

Land Use

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BOARD OF COUNTY COMMISSIONERS

April 5, 2017 – 3:30 PM
Commissioners Hearing Room, Third Floor
Boulder County Courthouse

Docket IGA-17-0001: Renewal of Boulder Valley Comprehensive Development Plan IGA

STAFF PLANNERS:

Dale Case - Land Use Director, Boulder County; Nicole Wobus - Long Range Planning and Policy Manager, Boulder County Land Use; Chris Meschuk – (City of Boulder PH+S); Lesli Ellis - Comprehensive Planning Manager (City of Boulder PH+S)

I. INTRODUCTION

The Comprehensive Development Plan Intergovernmental Agreement (IGA) between the City of Boulder and Boulder County is scheduled to expire on Dec. 31, 2017. Staff recommends renewal of the IGA at the time of the upcoming plan adoption to ensure continued, seamless comprehensive planning in the Boulder Valley. This report highlights topics for consideration by the Board of County Commissioners (BOCC) related to the renewal of the IGA.

Staff requests BOCC feedback and direction related to the following questions in order to inform staff's efforts to revise the IGA.

1. **Continue Cooperative Planning.** Does BOCC agree that an intergovernmental agreement for cooperative planning should be renewed? The agreement may contain revisions to reflect ways that the needs of the Boulder Valley planning area have evolved.
2. **Changes to BVCP Update Intervals.** Does BOCC agree that the plan update intervals should be changed to: major update every ten years; mid-term update every five years; and public request map changes occurring between updates (e.g., every 2-3 years)?
3. **Options for Amendment Procedures.** What options for revisions to the amendment procedures, if any, would BOCC like staff and other decision bodies to consider further?

These questions were posed to City Council at a March 21, 2017 meeting. A summary of Council feedback on these topics comprises the main body of this report. A staff report prepared for the March 21 City Council meeting provides a more comprehensive overview of topics for consideration related to the IGA renewal. The city's staff report is included as Attachment A.

Key takeaways from the City Council study session include:

- Support from council to renew an intergovernmental agreement for cooperative planning with Boulder County.

- General support to explore extending the plan major update cycles to an 8 to 10-year time frame while retaining mid-term updates as well as opportunities for land use map updates in more frequent intervals.
- A majority of council members expressed interest in changes to the amendment procedures regarding Area II to be a city-only decision with consideration of options for referral or possible call-up to the county, and changes to the Area III – Planning Reserve to be a City Council and Board of County Commissioners decision, with some process efficiencies.

II. SUMMARY OF CITY COUNCIL FEEDBACK

1. Continuation of Cooperative Planning

City Council universally agreed that the city should continue cooperative planning with Boulder County and renew the IGA, with revisions as appropriate.

2. Changes to BVCP Update Intervals

Council members generally supported staff’s recommendation to extend the interval for conducting major updates to the BVCP. They recognize that less frequent updates will allow staff to spend more time on Plan implementation and other planning priorities.

Councilors asked about the rationale for the existing 5-year major update interval. Staff explained that it was intended to generally align with the city’s Capital Improvement Plan (CIP) schedule. During the earlier stages of development in the community the alignment of BVCP and CIP processes was more critical than it is given the current focus on infill and redevelopment.

One councilor suggested that staff consider whether a 5-year midterm and 10-year major update interval is optimal, or whether a more moderate extension of the interval might better address the community’s needs (e.g., 4-year midterm and 8-year major update). It was highlighted that the BVCP updates serve as an opportunity to assess the state of the community and how needs are evolving, and the updates facilitate conversation among the community. It was also noted that comprehensive plan updates provide a valuable opportunity for collaboration among city and county staff.

Councilors emphasized that a longer update cycle should not function as a barrier to community members’ ability to propose land use map changes on a more frequent interval; land use designation changes should be able to occur in response to changes in community needs as they arise.

Councilors recommended that staff give further consideration to the possibility of decoupling the timing of the land use map change and policy update processes. One councilor highlighted the importance of separating policy changes from map changes, noting that the BVCP Land Use Map essentially serves a regulatory function and should be able to undergo updates more frequently than every five years.

3. Options for Amendment Procedures

At the request of councilors staff explained that the four-body review structure was originally intended to provide a balanced perspective and long-term view on major decisions affecting development in the Boulder Valley at a time when the community was in an early phase of its build-out potential. Councilors noted that much more limited development potential now remains in the unincorporated areas of the Boulder Valley, and changed circumstances may warrant revisions in the amendment process. Discussion of options for amendment procedures related to Areas I (within

municipal limits), II (currently in unincorporated Boulder County, but identified as eligible for annexation) and III (intended to remain in Boulder County jurisdiction) were discussed in turn.

Area I

Several councilors expressed that it is most appropriate for only elected officials to hold veto power over BVCP decisions, as that is consistent with all other decision processes. Councilors appreciate the valuable input provided by Planning Board members, as board members are deeply engaged in planning issues and meet at least four times per month. Several councilors identified the decision-making authority of Planning Board as a unique situation, but do not believe it warrants a change. One councilor noted that Land Use designation changes are policy decisions and should be made by council members. Another councilor noted that he would not support a plan in which Planning Board holds veto power in the amendment process. No changes were proposed which would impact County review or authority over Area I proposals.

Area II

Councilors highlighted two factors as providing rationale for moving away from a four-body review system in Area II. First, it was noted that land in Area II can currently undergo Land Use designation change without going through four-body review if the request is submitted concurrently with an annexation request. Second, councilors emphasized that little land remains in Area II, thus indicating that the potential risk to the Boulder Valley associated with Area II decision-making is minimal. The areas remaining in Area II are generally concentrated along east Arapahoe Avenue, Gunbarrel, and the CU South property.

One councilor suggested that the nature of the decision should have a bearing on which bodies play a role in deciding to amend the land use designation (e.g., whether the property is surrounded by city jurisdiction, or on the edge of the service area). Another councilor noted that land in Area II has already been identified as eligible for annexation into city jurisdiction, and therefore it should be a city-only decision with the county playing a referral role. It was also noted that CU South is largely surrounded by City of Boulder open space and city jurisdiction, and has always been in Area II. Another councilor noted that for Area II land it makes sense to look to the county for guidance, but that the county should not hold veto power over those decisions. Other councilors supported this view. Two councilors expressed support for city-only review with a county call up option, with one stating that the nature of the parcel in question should have a bearing on whether the county's role is one of referral or call up option. In contrast, another councilor expressed that areas with county residents should be represented by county officials and advocated no change to the current system.

At the request of councilors, Boulder County Land Use Director, Dale Case, commented on the role of the county in land use decisions related to Area II. Mr. Case noted that IGAs can specify a range of amendment arrangements depending on the jurisdiction. In some cases, the arrangements are property-specific. In general, the county would focus on the potential regional impacts of proposed land use designation changes. Mr. Case also noted the potential for redevelopment of currently developed parcels.

One councilor recognized that redevelopment of currently developed parcels could have regional transportation impacts.

Area III- Planning Reserve¹

¹ Options presented in Attachment A for Area III Planning Reserve currently include "city-only decision making." Inclusion of that option in the City Council staff report was an oversight and staff does not support considering that as an option.

Chris Meschuk, city planning staff, clarified that there are three steps involved in the decisions related to land use designation changes in the Area III Planning Reserve, and there is currently four-body review at each of those three stages. He noted that one option would be to have four-body review for just one of those three stages: movement of land from Area III to Area II.

One councilor requested to include an option for solely elected officials to be involved in decisions for Area III Planning Reserve. Three other councilors supported this recommendation. One suggested that staff consider other steps to simplify the decision-making process. Another expressed Planning Board could be involvement as well and indicated that a higher threshold is warranted for amendments related to Area III Planning Reserve. A councilor also suggested aiming for a process with a level of complexity proportional to the magnitude of potential impact of the change.

One councilor prefers to maintain the current process for Area III decisions. It was expressed that the Twin Lakes decision highlighted the need for county representation, as many county residents opposed the staff-recommended land use changes.

Councilors did not express a need to change amendment procedures for land in Area III, Rural Preservation; the meeting included limited discussion of this topic.

