



# Land Use

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## BOULDER COUNTY COMMISSIONERS

### AGENDA ITEM

**TUESDAY, January 29, 2013 – 9:00 AM**

**Hearing Room, Third Floor, Boulder County Courthouse**

**RE: Docket BVCP-010-0001: Boulder Valley Comprehensive Plan 2010 Major Five Year Update: Area III Planning Reserve City/County Review Process Options**

Staff presentation on two options for reviewing and acting on Area II Service Area Expansion proposals into the Area III-Planning Reserve.

**DATE:** January 29, 2013

**STAFF:** Peter Fogg – Manager, County Long Range Policy Team  
Chris Meschuk – Comprehensive Planner, City Community Planning and Sustainability

**ACTION:** **Action and/or Staff Direction** Public Testimony Will Be Taken

### **SUMMARY AND RECOMMENDATION**

On September 4, 2012 the Boulder City Council voted to support two options for revising the city/county decision-making roles in processing proposals for expanding the city's community service area into the Area III-Planning Reserve. Both options, C and D, would retain the four body review and action requirement for authorizing preparation of a Service Area Expansion (SAE) Plan. Option C would place final approval authority of a Service Area Expansion Plan with the elected bodies, the City Council and Boulder County Commissioners, while Option D would delegate that authority to the City Council and city Planning Board. Council has sent the options to the county for consideration and is asking for county approval of one or the other along with the other language changes approved by the City for Chapter VI. Amendment Procedures. Staff recommended that the county Planning Commissions APPROVE Option C and the remainder of Chapter VI. Amendment Procedures at the Commission's January 16<sup>th</sup> public hearing. By a vote of 4 – 1 (with three Commissioners absent and Commissioner Dan Cohen recusing himself) the Planning Commission DENIED the recommendation. Staff is therefore seeking direction and /or an action from the County Commissioners on how they wish to proceed.

### **ATTACHMENTS:**

- A. Area III – Planning Reserve Area Map**
- B. Planning Commission/County Commissioner March 21, 2012 Joint Study Session on Decision Making Options for Area III PRA Service Area Expansion Proposals**
- C. Decision Making Option C Process Chart**
- D. Chapter VI. Amendment Procedures as Approved by the City in 2011.**

## **BACKGROUND**

For over 35 years the development, evolution and administration of the Boulder Valley Comprehensive Plan has been a shared responsibility between the city and county. This partnership has been memorialized in both the continuing renewals of the BVCP four body Intergovernmental Agreement and in the text of the BVCP amendment/revision procedures. Those amendment procedures have spelled out which types of proposed changes to the BVCP can be reviewed and approved by just the city decision makers or county decision makers (also referred to as “two body review”) as well as those requiring review and action by both the city and county decision makers (known as “four body review”). The four body review and action procedure has been applied primarily to amendment proposals that would or could have impacts and implications for both jurisdictions such as changes to the Area II/Area III boundary, changes in land use map designations in Area II or Area III, and BVCP policies which make reference to both the city and county in their texts.

In 1994 the Area III-Planning Reserve (also referred to as PRA or Planning Reserve in the following text) was created by approval of all four bodies and defined as:

“...that portion of Area III with rural land uses where the city intends to maintain the option of limited Service Area [*Area II*] expansion. The Area III-Planning Reserve Area classification maintains both rural preservation and urban development options until the city and county decide the ultimate desired land use.”

Decisions to extend the Service Area into Area III-Planning Reserve lands, thereby reclassifying them as Area II with eligibility for annexation, was to be based on change proposals that met a range of criteria and provisions described in the BVCP and approved by all four bodies through a series of public hearings. Two of the key provisions were that 1) such a change could only be proposed and acted upon during a Five Year Major Review of the BVCP; and 2) that the proposed change would meet a priority community need which could not be met within the existing Area I or Area II Service Area. Since 1994, several proposals of varying sizes and use types have been brought forward during the Five Year Major Updates. None have been successful in meeting the criteria for a service area expansion. During the same 18 year period, however, the amount of vacant and potentially redevelopable land within Areas I and II of the Boulder Valley has been significantly reduced, and with that so has the availability of suitable land capacity to meet priority “community needs” as they are identified.

### **BVCP 2010 Major Five Year Update: Area III-PRA Revisions Chronology**

The required major Five Year Update cycle for the BVCP began in January of 2010, and with it the opportunity to consider matters pertaining to the Area III-Planning Reserve. Concerns had been expressed over the years from both the public and private sectors that the procedures for initiating and advancing a Planning Reserve change were awkwardly defined and described, providing vague guidance to those interested in pursuing a change as well as to the four bodies responsible for acting on proposals. A parallel concern centered around the hesitancy or deterrent effect that confronting a four body cross-jurisdictional approval process could have on potential applicants. City and county planning staffs also believed that greater clarity and concision could be developed in order to make the change process more easily understood.

In April the City Council and County Commissioners held a publicly noticed joint meeting to discuss issues for consideration during the update and agreed that a review of the Area III-PRA process and criteria should be on the list. In October City Council designated the development of Area III-PRA process changes as a third topic for focus during the 2010 Major Update. The county Planning Commission was briefed on this and other Update developments the same month.

