

THE PEOPLE'S ADVOCATE

A Periodic Review of Politics and Local Government

in Boulder, Colorado

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Boulder County Comprehensive Plan Draft Transportation Element

The Boulder County Planning Commission held a public hearing on December 16, 2009 on the Boulder County Comprehensive Plan Draft Transportation Element. The element identifies countywide goals and provides policy direction for county transportation facilities, programs, and services. The purpose of the update process is to: 1) establish a transportation policy framework to help meet and manage present and future demands placed on the county's transportation system and services; 2) incorporate countywide sustainability goals and principles into its transportation policy framework; and 3) develop policies that help integrate transportation and land use decision-making within the county and with other local, state, and regional agencies.

The staff presentation addressed comments submitted from public workshops and testimony, Planning Commission feedback, and written and verbal comments. A working group of citizens, who believed the current language of the draft document was inappropriate for a county-wide solution, had made suggestions that were included in the modifications to the draft element. The presentation focused on the following six areas of concern: Infrastructure for New Technologies, County Maintenance, Paving Gravel Roads, Public Safety, Impacts of Transportation Improvements, and Funding Responsibilities. Staff went through each category and provided clarifying comments and recommendations for modifications to the draft element. Objective G, Policy i, regarding funding responsibilities, received the most comments. Under this policy, subdivision residents assume the cost for subdivision road rehabilitation.

Staff recommended that the Planning Commission adopt the Transportation Element goals and policies into the Boulder County Comprehensive Plan and recommended to the Board of County Commissioners approval of Docket BCCP-08-002 for incorporation into the Land Use Code.

About a dozen people spoke in support of the plan and one person presented slides on the jobs/housing balance and VMT and said that the Transportation Element is not addressing this issue.

Commissioner Menard suggested we use jobs/housing as a metric and wanted to know more on the jobs/housing issue and whether it was rental or owner housing needs. Staff indicated that they steered away from the jobs/housing issue because it is a complex one. They hadn't studied jobs/housing cost and what informs people on travel decisions. Commissioner Anderson spearheaded the discussion on Objective G, Policy i, regarding special assessments of properties

for roadway improvements and wanted to strike the section on special assessments. Objective G, Policy i, was changed from "Allow for Special Assessments" to "Assign Funding Responsibility." There was much discussion on a request for a definition of "road rehabilitation" and "road maintenance" as well as a definition of "local" road.

Motion – Commissioner Menard moved that the Planning Commission adopt the Transportation Element goals and policies into the Boulder County Comprehensive Plan by approving docket BCCP-08-002 and recommend to the Board of County Commissioners approval of Docket BCCP-08-002 for incorporation into the Land Use Code and certify the docket for such action to the Board, which certification includes the approved text of the docket, and the official record of the docket before the Planning Commission with its staff comments, public testimony, and Planning Commission discussion/action.

Motion was seconded by Commissioner Blaugrund. Vote was unanimous. Commissioner Shanks was absent.

City of Boulder Construction Use Tax

In August 2009, the City sent 300 letters (the first mailing of an intended 1,000 letters) to area contractors and homeowners requesting that they come in for voluntary reconciliation regarding potential underpayment of construction use taxes on completed building projects going back to 2006. The City had hoped to collect back taxes of \$1.9M to \$5.2M through this reconciliation process. The letters, once received, generated a large, organized protest from homeowners, builders, and contractors who said that they were unaware of their responsibility to reconcile the actual completed project cost with the estimated value paid at the time of the building permit. They argued that they were under the impression that once they received a Certificate of Occupancy, their financial obligations to the City were settled. In response to the outcry, the City suspended follow-up on the construction use tax letters in September and instituted a 60-day re-examination process. The City initiated a third-party review of the City's construction use tax practices.

