SPECIFY RESOLUTION NUMBER]* adopted *[SPECIFY RESOLUTION ADOPTION DATE*], which is attached to and incorporated into this Agreement as Exhibit A; and

WHEREAS, in Exhibit A County has approved the Docket as a site specific development plan, and as part of this approval has required Developer to enter into a Development Agreement reaffirming Developer's obligations in the Docket, prior to Developer commencing any activity or County issuing any permits pursuant to the Docket; and

WHEREAS, the Parties acknowledge that the matters addressed in this Agreement are reasonable and necessary to implement County's approval of the Docket and protect the public health, safety, and welfare.

NOW, THEREFORE, in consideration of this Agreement's mutual covenants and County's approval of the Docket as set forth in Exhibit A, the Parties agree as follows:

1. Description of Approved Development

The approved development in the Docket ("Development") is described in Exhibit A and the official Docket file, and depicted on the site plan which is attached to and incorporated into this Agreement as Exhibit B. Developer is responsible for assuring that the Development complies with Exhibits A and B, as well as with all applicable provisions of the Land Use Code, County Building Code, County Multimodal Transportation Standards, County Public Health regulations, and any other applicable County development requirements.

2. Acknowledgement of Requirements To Be Met Prior To Recordation of Development Agreement

[INSERT/DESCRIBE AS APPLICABLE, PER EXHIBIT A]

3. Acknowledgement of Requirements To Be Met Prior To Issuance of County Permits for Development To Proceed

Developer will comply with all other conditions of Exhibit A which are prerequisite to the issuance of County building, grading, and any other applicable permits for the Development to proceed. In addition, no County permits for the Development shall be issued until the Parties have executed and recorded this Agreement, and Developer has met all other applicable requirements of the Land Use Code, County Building Code, and related County Transportation and Public Health requirements for the requested permit.

4. Statutory Vested Right

County affirms that under Section 3-207 of the Land Use Code and the governing state vested rights law, County has granted a vested property right for the Development to proceed as stated in Exhibit A. The term of this vested right is for three years following the date of adoption of Exhibit A, *[INSERT RESOLUTION ADOPTION DATE]* (therefore ending on *[STATE ENDING DATE THREE CALENDAR YEARS AFTER RESOLUTION ADOPTION DATE]*), subject to the provisions for modification and termination contained herein. During the approved vesting period subsequent regulations enacted by County shall be applicable to the Development if necessary to protect the health and safety of the inhabitants of Boulder County, or if general in nature and applicable to all properties subject to County land use regulation.

Developer may request an extension of the approved vested right's term in accordance with the Land Use Code and applicable state law. The vested property right recognized herein may be terminated if the County determines that Developer is not in good-faith compliance with this Agreement.

5. Lapse of Docket Approval under Land Use Code

As stated in Articles 4-604.A.-B. of the Land Use Code, if within five calendar years after the date of adoption of Exhibit A, *[INSERT RESOLUTION ADOPTION DATE]* (i.e., by *[STATE ENDING DATE FIVE CALENDAR YEARS AFTER RESOLUTION ADOPTION DATE]*), Developer does not significantly commence operation, or construction as described in a County-issued building permit, on any portion of the Development, then County's approval of the Docket shall lapse, and this Agreement shall be of no further force and effect. As further provided in Article 4-604.C. of the Land Use Code, even if the Development is successfully commenced within the time period required in Articles 4-604.A.-B., the Docket and this

Agreement will lapse, and be of no further force and effect, if for any continuous five-year period there is no activity under any portion of the Docket approval as a result of causes within the control of Developer or its successors or assigns.

6. Amendment/Waiver

This Agreement may be terminated or amended with the mutual consent of the Parties consistent with the Land Use Code, or to bring the Development into conformance with federal or state law, or as otherwise provided in this Agreement. County shall have the right to waive its rights to enforce this Agreement, without obtaining the consent of any other person, provided that any waiver shall be in writing. Any termination, amendment, or waiver that represents a material modification of County's approval of the Docket, shall require a public hearing and approval under the Land Use Code.

7. Enforcement

County may review the Development to assure compliance with this Agreement. This review includes the right to enter upon the property subject to the Docket at any time, without prior notice, to inspect conditions and monitor compliance. County or any purchaser of the subject property shall have the authority to bring an action in the Boulder District Court to compel the enforcement of this Agreement and seek any other relief authorized by law. If the Development becomes included within the boundaries of any city or town, County's right to enforce this Agreement shall pass to the governing body of the city or town.

8. Transfer of Property/Binding Effect of Agreement

This Agreement provides for the orderly development of the subject property in the Docket and shall run with the land under all circumstances. This Agreement is entered into pursuant to County's zoning police powers granted in the Colorado Planning Act (Part 1, Article 28, Title 30, C.R.S., as amended) and is not intended as, nor should it be construed to be, a grant of any easement, license, land contract, or other interest in land to the County, nor is this Agreement an instrument securing any debt owed to the County. Therefore, upon execution, this Agreement is and shall be binding upon Developer, all owners of the subject property or any portion of the property, and Developer's and all owners' heirs, successors, and assigns regardless of the transaction or legal process through which any subsequent owner may obtain title. In the event a court of competent jurisdiction or other competent legal authority declares this Agreement to be null and void, the right to pursue the Development under this Agreement shall be similarly extinguished.

9. Subordination

Prior to recordation of this Agreement, the Developer shall have obtained the written and notarized agreement of any existing senior mortgage or lien holder in the property included in the Development, to subordinate their interest in the property to the County's rights to retain in effect and enforce this Agreement. ***[This provision should be drafted to reflect that it has been complied w/, including any executed subordination agreements attached as exhibits, OR to reflect that there are no existing senior mortgagees so no subordination is required.]***

10. Notation and Recordation

County shall record this executed Agreement with the County Clerk and Recorder.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals this _____ day of _____ , 201_.

BOULDER COUNTY

_____
CHAIR, BOULDER COUNTY
BOARD OF COUNTY COMMISSIONERS

ATTEST:

_____
CLERK TO THE BOARD

DEVELOPER

_____ , _____
(Name) (Title)

STATE OF COLORADO) ss.
COUNTY OF BOULDER)
Subscribed and sworn to before me this _____ day of _____ , 201_,

by _____. My commission expires_____.

NOTARY PUBLIC