The city convened a focus group of nine civic, entrepreneurial and neighborhood group representatives in January 2011 to provide feedback on a staff-prepared 11 page Area III-PRA/Service Area Expansion Process Policy Briefing Paper which included potential changes to the existing set of processes, procedures and criteria. In February the Planning Board met with the Planning Commission to discuss the Policy Briefing Paper. Concerns were raised by the Planning Commission about one of the proposals in particular that would change the process for reviewing and acting on PRA service area expansion requests from a four body (city and county) requirement to a two body (city only) requirement, with referrals for comment being forwarded to the county. Some issues about the eligibility criteria were also voiced. Other proposed revisions, such as requiring that a Baseline Urban Services Study be completed and approved before any application for an Area III-PRA service area expansion would be accepted for initial review, were well received. No consensus was reached on all the proposed changes at this meeting, but both Planning Board and Planning Commission agreed to keep the BVCP 2010 Update moving forward.

Changes to the Area III-PRA process and criteria were approved by the Planning Board and City Council in May and June of 2011. In brief, the major changes included:

- 1) Revising the decision-making steps for advancing an Area III-PRA change request from the current four body review requirement (City Planning Board, City Council, County Planning Commission, and County Commissioners) to a two body review (City Planning Board and City Council);
- 2) Providing a second eligibility consideration for a Service Area expansion into the PRA, that being a proposal which provides a “significant community opportunity” as described by four accompanying eligibility criteria;
- 3) Expanding the PRA change request application opportunity from only during the BVCP Major Five Year review to [a] consideration at any time for a “significant community opportunity”; and [b] during either the BVCP mid-term or major update cycles for a “priority community need”, which was the sole qualifying eligibility consideration under the current plan; and
- 4) Requiring that a Baseline Urban Services Study of the PRA be conducted and completed by the city prior to considering any application for a Service Area expansion.

From the city’s perspective, the package of changes established a set of review, eligibility criteria and approval standards that were sufficiently rigorous to permit a two body approval process without compromising the intention for which the Planning Reserve was created. The benefits of adopting the changes included:

- facilitating the city’s ability to respond more promptly to important or special community opportunities, particularly where time may be a significant issue;
- providing more succinctly defined eligibility criteria for both “Significant Community Opportunity” and “Existing Community Need” Service Area expansion changes at the front end of the process for staff, decision makers and the public to use in an initial review;
- reducing levels of uncertainty or the deterrent effect of a four body approval procedure for potential applicants, which could result in their taking proposals that otherwise might meet the eligibility criteria and approval standards for a Service Area expansion to another jurisdiction or municipality;
- reducing the number of required approval hearings and consequently reducing the amount of time required for processing, reviewing and preparing for hearings for applicants, staffs, other interested parties and the public;

- recognizing Boulder’s Municipal Influence Area (MIA) as appropriate for urban development in similar fashion as the county’s recognition of the other eight MIAs in the Super IGA while still retaining the benefits of a long standing, precisely defined, inclusive and distinctive city/county planning relationship in the Boulder Valley; and
- acknowledging the need for revisions to the existing Area III-PRA processes and procedures in response to the land use and community changes that have occurred since 1994, including the reduced amount of vacant/redevelopable land available within the existing community service area and the complete confinement of the Planning Reserve to its present boundaries by open space lands and existing city limits.

This package, along with the other city-approved revisions and amendments to the BVCP, were presented to the Planning Commission on August 24, 2011 with a staff recommendation of approval. By a vote of 6-0 Planning Commission approved all the changes to the BVCP except for all those proposed to the Amendment Procedures section of the Plan, which included the Area III-PRA process change from a four body to two body review and action requirement, the two options for proposing a Service Area change, the requirement for a Baseline Urban Services Study to be prepared before accepting any Service Area change proposals, and the eligibility criteria for change proposals. Specifically regarding the change to two body review, Planning Commission concluded that:

- no evidence had been presented that the city has missed a significant opportunity or community need due to any deterrent effect on potential applicants caused by the level of uncertainty/lengthy nature of having to go through a four body review and approval process;
- a two-body adoption combined with required referrals to the county did not appear to provide a shortening or reduction to the length of the process;
- Area III-PRA is unincorporated land and as such the county has a responsibility to be a decision maker, not just a referral body, in its future disposition; and
- the four body review and action agreement on identified types BVCP change proposals has served city and county very well over the past 30+ years and has contributed to making Boulder a unique and special place.

The County Commissioners subsequently held a public hearing on September 29, 2011 and approved all the changes to the BVCP as had the Planning Commission, but took no action on the Amendment Procedures section of the Plan since the Planning Commission had not forwarded an approval on that component.

#### **Post-County Action Status of the BVCP 2010 Update**

All changes approved by the four bodies have been adopted. The proposed changes to Chapter VI. Amendment Procedures as approved by City Council and Planning Board, which includes the Area III-Planning Reserve Service Area Expansion process, application types and criteria, have not been adopted into the BVCP. Thus the 2010 Amendment Procedures remained in effect.

#### **Activity Since September 29, 2011**

Conversation between the city and county about options and alternatives to consider for reaching some agreement on changes to the Area III-PRA process, specifically the four body vs. two body decision making impasse, began shortly and on an intermittent basis after the BOCC’s action on September 29<sup>th</sup>. On March 21, 2012 the County Commissioners held a public joint study session with the Planning Commission so that the Commissioners could: 1) hear first-hand why the Planning Commission, at a public hearing held on August 24, 2011, rejected the city’s approval of several proposed changes to the Area III-Planning Reserve Area procedures for a Service Area expansion; and 2) explore with the Commission whether some alternative to either the existing Planning Reserve change procedures or the City’s approved changes might be acceptable and sent back to the City for review and approval. Both city and county staff attended the joint study session to answer questions. **Attachment B** is a summary memo of the session and includes a chart showing the seven options considered for an Area III-PRA decision process as well as the straw poll preferences for each option.