At the City Council meeting on December 15, 2009, the City Manager, Jane Brautigam, reported that the complexity of the use tax and its implementation, as well as the lack of full communication about the issues, led to significant misunderstandings. She recommended that the City 1) end collection efforts related to the voluntary compliance program outlined in the August 2009 letters and that voluntary payments made to the City in response to those letters be refunded, and 2) that the City uphold the final determinations reached in Construction Use Tax audits on 16 contractors completed prior to August 2009. These recommendations would result in the City returning \$32,498 to contractors who paid additional taxes through the voluntary reconciliation process but not returning \$692,140 to the 16 contractors audited in the spring. Those audits, which weren't appealed, were part of a routine process that the City has been conducting for about 19 years.

During citizen participation, more than a dozen speakers said that they had never heard of the use tax reconciliation requirement after the Certificate of Occupancy had been issued and many

never heard of the audits and requested that the 16 contractors audited in the spring be excluded from having to pay any taxes.

Council members were comfortable with the City Manager's findings but they disagreed on how to deal with the 16 contractors audited early in the year. Council members Becker and Karakehian were concerned with fairness and thought the City should give the money back to the contractors while other members felt that since the audit process has been in existence for 19 years, the 16 contractors should pay some taxes but were concerned with the flawed charts for determining the use tax. Council member Karakehian suggested spreading the \$642,140 tax debt of the 16 contractors over the 1000 potential reconciliation letter recipients.

Motion. Council member Cowles moved to direct staff to come up with an ordinance that would provide an appeal route for the 16 contractors. Gray seconded the motion. After discussion on the fairness to the 16 contractors, the motion passed 4-3 with Ageton, Becker and Karakehian opposed. Cowles, Gray, Osborne, and Wilson in favor. Council members Appelbaum and Morzel were absent.

South Boulder Creek Instream Flows and Gross Reservoir Enlargement

On January 5, 2010, the Boulder City Council took up discussion of the possible intersection of Boulder's South Boulder Creek Instream Flow program and Denver's request to enlarge Gross Reservoir.

According to Mike Patton, Boulder's Open Space Director, and Bob Crifasi, Boulder's Open Space Water Resources Administrator, Boulder has been struggling to find ways to keep water in South Boulder Creek during the fall and winter months for decades. For over a century, reaches of the stream have typically been dewatered during those months. Denver's application to the Corps of Engineers for a permit to enlarge Gross Reservoir, if successful, offers Boulder an opportunity to obtain some storage space ("environmental pool") on the creek that would allow the release of small amounts of water (1.5-10 cfs) during needed periods.

The city of Denver has long been trying to augment its water supply and storage facilities. The Gross Reservoir expansion is the current incarnation of that quest. Factors governing its current proposal are that Denver has shortfalls in the northwest portion of its service area (including Arvada) and Denver has been accumulating west slope water rights since the 1920s. These water rights would be used in Denver's Moffat Tunnel system, of which Gross Reservoir is a key component. As part of its Environmental Impact Statement, Denver looked at five alternatives: a no action alternative; the preferred alternative of enlarging Gross Reservoir to 72,000 AF; an alternative that combined some enlargement of Gross Reservoir and a new reservoir at Leyden Gulch, west of Highway 93; and three alternatives that relied on return flow reuse and groundwater storage. Denver's preferred alternative would raise the dam at Gross Reservoir 125 feet, and its capacity would be enlarged from about 42,000 AF to 114,000 AF. The alternatives are discussed in more detail in the staff memo:

<http://www.bouldercolorado.gov/files/Clerk/Agendas/2010/01-05-2010/6C.pdf> . The Draft EIS document can be found at <https://www.nwo.usace.army.mil/html/od-tl/eis/moffat-eis.html>

Providing some historical perspective, Lee Rozaklis, of Amec Earth and Environmental (formerly Hydrosphere), testified that enlargement of Gross Reservoir was one of the alternatives to Denver's Two Forks Reservoir proposal that was preferred by the Environmental Caucus back in 1983 because of its lower environmental impacts. The expanded reservoir would only be filled during wet years, so the environmental impacts of its diversions on the west slope would be primarily related to sediment transport.