III. NEXT STEPS

City and county staff will work to revise IGA language to reflect feedback received by City Council and BOCC. Council and BOCC, as the decision-making bodies for the IGA, will discuss the IGA renewal process and outcomes of recent discussions with their respective advisory bodies at upcoming public meetings. The Boulder Valley Comprehensive Plan update is proceeding concurrently with the IGA renewal process. A full draft plan was released for public review on Mar. 24. That version of the Plan does not reflect potential changes to the Amendment Procedures addressed by Council and BOCC as part of the IGA renewal process. Given that Council and BOCC alone enter into the IGA which enacts the BVCP, staff recommends moving the Amendment Procedures section of the BVCP to the IGA document itself.

ATTACHMENTS

Attachment A: Staff report for March 21, 2017 City Council meeting

Attachment B: Current Comprehensive Development Plan Intergovernmental Agreement between City of Boulder and Boulder County

Boulder City Council
STUDY SESSION
Televised

A Special City Council Meeting Precedes the Study Session
6-7:35 p.m.

Study Session
Tuesday
March 21, 2017
7:35-10:35 p.m.

7:35-9:05 p.m.
Inclusionary Housing Ordinance Update Options

9:05-10:35 p.m.
Boulder Valley Comprehensive Plan Major Update
Comprehensive Development Plan IGA

Council Chambers
Municipal Building
1777 Broadway

Submit Written Comments to City Council, ATTN: Lynnette Beck, City Clerk, 1777 Broadway, P.O. Box 791, Boulder, CO 80306 or Fax to 303-441-4478 or E-mail: council@bouldercolorado.gov

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If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 negocios días antes de la junta.



**City Council Study Session
MEMORANDUM**

To: Mayor and Members of Council

From: Jane Brautigam, City Manager
Susan Richstone, Interim Director for Planning, Housing & Sustainability
David Gehr, Deputy City Attorney
Lesli Ellis, Comprehensive Planning Manager
Chris Meschuk, Senior Planner
Michelle Krezek, Commissioners' Deputy, Boulder County
Dale Case, Land Use Director, Boulder County
Nicole Wobus, Long Range Planning Manager, Boulder County

Date: March 21, 2017

Subject: Boulder Valley Comprehensive Plan Major Update – Comprehensive Development Plan Intergovernmental Agreement (IGA) (City of Boulder and Boulder County)

PURPOSE

The purpose of this memo is to provide an update to City Council on the Comprehensive Development Plan Intergovernmental Agreement (IGA) between the City of Boulder and Boulder County in advance of a Study Session on Mar. 21, 2017. The memo provides history and background about the IGA and its relationship to the Boulder Valley Comprehensive Plan's (BVCP) values and policies and particularly the Amendment Procedures section of the Plan. City and county staff recommend continued cooperative planning and a renewed agreement. This memo also presents a recommendation for modifying the plan update intervals and options for possible changes to the BVCP amendment procedures.

QUESTIONS

- 1. Continue Cooperative Planning.** *Does council agree that an intergovernmental agreement for cooperative planning should be renewed? The agreement may contain revisions to reflect ways that the needs of the Boulder Valley planning area have evolved.*

If council agrees that an IGA should be renewed, then...

- 2. Changes to BVCP Update Intervals.** *Does council agree that the plan update intervals should be changed to: major update every ten years; mid-term update every five years; and public request map changes occurring between updates (e.g., every 2-3 years)?*

- 3. Options for Amendment Procedures.** *What options for revisions to the amendment procedures, if any, would City Council like staff and other decision bodies to consider further?*

BACKGROUND

Purpose and Scope of the BVCP and IGA

What's in the Boulder Valley Comprehensive Plan versus the IGA regarding intergovernmental cooperation?

The Boulder Valley Comprehensive Plan includes:

- Core values related to cooperation;
- The vision and maps to guide the growth, development, and preservation of the Boulder Valley;
- Policies related to plan timing, annexation, etc.; and
- Amendment procedures relating to timing of 5-year/major, mid-term updates and decision-making (city/county) for different areas.

The Comprehensive Development Plan IGA:

- Adopts by reference the text and maps of the BVCP;
- Each jurisdiction's planning, zoning, subdivision, building and related land use regulatory functions will be consistent with the BVCP;
- City annexation policies and capital improvements will be consistent with the BVCP; and
- Calls for review of the BVCP at least every 5 years.

History

The foundation of cooperative planning in the Boulder Valley is the 1977 BVCP. However, the regional planning efforts for the Boulder Valley began in the late 1950s as Boulder was rapidly growing. Pressure on the mountain backdrop led to the Blue Line in 1959, limiting water service and effectively serving as Boulder's first growth boundary. Through the 1960s various approaches were taken, and in 1970 the City and County jointly adopted the first Boulder Valley Comprehensive Plan, which was primarily a policy based document. The 1977 BVCP was the result of a significant change in comprehensive planning efforts following the Colorado Supreme Court decision of *Robinson v. City of Boulder*. This decision effectively ended Boulder's reliance on utilities as the tool for controlling growth in the unincorporated portion of the Boulder Valley and required the city and county to clarify the plans for these areas and establish a new intergovernmental tool for guiding growth.

Concurrent with the adoption of the 1977 plan, the city and county signed an intergovernmental agreement. It stipulated that both entities would follow the plan and land use map and policies regarding utility provision and new "urban development" (to only occur in areas with a full range of urban services including water, sewer, fire and police). To implement this new vision for growth in the valley, both the city and county took significant actions including rezonings and regulatory changes. This city county relationship has shaped the Boulder Valley to what it is today.

While the framework and vision has remained stable for 40 years, the plan policies and procedures have evolved. For example, the two entities have:

- Acquired significant amounts of open space lands within the valley;
- Created the "Planning Reserve" for potential orderly expansion of the growth boundary at some time in the future (1995);

- Clarified city and county roles related to plan changes creating a “2-body” and “4-body” decision-making process depending on the location of the change (2005). The amendment procedures have evolved through each plan update.
- Annexed the vast majority of Area II into the city, eliminating the need for the Area II-a and Area II-b phasing distinction in the plan (2010).

A more detailed history of the intergovernmental agreement and BVCP is included in **Attachment A**.

ANALYSIS

Based on the history and core values and policies of the BVCP and IGA, some of the considerations when analyzing the value of the intergovernmental agreement include:

1. **Cooperative regional planning** – Cooperative planning of the growth, development, and preservation of the Boulder Valley is a core value of the BVCP and mutual aim of the city and county. Continued city/county coordination and partnership is important if decision makers seek to maintain the character of the region as development pressures continue to increase.
2. **Compact city with well-defined Service Area** – The BVCP and community core values of compact, contiguous development and infill (more sustainable urban form) and open space preservation require city and county agreement and coordination to achieve.
3. **Urban development in city with rural and agricultural character in the county** – The urban/rural distinction is the foundation of maintaining the character and sense of place that makes the Boulder Valley a special place. Maintaining the distinction requires both the city and county to support each other and to balance each other in land use decisions for the valley.
4. **Implementation/efficiency in decision making** – The amendment procedures of the plan have evolved as a part of each update to the BVCP. It is recognized that some of these procedures are not as efficient and clear as they could be. Minor revisions to the decision making process between the city and county are an important part of each update to the BVCP to address how to implement the agreement smoothly.

BVCP and IGA - What works related to cooperative planning?

The BVCP has had a strong legacy of providing relevant policy direction to the city and county and the plan and its agreement achieve the mutual objectives above, including:

- **Community based plan, reviewed and updated regularly** – The IGA and BVCP have a long legacy of reflecting a community-based vision, and allowing for community-based requests for revisions. The plan is reviewed regularly to respond to changing needs, and to provide consistent orderly provision of urban services.
- **City and county policy alignment on regional issues** – The BVCP and agreement have ensured policy alignment on topics for which city/county cooperation results in more efficient, effective outcomes for the community (i.e., development patterns, transportation, the economy, community services, the environment and sustainability practices).
- **Guides where development should and should not occur** – The BVCP establishes through the Land Use Designation and Area I, II, III Maps a clear distinction between urban and rural, and what areas are anticipated to become part of city jurisdiction and developed with an urban character, and the IGA ensures the city will provide services and annex lands in accordance with the maps. The agreement helps prevent rural sprawl.

- **Regulations are consistent with the plan** – The IGA ensures that the city and county will regulate according to the BVCP. This alignment avoids annexation wars between communities, and development regulations that ensure urban development is channeled to the city.
- **Referral processes to/from city and county during development review** – The BVCP and IGA ensure that development proposals between the city and county are considered in an orderly manner and that urban development that is proposed in the county is channeled into the city.

