



Community Planning & Permitting

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TO: Sam Walker
FROM: Ethan Abner, Long Range Planning Division
RE: Referral for SU-23-0016
DATE: March 25, 2024

The Boulder County Long Range Team has reviewed the provided referral materials for docket SU-23-0016 and has the following comments:

1. The applicant proposes a Membership Club tennis facility, including a clubhouse, 26 courts, a swimming pool, and seasonal court coverings on the parcel at 5701 N 79th Street. The Boulder County Land Use Code (“the Code”) defines a Membership Club as “a facility, including associated eating, drinking, and recreational facilities, owned or operated by a group of people organized for a common social, educational, service, or recreational purpose. These clubs are usually characterized by certain membership qualifications, payment of fees or dues, regular meetings, a constitution, and by-laws...” Membership Clubs may be permitted in the Agricultural zone district by Special Review.
2. Article 4-601 Review Criteria requires that a use be permitted by Special Review only if the Board of County Commissioners finds that the proposed use meets the criteria outlined in Article 4-601.A.1 through 4-601.A.13. Criteria 3 requires that the proposed use be in accordance with the Boulder County Comprehensive Plan (“the Comprehensive Plan”). Furthermore, the subject parcel lies within Planning Area III identified in the Boulder Valley Comprehensive Plan (BVCP). Article 3-204.C.9 of the Code states, “the County Community Planning & Permitting Department shall evaluate the application for conformance with the Comprehensive Plan, any applicable intergovernmental agreement (IGA) affecting land use...” As part of this review, staff considered the policies, goals, and objectives of both the BVCP and the Comprehensive Plan.
3. The Boulder County Comprehensive Plan was developed to respond to the widely accepted principle that the county will make decisions affecting the future of the county’s lands in a coordinated and responsible manner. Since its initial adoption in 1978, the overall philosophy of the Comprehensive Plan has changed very little—the county’s vision is to channel growth to municipalities, to protect agricultural lands, and to prioritize the preservation of our environmental and natural resources in making land use and related decisions. Furthermore, one of the guiding principles specifically identified in the

Comprehensive Plan is to “maintain the rural character and function of the unincorporated area of Boulder County by protecting environmental resources, agricultural uses, open spaces, vistas, and the distinction between urban and rural areas of the county.”

4. The Boulder Valley Comprehensive Development Plan IGA outlines the roles of Boulder County and the City of Boulder regarding administration of the BVCP and provides context for this review. The IGA notes:
 - To ensure that the unique and individual character of Boulder and the rural area within Boulder County outside areas I and II of the BVCP are preserved, the Parties believe that a comprehensive development plan that recognizes the area of potential urbanization within the BVCP that would not be interrupted by Boulder County open space, accompanied by a commitment by Boulder for the preservation of the rural character of lands surrounding Areas I and II within the Boulder Valley and Boulder County, is in the best interest of the residents of each of the parties.
 - The Parties find that providing for the area outside Areas I and II of the BVCP within Boulder County to remain as rural in character through the term of this IGA for the purpose of preserving a community buffer through the limitation of annexation by Boulder serves the economic and civic interest of their residents and meets the goals of the Boulder County Comprehensive Plan.
5. As noted in No. 2, the subject parcel is located within Planning Area III of the Boulder Valley. Area III is divided into the Area III—Planning Reserve Area, where the city and county intend to maintain the option of future Service Area expansion and the Area III—Rural Preservation Area, where the city and county intend to preserve existing rural land uses and character. The subject parcel is located within Area III—Rural Preservation.

A variety of land use activities are permitted by county zoning in Area III—Rural Preservation Area pursuant to examination through one or more of the review processes—in this instance, Special Review—outlined in the Code. A preliminary analysis may conclude that an otherwise permitted land use proposal would have an impact of urban intensity and thus be considered an over-intensive rural development. Criteria to be examined in making an over-intensive determination may include, but are not limited to, traffic, structure size, number of users, hours of operation, outside lighting, water needs and wastewater flows, impacts extending outside of the property boundaries, compatibility with surrounding land uses and the availability of a lack of other more appropriate sites for the proposed activity. A summary of various aspects of the development and proposed use are below:

- Traffic: The traffic study provided by the applicants concluded a generation of 99 new weekday PM peak hour vehicle trips as well as 720 new weekday daily trips.
- Structure Size: Applicant proposes a clubhouse (4,173 sq. ft. above grade, 3,123

sq. ft. below grade) in addition to sports bubbles—which allow seasonal use of the courts—at 55,482 sq. ft. (x2). 83,000 cubic yards of earthwork is also proposed.