Following some additional discussions, five of the seven options (Elected Officials Only and Options A – D) as described in Attachment B were submitted to the city.

On June 14, 2012 the Council and County Commissioners met in a publicly noticed meeting to discuss the options. It was generally agreed that the in-place four body review and action process for every step of a Service Area expansion proposal was no longer necessary for making sound and mutually acceptable decisions on PRA change requests. Conditions on the ground have changed since 1994, with open space acquisitions and city limits surrounding the perimeter of the Planning Reserve and with reductions in potentially functional Area I and II lands for locating uses meeting an identified community need or significant community opportunity. Planning philosophies, policies and work plans have evolved as well. Furthermore, both the City and County have committed to applying defined sustainability principles, practices and requirements in reviewing future development proposals anywhere in the Boulder Valley, to undertaking an inventory of the status and capacity potential of the existing Area II lands to accommodate new development meeting a community need or providing a significant community opportunity, and to preparing baseline infrastructure studies before considering any proposals to expand the City's Service Area. In combination these conditions and commitments were considered sufficient checks and balances to insure as reasonably as possible that any potential development in the Planning Reserve would be rigorously reviewed and assessed consistent with the City/County partnership roles described in the long standing BVCP Intergovernmental Agreement. And finally, the Council and Commissioners generally agreed that County decision makers, as defined in the two body/four body sections of the BVCP, warranted a decision making role in Area III-PRA service area expansion proposals.

On September 4, 2012 the Council voted to support Options C or D for changes to the PRA Service Area Expansion review and decision making process for proposals either providing a Significant Community Opportunity or meeting an Identified Community Need.

- In both Options and both proposal types, a four body review and approval would be required to authorize development of a service area expansion plan.
- Option C delegates the final decision for approving a service area expansion plan to the City Council and County Commissioners, with recommendations from Planning Board and Planning Commission provided for their consideration.
- Option D gives the final decision to City Council and Planning Board with recommendations from Planning Commission and the County Commissioners.

This support was contingent upon also reaching agreement on the other text and language changes for Chapter VI. Amendment Procedures for the 2010 BVCP Update as approved by the City.

**Attachment C** diagrams in detail how Option C would be incorporated into a service area expansion review, analysis, and decision.

### **January 16, 2013 Planning Commission Hearing**

At this public hearing, Planning Commission considered the written and verbal recommendation of approval for Option C and text changes to Chapter VI. as presented by both city and county staffs. No members of the public spoke to the docket. A considerable question and answer exchange followed between staff and the Commission on the two-body vs. four-body issue as well as on other aspects of the changes to the Area III-PRA Service Area Expansion process, proposal types, and criteria as approved by the city in 2012.

Staff noted that council's proposal to the county was limited only to action on Option C or D and the text changes to Chapter VI. Reopening discussion about the merits of the SAE process, criteria and eligibility types was not on the table. After further deliberation between the Commission members

present, Planning Commission denied the recommendation on a vote of 4-1. The majority found that no compelling reasons had been presented to limit a full four body review to the restrictions in either Option C or D based on the following conclusions:

- The length of the Option C process seems little different that current four body given the referrals to Planning Commission and Planning Board for making recommendations to the Council and/or the BOCC;
- None of the applications for a SAE into the PRA since 1994 have passed early muster/criteria to proceed by either the city or county, so no evidence except anecdotal that four body is a deterrent to potential applicants;
- There is value in addressing any differing perspectives and missions between the city and county early in the process vs. later since once an application gets momentum at the first step (passes the “gatekeepers”) it may be difficult for decision makers to reverse that at subsequent reviews; and
- The Planning Commission has a duty to provide guidance for the disposition of unincorporated lands which it cannot relinquish.

Recognizing the limited options presented for action, the Planning Commission noted that Option A, which provide for a four body review at the initial scoping phase of an SAE proposal, was preferable.

**STAFF RECOMMENDATION**

Planning Commission’s denial means that the Chapter VI. Amendment Procedures text and Area III Planning Reserve Service Area Expansion processes do not have the requisite four body approval and thus remain unchanged from the 2010 BVCP language. Staff is therefore seeking direction and/or action from the Board of County Commissioners on how they wish to proceed.

# ATTACHMENT A – AREA III PRA

**AREA III - Planning Reserve**

**Municipal Influence Area**

**Super IGA**

**Boulder**

# **ATTACHMENT B**

**Planning Commission/County Commissioners' Joint Study Session:**  
**Docket BVCP-010-0001 Boulder Valley Comprehensive Plan Five Year Major Update – Proposed Text Changes to Amendment Procedures Related To Area III Planning Reserve Service Area Expansion Requests**

**March 21, 2012**

The Board of County Commissioners held a public joint study session on March 21, 2012 with the county Planning Commission so that the Commissioners could: 1) hear first-hand why the Planning Commission, at a public hearing held on August 24, 2011, rejected the city's approval of several proposed changes to the Area III-Planning Reserve Area procedures for a Service Area Expansion; and 2) explore with the Commission whether some alternative to either the existing Planning Reserve change procedures or the city's approved changes might be acceptable to the county and forwarded to the city for its reflection and possible renewal of discussion with the county. The Commission's August 24 rejection of the Planning Reserve Service Area Expansion process changes meant that the Board of County Commissioners did not consider those amendments at its September 29, 2011 public hearing on the 2010 Major Update. With the Commissioners' action on September 29 (Resolution 2011-122), the 2010 BVCP Major Update was approved in its entirety except for the particular changes denied by the Planning Commission .

