



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 21, 2012

AGENDA TITLE: Update on Alcohol Land Use Code Changes and request for feedback on options moving forward.

PRESENTERS:

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EXECUTIVE SUMMARY

The purpose of this memo is to provide City Council with an update on alcohol/land use code issues and to seek council input related to some proposed options for code changes. In 2004, the City Council adopted Resolution No. 960 (see **Attachment A**), which expressed the city's recognition that it has a role in addressing the overconsumption of alcohol as an important health, safety, and welfare issue in the community. To counter this complex behavioral issue, the city has taken a multi-faceted approach including ongoing coordination between the Police Department, the Beverage Licensing Authority (BLA), University of Colorado (CU), the CU Campus-Community Coalition, the Municipal Judge, Responsibility Hospitality Group (RHG) and neighborhood organizations to reduce the negative societal impacts of alcohol abuse. These endeavors continue and include, but are not limited to:

1. Police Department efforts to patrol high incident areas and special events, respond to nuisance parties, enforce underage drinking laws, enforcement against the use of fake IDs, ID checks at bars and liquor stores, education to sellers about the legal impacts of selling to minors, increased patrols near off-campus parties, among a variety of other enforcement programs.
2. The Police Department continues to use sobriety check points at various times of the year and/or after certain events.
3. Boulder Police also work to educate students on the impacts of alcohol abuse, including but not limited to presentations and distribution of pamphlets.

4. Coordination between the City of Boulder Police Department and the University of Colorado Police Department.
5. BLA efforts to increase penalties and enforcement against establishments that violate laws related to serving under-aged patrons, conduct of licensed establishment, annual license renewals, and over-service of alcohol.
6. BLA license conditions for state-approved alcohol service training for hospitality staff.
7. BLA focus on RHG membership so that members might have information on available advanced education for specialty training on security, false IDs and best practices.
8. Housing and Human Services (HHS) participation with the Boulder County Public Health in the Youth Risk Behavior Survey (YRBS).
9. HHS collaboration with the Mental Health Center serving Broomfield and Boulder counties and the Boulder Valley School District (BVSD) to place intervention specialists in City of Boulder middle and high schools.
10. Educational outreach and awareness by a number of community organizations including the CU/City oversight committee, RHG and AACT (Addressing Alcohol Concerns Together), which is a coalition composed of city, county, university, and community leaders, which work together to examine and alleviate the negative impacts of irresponsible alcohol consumption.
11. RHG training on best practices to reduce alcohol-related incidents and refusing service to intoxicated patrons.
12. Promotion of alcohol-free events and settings and more strict control of alcohol at sporting events.
13. Outreach to license holders and students regarding Party Smart.
14. Stricter enforcement of alcohol infractions, including quick action by the university's Student Conduct committee, which can ticket students and may require students to attend special courses on living more harmoniously in the community.
15. Visitation by the Off-Campus Housing and Neighborhood Relations group to houses that pose problems and promotion of responsible living on the Hill through distribution of flyers.
16. Work by the CU Parents Association and Office of Parent Relations to educate parents about how they can communicate with their children on roles and responsibilities of students as neighbors.
17. Updates and regular coordination of the Coalition for Responsible Community, which is composed of University Administrators, City Police, Fire and Code Enforcement officials, CU Police and Greek organizations.

One of the many other factors in addressing alcohol consumption in the community is local zoning regulation, which can inform the placement, hours of operation and operational characteristics of establishments that serve alcohol. Staff developed a work program in 2010 that anticipated completion of land use code changes in 2011. Due to other prioritized work program items and an increase in development review applications in 2010 and 2011, progress on the proposed Land Use Code changes was slowed, although some progress has occurred since the last update to council. The progress to date will be detailed later in this memo.