- Number of Users: Staff does not currently have an estimate of potential users but would expect a significant amount considering the size of the proposed development, the proposed use, and the fact that the existing vacant parcel does not currently generate a high volume of use.
- Hours of Operation: Applicants propose 5am to 11pm.
- Outside Lighting: Applicants propose down-lighting for the courts and parking lot.
- Water Needs: Referral from Lefthand Water District notes that the parcel is currently entitled to one residential ¾” tap. The use is not residential in nature and the materials provided by the applicant note that an increased tap size and irrigation line will be needed from Lefthand Water District. Staff will consider additional information provided by the appropriate referral agencies.
- Wastewater Flows: There is not sewage service for the subject parcel, nor plans to extend service into this area. The applicant proposes installing a septic system.
- Compatibility with Surrounding Land Uses: The parcel is bordered by a church to the south, single-family homes to the north, and open space to the east and west.

Staff have reviewed the information provided by the applicant regarding the proposed use and consider it over-intensive rural development. As such, the application has also been referred to the City of Boulder (as required by the BVCP). All the above factors have been considered in greater detail by the Development Review Team.

6. The subject parcel is located within Area III—Rural Preservation where rural land uses (i.e., agriculture) and character are to be maintained and preserved. There are specific elements in the BVCP which support these objectives:

- 2.06 Preservation of Rural Areas & Amenities: The city and county will attempt to preserve existing rural land uses and character in and adjacent to the Boulder Valley where environmentally sensitive areas... agriculturally sensitive lands, vistas... and established rural residential areas exist. A clear boundary between urban and rural areas at the periphery of the city will be maintained where possible.
- 2.07 Delineation of Rural Lands: The more specific Area III land use designations on the Boulder Valley Comprehensive Plan map indicate the type of non-urban land use that is desired as well as recognize those county developments that have or can still develop at other than rural residential densities and uses. The Area III—Rural Preservation Area is that portion of Area III where rural land uses and character will be preserved... and no new urban development will be

allowed during the planning period... Rural land uses to be preserved to the greatest extent include... sensitive environmental areas... that are unsuitable for urban development; significant agricultural lands; and lands that are unsuitable for urban development because of a high cost of extending urban services or scattered locations, which are not conducive to maintaining a compact community.

- 3.04 Ecosystem Connections and Buffers: The city and county recognize the importance of preserving large habitat areas, especially of unfragmented habitat, in support of the biodiversity of their natural lands and viable habitat for native species. The city and county will work together to preserve, enhance, restore and maintain lands identified as critical and having significant ecological value for providing ecosystem connections (i.e., wildlife corridors) and buffers to support the natural movement of native organisms between ecosystems.

As proposed, the application conflicts with these goals. First, the application proposes a more intensive use in an area specifically identified as desirable for rural preservation and the promotion of buffer space between existing municipalities. The Future Land Use Map of the BVCP identifies the subject parcel (Figure 1, parcel outlined in red) as “Open Space—Other.” This designation applies to other public and private land designated prior to 1981 that the city and county would like to preserve through various preservation methods. The surrounding parcels, identified in a lighter green are lands already acquired by the city of Boulder County for open space purposes.