The joint study session was recorded and is available for review. The session demonstrated that of primary concern to the Planning Commission was the change from a four-body approval process (city and county) to a two-body one (city only approval with referrals to the county), resulting in the county relinquishing all decision-making authority over proposed Area III-Planning Reserve Service Area Expansion requests

The Commission and County Commissioners then discussed the merits of seven Planning Reserve change options, including retention of the current four-body review process and the city's preferred two-body review with referrals to the county. A general agreement was reached that while the current four-body approval process for each step of a Service Area Expansion request may no longer be necessary, the county should retain a co-equal decision making role with the city at some step or steps in the review.

The attached chart summarizes the options considered and the associated preferences (more than one preference could be indicated by each participant). The County will approach the city asking if it is interested in opening a conversation about seeking a mutually agreeable Area III-Planning Reserve Service Area Expansion process, somewhere between the status quo and two-body city review only, using the options described on the chart as a point of beginning.

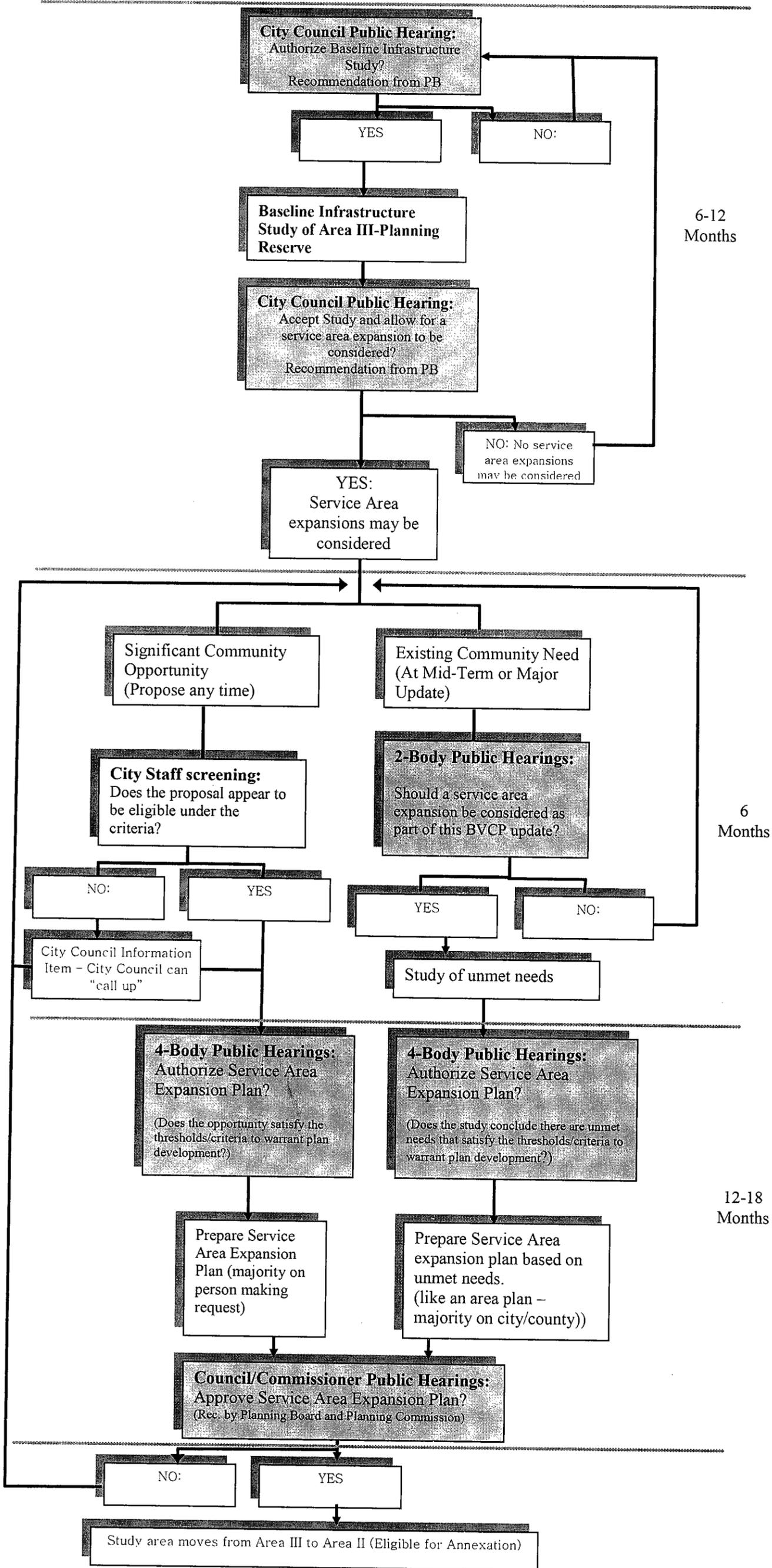
**IV. STRAW POLL OF FIVE OPTIONS<sup>1</sup> (preference tallies under each option)**

<b>Area III- Planning Reserve to Area II Change - Decisions Processes</b>	<b>EXISTING PROCESS  -1-</b>	<b>CITY PROCESS (referrals to BOCC and PC)  -0-</b>	<b>OPTION: ELECTED OFFICIALS ONLY (referrals to PB and PC)  -0-</b>	<b>OPTION A  -4-</b>	<b>OPTION B  -4-</b>	<b>OPTION C  -3-</b>	<b>OPTION D  -3-</b>
<b>Consider SAE</b>	<b>Four Body</b>	<b>Two Body</b>	<b>CC and BOCC</b>	<b>Four Body</b>	<b>Four Body</b>	<b>Two Body (Council &amp; Plng. Board)</b>	<b>Two Body (Council &amp; Plng. Board)</b>
<b>Authorize SAE Plan</b>	<b>Four Body</b>	<b>Two Body</b>	<b>CC and BOCC</b>	<b>Four Body</b>	<b>Four Body</b>	<b>Four Body</b>	<b>Four Body</b>
<b>Approve SAE Plan</b>	<b>Four Body</b>	<b>Two Body</b>	<b>CC and BOCC</b>	<b>Elected Officials (Council &amp; BOCC)</b>	<b>Two Body (Council &amp; Plng. Board)</b>	<b>Elected Officials (Council &amp; BOCC)</b>	<b>Two Body (Council &amp; Plng. Board)</b>

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<sup>1</sup> The five options were prepared and proposed by staffs.