BVCP and IGA - What's Challenging related to cooperative planning?

While city/county cooperation has been strong, certain procedural aspects to the IGA and plan have become challenging or “clunky” over time, including:

- **Timing of BVCP Updates** - Frequent focus on policy updates leaves less time for implementation. While major updates vary in the length of time to complete and their areas of focus, the update process is resource-intensive for city and county staff, limiting the resources available to implement key areas of the plan or to conduct more focused planning.
- **Efficiency and fairness of the process and decision making** – Decisions can bounce back and forth between the city and county, adding significant time and energy into the decision-making process. Community members often struggle to follow the decision-making process during plan updates and land use change requests.
- **Decision-making procedures are complex and not scaled based on the impact of the decision** - The amendment procedures for the IGA are contained within the BVCP itself instead of the IGA. As a result, the incremental revisions to the procedures over time have become increasingly complex. The current plan has some process inconsistencies regarding what bodies make decisions under different circumstances. For instance, an Area II Land Use designation change concurrent with annexation can happen at any time with approval of the City Council and Planning Board after referral to the county. In contrast, Area II Land Use designation changes happening at the five-year review require a more robust process and approval of all 4 bodies.
- **Land Use and area map change request process can be time consuming** – Currently, all land use map changes must go through an initial screening process, then an analysis and decision making process. As the complexity of the requests has increased, the resources needed to administer the requests has increased significantly, reducing the resources available to address the key focus areas of the update. At times, the time and resources dedicated to land use and area map changes can overshadow the broader plan update process and communitywide policy discussions. Concurrent processes can also create confusion about whether analysis of requests should occur according to the plan in place or the emerging community needs and policies being addressed as part of the update.

Question 1: Should the City continue cooperative planning with the County?

The critical threshold question is whether the city should renew and/or revise an agreement with Boulder County regarding coordinated planning for the Boulder Valley and implementation of the BVCP. Several options are presented below.

Options:

1. Stay the Course – Renew the Current IGA

- Pros: Continues strong cooperation and ability to plan together and implement the plan's core values and growth management policies. Is most straightforward approach.
- Cons: Carries forward some aspects of the current procedures that have been seen to be challenging or inefficient and may not address current needs.

2. Revise an Agreement. Include some modifications (potentially as noted in the sections that follow)

- City and county staff recommended this approach.
- Pros: Continues strong cooperation and ability to plan together and implement the plan's core values and growth management policies while adjusting for current needs and clarifying decision-making.
- Cons: May take more time to sort through the amendments necessary to update an IGA.

3. Let the Agreement Expire. Perhaps Revisit It Later and Renew Different Terms.

- Pros: It could enable the city and county to take the time needed to sort through issues and areas of agreement.
- Cons: This approach may create discontinuity – a lapse – in the city and county's ability to cooperate on future decision making that affects the regional development pattern and sets aside a long legacy of cooperation in implementing the community's vision for the Boulder Valley.

Recommendation: City and County staff recommend renewal of an IGA to ensure continued cooperative planning in the Boulder Valley. Revisions to the IGA and/or plan amendment procedures should be made to meet today's needs and circumstances consistent with the evolution of the plan and valley. Renewal of an IGA concurrent with the completion of the current major update has the additional benefit of allowing staff to carry out and implement the update that is nearly complete.

City and county staff believe renewal of an intergovernmental agreement is essential so that coordinated and cooperative planning for the Boulder Valley remains, and for effective implementation of the BVCP's core values. It is recognized that much of the implementation of the plan's policies related to service provision have been achieved, such as rezonings by the city and county, acquisition of Open Space, and zoning and subdivision regulations. However, continued alignment and cooperation will help ensure that the shared vision is reflected in future decision making, particularly that pertaining to potential proposals for expansion of the Service Area, continued annexation of Area II, and addressing continued development pressures in Area III. The IGA and Plan also lay the groundwork for policy alignment, in other topics of critical regional importance such as transportation, planning for affordable housing, and delivery of community services. Coordination and policy alignment in these areas is essential for effective, efficient delivery of services to the Boulder Valley community.

QUESTION 1: *Does council agree that an intergovernmental agreement for cooperative planning should be renewed? The agreement may contain revisions to reflect ways that the needs of the Boulder Valley planning area have evolved.*

Question 2: Plan Update Interval (in IGA & BVCP Amendment Procedures and Policies)

The Plan and IGA state that the BVCP shall be reviewed every 5 years. The drafters of the 1977 plan thought that a 5-year update interval synchronized with the 5 to 6-year capital improvements plan (CIP), and the overall 15-year plan horizon was an important interval during such significant times of change.

The plan identifies two types of updates – 5-year/major and mid-term updates.

- **The 5-year review (major update):** The major update allows for the full review of the plan, including all policy changes, all map changes, and text changes. Since 1977, there have been seven major updates including the current update -- 1982, 1990, 1995, 2000, 2005, 2010, and 2015.

- **The Mid-term update:** The mid-term update allows for minor policy changes, land use map changes, and minor amendments to the service area. The mid-term is not intended to be a time to consider major policy changes.

Prior to 2005, the plan had annual updates. Starting in 2005, the city and county amended the plan to do one mid-term update in-between major updates (every five years). One mid-term update occurred in 2008. In 2013, it was not initiated because the 2010 update was still pending amendment procedure changes.

Option: Modify the Plan Update Intervals

As part of this plan update, several of the decision bodies and the BVCP process subcommittee have discussed changing the BVCP policies and amendment procedures to call for a less frequent update cycle – perhaps a ten-year major update cycle (rather than 5 years) with a 5-year mid-term review and opportunities for public map change requests in between these cycles. The mid-term would be limited to minor map changes and minor policy updates. The major update would remain as the primary mechanism for review and updates to the vision/values, the text, policies and plan maps.

Pros: City and county staff think the benefits of a shifting to a ten-year major update are:

- Regional coordination and policy alignment on issues such as transportation, human services, sustainability, housing, etc. are, generally, well-established, and adjustments to reflect changing conditions between major BVCP updates can be addressed through master plans and other collaborative channels.
- The plan areas are more established than when the plan was created in 1977. The original justification for a 5-year interval to be able to respond to the rapidly changing circumstances and growth have changed. The urban service area is clear and few major decisions remain other than the Area III - Planning Reserve.
- Putting less staff, decision-making, and community time into major policy updates would free up time and resources for implementation actions, such as subcommunity and area planning and land use code changes.

Cons: City and County staff think the drawbacks of less frequent major updates are:

- Possibility for land use map changes to not be as proactive, or there may be built up demand especially if land use map changes only are not provided between updates.
- Significant policy changes could need to wait for integration into the BVCP.
- Community demand for changes could cause the mid-term update to become as large as the major update.

However, most of these issues are resolvable.

Recommendation

Change to a ten-year interval for major updates, with a mid-term update. City and County staff believe many major policy issues will be addressed during this update which will also lay the groundwork for actions and implementation, and less frequent BVCP major updates will enable the community, decision-makers and staff to focus on and complete key implementation actions prior to the next update. A clear scope of what changes can or cannot be considered at a mid-term vs. major update will be needed. To assist in addressing this, staff further recommends the following:

1. Allow Land Use map changes proposed as part of a city subcommunity or area planning process to be adopted concurrent with the subcommunity or area plan adoption, similar to how the master plan summaries are updated during city department master plan updates.
2. Consider an optional Land Use map-only update (including public requests) every 2-3 years, between updates. This could be limited to Area I only.
3. Allow the threshold decision on whether to consider studying a service area expansion into the Area III – Planning Reserve to occur at a mid-term or major update.

QUESTION 2: Does council agree that the plan update intervals should be changed to: major update every ten years; mid-term update every five years; and public request map changes occurring between updates (e.g., every 2-3 years)?

Question 3: Plan Amendment Procedures (in BVCP)

The BVCP “Amendment Procedures” chapter describes the timing, process and criteria for amendments to the plan and the city and county decision process. The amendment procedures have changed over the years as the needs of the community and emphases of the plan have changed. The IGA itself does not contain any plan amendment procedures other than the plan update interval. For other Boulder County communities, it is atypical for such detailed procedures to be included in a comprehensive plan; they typically appear in the intergovernmental agreement. For the BVCP, putting the amendment procedures into the IGA could be an alternative approach.

