

RESOLUTION 98-9

A RESOLUTION APPROVING A "FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR BOULDER VALLEY TDR COMPREHENSIVE DEVELOPMENT PLAN" BETWEEN THE CITY OF BOULDER AND THE COUNTY OF BOULDER

WHEREAS, the Board of County Commissioners of the County of Boulder ("the Board") and the City of Boulder ("the City") (jointly, "the Parties") have previously entered into a jointly adopted comprehensive plan for the entirety of the Boulder Valley (the Boulder Valley Comprehensive Plan, or "BVCP"), which provides in general terms for the preservation of the rural character of those lands designated thereunder as "Area III;" and

WHEREAS, the Parties believe that a comprehensive development plan which provides binding commitments by the County for the preservation of the rural character of lands within Area III and other designated lands through the use of the County's non-urban planned unit development ("NUPUD") and transferable development right ("TDR") programs, combined with a commitment by the City for accommodation of development from transferred development rights within the City's Community Service Area, is in the best interests of the citizens of each of the Parties; and

WHEREAS, to this end, the Parties, through their designated representatives, entered into an "Intergovernmental Agreement for Boulder Valley TDR Comprehensive Development Plan" on May 8, 1995 ("the TDR IGA"); and

WHEREAS, the Parties now desire to amend the text and the associated TDR Plan Area map of the TDR IGA to add the platted subdivision known as Saddle Club Estates to the list of approved TDR sending site properties, all as set forth in the proposed First Amendment to the TDR IGA and as described in the Boulder County Land Use Department Memorandum and recommendation to the Board dated December 18, 1997 which, with the Proposed First Amendment, is attached to and incorporated into this Resolution as Exhibit A; and

WHEREAS, on December 18, 1997, the Board held a duly noticed public hearing on the proposed First Amendment to the TDR IGA, at which it considered the recommendation (Exhibit A) and testimony of the County's Land Use Department Planning staff, with no members of the public being present to speak to the amendment to the TDR IGA; and

WHEREAS, based on the Public Hearing, the Board determines that it is appropriate to approve the First Amendment to the TDR IGA, as set forth in Exhibit A hereto; and

WHEREAS, the Board notes that City Council approved the proposed First Amendment to the TDR IGA, as set forth in Exhibit A, at a duly noticed public hearing on December 16, 1997.

NOW, THEREFORE, BE IT RESOLVED that the Board approves the First Amendment to the TDR IGA, as set forth in Exhibit A hereto.

A motion to approve the First Amendment to the TDR IGA, as set forth in Exhibit A hereto, was made at the Public Hearing by Commissioner Danish, seconded by Commissioner Mendez, and passed by a 3-0 vote of the Board.

ADOPTED this 6th day of January, 1998, nunc pro tunc the 18th day of December, 1997.



BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:

Ronald K. Stewart
Ronald K. Stewart, Chair

Jana L. Mendez
Jana L. Mendez, Vice Chair

Paul D. Danish
Paul D. Danish, Commissioner

ATTEST:

Anna M. Ashcraft
Clerk to the Board

FIRST AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
FOR
BOULDER VALLEY TDR
COMPREHENSIVE DEVELOPMENT PLAN

This First Amendment to the Boulder Valley TDR Comprehensive Development Plan Intergovernmental Agreement, by and between the City of Boulder, a Colorado home rule municipal corporation ("Boulder"), and the County of Boulder, a body politic and corporate of the State of Colorado ("Boulder County") (collectively the "Parties"), made to be effective on the 18 day of December, 1997.

WITNESSETH:

WHEREAS, §29-20-101 et seq., C.R.S., as amended, enables 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 governments to cooperate and contract with each other for the purpose of planning and regulating the development of land by means of a "comprehensive development plan;" 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 functions described in this Agreement are lawfully authorized to each of the Parties which perform such functions hereunder, as provided in article 20 of title 29; part 1 of article 28 of title 30; §31-12-101, et seq.; and parts 2 and 3 of article 23 of title 31, C.R.S., as amended; and

WHEREAS, Boulder and Boulder County have previously entered into a jointly adopted comprehensive plan for the entirety of the Boulder Valley (the "Boulder Valley Comprehensive Plan," hereinafter "BVCP"), which provides in general terms for the preservation of the rural character of those lands designated thereunder as "Area III;" and

WHEREAS, the Parties entered into the Boulder Valley TDR Comprehensive Development Plan IGA (hereinafter the "IGA") on May 8, 1995, a comprehensive development plan which provides binding commitments by Boulder County for the preservation of the rural character of lands within Area III and other designated lands as shown on the Exhibit A attached thereto, through the use of the County's non-urban planned unit development ("NUPUD") and transferrable development right ("TDR") programs, combined with a commitment by Boulder for accommodation of development from transferred development rights within Boulder's Community Service Area; and