# ATTACHMENT C – OPTION C



# ATTACHMENT D

## VI. Amendment Procedures

The *Boulder Valley Comprehensive Plan* is a joint policy document that is adopted by the City of Boulder and Boulder County in their legislative capacities. Any amendment to the plan is also legislative in nature. The plan is updated periodically to respond to changed circumstances or community needs. Changes to the comprehensive plan fall into three categories:

- Changes that may be considered at any time
- Changes that may be considered during a mid-term review
- Changes that may only be considered during the five-year update

For changes to the plan:

- Where the “county” alone is referred to in the policy, the policy may be amended by the county, after referral to the city.
- Where the “city” alone is referred to in the policy, the policy may be amended by the city, after referral to the county.
- All other policies will be construed to be joint city and county statements of policy, and are to be amended by joint action.
- Where a particular “area” is not specified in the policy text, the policy will apply to all areas.

This section describes the different types of changes, the process for making changes, the criteria for determining which process to follow, and the procedures for approving proposed changes. The types of changes, when they may be considered, and whether they are subject to approval by the city (Planning Board and City Council), the county (County Planning Commission and County Commissioners), or the city and county (Planning Board, City Council, County Planning Commission, and County Commissioners) is summarized in the following table:

Type of Change	When	Process
Land Use Map	If related to rezoning or annexation, may be considered at any time All others, at Mid-term or 5 year update	City approval subject to county referral if meets criteria and related to annexation or rezoning, or in Area I  All others, city and county approval
Changes to the Area II/III boundary	Mid-term (minor changes) 5 year	City and county approval
Policies	Mid-term (minor only) 5 year	Joint policies approved by city and county; city or county policies by relevant jurisdiction
<ul style="list-style-type: none"> <li>• Amendment Procedures</li> <li>• Referral Process</li> <li>• Land Use Map Descriptions</li> </ul>	Mid-term 5 year	City and county approval
<ul style="list-style-type: none"> <li>• Plan and Program Summaries</li> <li>• Urban Service Criteria and Standards</li> </ul>	Any time	City approval
Service Area expansion into the Area III-Planning Reserve	Any time (unique and significant community opportunity) Mid-term and 5 year (desired community needs)	City approval Varies (see text)

# ATTACHMENT D

## 1. Changes that may be considered at any time

The following changes may be considered at any time and require approval by the city Planning Board and City Council.

1. Land Use Map changes
2. Changes to the Master Plan and Program summaries
3. Changes to the Urban Service Criteria and Standards
4. Changes to the Subcommunity and Area Plan section

### a. Criteria for eligibility for changes that may be considered at any time:

#### (1) Land Use Map changes:

The [Land Use Map](#) is not intended to be a zoning map. It is intended to provide policy direction and definition for future land uses in the Boulder Valley. Thus, a change to the land use designations may be considered at any time if it is related to a proposed change in zoning or proposed annexation and meets all of the following criteria:

- (a) The proposed change is consistent with the policies and overall intent of the comprehensive plan.
- (b) The proposed change would not have significant cross-jurisdictional impacts that may affect residents, properties or facilities outside the city.
- (c) The proposed change would not materially affect the land use and growth projections that were the basis of the comprehensive plan.
- (d) The proposed change does not materially affect the adequacy or availability of urban facilities and services to the immediate area or to the overall service area of the City of Boulder.
- (e) The proposed change would not materially affect the adopted Capital Improvements Program of the City of Boulder.
- (f) The proposed change would not affect the Area II/Area III boundaries in the comprehensive plan.

*Rationale: Because the land remaining in Area II is limited, the phasing intent of Area IIA and Area IIB is no longer needed, and the annexation criteria have become the controlling factor for phasing.*

### c. Procedures for changes that may be considered at any time:

#### (1) Requests for changes may be initiated by the city or the property owner:

A request initiated by the property owner must be submitted in writing to the city's Planning Department and must address the criteria for processing the request separately from a mid-term or five-year review.

#### (2) The city will make a referral with preliminary comments to the county Land Use Department for comment:

For land use changes, the county will have 30 days after receipt of the referral to provide written notice to the city as to whether the proposed change meets the criteria. If the county determines that the proposed change does not meet the criteria, then the requested change will be processed at the time of the next mid-term or five-year review and will require four body review and approval.

# ATTACHMENT D

## 2. Mid-term review changes

Changes to the comprehensive plan may be proposed in a mid-term review. A mid-term review may be initiated at some point between five-year major updates as needed. The purposes of the mid-term review are to address objectives identified in the last major update and progress made in meeting those objectives, provide an opportunity for the public to request changes to the plan that do not involve significant city and county resources to evaluate, make minor additions or clarifications to the policy section and to make minor adjustments to the service area boundary. The mid-term review is not intended to be a time to consider major policy changes.