Mike Patton and Bob Crifasi have been in negotiations with Lafayette and Denver to develop Intergovernmental Agreements (IGAs) that would ensure an environmental pool in Gross Reservoir. The pool would be filled by water rights and contracts owned by Boulder and Lafayette. Lafayette would use the water primarily to augment its water supply system and Boulder would use it to supply instream flows to South Boulder Creek. The environmental pool would require an additional 6 feet of dam height and would cost Boulder and Lafayette \$2.2M each and Denver \$4M.

Bob reassured Council that Denver understands that support of the IGAs does not imply support of the reservoir expansion. Environmental impacts in Boulder County are likely to be related to removal of trees in the area anticipated to be inundated by the reservoir. Because of fairly restrictive Federal wetlands delineation guidelines, the EIS shows only 6 acres of wetlands being affected. Under Boulder's wetland definitions a larger area would qualify as affected.

PLAN Boulder County made a brief statement, as did other environmental organizations, to the effect that it supports the IGAs but does not support the expansion of Gross Reservoir.

Lisa Morzel led off the Council deliberations with discussion of methods to prevent development of a reservoir at Leyden Gulch and ways to force construction traffic away from Boulder. Matt Appelbaum suggested the possible purchase of a conservation easement at Leyden Gulch. KC Becker expressed concern that analysis of the environmental tradeoffs (benefits to Boulder vs. harm to the west slope) hasn't been done. Crystal Gray suggested that Boulder might be due a large GOCO grant that could be used for Leyden Gulch and also suggested that language urging Denver to take advantage of in-line hydropower opportunities be included. Suzy Ageton wondered if there were opportunities to coordinate with Boulder County and Grand County. Ken Wilson also expressed concern about Leyden Gulch and offered that if Gross Reservoir is expanded Denver might not have enough remaining water rights to fill a reservoir at Leyden Gulch.

Macon Cowles commented that history shows that preventing water supply development does not prevent urban development. Two Forks failed and yet development in the Denver service area continued to grow. He moved, seconded by Lisa, that Council support the key components of IGAs with the Denver Water Board and Lafayette that would provide for the construction of an environmental pool to support instream flows in South Boulder Creek in the event Denver obtains approval for the expansion of Gross Reservoir and that Council direct staff to negotiate a future for Leyden Gulch that excludes water storage or urban development if the expansion of Gross reservoir is approved. Additionally, transportation impacts should be diverted outside the City of Boulder and comments 2 and 3 from p 67 of the staff memo should be included (copied below).

COMMENT 2:

The Draft EIS identifies Highway 72 as the access road for construction. Boulder agrees with that designation. However, Boulder believes that it is inappropriate to route construction traffic along State Highway 128 or Highway 93. Construction traffic on Highway 128 and Highway 93 will increase congestion on those roads and create noise impacts to surrounding open space lands. Boulder residents who commute along Highway 93 should not have to deal with the inconveniences of construction traffic along that road. The City of Arvada is a major beneficiary of the Moffat Collection System Project. Because the City of Arvada is a major beneficiary, designation of haul traffic through Arvada via Indiana Avenue to Highway 72 is appropriate and necessary.

COMMENT 3:

The Draft EIS does not identify Flagstaff Road for any construction, haul or forestry related traffic. Boulder appreciates that no designation is identified along Flagstaff Road. However, Flagstaff Road is a potential access route to Gross Reservoir. Because of the steep grades, tight turns and large amount of residential and recreational traffic, the use of Flagstaff Mountain Road from Walker Ranch to the city limits of Boulder should be specifically prohibited as an access route for the project.

George Karakehian wondered whether Denver and Arvada would walk away from their \$20M investment in Leyden Gulch. Mike Patton responded that they wouldn't really be walking away; Boulder and Jefferson County might both be interested in paying to have the area preserved as Open Space.

The motion passed unanimously.