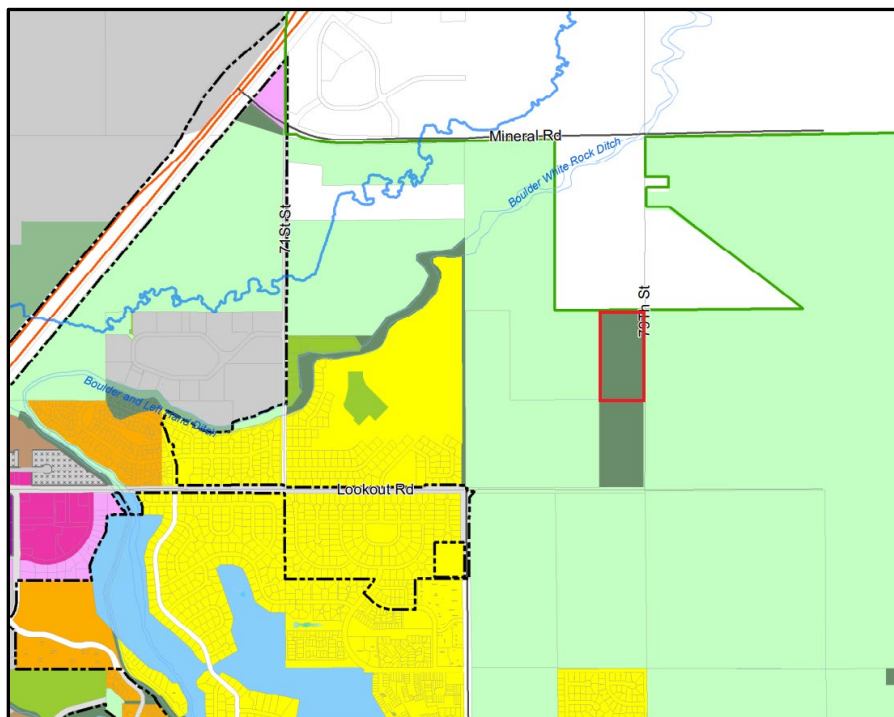


Figure 1: The Future Land Use Map shows the parcel (outlined in red) identified as “Open Space—Other,” surrounded by existing Open Space parcels (light green).

The Comprehensive Plan discusses the importance and value of open space, which is defined as “lands intentionally left free from development.” Open space serves one or more of the following values or functions (listed in no particular order):

- Conserves rural character of the unincorporated county, scenic corridors, and community buffers to ensure community identity and prevent urban sprawl;
- Preserves natural resources, including significant habitats, native species, and ecological processes;
- Conserves and enhances agricultural lands, especially lands of local, statewide, and national importance.

Various policies in the Open Space Element of the Comprehensive Plan provide guidance regarding impacts from development, particularly as they relate to open space and View Protection Corridors:

- OS 1.02 Development Review: Open space values and functions, and impacts to county open space, shall be considered in the review of development proposals submitted to the Community Planning & Permitting Department.
- OS 1.02.01: To the extent possible, the county shall avoid, minimize or mitigate impacts on views from view protection corridors including, but not limited to, those shown in mapping that accompanies this element. The county may preserve these scenic corridor areas by means of appropriate dedication during the development process, reasonable conditions imposed through the development process, or by acquisition. This, however, does not preclude the county from providing essential and appropriately planned road improvements.

The subject parcel is prominently located on a hillside and adjacent to N. 79th St, which has a view protection score of 2.06 out of 5. The applicant proposes seasonal structures that would reach approximately 50 ft. in height and be in place throughout a portion of the year. Staff are concerned about the impacts that these structures would have on views from N. 79th St and the surrounding area. Furthermore, staff are concerned with the impacts that the proposed development in its entirety (see No. 5) would have on views from the surrounding areas due to the subject parcel’s prominent location and overall proposed size.

7. Although the subject parcel is close to existing subdivisions and other urban development, the subject parcel and proposed use are not contiguous to these developments or more intensive uses. The subject parcel also consists of land identified by the Comprehensive Plan as Agricultural Land of Local Importance, which typically consists of grazing lands with limited water supply and are not considered prime agricultural land. The subject parcel is also wholly within an identified Environmental Conservation Area (ECA), which are identified swathes of land that encompass the largest remaining relatively natural or restorable forests, shrublands, grasslands, and

agricultural landscapes in Boulder County. The BVCP and Comprehensive Plan strive to guide more intense development or uses away from these areas to reduce sprawl, as well as the fragmentation of agricultural lands or environmentally sensitive areas. These elements are discussed in greater detail in No. 10. Furthermore, limited urban services extend into this area. Although the subject parcel is served by a water district, there are no sewer services provided nor are there any current plans to extend service into this area.