### a. Types of changes that may be considered as part of the mid-term review:

The following changes to the Boulder Valley Comprehensive Plan may be considered at the midterm review:

#### (1) Changes that require approval by the city Planning Board and City Council:

- Land Use Map changes located in Area I subject to the criteria in Section 1.b.(1) above
- Changes to the Master Plan and Program summaries
- Changes to the Urban Service Criteria and Standards
- Changes to the Subcommunity and Area Plan section
- ~~Service Area expansion into the Area III Planning Reserve~~

#### (2) Changes that require approval by the city Planning Board, City Council, County Planning Commission and County Commissioners.

- Changes to the Land Use Map (other than those allowed by city approval in Section 2.a.(1) above)
- Changes to the Plan Amendments section
- Changes to the Land Use Map Description section
- Minor additions or clarifications to the policy section
- Minor Service Area boundary changes subject to the criteria set forth below
- ~~Boulder Valley Planning Area expansions and contractions, i.e., changes to the Area III outer boundary subject to the criteria set forth below.~~
- ~~Service Area expansion into the Area III-Planning Reserve~~
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### b. Criteria for minor service area boundary changes and Boulder Valley Planning Area expansions and contractions:

#### (1) Minor adjustments to the service area boundary

Minor adjustments to the service area boundary are small, incremental service area expansions that create more logical service area boundaries. Changes in designation of land from Area III to Area II may be eligible to be approved as a minor service area boundary adjustment based on the following criteria:

(a) Maximum size: The total size of the area must be no larger than ten acres.

(b) Minimum contiguity: The area must have a minimum contiguity with the existing service area of at least 1/6 of the total perimeter of the area.

(c) Logical Service Area boundary: The resulting Service Area boundary must provide a more logical Service Area boundary (Area III/II), as determined by factors such as more efficient service provision, a

# ATTACHMENT D

more identifiable edge to the urbanized area or neighborhood, a more functional boundary based on property ownership parcel lines or defining natural features.

(d) Compatibility with the surrounding area and the comprehensive plan: The proposed change of Area III to II must be compatible with the surrounding area as well as the policies and overall intent of the comprehensive plan.

(e) No major negative impacts: It must be demonstrated that no major negative impacts on transportation, environment, services, facilities, or budget will result from an expansion of the Service Area.

(f) Minimal effect on land use and growth projections: The proposed change of Area III to II change does not materially affect the land use and growth projections that were the basis of the Comprehensive Plan.

(g) Minimal effect on service provision: The proposed change of Area III to II does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall Service Area of the City of Boulder.

(h) Minimal effect on the city's Capital Improvements Program: The proposed Area III to II change does not materially affect the adopted Capital Improvements Program of the City of Boulder.

(i) Appropriate timing: The proposed Area III to II change will not prematurely open up development potential for land that logically should be considered as part of a larger Service Area expansion.

## (2) Boulder Valley Planning Area expansions or contractions:

An Area III outer boundary change may be initiated by the city or the county and will be approved only if it is demonstrated that either expansion or contraction of the planning area is needed due to changed circumstances or past error in determining the boundary.

## c. Procedures for changes that may be considered as part of the mid-term review:

(1) Prior to the beginning of the mid-term review, the city Planning Department and county Land Use Department will establish a process and schedule for the update. This will include an opportunity for landowners and the general public to submit request for changes to the plan. The schedule and process will be revised as needed during the review process.

(2) For those changes eligible for approval by the city Planning Board and City Council, the city Planning Department will make a referral to the county Land Use Department for comment. For changes to the Land Use Map located in Area I, the county will have 30 days from the date of receipt of the city's referral to provide written notice to the city if the county finds that the proposed change does not meet the applicable criteria for eligibility. Such finding on the part of the county will require that the requested change be subject to approval by each of the four bodies.

(3) All four approval bodies will hold initial meetings with their staffs to identify changes they wish to be considered as part of the mid-term review. Public attendance is welcomed, but review of public applications will not occur at this time. **The city may consider whether a service area expansion should be considered as part of this update. Prior to consideration the baseline urban services analysis must be completed.**

(4) Proposed changes from the public, staff and approval bodies will be reviewed by the city Planning Department, which will prepare a recommendation in consultation with the county Land Use Department on whether to include each proposed change in the mid-term review. Determination of whether to include a proposed change will be made based upon:

- (a) consistency with the purposes of the midterm review as described in 3. above,
- (b) available resources to evaluate the proposed change (city and county staffing and budget priorities),
- (c) consistency with current BVCP policies and
- (d) compatibility with adjacent land uses and neighborhood context.

# ATTACHMENT D

(5) The city Planning Board will consider all requests for changes together with the staff recommendations at a public hearing and will compile a list of proposed changes to be considered during the mid-term review.

(6) Requests for changes to the comprehensive plan that affect an area designated Open Space will be reviewed by the city Open Space Board of Trustees and the county Parks and Open Space Advisory Committee. The board of trustees will make a recommendation prior to any action on that change.

(7) After a list of proposed changes to be considered during that year's review has been determined, the city Planning Department and county Land Use Department will study, seek appropriate public input, and make recommendations concerning proposed changes. The city Planning Board will then initiate the hearings on whether to approve, modify or deny any of the proposed changes.

## 3. The five-year review

The comprehensive plan will be reviewed at least every five years for possible amendments to reflect changes in circumstances and community desires.