This discussion is also particularly timely based on the recent City Council call-up and denial of the La'au's Taco Shop Use Review application at 1335 Broadway (see the weblinks below):

→ March 7, 2012 public hearing on the La'au's Use Review:

http://www.bouldercolorado.gov/files/City%20Council/Agendas/2012/03072012Agenda/Agenda_03072012Website.pdf

→ April 3, 2012 adoption of finds of denial for La'au's Use Review:

http://www.bouldercolorado.gov/files/City%20Council/Agendas/2012/04032012Agenda/04.03.2012_FINAL_Agenda_Packet.pdf

City Council input and direction is being sought to prioritize potential code changes identified in previous community and council discussions. These include:

- Zoning code changes to the Use Review process and potential new definitions related to establishments that serve alcohol that would apply city wide, and
- Implementation of targeted code changes to reduce or limit alcohol-serving establishments on University Hill.

Based on council input and direction, prioritized code changes will be developed for consideration and adoption, including community outreach and notification as appropriate.

FISCAL IMPACT:

The proposed land use code changes are a part of the Community Planning and Sustainability work program.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

- Economic: Resulting land use regulations may potentially have an impact on where certain types of establishments that sell alcohol may be located and the density of such uses. Prohibition or additional restrictions on establishments in certain areas of the city (e.g., University Hill) could have a negative economic impact to local business, the vitality of the areas and revitalization opportunities.
- Environmental: None.
- Social: Resolution 960, adopted by council in October 2004, recognizes that the city has a responsibility to provide leadership in addressing the critical issues of health, safety and well-being stemming from alcohol abuse and can influence policies, regulations and enforcement. To date, city work efforts have been focused in the areas of beverage licensing, code enforcement, land use, trend analysis, human services and community education.

BACKGROUND:

Following adoption of Resolution No. 960 (**Attachment A**) on Oct. 19, 2004, the city convened the Land Use Alcohol Advisory Group (LUAAG) to discuss the issue of overconsumption of alcohol in the community from a zoning perspective. City Council provided the following goal/direction on the issue:

Modify city policies and regulations in order to reduce overconsumption of alcohol in the community, allow for congenial places for people to socialize, keep people safe, and minimize impacts to adjacent uses.

On April 14, 2009, City Council held a study session regarding alcohol abuse prevention. The purpose of the study session was to obtain council's feedback on goals and objectives related to the role of land use regulations and beverage licensing in alcohol abuse prevention; to identify which land use and beverage licensing options to analyze further; and to ask if council would support initiation of a larger alcohol abuse prevention strategy with other partners in the community. A copy of the summary of the study session can be found as a part of **Attachment B** and the goals and objectives are listed below:

- Recognize distinctions between high risk and low risk types of licensed alcohol establishments;
- Avoid locating high risk types of licensed establishments near residential neighborhoods, the university and within mixed use developments;
- Minimize external impacts of high risk type licensed establishments; restrict high risk uses to defined areas where their impacts can be contained, and education, enforcement and policing efforts coordinated (i.e., the "Concentration" policy model);
- Allow for congenial places for people to socialize that add vitality to existing and planned centers in the community.
- Support the city's long-standing policies and city structure that promote a variety of regional, subcommunity and neighborhood activity centers distributed throughout the community in focused nodes of concentrated activities and with efficient delivery of services (e.g., police and transportation).
- Provide clarity and predictability for residents and business owners about where different types of alcohol establishments are allowed and what rules will apply.
- Provide review processes that address all the issues while minimizing conflicts between business owners and residents.

At the study session, council directed staff to:

- Declare the work of Land Use Alcohol Advisory Group (LUAAG) complete. While instructive, the LUAAG project was dissolved following the outcome of the *Thunderbird Burgers, LLC v. City of Boulder, et. al.* case where it was found that the city had no authority in regulating the specific hours that alcohol could be served. As much of the preliminary work focused on alcohol service, no regulatory changes resulted.
- Develop a work program to create policy and code changes to implement a "Concentration Model" for location of high-risk licensed establishments, and new use definitions and standards for high-risk licensed establishments.
- Establish a new community working group to assist staff in developing the specific regulatory changes.