8. The subject parcel is also located in the area of the unincorporated county identified by the Comprehensive Plan as the Plains Planning Area (PPA). The PPA element of the Comprehensive Plan provides physical representation of the county's goals and policies. It draws upon existing land use patterns, environmental features and future growth expectations to recommend a rational organization of land uses which will protect and preserve some of the county's remaining rural land, and allow the orderly, economic provision of infrastructure and public services. It is expected that land within municipal Community Service Areas (CSAs), such as the Boulder Valley, Longmont, or Lafayette, will be developed in an urban pattern. Conversely, land outside CSAs and their transition areas will remain rural, urban services will not be extended, and zoning will prohibit urban development and densities. Most of the land outside the CSAs will continue to be used for agricultural activities, environmental resource protection, low-density residential development, and other activities consistent with the rural character of the county. As noted in No. 6, the subject parcel lies within an area identified for rural preservation in the Boulder Valley.
9. The policies in No. 7 are reaffirmed by PPA 1.01 Geographic Scope and Vision for Plains Planning Area. PPA 1.03 Guidelines for Land Use Proposals provides further information for consideration, noting that land use proposals within the PPA should adhere to the following land use guidelines:
 - Conformance with the applicable goals, policies, and land use regulations of the Boulder County Comprehensive Plan;
 - Preservation and utilization of agricultural lands, or when applicable, the preservation of other environmental resources;
 - Provision of adequate access, water availability and sewage disposal by the applicant, and the existence of adequate educational facilities and police and fire protection; and
 - Minimizing potential negative impacts on surrounding lands, including agricultural land, attendant agricultural uses, and established neighborhoods and other adjoining or nearby development and land uses.

The proposed development on the subject parcel may be able to meet the third criterion listed above, but as proposed does not appear to comply with the first, second, and fourth criterion. The proposal conflicts with numerous elements of the Comprehensive Plan, would be developed on a parcel that is identified as containing

Agricultural Lands of Local Importance, is intercepted by an Environmental Conservation Area (ECA), and is adjacent to Critical Wildlife Habitat. Additionally, noise and light pollution from the parcel may impact surrounding property owners and habitats, as the applicants propose hours of operation from 5am to 11pm and the development would be located prominently on a hill.

10. As noted in No. 7 and No. 8, the PPA helps outline the desired uses and activities for this area of the unincorporated county—many related to the conservation or preservation of land and a focus on less intensive development. The proposed development also conflicts with specific Comprehensive Plan elements related to the preservation of agricultural lands, environmental conservation, and sustainability.

- AG 1.03 Agricultural Land of Importance: It is the Policy of Boulder County to encourage the preservation and utilization of those lands identified in the Agricultural Element as Agricultural Lands of National, Statewide, or Local Importance and other agricultural lands for agricultural or rural uses...
- Environmental Resources Goal 7, Conserve & Preserve: Boulder County shall conserve and preserve ECAs in order to perpetuate native species, biological communities, and ecological processes that function over large geographic areas and require a high degree of connectivity to thrive.
- Sustainability Element Goal 6, Foster & Promote Resources of Open & Rural Lands: The preservation and viability of the increasingly precious resources of open and rural lands, whether devoted to agriculture, forestry, open space, or plant and wildlife habitat, as well as the sustainability of uses that provide for the long-term preservation of such lands should be fostered and promoted...
- Sustainability Element Goal 10, Protect Natural Assets: The county's rich and varied natural features, scenic vistas, ecosystems, and biodiversity should be protected from further intrusion, disruption, consumption, and fragmentation.

The subject parcel contains Agricultural Lands of Local Importance. Although these lands are not considered prime farmland, the proposed development risks further fragmenting these agricultural lands of importance, which contradicts the goals of AG 1.03. The subject parcel is also identified as part of an ECA. As noted in No. 6, ECAs encompass the largest remaining relative natural or restorable forests, shrublands, grasslands, and agricultural landscapes in Boulder County. Even with the current amount of relatively undeveloped public land in the county, and the conservation and preservation efforts of public land managers on these lands, broad shifts in animal and plant communities are occurring as a result of development, habitat degradation, climate change, and the exclusion or disruption of natural processes.

ECAs are a planning tool developed by the county and its agency partners for analyzing land use and land management decisions in the context of the cumulative effects of development, roads, trails and increased human presence at a landscape-scale on these large and complex ecosystems. ECAs are used as a strategy for maintaining the wide-

ranging animal species, native plant communities, and natural ecological processes that operate at this landscape-scale. As proposed, the development on this parcel is likely to negatively impact the very features, habitats, and natural communities that the Comprehensive Plan identifies for protection.

11. As proposed, the application conflicts with elements of the BVCP and Comprehensive Plan related to the reduction of Greenhouse Gas Emissions (GHG) and transportation.