WHEREAS, the Parties desire to amend the definition of and expand the Plan Area from which the transferrable development rights may come for development in the City and find that providing for expanded TDR sending and receiving areas within the Amended Plan Area, will assist in preserving the rural character of the lands in Area III for the purpose of preserving a community buffer, which will serve the economic and civic interest of their citizens and meet the goals of the BVCP; and

WHEREAS, the Parties desire to enter into this First Amendment to the Intergovernmental Agreement in order to provide a process for approving additional TDR sending and receiving areas, and to plan for and regulate the use of the lands within the Amended Plan Area through joint adoption of this amendment to a mutually binding and enforceable comprehensive development plan; and

WHEREAS, the Parties have each held hearings after proper public notice for the consideration of entering into this First Amendment to the Intergovernmental Agreement and the adoption of an amended comprehensive development plan for the Plan Area, as shown on the map attached hereto as Exhibit A;

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

1. DEFINITION OF AMENDED PLAN AREA.

"Amended Plan Area", as used in this First Amendment, means all lands which are shown on the map Exhibit A to the IGA as "Area I and other city limits", Area II, "Rural Preservation Area - Area III", "Accelerated Open Space Acquisition (outside Area III)", "Private Land Enclave (between Boulder Mountain Parks and USFS)", and "Northern Tier Lands outside BVCP", together with all other lands in the unincorporated area of Boulder County which are hereafter mutually approved as sending sites under the IGA by the Boulder City Council and the Board of County Commissioners.

2. TDR SENDING SITES WITHIN THE PLAN AREA.

Lands within the "Rural Preservation Area - Area III", "Accelerated Open Space Acquisition (outside Area III)", "Private Land Enclave (between Boulder Mountain Parks and USFS)", and "Northern Tier Lands outside BVCP", portions of the Amended Plan Area, together with other lands in the unincorporated area of Boulder County which are mutually approved as sending sites under the IGA by the Boulder City Council and the Board of County Commissioners shall be permitted to participate in the TDR program which has been adopted by Boulder County as sending sites upon final determination by Boulder County that such land meets the criteria for sending sites under the regulations of said TDR program, and, upon such determination, said TDR units shall be eligible for transfer as provided in the IGA, as amended by this First Amendment.

3. TDR RECEIVING SITES WITHIN BOULDER COMMUNITY SERVICE AREA.

Boulder agrees to permit the use of development rights transferred from the Amended Plan Area to locate development upon approved receiving sites within the boundaries of its community service area. Upon approval of a TDR sending site by Boulder County and issuance and recordation of the Certificate(s) of Development Rights, the owner of the Certificate(s) of Development Rights may obtain from Boulder final approval to locate and develop any unit(s) represented by said Certificate(s) upon land which is currently within the City or which is being contemporaneously annexed in accordance with the provisions of the BVCP, or upon other lands within Area III hereinafter mutually approved as receiving sites by the Boulder City Council and the Board of County Commissioners, or such owner may market said Development Rights to others.

Boulder County and Boulder, either individually or collectively, upon acquisition of Development Rights from lands within the Amended Plan Area, shall be entitled to market those rights to others who may seek to locate and develop any unit(s) represented by the Certificate(s) within Boulder's community service area.

Boulder shall permit up to 250 Development Rights units to be located within its community service area or upon other lands within Area III hereinafter mutually approved as receiving sites by the Boulder City Council and the Board of County Commissioners, upon proper application and approval of such development in accordance with its existing regulations and regulations to be developed and adopted concerning annexation and approval of receiving sites located within the annexed portion of the community service area.

4. CONSERVATION EASEMENTS

Within the Amended Plan Area. Boulder County shall obtain conservation easements as required by its TDR regulations and shall require said easements to be granted to both Boulder County and Boulder, jointly. Further, the Parties agree that they will continue to explore the necessity for and advisability of reciprocal grants to each other in the right to enforce all conservation easements now held by Boulder or Boulder County within the Plan Area.

5. OTHER PROVISIONS.

All provisions of the Original Agreement, including but not limited to the term of said Original Agreement, except those which are expressly amended by this First Amendment, shall remain in full force and effect.