The plan’s Amendment Procedures outline more than 15 different types of changes. However, the types of changes can be simplified by categorizing them per the Planning Area, scope, and decision-making authority, as shown in the chart below:

Figure 1: Current Amendment Procedures in BVCP

Decision- Making Body	Changes in Area I	Changes in Area II*	Area III- Planning Reserve to Area II	Changes in Area III	Policies & Text
Planning Board	X	X	X (3 steps)	X	X
City Council	X	X	X (3 steps)	X	X
Planning Commission		X	X (3 steps)	X	X
Board of County Commissioners		X	X (3 steps)	X	X

X = Decision made by this body

* = If an annexation request for Area II includes a land use map change, it is referred to the county but is a 2-body decision

A detailed matrix of change procedures can be found in **Attachment B**.

Current Approach to Procedures – Who Decides What?

Area I – In City

Currently, the city Planning Board and City Council makes all decisions regarding land use map changes in Area I (city limits). In 2005, as city infill and development decisions were growing more complex, the city and county removed county decision-making for Area I to streamline the process from 4-body to 2-body and to be more consistent with other decision making in which the city has sole decision making authority within city limits.

Area II – In City Service Area

Currently, changes to the land use map or minor adjustments to the service area (small changes to the Area II/III boundary) require all four city and county bodies to decide. Each change first requires an initial screening by all four, then the analysis is completed on those recommended for further analysis. Each body is then presented the analysis for final decisions.

Area III - Planning Reserve

The Area III – Planning Reserve is an area for potential urban expansion for a need that cannot be accommodated within the existing service area, and only if detailed planning for the area indicates community benefits exceed potential negative impacts. Currently, the BVCP calls for three decision-making steps to change land from being classified as Area III – Planning Reserve to Area II (within city growth boundary). The steps are:

1. The first step is a decision to study if sufficient merit exists to develop an expansion plan for an unmet need within the service area.
2. If yes, then the study is completed, and a decision on whether to authorize an expansion plan is held by the bodies.
3. If yes, the plan is prepared (similar to an area plan or subcommunity plan), and hearings are held by the bodies to decide whether to approve the plan and move the area inside the service area (Area II).

Once lands are moved into Area II, then annexation can be considered consistent with the expansion plan. Additional information on the history and process steps can be found in **Attachment C**.

As part of the 2010 BVCP update, process improvements were identified and changes were approved by the city, including a revision to allow expansion for an unmet need or significant community opportunity and removal of the county from the decision-making process. The County Planning Commission denied the changes, so they were not included in the plan.

Area III - Rural Preservation (excluding the Planning Reserve)

Area III – Rural Preservation is under county jurisdiction and intended to remain rural and in county jurisdiction. Land Use Map changes, Planning Area boundary changes, and expansions of the service area are of mutual interest by the city and county, therefore 4-bodies decide.

A map of Area I, II, and III can be found in **Attachment D**.

Options for Procedure Changes

This section addresses possible changes to BVCP amendment procedures, including several options for amendment procedures that would apply in Area II, Area III-Planning Reserve, and Area III-Rural. Staff has not put forward options for Area I. City and county staff assembled the range of options for discussion purposes; however, at this early stage, neither city nor county staff recommend any particular options and instead look forward to the discussion to help guide ideas for potential

incorporation into an amended BVCP and/or the IGA. The general direction on an approach will allow staff to explore further and to develop and recommend details associated with each option.

Area I

No changes are proposed by city and county staff for changes in Area I. The process of 2-body review (city-only) was established within the last 10 years, appears to work well as currently configured, and staff have not heard any concerns or suggestions for changing the process.

Options for Area II Land Use Map Changes and Minor Adjustments to the Service Area Boundary

Decisions affected would include land use map changes in Area II, and Minor Adjustments to the Service Area Boundary.

1. No Change. Keep 4-body decision-making for all land use changes affecting Area II and the Service Area Boundary.

- Pros: This approach keeps the current process in place and recognizes that this area is of mutual concern (i.e., properties are in county jurisdiction, but intended to be annexed to the city).
- Cons: The plan has already identified Area II properties as eligible for annexation, and advancing toward annexation for these properties would be non-controversial in most cases. This decision-making process can be time consuming and resource intensive. Treats all changes the same regardless of size or complexity.

2. Change the procedure to a city-only decision (2-body – Planning Board and council) with referral to county.

- Pros: This approach would align with the concurrent annexation and land use map change procedures currently in place, allowing county input but not a decision. This would reduce the time and resources necessary to process changes.
- Cons: This approach removes county decision making for areas outside the city limits (but within the service area) with only a referral.

3. Change to a city-only decision (2-body) with county call-up.

- Pros: This approach would align with the concurrent annexation and land use map change procedures currently in place, but allow the county to “call-up” a city decision for a hearing. This would reduce the resources necessary to process changes, but retain a final option for a county decision for areas outside the city limits (but within the service area).
- Cons: This approach introduces a new type of procedure to the plan, which could create more complexity, such as the procedures and what conditions under which the county could initiate the call-up.

4. Change to a City Council and Board of County Commissioners decision.

- Pros: This approach would retain joint city-county decision making for areas outside the city limits (but within the service area) but reduce the number of decision making bodies. This streamlining would significantly reduce the time and resources necessary to complete the process.

- Cons: This approach introduces a new type of procedure to the plan, which could create more complexity. All other decisions currently involve the Planning Board and Planning Commission. For the city, this would require changes to the Boulder Revised Code.

Staff recognizes that there could be other options or variations to the options outlined above.

Options for Area III – Planning Reserve Process

Decisions affected would include the Service Area Expansion process (Area III – Planning Reserve to Area II)

1. No change to the current Planning Reserve process.

- Pros: This recognizes that the Planning Reserve is of mutual concern (i.e., properties are in county jurisdiction but identified as an area for possible inclusion into the city for an unmet need). Has multiple decision making points to ensure any expansion of the growth boundary is fully vetted.
- Cons: This approach retains a process which is complex and difficult to understand and administer. The multiple decision making points make it time- and resource intensive.

2. Focus the 4-body decision on only the threshold decision to move the land to Area II. Once in Area II, lands of the Planning Reserve would be treated as with other Area II lands.

- Pros: This approach would retain the foundation that the Area III – Planning Reserve is for an unmet need that cannot be accommodated within the existing service area. This would retain the city and county (4-body) decision to expand the growth boundary, but simplify the process for the more detailed planning to be treated like the rest of Area II. This approach received conceptual support from the county during the 2010 update.
- Cons: This approach reduces the balanced vetting through multiple decision making layers.

3. City-only decision making

- a. Pros: This approach would simplify the process for decision making, reducing the time and resources necessary to make a change.
- Cons: This approach removes county decision making for areas outside the city limits, and not within the service area. In 2010, this approach was presented but not supported by the county. It is unlikely that the county would support this change.

Options for Area III (excluding the Planning Reserve) – City and County

Decisions affected would include land use map changes in Area III and Planning Area Boundary Changes. No suggestions have emerged through this plan update about changes to these procedures, and the procedures tend to happen infrequently.

1. No Change. Keep 4-body decision-making for all land use changes affecting Area III.

- Pros: This approach keeps the current process in place. Recognizes that this area is of mutual concern and retains city extraterritorial planning ability in the valley outside city limits.
- Cons: This decision-making process can be time consuming and resource intensive. However, few Area III changes occur.

2. Change the procedure to a county-only decision (2-body) with referral or call-up to city.

- Pros: This approach would reduce time, allowing city input or a call-up decision.
- Cons: This approach removes city decision making for areas of mutual concern, and may not retain the same level of extraterritorial planning ability in the valley outside the city limits.

3. Change to City Council and Board of County Commissioners decision.

- Pros: This approach would retain joint city-county decision making for areas outside the city limits and allow the city to retain extra-territorial planning ability, but reduce the number of decision making bodies from 4 to 2. This streamlining would significantly reduce the time and resources necessary to complete the process. However, very few Area III changes occur.
- Cons: This approach introduces a new type of procedure to the plan, which could create more complexity. All other decisions currently involve the Planning Board and Planning Commission. For the city, this would require changes to the Boulder Revised Code.

***QUESTION 3:** What options for revisions to the amendment procedures, if any, would the City Council like staff and other decision bodies to consider further?*

Next Steps

Following the City Council conversation on March 21, county staff will take the council feedback to the Board of County Commissioners. Feedback from both bodies will then be presented to the Planning Board and Planning Commission in April.

