

## Docket # DC-24-0003: Text Amendments to the Land Use Code related to Site Plan Review (Article 4-800)

County staffs' proposed revisions to Article 4 of the Land Use Code, which governs Site Plan Review, are attached. Text that is underlined is proposed to be added, while text with ~~striketrough~~ is proposed to be removed. These proposed revisions will likely be modified throughout the remainder of the text amendment update process and will not go into effect until adopted by the County Commissioners at a public hearing.

The Board of County Commissioners expressed concerns with house sizes increasing, the rate of change by which they are increasing in unincorporated Boulder County, and how these increases impact neighborhood character, sustainability, and affordability. The changes proposed by staff seek to implement the direction provided by the Board of County Commissioners (BOCC) at the authorization hearing on September 17, 2024, as well as feedback provided from members of the public throughout the process. The Commissioners directed staff to explore the following changes:

- Reduce the current compatible size from 125% of the median of a defined neighborhood to the median of a defined neighborhood;
- Change what is currently a size *presumption* (that allows more floor area in certain circumstances) to a size *limitation* based on the median of a defined neighborhood; and
- Clarify the regulations to improve processes, increase the public's ability to better navigate the regulations, and provide greater certainty of outcomes for applicants.

### Summary of Proposed Changes

*Size Limitation:* The current Site Plan Review regulations dictate a presumed compatible size that is equal to 125% of the median Residential Floor Area (RFA) for the defined neighborhood. Staff propose to eliminate the size presumption (which could be overcome in certain circumstances) and replace it with a structure size limit that is equal to the median Residential Floor Area of the defined neighborhood. The structure size limit will apply unless a development proposal significantly conflicts with the Site Plan Review standards.

Some community members expressed concerns that the current methodology for determining the compatible structure size is unfair in that it disproportionately impacts residents with smaller homes. To address these concerns staff propose a sliding-scale concept (see 4-102.E.3. Structure Size for an example) described as follows:

- Parcels in the mapped Townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside would still be limited to 1,500 square feet.
- Parcels with legally existing Residential Floor Area less than or equal to 1,500 square feet as of the effective date, would be limited to the greater of either the median for the defined neighborhood or an additional 1,000 square feet.
- Parcels with legally existing Residential Floor Area between 1,501 square feet and 3,000 square feet as of the effective date, would be limited to the greater of either the median for the defined neighborhood or an additional 750 square feet.

- Parcels with legally existing Residential Floor Area between 3,001 square feet and 4,500 square feet as of the effective date, would be limited to the greater of either the median for the defined neighborhood or an additional 675 square feet.
- Parcels with legally existing Residential Floor Area greater than 4,501 square feet, would be allowed up to the median but not be allotted any additional Residential Floor Area over the median.

*Relocation of Size Limitation to Zoning District Regulations:* Bulk standards (height, setbacks) are currently located in the Articles of the Land Use Code addressing zoning districts' standards. Staff propose to relocate structure size to the zoning district standards to consolidate all bulk standards in the same area of the Code. Site Plan Review would still occur if the review thresholds are met and the Director can still require mitigation of significant impacts. Appeals related to Site Plan Review (including size) would still go to the Board of County Commissioners. This approach is beneficial if there is a desire to pursue more specific bulk standards in the future related to Accessory Dwelling Units, agricultural structures, forestry structures, or other structures in a specific zoning district.

*Exemptions to the Size Limitation:* Staff propose some exemptions that would allow a proposal (in certain limited circumstances) to exceed the structure size limitation. The proposed exemptions include:

- Properties encumbered by a Conservation Easement where the allowable house size (or amount of floor area) permitted by the conservation easement or other land use agreement (i.e., a Subdivision Exemption) is greater than the median Residential Floor Area. If the agreement establishes a smaller limit, that will be the structure size limit.
- Deconstruction and rebuilding of legally existing Residential Floor Area.
- Retrofitting for energy efficiency for the purposes of making demonstrated energy efficiency improvements and/or an additional allotment for the use of energy efficient materials in the building.
- On properties with landmarked or protected historic structures, the historic structures may be exempted from counting towards the Residential Floor Area threshold on the parcel.
- For parcels where existing RFA exceeds the structure size limitation and has not been limited through a prior county land use approval, up to a one-time maximum of 200 square feet may be allowed to exceed to the size limitation.

Under the current Site Plan Review regulations applicants may be allowed to exceed the presumed compatible size if they have two or more immediately adjacent neighbors with RFA exceeding the presumed compatible size. Staff propose to eliminate this ability to seek a larger size based on adjacent neighbors. Under the current regulations applicants may request additional RFA on their parcel by demonstrating mitigation of visibility impacts. In most instances, this is accomplished through below-grade development or screening through terrain. Staff propose to remove this exemption for mitigation of visual impacts.

*Other Changes:* Staff also propose a number of other changes to Article 4-800, Article 4-1000, Article 4-1200, and Article 18.

Additional changes to Article 4-800 include:

- Minor grammatical edits and changes.
- Sheds and other small structures that do not require a building permit under Article 17 will be exempted from counting towards Residential Floor Area (up to 400 square feet total).
- Updates to the thresholds that trigger (or don't trigger) a full Site Plan Review.
  - Changing to a Single Unit Dwelling use will no longer require Site Plan Review.
  - Exemptions allowing additional Residential Floor Area over the median for retrofitting for energy efficiency, using building materials/design to achieve heightened energy efficiency, or on parcels with landmarked/protected historic structures, trigger Site Plan Review.
  - Expedited Site Plan Review will be allowed for projects on Conservation Easements (where the easement holder expresses no conflict) and for projects that utilize one-time 200 square foot maximum.
- Noting that Site Plan Review may be expedited, rather than waived, if the Director determines there's no potential conflict. Waiver language is confusing for the public as it implies a review may not be necessary.
- Updates and clarifications to the application materials required for a Site Plan Review.
- Increasing the referral period for Site Plan Review applications from 18 to 21 days.
- Increasing the time period for a Site Plan Review from 28 days to 35 days to allow staff to better manage concurrent reviews and implement new accessibility requirements.
- Clarifying in the SPR standards that non-county maintained roads and driveways shall meet the Boulder County Multimodal Transportation Standards.

Change to Article 4-1002, Nonconforming Structures

- Noting that legally existing Residential Floor Area over the new structure size limitation is not considered a nonconforming use for the purposes of this Code.

Change to Article 4-1201 Appeals to the Board of Adjustment

- Noting that Site Plan Review appeals, even those related to size, will remain the purview of the Board of County Commissioners.

Change to Article 2-800 Boulder County Board of Adjustment

- Clarifying language that the Board of Adjustment does not have the authority to grant a variance from the Floor Area maximums of any zoning district.

Changes to Article 18, Definitions

- Definition for Neighborhood, for the purposes of Site Plan Review. This is not a new definition, but rather a relocation of the existing language from Article 4-806 to Article 18.
- Clarifying changes to 18-189D Residential Floor Area and allowing for an exemption for those structures built without a permit in accordance with Article 17.

Changes to Article 19

- Clarifies that the SPR regulations in effect at the time of the Marshall Fire will remain in effect for Marshall Fire rebuilds until Article 19-500 expires.