ANALYSIS:

Since the last update to City Council in March 2010, there has been some progress to report ranging from on-going community-wide initiatives to address overconsumption, research on peer community regulations on how each city addresses alcohol serving establishments, receiving input from the community working group and taking the group's input and implementing process

improvements. Ideas for code changes were also identified by the group and it is these points that staff is seeking specific City Council input. These potential code changes are discussed in the 'Options for Consideration' section that follows this section. This section will expand upon the work that is discussed above.

On-going community-wide initiatives: The following initiatives are routine and involve a variety of community organizations:

- Restart work with the Alcohol Advisory Group for a holistic review of city endeavors to address alcohol abuse. The Alcohol Advisory Group consists of city staff from a variety of departments (City Manager's Office, Finance, Boulder Police Department, Planning and Development Services, Downtown and University Hill Management Division and Parking Services, Municipal Courts, University of Colorado) that meet on a regular basis to review data regarding alcohol and quality of life violations in order to monitor trends and identify potential problem areas. Staff can then communicate the information to the appropriate organization and take proactive measures if needed.
- Maintain connections with the local Responsible Hospitality Group to broaden the effectiveness of government by working with outside individuals and understanding license holder perspectives. (Responsible Hospitality Group is a membership organization of Boulder-area alcohol license holders that focuses on best practices within the hospitality industry, provides a forum and advocacy group for the industry and provides educational and mentoring programs to their members. A representative regularly attends the BLA meetings).
- Continue outreach meetings to the community. Outreach meetings are held regularly with all new liquor license holders to communicate with and educate new owners about the city's regulations and Responsible Hospitality Group programs. The outreach team includes members from the City of Boulder - Boulder Police Department, Downtown and University Hill Management Division/Parking Services, Liquor Licensing - and a representative of the Responsible Hospitality Group. The goal is to help make the establishment successful.

Peer Community Research: In addition to initiatives discussed above, staff researched previously identified peer communities with similar populations and university settings to see if any have unique and useful regulations that address late night establishments and/or establishments that serve alcohol.

The following communities were contacted: 1) Eugene, OR; 2) Palo Alto, CA; 3) Santa Cruz, CA; 4) Santa Barbara, CA; 5) Tempe, AZ; 6) Fort Collins, CO; 7) Norman, OK; 8) Madison, WI; 9) Ann Arbor, MI; 10) Provo, UT; 11) Colorado Springs, CO; 12) Goleta, CA; 13) Denver, CO, and 14) Lincoln, NE. A matrix that discusses each city and their approaches to the issue is found in **Attachment C**.

The findings of this research are listed as follows:

- Community regulations ranged from very little specific regulations on alcohol establishments to very restrictive regulations that do not permit establishments to earn more than 50% of their profits from alcohol sales (i.e., Palo Alto, CA).
- Most communities have a conditional use permit requirement similar to Boulder’s Use Review. Communities have heard similar complaints about the subjectivity of the approval criteria. Boulder’s requirements are more focused on neighborhood involvement and preparation of management plans than most communities.
- Most communities have better definitions of different alcohol establishments as compared to Boulder. Tempe, AZ, zoning regulations, for example, are linked with the state definition for liquor license types.
- Few communities have specific regulations on alcohol establishments versus other uses. The one community that has extensive regulations is Santa Cruz, CA. Uses are differentiated between “high” risk and “low” risk. Some of the standards could be helpful, but most seemed somewhat subjective and unnecessary (e.g., requirement for security guards and/or cameras).
- Other than having less restrictive requirements for bars in downtown areas, no clear examples of “concentration” models were found. Provo, UT, only permits “stand alone” bars in its central business district, which concentrates the uses. However, Provo is considering changing its regulations to become similar to Palo Alto’s restriction on alcohol sales. Several communities have dispersal requirements (e.g., Colorado Springs, CO, Lincoln, NE, Santa Cruz, CA). At present, based on existing zoning that concentrates commercial areas within Boulder’s downtown, University Hill and the Boulder Valley Regional Center (BVRC), the city already functions under a “concentration” model.