Attachments

A – History of BVCP and IGA

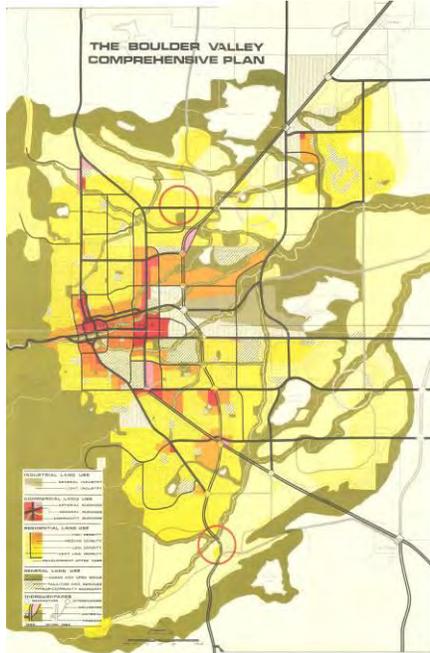
B - Amendment Procedures Table

C – Area III – Planning Reserve history and process

D – Planning Areas I,II, III Map

HISTORY OF THE BOULDER VALLEY COMPREHENSIVE PLAN & INTERGOVERNMENTAL AGREEMENT

The Boulder Valley Comprehensive Plan (BVCP) is currently in its 8th major update since the inception in 1970. The City of Boulder and Boulder County have always jointly adopted the BVCP. Cooperative plans between city and county entities is considered a best practice in regional planning across the nation, and the BVCP, specifically, is recognized as a national model.



1970 BVCP Land Use Map

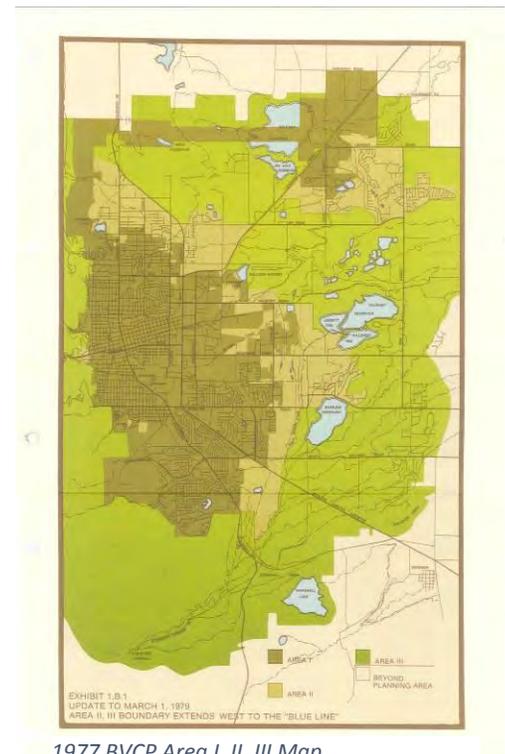
The 1970 BVCP established the foundation of city and county cooperation and the concept of phasing urban growth. That plan consisted of a map on one side and the text of the plan on the other side. It identified development areas that extended well beyond the current growth boundary of Boulder, and the plan depended on the city’s annexation and utility service policies to guide growth. It envisioned a Boulder Valley of 140,000 people by 1990.

The 1977 BVCP was the result of a significant change in comprehensive planning efforts following the Colorado Supreme Court decision of *Robinson v. City of Boulder*. This decision effectively ended Boulder’s reliance on utilities as the tool for controlling growth in the unincorporated portion of the Boulder Valley and required the city and county to clarify the plans for these areas and establish a new intergovernmental tool for guiding growth.

That laid the foundation for the current day BVCP by creating the service area concept consisting of the following three service areas:

- Area I** – Within city limits which has adequate urban facilities and services.
- Area II** – Under county jurisdiction, but anticipated to be annexed to the city and to accommodate urban development.
- Area III** – Under county jurisdiction and intended to remain rural without urban facilities and services

The city and county jointly adopted that plan in 1977 and signed an intergovernmental agreement. It stipulated that both the city and county would follow the plan and land use map as well as policies regarding utility provision and new “urban development” (to only occur in areas with a full range of urban services including water, sewer, fire and police).



1977 BVCP Area I, II, III Map

To implement this new vision for growth in the valley, both the city and county took significant actions:

- The city agreed to change its utility provision policies for out-of-city utility service and adopted ordinances in 1978 stating the city would only provide utilities to properties in Area II or those developed prior to 1977.
- The county agreed to zone the unincorporated area in a manner consistent with the comprehensive plan to maintain its rural pattern, downzoning more than 25,000 acres in 1985 and 1986. Many consider this the most difficult step in implementing the BVCP.

PLAN EVOLUTION SINCE 1977

Since the 1977 BVCP there has been true cooperative comprehensive planning between both the city and county in the Boulder Valley with a fairly consistent framework, vision, and values around growth management and urban service provision. While the framework and vision has remained stable for 40 years, the plan policies and procedures have evolved. For example, the two entities have

- Acquired significant amounts of open space lands within the valley.
- Created the “Planning Reserve” for orderly expansion of the growth boundary at some time in the future (1995).
- Clarified city and county roles related to plan changes creating a “2-body” and “4-body” process depending on the location of the change (2005). The amendment procedures have evolved through each plan update.
- Annexed the vast majority of Area II into the city resulting in the elimination of the Area II-a and Area II-b phasing distinction (2010).

INTERGOVERNMENTAL AGREEMENT

While the plan has evolved since 1977, the intergovernmental agreement (IGA) has remained essentially unchanged in structure and content. In 2002, the city and county signed the current IGA (attached) which expires on Dec. 31, 2017. It contains the following city/county provisions agreeing to:

- Adopt by reference the text and maps of the BVCP.
- Exercise each jurisdiction’s planning, zoning, subdivision, building and related land use regulatory functions consistent with the plan.
- Exercise city annexation policies and capital improvements consistent with the plan.
- Review the plan at least every 5 years.

IGA RENEWAL PROCESS

With the IGA nearing expiration, the city and county staff recommend renewal and extension of an IGA as a key part of the current BVCP Major Update. However, consistent with the incremental evolution of the plan since 1977, staff will seek input from the City Council and Board of County Commissioners regarding any potential changes to specific provisions within the agreement or to the BVCP plan amendments and procedures section that should be revised to respond to changed circumstances or current needs. These discussions will take place in spring 2017.

Boulder Valley Comprehensive Plan Amendment Procedures Table

	Area I		Area II			Area III					Policies and Text			
Body	Area I Land Use Changes	Area II to I (Annexation) with Land Use Change	Area II Land Use Map Change	Area II Service Area Expansion: Minor Adjustment	Service Area Contraction: Area II to Area III - Rural Preservation	Service Area Expansion: Area III - Planning Reserve to Area II	Area III Land Use Map Change	Area III Expansion - Planning Reserve to Preservation	Area III Contraction - Rural to Planning or Reserve	Planning Area Expansion or contraction	Policies - "City"	Policies - "County"	Policies - "City and County"	Text - Plan/Program summaries & Urban Service Criteria and Standards
Planning Board	Approval	Approval/recommendation to City Council	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval		Approval	Approval
City Council	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval		Approval	Approval
Planning Commission		referral, option to refer to next update	Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval		Approval	Approval	
Board of County Commissioners			Approval	Approval	Approval	Approval	Approval	Approval	Approval	Approval		Approval	Approval	

Note: Annexation of Area II to I without a Land Use Map change is a recommendation from the Planning Board, and Decision by the City Council

Area III-Planning Reserve and the Service Area Expansion Process

1. Background on the Area III-Planning Reserve

The Service Area concept and the creation of Areas I, II, and III is one of the keystones of the Boulder Valley Comprehensive Plan (BVCP), and in combination with joint city/county decision-making, distinguishes the plan from many others in the state and country. Area I (the city) and Area II (the area planned for annexation and service provision) form the city's service area. Area III was defined in 1977 to not accommodate urban development and that the rural character should be preserved and protected.

The Planning Areas remained as originally defined until 1993, at the conclusion of the Area III Planning Project. The Area III Planning Project was a three-year joint effort of the city and county planning departments. The city and the county had been receiving incremental requests for Area III to Area II changes, particularly along the Jay Road corridor and East Arapahoe, and the plan did not provide guidance as to where such a change would be appropriate. The goal was to determine where and when urban growth might and might not be acceptable in the future, prior to considering Service Area expansions.