Science Teachers Address Boulder Valley School Board

A group of more than a dozen BVSD science teachers approached the podium during the Public Participation portion of the January 12, 2010 school board meeting. Two of them, Laura Duncan and Julie Andrew, addressed the board. The teachers presented an analysis of district spending over the past decade showing the growth in central administration spending relative to spending at the school level. The text of their address (which was slightly modified when spoken) is reproduced below.

Responses from the BVSD board to the science teachers varied from welcoming to contemptuous. Board member Jim Reed (Lafayette) asked the Superintendent to verify the numbers in the teachers' statement. Lesley Smith (north Boulder) did not comment on the teachers' presentation. Helayne Jones (central Boulder) said that she doesn't "want teachers on

the budget advisory committee” because she wants corporate-type “out-of-the-box” thinking. She also recommended that they take a “reality pill” and said that she applauds the Superintendent. Laurie Albright (south Boulder) said that the board should think about how dollars are spent and that she wants to meet with the teachers. Jennie Belval (Broomfield) thanked the teachers for coming and expressed her priority that the budget cuts be kept far away from the kids. Tom Miers (Louisville) said that he was happy to see the science teachers come and would like to see more teachers involved in the budget process. He said that teachers have a big influence on the budget and can help with “out-of-the-box” thinking. Board president Ken Roberge (northeast Boulder), speaking last, said that making the budget more transparent was difficult because the process was complicated and hard to understand. He asked the teachers to identify what they don't understand about it.

Text of the teachers' address:

Colorado is facing a significant budget shortage and, as a result, state funding to our district will be reduced next year. We recommend that as much of the available district money as possible be re-directed to the classroom to prevent both the elimination of courses and classroom overcrowding due to reduction in teaching staff. Cuts should be made in the central administration office first and only in schools as a last resort.

Based on the employee directories published by the district from 2001 to 2009, we have made the following observations (please refer to the attached data and graph):

- 1) The number of schools in the district has decreased by 3.6 %. (56 to 54 schools)
- 2) The number of students has only increased by 3.2%. (27,953 to 28,838)
- 3) The number of teachers, secretaries, custodians, and other employees at the schools has only increased by 0.5%. (3,346 to 3,363)
- 4) However, over the same time period, the number of employees at the Education Center building on Arapahoe Avenue has increased from 722 to 852, which is an increase of 18.0%.
- 5) In addition, the number of department heads at the Education Center has gone up from 35 to 46 which is an increase of 31.4%. (note - the numbers for the Ed Center department heads do not necessarily include assistant directors who also have large salaries)

If we assume an average salary of \$40,000 per Ed Center employee, the increase in total employees at the Ed Center from 722 to 852 represents a cost of approximately \$5.2 million; assuming an average salary of \$92,000, the increase in department heads corresponds to approximately \$1 million of the \$5.2 million increase. Our students have not benefited from the growing head count at the Ed Center.

We believe the plan to balance the budget within the district should be completely transparent and we want to be informed of your strategy. We are disappointed as teachers and taxpayers that there is only one teacher on the Superintendent’s budget committee of 30, despite the fact that teachers and students are most directly affected by funding reductions. Specifically, we want to know what positions and programs at the Ed Center will be eliminated and the corresponding savings incurred. As teachers, the employees most responsible for the education of the students, we have the right to know how district wide cuts are being made and so does the public. In 2002, the voters passed a mill levy for the purpose of, “lowering average class size...and attracting and retaining quality teachers”. This shows what the public values. Increasing the Ed Center staff by 18% while leaving the school based employees basically unchanged is not consistent with this mill levy.

We would appreciate the opportunity to meet with you to discuss our further concerns about how money is being spent within the district.