Community working group: Staff twice convened a community working group consisting of members of the University Hill neighborhood, the University of Colorado, Beverage Licensing Authority members, and members of the hospitality industry, including business owners on the Hill. While there was not consensus on all issues, the following perspectives were useful in determining what land use code changes could be effective:

Hospitality perspective:

- Focus should be on creating clear and predictable (transparent) regulations and/or standards on zoning regulations/liquor licenses.
- Frustration from the hospitality industry about the lack of certainty in investing in locations where zoning entitlements are discretionary (i.e., Use Review) and are dependent on neighborhood reception.
- Frustration about the prospect of additional regulations on an already difficult process.
- There is lack of clarity and no consistency between management plans.
- Process for zoning and liquor licenses should be more checklist-based, providing step-by-step clarification of process.
- City needs clear definitions for establishments that serve liquor.

- Businesses should be allowed to change and adapt to stay marketable and vibrant; management plans and conditions inhibit adaptability.

Neighborhood perspective:

- Neighborhood meetings are not working.
- Complaints are minimal about establishments because people are either too busy, are weary of the city’s process, or are intimidated by business owners.
- Businesses should have “operational business licenses” that require renewal after a certain period of time to make sure business are still consistent with their management plans and conditions of approval.
- Regular reviews of approvals are needed for establishments that serve liquor.
- Take burden off of neighbors to be the watch dogs. City needs to intervene.
- Residents should have responsibility to report violations and then the city should act, similar to how people report fires and firefighters fight fires.
- There’s an over concentration of liquor establishments in certain areas of the city and restaurants evolve into bars from 11 p.m. to 2 a.m.

Key issues:

- The interest in greater clarity of management plans and process and more helpful neighborhood meetings.
- Lack of enforcement – follow up needs to be improved.

The group agreed that:

- There is no “silver bullet” to solve the behavioral problems associated with alcohol abuse and that there is substantially a high compliance rate among restaurants and bars within the City of Boulder.
- Adding superfluous regulations will not solve the “problem” of alcohol abuse and may be ineffective in addressing the issues singularly.
- The coordination between the city’s Planning Department and the Beverage Licensing Authority (BLA) should be improved to create more predictability for the hospitality industry and neighbors, and standard management plans and checklists should be used between Planning and BLA. More predictability (and clarity) was one of the goals of City Council. Different management plans could be drafted for different types of alcohol establishments and would include questions used by planning and BLA to understand individual operating characteristics. A checklist of all the steps required from Use Review to liquor license could be created for the use of all stakeholders.
- Follow-up methods should be explored. For instance, a procedure could be created that would trigger re-evaluation of approved Use Reviews if a certain number of substantiated complaints were received indicating that a business was not complying with its approved management plan and/or conditions of approval.

- Adding additional definitions for different types of alcohol establishments may be useful in cases where a restaurant may evolve into a bar or tavern in evening hours. This could be used to initiate Use Review or address violations of approved Use Reviews. This also adds clarity to the review process for staff and the community.

Process Improvements: Based on the input from the Community Working Group staff intends to make the following process improvements that would apply city-wide:

- Require more effective and consistent management plans and conditions of approval for higher impact uses. Management plans could be more standardized and specifically tailored to different types of alcohol establishments.
- Enhance BLA’s role and coordination with Planning. Presently, the Use Review process in the Department of Community Planning and Sustainability is separate from the subsequent liquor license review of BLA. The principal reason for this is that State law does not permit submittal of a liquor license until all zoning approvals are obtained. Staff could explore methods for a better coordinated BLA liquor license review of Use Review applications. Staff agrees that improvements could be made by aligning the public noticing process for Use Review and BLA applications, as well as standardizing checklists, application materials and handouts. BLA has also provided separate input on methods to address overconsumption as outlined in **Attachment D**.
- Increased enforcement against businesses that are not following their management plans and/or conditions of Use Review approval. While complaints about establishments are not necessarily frequent, the city can increase its enforcement powers on any establishments and potentially revoke Use Review approvals and / or take action against individual liquor licenses. Increased enforcement would likely entail more focused police presence at certain times in problem areas and would likely require additional staff resources.