The following studies were completed as part of the project:

- (1) Land Use Suitability Analysis;
- (2) Urban Services Feasibility Analysis;
- (3) Vacant, Redevelopable and Underdeveloped Land Inventories in the existing Service Area;
- (4) Potential Service Area Expansion/BVCP Policy Compatibility Analysis; and
- (5) Gunbarrel Policy Analysis.

At the conclusion of the project, 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 final report states:

“Service Area expansion is not desirable simply to provide additional land supply for future development; it must provide a broad range of community benefits...conceptual planning should provide an analysis of cumulative impacts and whether the carrying capacity of the Boulder Valley can absorb this additional growth...and should also provide an evaluation of trade-offs in meeting conflicting community goals.”

After a series of public hearings the four approval bodies agreed in the fall of 1993 to:

- Designate 680 acres in the "West Portion-Northcentral Area" site as Area III-Planning Reserve because it presented very limited environmental constraints, was proximate to urban services, and was of sufficient overall size to potentially accommodate the conclusions of the future vacant land needs analysis.
- Designate the remainder of Area III as “Area III- Rural Preservation Area.”

The procedures for amending the plan were changed following the project to set in place a process for service area expansions that would be initiated by the city and county, and provide for comprehensive planning of the Planning Reserve as opposed to incremental changes.

The policy direction for determining the procedures for amending the Area III/II change process was described in 1993 as the following:

1. Consider limited Service Area expansion to include land in the Planning Reserve Area if the benefits to the community outweigh costs and negative impacts.
2. Revise the Area III to II change process to change it from an incremental, reactive, applicant driven process to a process based on comprehensive planning of growth areas and city-initiated Area III/II changes. The revised Area II/II change process and criteria must establish greater community control over the location, type, acreage, and timing of development.
3. Service Area expansion is not desirable simply to provide additional land for future development—it must provide a broad range of community benefits.
4. Area II to II changes should be large enough areas to cohesively plan and annex by neighborhoods (which should have a diversity of land uses) and to build logical increments for infrastructure.
5. In order to achieve community goals and policies, the city should be more directive in determining what actually gets built both for development in the existing Service Area and for any new growth areas (in Area III).
6. Require that new growth (in Area II and Area III) provide needed land uses that are complimentary to existing subcommunities and that implement a broad range of community goals. Development of land in new growth areas should be phased over many years in order to enhance growth management, encourage appropriate infill and redevelopment in the existing Service Area, and preserve development options for the future.

The procedures and text that developed out of this policy direction is still found in the plan today, including:

1. Area II to II changes only apply to lands in the Area III-Planning Reserve, not the Area III-Rural Preservation Area, unless the change can qualify as a minor amendment to the boundary.
2. A process for expanding the Service Area boundary was established
3. A Service Area Expansion Plan process was created, with a list of what the plan must contain, and the criteria that the plan must meet.
4. The role of property owners in the Service Area expansion process is established.

Since the original procedures were adopted into the plan, several minor revisions and reorganizations have occurred, however the key elements of the process remain intact.

Of most significance was the change that occurred in 2005, when additional text was added to define “sufficient merit” to authorize the development of a service area expansion plan, and a new criterion for approval of a service area expansion plan was added requiring that the change provides for a “priority need that cannot be met within

the existing service area.” This was added to strengthen the intent of the service area expansion process as a comprehensive, city initiated process. The result of these two changes was the addition of an initial community process to identify a list of unmet needs prior to considering whether to authorize a service area expansion plan. This process is further explained in the following section.

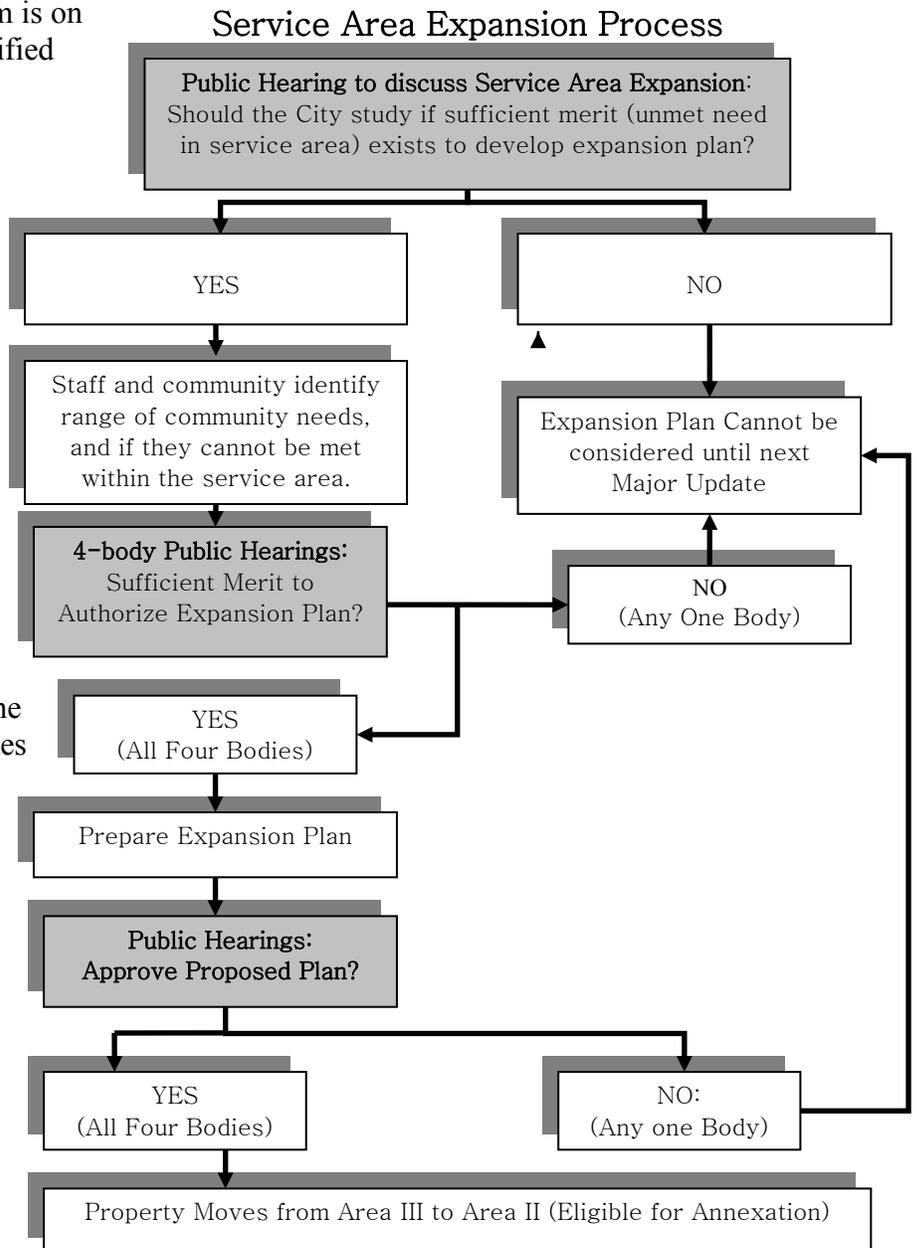
In researching other communities, many utilize an urban service area or growth boundaries, and some have vacant lands designated for specific land uses while others have no future use identified. Of the communities researched, none had a provision for future land reserved for the future needs of the community, such as described in the BVCP.

The closest example of a system similar to that of the Area III-Planning Reserve in the BVCP is the Urban Reserves program recently established by the Oregon Metro Regional Government. Metro’s program is on a regional scale, and has identified lands in

Clackamas, Multnomah and Washington counties that are appropriate for future urban development, and lands for rural preservation. The time horizon of the urban reserves is 50 years. The system was established to eliminate the incremental, site-specific decision making that was required as part of urban growth boundary changes as required by Oregon state law. The guidelines and policies for how an urban reserve can be moved inside the urban growth boundary includes a comprehensive planning process, much like the Service Area Expansion Plan process in the BVCP.

The current process to develop land in the Planning Reserve

The process to develop land in the Area III-Planning Reserve has very distinct steps, and joint decision-



making points. The process is outlined in the flow chart above.

The threshold question to begin the service area expansion process requires all four bodies to determine that “sufficient merit exists to authorize a service area expansion plan.”