Julie Andrew (Monarch)

Brian Cox (Fairview)

Laura Duncan (Boulder)

David Guilinger (Broomfield)

Emily Haynes (Centaurus)

Marcelle Partridge (Boulder)

Abby Scott (Centaurus)

John Stillian (Fairview)

Cammie Wickham (Fairview)

**Joint City Council & Planning Board Study Session
Transit Village Area Plan**

The Boulder City Council and the Boulder Planning Board met on January 12, 2010 for a study session dealing with the Transit Village Area Plan. Attendees were: City Council members Susan Osborne, Ken Wilson, Suzy Ageton, Matt Appelbaum, KC Becker, Macon Cowles, Crystal Gray, George Karakehian, and Lisa Morzel and Planning Board members Adrian Sopher, Elise Jones, Willa Johnson, Andrew Shoemaker, and Mary Young (Bill Holicky recused).

David Driskell, Director of Community Planning and Sustainability, indicated that the purpose of the joint study session was to update Planning Board and City Council on the implementation of the Transit Village Area Plan (TVAP) and to get feedback on the next steps for implementing the plan and for phasing and funding the key public improvements in conjunction with private development. The TVAP and Implementation Plan were adopted by the Planning Board and City Council in September, 2007.

The vision for the plan is to create a “vibrant new walkable neighborhood that is affordable, well-designed, supports a car-free lifestyle, and is accessible to shopping, transit, parks and other amenities and services.” This vision, illustrated by a 3-dimensional computer model “fly-through” of possible building envelopes and roads, will include:

- Higher density urban development, including 55 ft buildings
- Creative chaos (not overly planned) to produce a dynamic neighborhood
- New housing- 1200 units W of the tracks
- 1450 new jobs in commercial developments.

The Transit Village will develop by a series of incremental changes with public investment for roads, infrastructure, transit facilities, access facilities, and public amenities. The role of city leadership will be to invest in the plan and infrastructure, demonstrate commitment, establish the regulatory framework, work proactively with applicants, develop decision-making tools, and create partnerships.

The 11 acre site, co-owned by RTD and the City through inter-governmental agreements, will host the bus rapid transit (BRT) facility, mixed income housing with an estimated 50% permanently affordable, a new pocket park, the historic depot, parking, retail/commercial space, and streetscape amenities. Implementation steps include: creating a public art master plan, an "Access District" ordinance, which will define the multimodal transit connections, rezoning according to the land use designation already established, construction of Junction Place (the new road that will bisect the Transit Village from 30th to Valmont), developing a stormwater strategy, and establishing phasing and funding of improvements.

General Comments from Planning Board and City Council members

Support for the Area Plan:

Elise Jones summarized the Planning Board discussion of Thursday, Jan. 7. There has been a lot of Planning Board work done on this project. It's not perfect, but Planning Board is committed to the plan. Things have changed due to the recession and questions about funding and timing for the commuter rail train. The plan was drafted with lots of opportunity for tuning, and there will be opportunities to make it better as we move forward. Planning Board member Adrian Sopher offered a minority opinion. He didn't support the plan because it hasn't gone far enough, in his opinion, in terms of density and intensity of use.

Among councilpersons, Crystal, Lisa, and Susan explicitly stated support for the plan. Matt and Macon expressed some reservations- both want a more urban design. George stated that he "has never been a big fan of this plan."

Development on the City Site (11 acres at Pollard motors- affordable housing).

Crystal supports affordable housing for half of the proposed 320 units on the City Site. These would be targeted for residents at <30% of the AMI (area mean income) and would provide access and equity for all. Lisa recalled that the Pollard Site was originally purchased to provide affordable housing, but also wondered if the city should be the housing developer there. Matt suggested that this site is probably the best place to get market-rate moderate-income housing. KC and Mary questioned what our greatest housing need in Boulder is, and suggested studying this issue. Mary added that understanding the housing needs or desires of our incommuters is important. Lisa wanted to know why people live here and work in Denver. Crystal wanted to make sure that affordable housing also serves seniors and disabled in addition to low-income.

George believes locating housing on such a valuable piece of property is not a good business decision. Five to seven million dollars could buy a lot of housing elsewhere. Lisa asked whether the City should consider swapping its site for a housing site elsewhere.