OPTIONS FOR CONSIDERATION:

In combination with the broad multi-agency approaches to address overconsumption in the community discussed within this memorandum, staff is seeking City Council direction on the options below. These options specifically entail changes to the Land Use Code.

Implement code changes that would apply city-wide:

- A. Use Review Monitoring:** One of the suggestions from the Community Working Group was to require a form of follow-up after a Use Review is granted. This follow up could occur as a neighborhood meeting within a certain period of time after a Use Review is approved (e.g, one year) and a use begins operation or a requirement that Use Reviews require periodic renewals.
 - i) *Follow-ups:* Follow-ups would be an opportunity to have the neighborhood and city evaluate how the use is operating according to its management plan and whether the conditions of approval are being followed. Establishments that are not

following its plan or conditions would be required to make changes or updates to address identified issue or risk losing their Use Review approval.

- ii) *Renewals:* Renewals could be required periodically (e.g., every three years) to evaluate how an establishment is operating in accordance to its management plan and conditions of approval. As opposed to the option above, which would include one follow-up, renewals every couple years would keep the establishment on notice that its approval is not necessarily permanent and is contingent on its efforts to harmoniously operate within its surroundings.

Both of these options would require additional staff resources with the likelihood of more repeat Use Review applications and enforcement involvement. Better notice of community hearings and improved coordination between Use Review and liquor licensing timing of hearings would also be undertaken. A combination of these process improvements and repeat applications would likely require additional fund allocation for Planning and BLA for additional staff resources. To reduce impact to resources, another option would be require these processes in higher impact areas where residential uses are proximate (e.g., University Hill, East and West Pearl Street) rather than city wide.

B. Add new zoning definitions for different types of alcohol serving establishments:

Presently, the City of Boulder zoning code does not differentiate between restaurants, bars or taverns and regulates them uniformly. Adding new zoning definitions to differentiate establishments by level of potential impact was an option discussed by the Community Working Group. As stated in the ‘Peer Community Research’ section, several different peer communities have a wider array of more prescriptive definitions (e.g., restaurant, bar or tavern, night club etc.) that help differentiate “high impact” establishments from “low impact” establishments and enable a more effective review of potential impacts. Typically, higher impact establishments would be those that serve a greater amount of alcohol, including hard alcohol, and may have late hours of operation. Definitions could also link different types of establishments specifically to liquor license types.

Implement targeted code changes to reduce or limit alcohol-serving establishments on University Hill:

During its consideration of the La’aus Use Review application, City Council expressed concern that:

- (a) there is an over concentration of late night establishments on University Hill that serve alcohol; and
- (b) University Hill is a focal point for the problems related to overconsumption of alcohol largely due to the number of late night and alcohol serving establishments in close proximity to residential neighborhoods.

Based on this, a more focused approach on University Hill may be necessary to address the concerns related to alcohol establishments in that area to maintain compatibility between the uses, which is a primary purpose of zoning review.

There are two approaches that could be taken to reduce or limit alcohol-serving establishments on University Hill: one tied to the liquor license waiver around the University of Colorado and the city’s existing ordinance, which establishes that waiver from state law; the other connected to land use code and zoning regulations. Both approaches have several options that could be considered. Both approaches and their related options are described below. While these approaches may not necessarily represent the “concentration model” previously identified as a preferred approach to managing alcohol service and consumption, they respond directly to concerns that have been expressed by council and the community during the past year.

A. Revoke or modify the 500-foot liquor license waiver around the University of Colorado:

In 1987, state liquor laws changed the minimum drinking age for 3.2% beer from 18 to 21. In response, existing businesses licensed to serve 3.2% beer on University Hill became concerned that their liquor licenses would no longer be valid since most were within 500 feet of the University of Colorado (and the state law prohibits the sale of alcohol within 500 feet of a school or university).