In order to find that “sufficient merit exists”, there must be a process where a list of desired community needs is compiled and analyzed to find if there are any community needs that are currently nor being met within the existing service area. The scope and detail of this study could vary, and take anywhere from 4 months to a year to complete.

If all four bodies authorize the development of a service area expansion plan, it is a significant joint city-county planning effort, similar in scope to a subcommunity planning effort. The BVCP outlines what the expansion plan must include, and is estimated to take 1-3 years to develop.

After the expansion plan is completed, all four bodies must review and consider whether to approve the plan, based on criteria listed in the BVCP. If approved, the area included in the plan is moved from Area III-Planning Reserve to Area II. Property owners may then begin the annexation and development process according to the phasing identified in the expansion plan and the extension of city infrastructure. The period of development for the area within the expansion plan is described in the BVCP to occur within 15 years.

BVCP Plan language

1. Considering a service area expansion may only occur at the five-year update.

BVCP Process and Steps

A. Discussions regarding service area expansion only occur during the five-year update.

2. The city and county may assess whether or not sufficient merit exists to authorize a service area expansion, defined by a demonstration that a desired community need cannot be met within the existing service area.

C. The City considers whether to direct staff to identify a desired range of community needs that may not be met within the existing service area. If city **directs staff to identify a range of community needs**, the process continues.

(The city and county have never proceeded beyond this step)

D. The city conducts a public process to identify a range of community needs and how they may or may not be currently met within the existing service area.

E. The Planning Board, City Council, Planning Commission, and County Commissioners hold public hearings to review the identified range of community needs, and determine if sufficient merit exists to authorize a service area expansion plan to be developed. If all four bodies **find that sufficient merit exists**, the process continues.

3. The City and County authorize a planning effort to develop a service area expansion plan

F. The city and county conduct a public process to develop a service area expansion plan for the area identified to be

for the area proposed to be brought into the service area in consultation with the Area III property owners and the public. The plan must address the types of development, key requirements to ensure compliance with community goals and policies, conceptual land use and infrastructure plans, requirements for development impact mitigation and offsets, and the phasing of development.

brought into the service area.

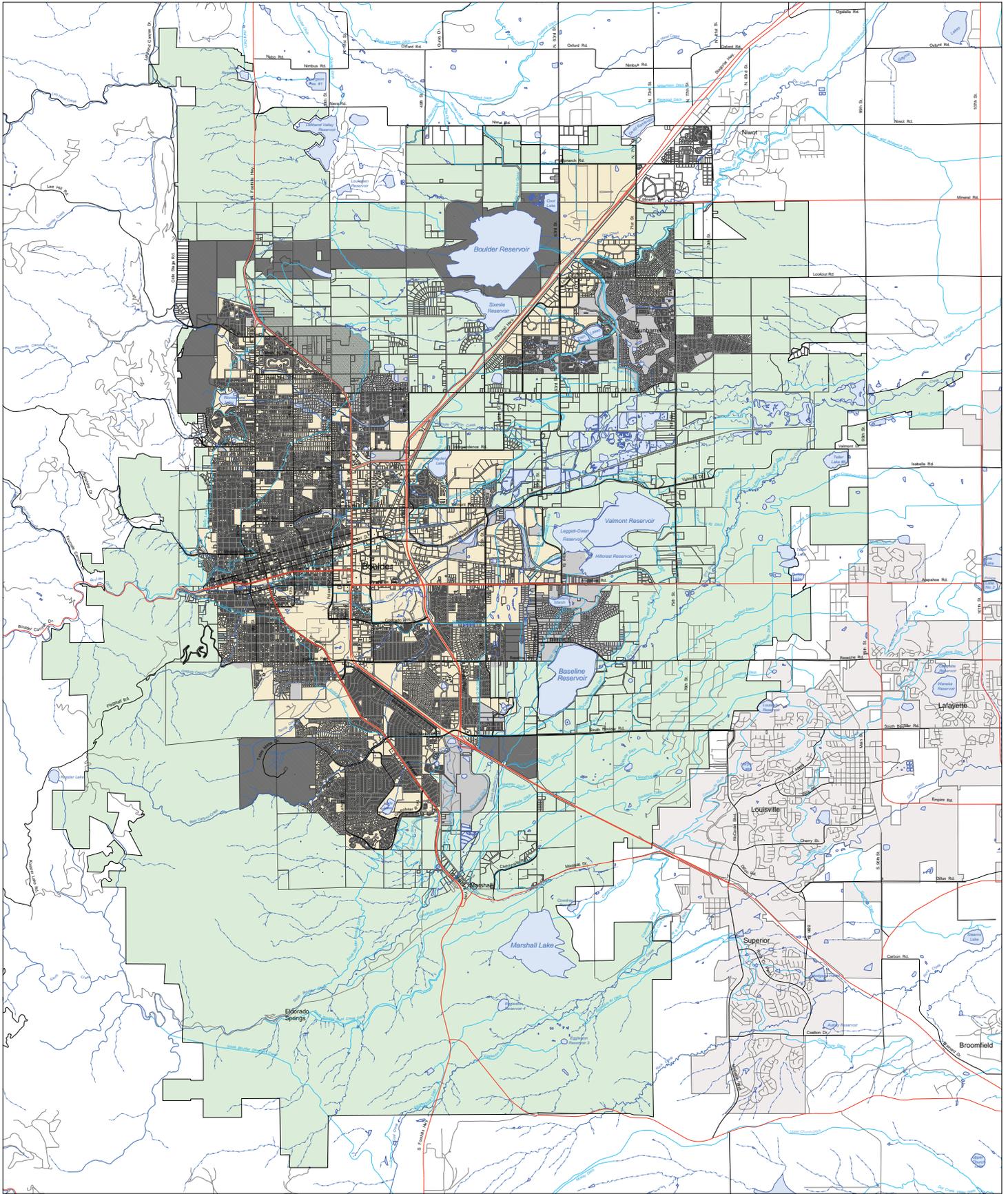
4. Following preparation of the plan, the city and county must determine that the proposed change from Area III-Planning Reserve to Area II meets the following criteria:

- a) Provision of a community need
- b) Minimum size of 40 acres
- c) Minimum contiguity to existing service area of 1/6
- d) logical extension of service area
- e) Compatibility with the surrounding area and comprehensive plan
- f) No major negative impacts
- g) Appropriate timing for annexation within the next 15 years.

G. The Planning Board, City Council, Planning Commission, and County Commissioners hold public hearings to review the service area expansion plan, and **determine if the area proposed to change from Area III-Planning Reserve to Area II meets the criteria in the plan.** If approved, the area is moved to Area II.

H. Annexation and Development occurs in the next 15 years according to the service area expansion plan.

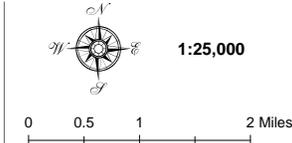
Boulder Valley Comprehensive Plan Area I, Area II, Area III Map



Legend

- | | |
|-------------------------------|--|
| Area I | Area III |
| Area I - Boulder City Limits | Area III - BVCP Planning Area Boundary |
| Area II - Service Area | Area III - Rural Preservation Area |
| Area II | Area III - Planning Reserve |
| | Area III - Annexed |

- Creek
- Intermittent Creek
- Ditch
- Lakes
- Highway
- Arterial Street
- Local Street



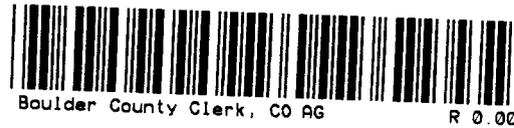
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SUBJECT TO REVISION

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**COMPREHENSIVE DEVELOPMENT PLAN
INTERGOVERNMENTAL AGREEMENT**

THIS INTERGOVERNMENTAL AGREEMENT ("Intergovernmental Agreement") by and between the City of Boulder, a Colorado home-rule municipal corporation ("Boulder" or "City"), and the County of Boulder, a body politic and corporate of the State of Colorado ("County" or "Boulder County") is made to be effective on the Effective Date as defined on the signature page of this Intergovernmental Agreement. The City and the County are collectively referred to in this Intergovernmental Agreement as the "Parties."