Urban design-

Matt, Macon, Adrian, and George advocated more urban, more intense use. Susan pointed out that the area will be rezoned to allow 55 foot buildings, so it will be urban. Crystal noted that increasing height does not necessarily make areas more urban or increase affordability. Adrian suggested that the city should carefully assess what benefits might be gained by increased height. Lisa asked for good design to produce a livable urban form that includes interesting public spaces and density relief. There was general agreement, advanced by Lisa, Matt and Macon, that a set of design guidelines should be written.

Connections- bikeways, walkways.

Crystal and Lisa emphasized that bike and pedestrian connectors are critically important to this project. Lisa suggested that it is important that this site connect with rather than compete with the downtown.

Connections- roads and parking

Crystal indicated the need to move forward on design for the bridge over Goose Creek. Lisa and Adrian suggested that Junction Place should extend north of Valmont and connect to Orchard Grove (despite right-of-way uncertainties) either by path or road. Lisa also indicated that surface parking should be very limited in the end to give a more urban form and that surface lots should only be placeholders for future buildings.

Change the name?

Macon suggested that the name "Transit Village" should be changed. George and Matt agreed.

Commuter Rail

Council recognized that the train has now been pushed farther into the future, but most believe the commuter rail will still happen. Matt suggested that this plan will move forward regardless of the train status and that this should be viewed in a 50-year context of development. The current economic situation or the timing of train implementation is not important in a 50-year context.

Louise Grauer from Community Planning discussed sustainability, infrastructure, stormwater and public art on the site, as follows:

- Development will meet eight of 12 LEED ND (neighborhood design) pre-requisites, which follows sustainable development principles and provides resources for developers.
- Public art will be integrated with infrastructure.
 - Key locations for art- gateways, corridors, site opportunities.
 - RTD site will put out bids for public art
 - Bridge over Goose will include art

- Stormwater – low impact development practices will be used to keep water on site and provide for infiltration. Statewide funding will be sought. Elements of the stormwater plan include:
 - Porous pavement
 - Green roofs
 - Street planters
 - Grassed swales
 - Questions- don't we need a storm sewer ahead of development? Will have one for bus station. Not necessarily need one for N side. Hard to build storm sewer piecemeal. There are both runoff and water quality considerations.
- Streetscapes- develop interesting designs.
- Depot- sited adjacent to Junction Place, a pocket park, and Goose Creek.
 - Historic Assessment Grant
 - Preliminary grading

Molly Winter from City Utilities discussed the Access District concept for the area:

- The Access District concept is a new concept for this kind of area. It is designed to address transit needs for this area
- Focus on alternative modes and TOD (transit oriented development) concepts
- Minimize number of autos and parking spaces using transportation demand management (TDM) principles.
- Tools include General Improvement Districts (GIDs), neighborhood parking permits (NPPs), ecopasses, etc
- Guiding principles
 - Balanced access
 - Incremental change
 - Partnerships with landowners and developers
- Managed on-street parking- NPP, pay stations, enforcement
- Tier one- fund TDM programs- ecopass, bike parking, car share, other programs.
- Tier two-Shared parking- short term surface parking, long term shared facilities- keep cars out of the core.
- GID legal mechanism- Clay Marshall of City Attorney's office is working on a Service Plan.

Bob Eichen, Chief Financial Officer, discussed funding methods:

- The plan is to use general fund surpluses above 10% to do initial public improvements. Then as developments happen, taxes feed the general fund.
- There also will be a contingency plan that includes
 - Self insurance reserves
 - Internal service funds
- City investment projects at the site will total \$7.2M. City upfront costs are \$1.4M. These include:

- Junction place enhancements
- Goose Creek bridge construction
- Park/depot/rail plaza- land and development costs
- Traffic signals at Junction Place and Pearl, Junction Place and Valmont, and Bluff and 30th Street.

Pass It On

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