

PLANNING COMMISSION RESOLUTION PC-2020-01

A resolution approving the amended definition of passive recreation in the Open Space Element to the Boulder County Comprehensive Plan

Recitals

A. The Boulder County Planning Commission (“Planning Commission”) has authority over any amendment or addition to the Boulder County Comprehensive Plan (the “Comprehensive Plan”).

B. In August 2017, HB17-1151: Electric Assisted Bicycles Regulation Operation changed the way e-bikes are classified and regulated under state law. E-bikes are no longer classified as motorized vehicles, and class 1 and 2 e-bikes are allowed on bike paths unless prohibited by local governments.

C. In December 2017, the Boulder County Parks and Open Space Advisory Committee (“POSAC”) held a hearing on updates to the Boulder County Parks and Open Space Rules and Regulations to clarify that e-bikes are not allowed on county trails. Public response objecting to the update led to a public outreach effort on the topic of whether and where to allow e-bikes on county trails.

D. After three open houses, two with e-bike demonstrations, and four POSAC presentations, POSAC recommended approval of allowing e-bikes on county trails in June 2018.

E. In August 2018, the Board of County Commissioners (“BOCC”) held a hearing to consider options for a pathway to allowing e-bikes on county trails. The BOCC directed staff to flesh out options for updating the definition of passive recreation in the Parks and Open Space Element in the Comprehensive Plan.

F. In November 2018, the BOCC approved a one-year pilot study to allow e-bikes on most county trails on the plains starting January 1, 2019. The Planning Commission held a study session in December 2018 to introduce the topic and lay out the process and held a joint study session with the BOCC in March 2019 to discuss research goals and methods.

G. During the spring and summer, staff conducted studies on the visitor and trail impacts of e-bikes on county trails. After reviewing the research results, staff did not change the e-bike recommendation from that which was proffered after initial public engagement in 2018.

H. In order to implement the recommended e-bike policy it is necessary for it to be in alignment with the policy direction provided in the Comprehensive Plan. The Comprehensive Plan was adopted in 1978 and the definition of passive recreation has not changed substantially in subsequent updates. In 1978 and up until recently, the prohibition on motorized uses served as a clear shorthand for distinguishing between desired passive recreational uses and other recreational uses that were not desired, since motors meant loud, polluting, heavy, and fast machines such as dirt bikes. The advent of e-bikes as a hybrid technology presents a challenge and opportunity to reconsider this definition.

I. The Planning Commission held a study session and public hearing on October 16, 2019 to consider options for updating the passive recreation definition. Following adoption of the e-bike policy by the BOCC on November 13, 2019, the Planning Commission held a public hearing on the proposed amendment to the definition of passive recreation in the Open Space Element to the Comprehensive Plan as Docket BCCP-19-0003 (the “Docket”) on December 18, 2019.

J. The Docket is further described in the memorandum and written recommendation to the Planning Commission by the Boulder County Land Use and Parks and Open Space staff dated December 18, 2019, together with its attachments (the “Staff Recommendation”).

K. Based on its review of the Staff Recommendation, testimony by BCPOS staff and three members of the public at the public hearing, and the written comments of public officials, agencies, citizens of the county, and other interested parties, the Planning Commission finds that:

- a. Adequate publication of public notice was provided for the hearing before the Planning Commission.
- b. The hearing before the Planning Commission was extensive and complete and that all pertinent facts, matters, and issues were submitted and considered, and all interested parties heard.
- c. The proposed amended definition of passive recreation in the Open Space Element should be incorporated into the Comprehensive Plan.
- d. Incorporation of the proposed amended definition of passive recreation in the Open Space Element into the existing Comprehensive Plan is in the best interest of the health, safety, and welfare of the citizens of Boulder County.

Therefore, the Planning Commission resolves:

1. The incorporation of the amended definition of passive recreation in the Open Space Element, as set forth in **Exhibit A**, into the existing Comprehensive Plan, including text and maps, is approved and adopted pursuant to Section 30-28-108, C.R.S.

2. The approved Comprehensive Plan shall be certified and transmitted to the Board of County Commissioners pursuant to Section 30-28-109, C.R.S.

3. The Comprehensive Plan will be used when reviewing land use cases and shall be effective as of and apply to all applications filed on or after December 18, 2019.

4. Boulder County Land Use Department staff are given the authority to revise the Comprehensive Plan for the limited purposes of formatting and correcting any typographical errors and any other non-substantive changes deemed necessary prior to final publication.

5. If any provision of the Comprehensive Plan, as amended, or of this Resolution and **Exhibit A** attached hereto, shall be held invalid, its invalidity shall not affect any other provisions of the foregoing documents that can be given effect without the invalid provision, and for this purpose, the provisions of the Comprehensive Plan, as amended, and of this Resolution and **Exhibit A** attached hereto, are hereby declared to be severable.

A motion to approve the Docket was made by Commissioner Libby, with the amendments as discussed during the Public Hearing, seconded by Commissioner Bloomfield, and passed by the following vote:

Commissioner Bloomfield	Aye	Commissioner Libby	Aye
Commissioner Fitch	Aye	Commissioner McMillan	Aye
Commissioner Gargano	Aye	Commissioner Nieske	Excused
Commissioner Goldfarb	Aye	Commissioner Quigley	Aye
Commissioner Hilton	Aye		

ADOPTED as a final decision of the Planning Commission on this ___ day of _____, 2020.

**BOULDER COUNTY
PLANNING COMMISSION:**

Dale Case, Secretary

Exhibit A

Amended definition adopted by the Planning Commission, December 18, 2019:

Passive Recreation, referred to in the *Open Space Element* policies, is traditionally defined as non-motorized outdoor recreation with minimal impact on the land, water, or other resources that creates opportunities to be close to nature, enjoy the open space features, and have a high degree of interaction with the natural environment. Further,

- Passive recreation requires no rules of play or installation of equipment or facilities, except for trails and associated improvements.
- Passive recreation includes activities such as hiking, snowshoeing, cross-country skiing, photography, bird-watching, or other nature observation or study.
- If specifically designated, passive recreation may include cycling, horseback riding, dog walking, boating, fishing, or riding e-bikes.
- Though passive recreation is traditionally non-motorized, the sustainability and inclusion benefits of electrical-assist modes align with Boulder County's mission and goals. Such modes may be considered for designated use if:
 - Travel speeds are comparable to non-motorized modes, or are dependent on the user's condition, skill, terrain, trail conditions, and weather; and
 - Noise is no greater than that generated by non-motorized modes or other permitted uses; and
 - Potential trail damage is no greater than that caused by similar non-motorized modes or other permitted uses and can be mitigated through management actions such as trail closures; and
 - Potential impacts to land, water, other resources, and visitors are no greater than those caused by similar non-motorized modes or other permitted uses.