In response, City Council approved **Ordinance 5069** in September 1987, waiving the 500-foot requirement for the principal campus of the University of Colorado, making establishments located within 500 feet of the university eligible for Hotel & Restaurant Licenses (HR). The HR license type was chosen because of a requirement that 25% of revenues be in food sales. Nevertheless, the category is a full service liquor license (wine, beer, hard alcohol).

i.) *Revocation of the 500-foot liquor license waiver:* Revocation of the 500-foot liquor license waiver would result in no additional liquor licenses being issued within 500-feet of the university. Existing establishments would be grandfathered and could transfer their liquor licenses to future tenants. This option would:

(a) address the concern about overconcentration of establishments on the Hill that sell alcohol; and

(b) would close the door to any new establishment requesting a license at a site that does not currently have a liquor license.

If this option were undertaken, existing establishments would likely see an increase in value by virtue of the lesser likelihood of new competition. Similarly, there could be an economic impact to University Hill as it would turn away some business and may impact revitalization efforts.

ii.) *Modification of the 500-foot liquor license waiver for beer and wine licenses only:* Alternatively, the waiver could be altered by the City Council to permit alternative license types like Beer and Wine Licenses only. This approach would permit additional establishments that wish to serve alcohol, but would prohibit the sale of hard alcohol. Arguably the service of hard alcohol has the potential to

exacerbate the problem of overconsumption as it enables quick intoxication as compared to beer and wine.

It should also be noted that as opposed to Hotel and Restaurant (H&R) Licenses, which have a requirement that at least 25% of gross receipts come from food sales, Beer and Wine Licenses have no such provision. As opposed to option (i) above, option (ii) would likely have a decreased impact to the economic vitality of University Hill, but may not fully address the concern of overconcentration of alcohol serving establishments on University Hill.

The 500-foot waiver impacts those areas that are around the “principal campus” of University of Colorado. The 500-foot measurement is not a straight measurement, but rather it is “*measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulations and traffic signals*” per Colorado Liquor Code Regulation 47-326. Distance Regulation – Applicability and Measurement.

The specific land area around the university is described in the applicable city code section 4-2-4, “State Law Procedures Apply,” B.R.C. 1981 below:

4-2-4 State Law Procedures Apply.