WITNESSETH

WHEREAS, § 29-20-101 *et seq.*, C.R.S. as amended, authorizes the Parties to enter into intergovernmental agreements to plan for and regulate land uses in order to minimize the negative impacts on the surrounding areas and protect the environment, and specifically authorizes local (i.e., town and county) governments to cooperate and contract with each other for the purposes of planning and regulating the development of land by means of a "comprehensive development plan;" and



WHEREAS, the County is the ultimate governmental authority with regard to land use control and development in the unincorporated areas of the County, which areas include the Boulder Valley, as defined in the attachment hereto; and

WHEREAS, the City is the only significant potential source of adequate urban facilities and services required for the orderly urban development of the Boulder Valley, where desired; and

WHEREAS, pursuant to §§30-28-106, -108 and -110, C.R.S., as amended, the County Planning Commission and the Board of County Commissioners have made and adopted a master plan for the physical development of the unincorporated area of the County, the Boulder County Comprehensive Plan; and

WHEREAS, pursuant to §31-23-202, C.R.S., as amended, the Boulder Planning Board and the Boulder City Council have adopted the goals, policies, programs and supportive data of the Boulder Valley Comprehensive Plan; and

WHEREAS, pursuant to §30-28-106(2)(a), C.R.S., as amended, the master plan shall not be effective within the boundaries of any incorporated municipality within the region unless such plan is adopted by the governing body of the municipality; and

WHEREAS, §31-23-106, C.R.S., as amended, requires the approval of the Boulder Valley Comprehensive Plan, as it relates to unincorporated areas of Boulder County, by the Boulder County Planning Commission and the Boulder County Board of County Commissioners; and

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WHEREAS, in order to ensure that the unique and individual character of Boulder and of the rural area within Boulder County outside the Areas I and II of the Boulder Valley Comprehensive Plan (hereinafter the "BVCP") are preserved, the Parties believe that a comprehensive development plan which recognizes the area of potential urbanization within the BVCP which 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 citizens of each of the Parties; and

WHEREAS, the Parties acknowledge that this Intergovernmental Agreement may control or limit the County's authority over some properties within the County's jurisdiction but that such control or limitation is justified due to the fact that such properties are currently served by City-owned municipal utilities, are bound by service agreements between the property owners and the City, and/or such properties are located within areas specially affecting the City's interests, including but not limited to entry corridors and areas of special impact upon City resources; and

WHEREAS, the Parties find that providing for the area outside Areas I and II of the Boulder Valley Comprehensive Plan within Boulder County to remain as rural in character through the term of this Intergovernmental Agreement for the purpose of preserving a community buffer through the limitation of annexation by Boulder serves the economic and civic interest of their citizens and meets the goals of the Boulder County Comprehensive Plan; and

WHEREAS, consistent with the municipal annexation, utility services, and land use laws of the State of Colorado, this Intergovernmental Agreement including, specifically, the annexation and open space portions hereof, is intended to encourage the natural and well-ordered future development of each Party; to promote planned and orderly growth in the affected areas; to distribute fairly and equitably the costs of government services among those persons who benefit therefrom, to extend government services and facilities to the affected areas in a logical fashion; to simplify providing utility services to the affected areas, to simplify the governmental structure of the affected areas, to reduce and avoid, where possible, friction between the Parties and to promote the economic viability of the Parties; and

WHEREAS, the functions described in this Intergovernmental Agreement are lawfully authorized to each of the Parties, which perform such functions hereunder, as provided in Article XX, §6 of the Colorado Constitution, and Article 20 of Title 29; Part 1 of Article 28 of Title 30; Part 1 of Article 12 of Title 31; and Parts 2 and 3 of Article 23 of Title 31, C.R.S., as amended; and

WHEREAS, § 29-1-201, *et seq.*, C.R.S., as amended, authorizes the Parties to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties, and the people of the State of Colorado have encouraged such cooperation and contracting through the adoption of Colorado Constitution, Article XIV, § 18(2); and



WHEREAS, the Parties have each held hearings after proper public notice for the consideration of entering into this Intergovernmental Agreement and the adoption of a comprehensive development plan for the Boulder Valley; and

WHEREAS, the Parties desire to enter into this Intergovernmental Agreement in order to plan for the use of the lands within the Boulder Valley through joint adoption of a mutually binding and enforceable comprehensive development plan.

NOW THEREFORE, in consideration of the above and the mutual covenants and commitments made herein, the Parties agree as follows:

1.0 BOULDER VALLEY COMPREHENSIVE DEVELOPMENT PLAN.

This Intergovernmental Agreement, including the Boulder Valley Comprehensive Plan text and Map attached to this Intergovernmental Agreement as Exhibit A, is hereby adopted by the Parties as a comprehensive development plan as provided in §29-20-105, C.R.S., to be known as the "Boulder Valley Comprehensive Plan" (hereinafter "the Plan.") The Plan shall govern and control the Plan Area as shown on Exhibit A, or as subsequently amended in accordance with the Plan's provisions.

2.0 CONSISTENCY WITH BVCP IN PLANNING, ZONING, AND OTHER LAND USE REGULATIONS AND ACTIONS REQUIRED.

The City and the County, respectively, within their constitutional and statutory geographic jurisdictions, shall exercise their planning, zoning, subdivision, building and related land use regulatory functions consistent with the plans and policies of the Plan, to the end of attaining the goals and objectives of the Plan.

3.0 COMPLIANCE WITH BVCP FOR ANNEXATIONS REQUIRED.

The City shall exercise its annexation policies and capital improvements plan consistent with the plans and policies of the Plan, to the end of attaining the goals and objectives of the Plan.

4.0 TERM, FIVE-YEAR PLAN REVIEWS AND UPDATES.

This Intergovernmental Agreement shall extend through December 31, 2017. The City and the County agree that the Plan will be reviewed at least every five years for possible amendments to reflect changes in circumstances and community desires. This Agreement shall extend to all revisions and amendments of the Plan that are jointly approved from time to time by the City and the County. Each Party agrees that in connection with this five-year review, it will hold a duly noticed public hearing for the purpose of determining, *inter alia*, if the term of this Agreement shall be extended an additional five (5) years from the date of



termination then in effect. Notices of the hearing and subsequent action of each Party shall be sent to each of the other Parties.

5.0 PRESERVATION OF LEGISLATIVE DISCRETION.

It is recognized that all provisions of the Boulder Valley Comprehensive Plan that require appropriation of public funds are qualified by the availability of appropriations for those purposes, and the legislative discretion inherent in the appropriation process is not limited by the adoption of the Plan.

6.0 SEVERABILITY.

If any portion of this Plan is held by a court in a final, non-appealable decision to be per se invalid or unenforceable as to any Party, the entire Agreement and the Plan shall be terminated, it being the understanding and intent of the Parties that every portion of the Agreement and Plan is essential to and not severable from the remainder.

7.0 BENEFICIARIES.

The Parties, in their corporate and representative governmental capacities, are the only entities intended to be the beneficiaries of the Agreement and the Plan, and no other person or entity is so intended or may bring any action, including a derivative action, to enforce the Agreement or the Plan.

8.0 ENFORCEMENT.

Either of the Parties may enforce this Agreement by any legal or equitable means including specific performance, declaratory and injunctive relief. No other person or entity shall have any right to enforce the provisions of this Agreement or the Plan.

9.0 DEFENSE OF CLAIMS.

If any person allegedly aggrieved by any provision of the Plan and who is not a Party to the Plan should sue any Party concerning such Plan provision, all Parties shall be notified promptly by any party served; any Party served shall, and any other Party may, defend such claim. Defense costs shall be paid by the Party providing such defense.

10.0 GOVERNING LAW AND VENUE.

This Agreement shall be governed by the laws of the State of Colorado, and venue shall lie in the County of Boulder.



THIS AGREEMENT is made and entered into to be effective on the later of the dates of approval by the City of Boulder or Boulder County (the "Effective Date").

CITY OF BOULDER

By: [Signature]
William R. Toor, Mayor

Date: 7/15/02

ATTEST:

Deputy
[Signature: S. Oster]
City Clerk on behalf of the
Director of Finance and Record

APPROVED AS TO FORM:

[Signature]
Joseph N. de Raismes, III, City Attorney

COUNTY OF BOULDER
BOARD OF COUNTY COMMISSIONERS

By: [Signature: Jana L. Mendez]
Jana L. Mendez, Chair

Date: 6/20/2002

ATTEST:

[Signature: Susan M. Ashcraft]
Clerk to the Board

APPROVED AS TO FORM:

[Signature]
County Attorney