CITY OF BOULDER

By: _____
Leslie Durgin, Mayor

Date

ATTEST:

APPROVED AS TO FORM:

City Clerk

Joseph N. de Raismes, III
City Attorney

COUNTY OF BOULDER
BY: BOARD OF COUNTY COMMISSIONERS

Ronald K. Stewart, Chair

Date

ATTEST:

APPROVED AS TO FORM:

Clerk to the Board

H. Lawrence Hoyt
County Attorney

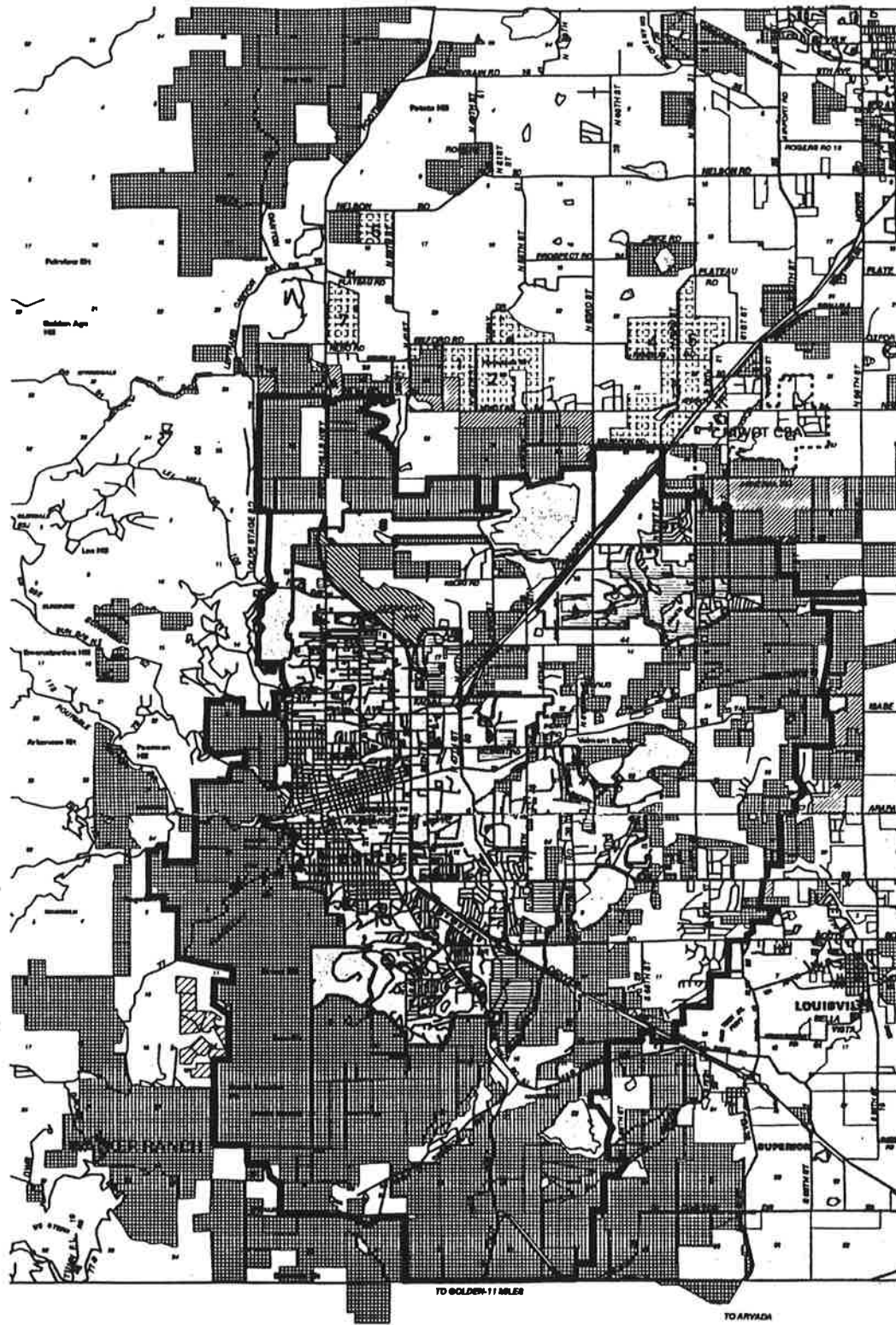











EXHIBIT A

Boulder Valley Comprehensive Plan TDR Plan Area

- | | |
|---|---|
|  Rural Preservation Area - Area III (S) |  Area I and other city limits |
|  Planning Reserve Area - Area III |  Area II |
|  Accelerated Open Space Acquisition outside Area III (S) |  Publicly Controlled Land |
|  Private land enclave Between Boulder Mountain Park and USFS (S) |  Proposed Saddle Club Estates Sending Site |
|  Northern Tier Lands outside BVCP (S) | (S) = Sending area |



SCALE 1:100000
October 29, 1997



Boulder County Land Use Dept.
GIS Division

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