### a. Types of changes that may be considered at the five-year review:

Any change to the comprehensive plan may be considered at the five-year review including those that may be considered at other times pursuant to the provisions set forth above. However, certain kinds of changes will be considered only at the five-year review and must be approved by each of the four signatory bodies: the city Planning Board, City Council, County Planning Commission and County Commissioners. Those include:

- Service area contractions (changes in the Area II/III boundary) that do not satisfy the criteria for consideration as part of a mid-term review
- Area III-Rural Preservation Area expansions or contractions
- Major changes to policy sections
- **Service Area expansion into the Area III-Planning Reserve**

#### (2) Service Area contractions (changes from Area II to Area III-Rural Preservation Area)

Proposed changes from Area II to Area III-Rural Preservation Area must meet the following criteria:

- (a) Changed circumstances indicate either that the development of the area is no longer in the public interest, the land has or will be purchased for open space, or, for utility-related reasons, the City of Boulder can no longer expect to extend adequate urban facilities and services to the area within 15 years;
- (b) Any changes in proposed land use are compatible with the surrounding area and the policies and overall intent of the comprehensive plan.

#### (3) Area III-Rural Preservation Area expansions: Expansion of the Area III-Rural Preservation Area must meet the following criteria:

- (a) There is a desire and demonstrated need for expansion of the Area III-Rural Preservation Area due to changed circumstances, community needs, or new information on land use suitability (e.g., environmental resource or hazard constraints, feasibility of efficient extension of urban services, and compact and efficient urban form).

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## (4) Area III-Rural Preservation Area to Area III – Planning Reserve

Changes of land from the Area III-Rural Preservation Area to the Area III-Planning Reserve Area must meet the following criteria: There is a demonstrated need for contraction of the Area III-Rural Preservation Area due to changed circumstances, community needs, or new information on land use suitability (e.g., environmental resource or hazard constraints, feasibility of efficient extension of urban services, and compact and efficient urban form); and land to be considered for a change from Area III-Rural Preservation Area to Area III-Planning Reserve must have a minimum contiguity with the Area III-Planning Reserve area or the existing service area (Area I or Area II) of at least 1/6 of the total perimeter of the area.

### c. Procedures for the five-year review:

#### (1) Process and schedule

Prior to the beginning of the five-year review, the city Planning Department and the county Land Use Department will establish a process and schedule for the update. The schedule and process will be revised as needed during the review process. The process will include an opportunity for landowners and the general public to submit requests for changes to the plan. All submittals for proposed changes will be reviewed at initial public hearings. Staff will provide recommendations and the approval bodies will provide direction on which proposals should go forward and which proposals should receive no further consideration. The city may consider whether a service area expansion should be considered as part of this update. Prior to consideration the baseline urban services analysis must be completed.

#### (2) Expansions or contractions of Area III – Rural Preservation Area

Prior to consideration of an expansion of the Area III– Rural Preservation Area or a change from Area III-Rural Preservation Area to Area III Planning Reserve Area, a study will be completed by the city and county demonstrating compliance with the criteria applicable to the proposed change. The city or the county will decide whether to authorize a study of the proposed change after a public hearing is held.

#### (3) Reinstatement of Area III – Rural Preservation Area back to Area II – Service Area

A property owner that has been moved from Area II to Area III may request that the change be reevaluated under the same procedures and criteria that were used to make such a change for a period ten years after the change was made. Thereafter, such properties will be subject to all of the procedural requirements of this section.

## 4. Area III-Planning Reserve

### a. Introduction and Intent:

The Area III-Planning Reserve is identified on the Area I, II, III map and includes approximately 500 acres of land outside the existing service area of the City of Boulder, and is not currently eligible for urban services or annexation. This area was established at the conclusion of a comprehensive analysis of Area III; when city and county decision-makers determined that only a small amount of Area III should be contemplated for future urban expansion, and then only if detailed planning for the area indicates community benefits exceed potential negative impacts. The area was chosen for its location and characteristics based upon the apparent lack of sensitive environmental areas, hazard areas and significant agricultural lands, the feasibility of efficient urban service extension, and contiguity to the existing Service Area, which maintains a compact community.

The Area III-Planning Reserve is that portion of Area III with rural land uses where the city intends to maintain the option of limited Service Area expansion for future urban development in response to

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significant community opportunities or priority community needs that cannot be met within the existing Service Area.

While Service Area expansion into the Area III-Planning Reserve may occur over time in several separate actions, it is a significant action and must result in a logical expansion of the Service Area. This area is limited in size, and the needs of future generations should be considered any time a Service Area expansion of the Planning Reserve is contemplated.

## b. Circumstances and Criteria for Expansion

The Service Area may be expanded for one of the following:

### (1) Significant community opportunity

To be eligible to be considered as a significant community opportunity for a Service Area expansion, the city must determine that it:

- i. Will have a lasting positive benefit for multiple generations of people within the Boulder Valley; and
- ii. Furthers the overall policies of the Comprehensive Plan, with an emphasis on the environmental, social, and economic sustainability policies; and
- iii. Provides a unique or desired use for the region; and
- iv. Requires a large, contiguous location that cannot be accommodated through development or redevelopment in the existing service area.

A Service Area expansion for a significant community opportunity may be considered at any time. Past examples of such community opportunities include the Chautauqua, Federal Labs (NOAA, NIST), NCAR, and the University of Colorado. The use could be public or private.

### (2) Priority Community Needs

To be eligible for consideration as a priority community need, the city must determine that the need:

- i. Is a priority for residents in the Boulder Valley; and
- ii. Will address a long-term community value as articulated in the Comprehensive Plan; and
- iii. Will significantly further the environmental, economic, and social sustainability policies of the Comprehensive Plan; and
- iv. Cannot be met within the existing Service Area because there is not suitable existing or potential land/service capacity; and
- v. Will benefit the existing residents, and will have a lasting benefit for future generations.