- 4.05 Clean Mobility (BVCP): To reduce GHG emissions... the city and county will... continue to plan a built environment and mix of land uses that reduce the need for people to drive.
- Sustainability Element Goal 4, Identify & Implement Actions to Diminish Greenhouse Gas Emissions (Comprehensive Plan): The county considers global climate change to be a matter of paramount concern and a potential threat to any sustainability efforts that may be undertaken... the county should take a leadership role in identifying and implementing actions that will lead to a diminishment in the county's contribution to total GHG emissions from both stationary and mobile activities or sources through... a reduction in vehicle miles traveled (VMT).
- 6.05 Reduction of Single Occupancy Auto Trips (BVCP): The city and county will support and promote the greater use of multimodal travel options to reduce VMT and single-occupancy automobile travel...
- TR 5.01 Reduce Vehicle Miles Traveled: Set goals for vehicle miles traveled (VMT) per capita reductions for 2015, 2020, and 2030.
- TR 4.01 Reduce Single-Occupant-Vehicle Travel (Comprehensive Plan): Reduce single-occupant-vehicle (SOV) travel and shift SOV travel to off-peak periods through a variety of programs and techniques, including Transportation Demand Management (TDM).
- Transportation Element Goal 5, Minimize Reliance on Fossil Fuels (Comprehensive Plan): Foster a transportation system that reduces demand for and reliance upon petroleum.
- 6.22 Improving Air Quality and Reducing Greenhouse Gas Emissions (BVCP): Both the city and county are committed to reductions in GHG Emissions... The city and county will design the transportation system to minimize air pollution and reduce GHG emissions by promoting the use of active transportation (e.g., walking and bicycling) [and] reducing auto traffic...

It is possible for pedestrians or bicyclists to access the subject parcel, but 79th Street does not currently contain shoulders, lanes, or sidewalks specifically for bicyclists and pedestrians. The subject parcel is not located near existing transit routes and is likely to be primarily accessed by SOVs. The location of the subject parcel and intensity of the proposed use does not align with the BVCP and Comprehensive Plan goals focused on reducing SOV trips, promoting a more active-based transportation system, and directing development towards areas where public transit exists.

Generating additional SOV trips—which will occur over the baseline because the parcel is currently vacant—also fails to support goals related to the reduction of GHG emissions. Staff have identified the lack of multimodal options and the likely reliance on SOV travel to reach the subject parcel. Both the city and county have committed to reducing GHG emissions, with the county specifically committing to reduce countywide emissions 80% from 2021 levels by 2030. The county’s most recent inventory of GHG emissions notes that 26% of countywide emissions result from transportation. Siting the proposed use in an area primarily accessed by SOVs, with no multimodal connections, does not support efforts to reduce countywide GHG emissions.

12. The applicants highlight recreation and tourism opportunities that would be created by the proposed development, which may support the following objectives of the Economic and Public Health elements of the Comprehensive Plan:

- EC 1.04 Tourism and Recreation: Boulder County acknowledges and values the tourism and recreation industries for the diversity and vitality they bring to the local economy. The county seeks to provide opportunities for these industries to thrive without placing an undue burden on the county’s resources or compromising its rural character.
- Public Health Goal 2, Promote Safe & Healthy Recreation & Connections to Nature: Boulder County collaborates with partners and municipalities to promote safe and healthy recreation and access to open spaces and nature that support physical and mental health.

The applicants highlight the potential for the proposed development to “become the premier destination for tennis enthusiasts of all ages and backgrounds,” and desire to host events, leagues, and tournaments. In addition to local players, it can be expected that such events may draw tennis enthusiasts from outside the county, likely increasing tourism in the area. The proposed development would also provide a space for county residents to engage in physical activity, supporting goals related to public health and active recreation. Although the proposed use has the potential to generate tourism and provide opportunities for active recreation—which supports the above objectives—it may also be found to conflict with these same objectives.

Staff note that the proposed development and use may be considered over-intensive, and while the county seeks innovative opportunities to generate tourism, the Comprehensive Plan cautions us to do so without placing an undue burden on the County’s resources or compromising rural character. As noted in previous points, the subject parcel is identified for rural preservation, consists of Agricultural Lands of Local Importance, and is bordered by open space. Furthermore, although the Membership Club may provide opportunities for active recreation, it is still a Membership Club, which will offer recreation opportunities to the public on a fee basis. Fees can invariably create barriers for some members of the public so while a Membership Club may provide some

members of the public an opportunity for recreation it does not necessarily guarantee everybody one. When balancing the goals and objectives of the BVCP and BCCP, staff conclude that this proposal is not in conformance with these adopted plans.

This concludes the Long Range Team's comments. We look forward to continuing to provide feedback and input throughout this process.

Best,

A handwritten signature in blue ink, appearing to read 'E. Abner', with a stylized flourish at the end.

Ethan Abner, Long Range Planner II