A Service Area expansion may be considered for a priority community need at the mid-term or major updates to the Comprehensive Plan.

## c. Procedures for a Service Area Expansion

### (1) Baseline Urban Services Study Required

A baseline urban services study of the Area III-Planning Reserve must be completed by the city prior to considering a service area expansion. The purpose of the study is to learn more about the feasibility and requirements to provide urban services to the area, and to understand potential phasing and logical areas of planning and potential expansion. The city may undertake preparing the baseline urban service study at any time, and should include, but is not limited to an analysis and inventory of the existing infrastructure and service capacity (such as needed upgrades to the water, wastewater, and stormwater facilities and distribution system, additional fire stations/ vehicles and police protection needs, transportation network connections, urban parks), inventory of existing uses in the Area III-Planning Reserve, and identification of logical Service Area expansions (areas and/or phasing). The completed study will be reviewed by the Planning Board and accepted by the City Council.

### (2) Service Area expansion process

#### a. Service Area expansion consideration

The city may consider a service area expansion into the Area III-Planning Reserve following preparation of the baseline urban services study. A Service Area expansion may be considered for one of the following:

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## *i. Significant Community Opportunity*

The proponent of a significant community opportunity shall submit evidence that the use meets the eligibility criteria to city planning staff. The proponent is required to review the opportunity with city planning staff prior to submission. Staff shall review the proposal and determine whether to schedule public hearings with the Planning Board and City Council. If staff chooses not to schedule public hearings, a written report shall be submitted to the City Council with analysis on why hearings were not scheduled. Within 30 days of the delivery date of the report, a majority of City Council may request the proposal be scheduled for hearings. Prior to the hearings, the request would be referred to the Planning Commission and Board of County Commissioners. The city must find that the request is a significant community opportunity and authorize the preparation of a service area expansion plan for the request to proceed.

## *ii. Priority Community Need*

Service Area expansion for a priority community need may occur at a mid-term or major update to the BVCP.

A. At the beginning of each BVCP update, the Planning Board and City Council shall hold a public hearing to determine if there is interest in considering a Service Area expansion as part of that update.

B. If the city is interested in considering a Service Area expansion, a planning effort to solicit and identify priority community needs will begin.

C. The city and county will hold public hearings and decide whether the identified needs are of sufficient priority based on the eligibility criteria in section 4.b.(2) to warrant preparation of a Service Area expansion plan. ~~Prior to the public hearings by the city, the identified needs shall be referred to the Planning Commission and Board of County Commissioners.~~

## b. Service Area Expansion Plan

If the city and county authorizes preparation of a service area expansion plan, it shall include, but not be limited to the following information:

- i. The location and amount of land area needed;
- ii. What compatible uses are needed or desired based on the identified needs;
- iii. Conceptual land use and infrastructure plans, to ensure adequate facilities and services can be provided;
- iv. Key annexation requirements to ensure compliance with the comprehensive plan goals and policies, and to ensure compatibility with the existing development context and surrounding area;
- v. Requirements and conditions for the city and the private sector for development, including on-site and off-site impact mitigation and offsets; and
- vi. Anticipated development phasing

Preparation of an expansion plan for a significant community opportunity is anticipated to be similar to in scope to a Concept Plan as described in the Boulder Revised Code, with the majority of the study cost and work to be completed by the proponent, which must also demonstrate financial stability of the proposal. An expansion plan for priority community needs is anticipated to be similar in scope to an Area Plan, as described in the Comprehensive Plan.

## (OPTION C LANGUAGE)

### *c. Service Area expansion approval*

To be eligible for a service area expansion plan approval and change from Area III-Planning Reserve to Area II, the city council and board of county commissioners shall find the change meets all the following criteria:

- i. Consistency with thresholds for expansion: The plan must address a significant community opportunity or desired community need consistent with the descriptions and eligibility criteria.
- ii. Contiguity: The plan area must have contiguity with the existing service area.

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- iii. Logical extension of the service area: The plan area must be a logical boundary, which results in an efficient increment for extending urban services, a desirable community edge and neighborhood boundary; and a location that contributes to the desired compact urban form; and
  - iv. Compatibility with the surrounding area and comprehensive plan: The plan must be compatible with the surrounding area and the policies and overall intent of the comprehensive plan.
  - v. No major negative impacts: The plan must demonstrate that community benefits outweigh development costs and negative impacts from new development and that negative impacts are avoided or adequately mitigated.
  - vi. Appropriate timing for annexation and development: A reasonable time frame for annexation is projected within the planning period if the expansion is approved.
- Prior to the public hearings, the plan shall be referred to the Planning Board and Planning Commission- for a recommendation. and Board of County Commissioners.

## 5. Notification

- a. Any property owner whose property would be affected by a proposed change in land use designation or by service area expansions, contractions or boundary changes will receive timely written notice that such change or changes will be considered. Planning staff will exert its best efforts to provide such notice within 30 days of receiving a request that is to be considered. However, no hearing to approve or deny any such proposal will be held unless the affected property owner was provided with this written notice at least 30 days prior to the date set for the hearing on the proposed change.
- b. General public notice of all proposed changes will be provided in the following manner. The city Planning Department will publish a Comprehensive Plan map indicating where the proposed changes are located and a description of each change in the newspaper at least ten days prior to the first public hearing to consider the proposed changes.

## 6. Errors

If a discrepancy is found to exist within the Boulder Valley Comprehensive Plan that is clearly a drafting error or a clerical mistake, either the city or the county, after a referral request to the other agency, may correct such error.