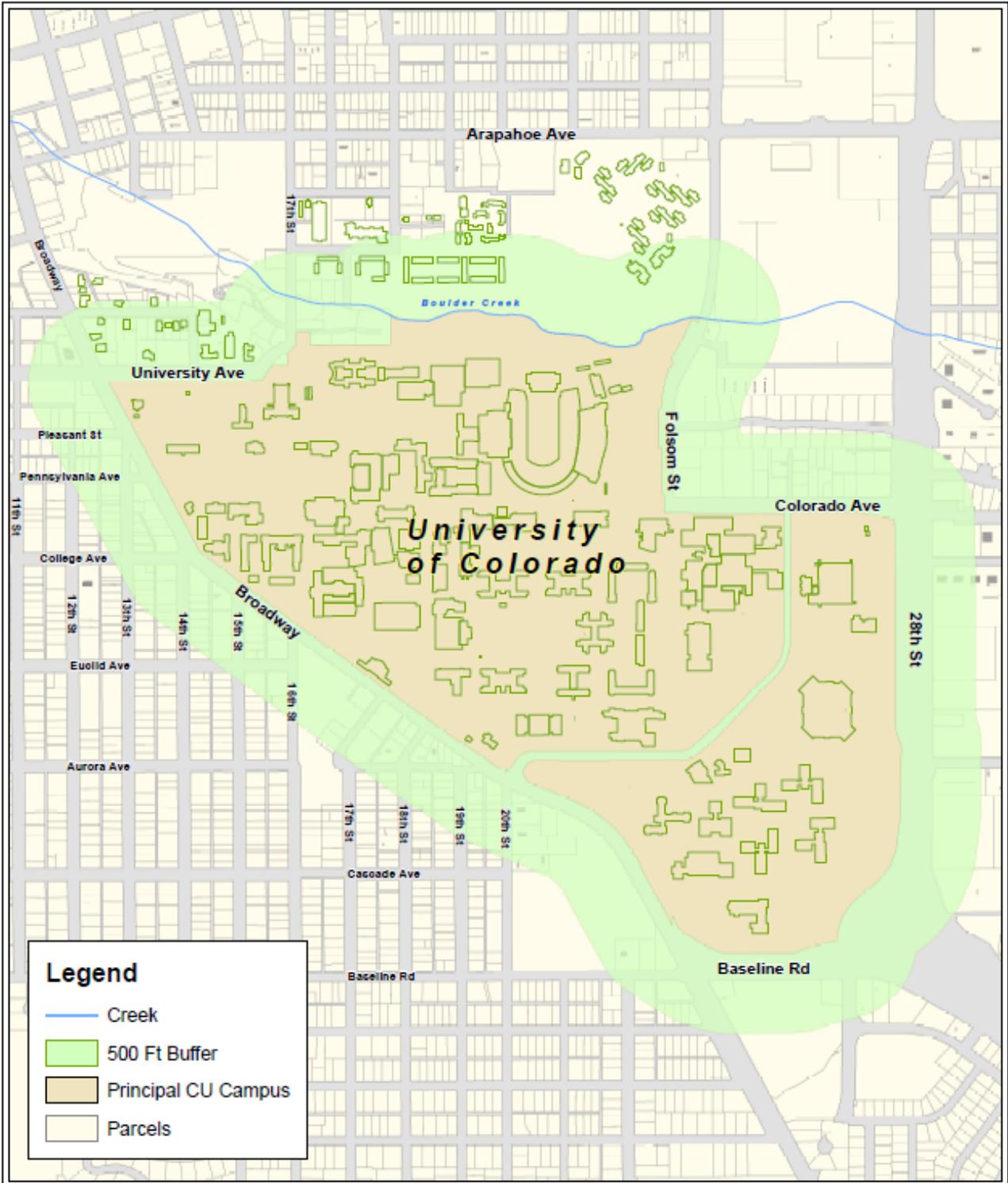
(a) Provisions of the Colorado Liquor Code and the Colorado Beer Code governing procedures for applications, hearing, and decisions for state liquor or fermented malt beverages apply for city licenses.

(1) The principal campus of the University of Colorado is eliminated from the application of the five hundred foot distance restriction of subparagraph 12-47-313(1)(d)(I), C.R.S., for hotel-restaurant liquor licenses only. For the purposes of this section, the principal campus is defined as the area generally circumscribed by Broadway Street on the west; Baseline Road on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder Creek, 17th Street and University Avenue on the north.

This area impacts most of University Hill with the exception of a small number of properties that are beyond a logical 500-foot walking distance as discussed above. In addition to University Hill, the following areas would be impacted by any changes to the waiver:

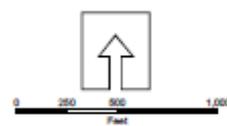
- The majority of the Basemar Shopping Center at the corner of Broadway and Baseline.
- A variety of commercial properties on the south frontage of Baseline Road.
- Limited commercial businesses on the 28th Street frontage road.

Figure 1 on page 11, as follows, shows the general extent of these impacted areas:

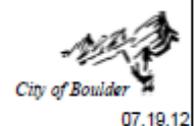


Legend

- Creek
- 500 Ft Buffer
- Principal CU Campus
- Parcels



**CU Main Campus
500 ft Buffer**



B. Implement targeted Land Use Code changes, specifically on University Hill:

Recognizing that there is a concentration of late-night alcohol serving establishments on University Hill, changes to the Land Use Code could also reinforce the ban on future licenses and prevent additional late-night establishments. The following zoning options have been identified and are listed by the degree of potential impact (from low to high impact) to establishments on the Hill:

- i) *Hour-based standards and restrictions:* Restaurants and taverns could continue to be permitted on University Hill to operate after 11 p.m. through the Use Review process as they do today. However, more specific standards could be applied including but not limited requirement for security plans, mandatory coordination with other nearby establishments, signage to remind customers of the impacts of noise and behavior on surrounding neighborhoods and clear posting of taxi numbers etc. Police Department and Beverage Licensing Authority review could be required. If there were restaurants or taverns that clearly do not follow their management plans, the city could exercise its right to revoke such approvals. As stated above, this option will likely require more staff resources.
- ii) *Use-based standards and restrictions:* In conjunction with a city-wide code change to better define different types of establishments that serve alcohol, greater restrictions could be considered for higher risk uses (e.g., night clubs, pubs, liquor stores, bars and taverns vs. restaurants with no liquor licenses or with beer and wine licenses only) with greater restrictions on those that serve more alcohol. These standards and restrictions could be in addition to those that are based on hours of service.
- iii) *Concentration-based standards and restrictions:* Spacing requirements already exist in the Land Use Code to avoid overconcentration of certain uses (e.g., residential care facilities, group homes and accessory dwelling units). Basically, the spacing requirements do not permit certain uses within a specified distance from a similar use to avoid overconcentration. Spacing requirements or saturation limits could be implemented to avoid additional late-night establishments or any additional density of higher impact uses.
- iv) *Hour-based prohibition:* Restaurants and taverns that operate after 11 p.m. could be prohibited on University Hill entirely. Existing restaurants and bars would be permitted to continue operation, but an intensification of additional late night uses would be avoided with such a prohibition.
- v) *Use-based prohibitions:* Certain uses, tied to newly created definitions by level of impact, could be prohibited on University Hill entirely. For instance, an establishment that has a liquor license and functions like a bar or tavern could be prohibited outright. This change would create a number of uses on the Hill that would be considered non-conforming uses and would have to operate according chapter 9-10, “Nonconformance Standards,” B.R.C. 1981 of the Land Use Code. For instance, if a use were to cease operation for at least one year, its use would not be allowed to continue.

With additional regulations and prohibition of new uses on the Hill, it is expected that any combination of these actions could have an economic impact on University Hill.

STAFF RECOMMENDATION:

As stated above, staff recommends a phased approach to Land Use Code changes. Initially, the simplest, most straightforward code language changes that would have the highest potential for addressing overconsumption of alcohol and overconcentration of alcohol establishments are suggested. Staff has listed the items below that it recommends City Council direct staff to begin work.

Phase I: In addition to using existing tools more effectively (i.e., the standard process improvements discussed above), the following as the first phase is recommended:

- A. Add new zoning definitions for different types of alcohol serving establishments based on level of impact (high risk vs. low risk). This change would apply city wide. The Use Standards table would need to be updated with the new uses with some being permitted by-right up to those required through Use Review depending on the zoning district and surrounding context.
- B. Implement time based renewals for Use Review for higher impact uses within General Improvement Districts. This would include University Hill and East and West Pearl where commercial uses are in close proximity to residential uses. This option would require submission of a new Use Review every three years for establishments that require Use Review. Existing approved Use Reviews could be grandfathered or alternatively, renewals could be retroactively required for existing approved Use Reviews. However, the latter option would be a significant increase in application processing on a yearly basis.

A more effective approach may be to send out notices for public input every three years for establishments that have Use Review approval and only reconsider a Use Review that triggers established thresholds for review, such as responses from concerned neighbors and/or clear violations of management plans or conditions of approval. Use Reviews that do not trigger these thresholds would not require reconsideration until the next three year iteration. This would best differentiate establishments that are well operated from ones that may be problematic and would also reduce the amount of workload for staff.

Once these options implemented, staff would monitor the effectiveness of the changes. Staff would recommend a two year period of evaluation.

Phase II: If staff and/or the community were to find that additional changes should be made to the code, staff would then recommend considering the following option as the second phase:

- A. Understanding that City Council has identified an overconcentration of alcohol serving establishments on University Hill, revoking the 500-foot liquor license waiver around the University of Colorado would address this most acutely and would permit no additional liquor licenses.

Again, following this action, staff would monitor for effectiveness and if found necessary after a two-year evaluation, some of the other options contemplated within the 'Options for Consideration' section could be implemented in the future.

All Land Use Code changes will require Planning Board review at a public hearing, as well as first and second readings at City Council before adoption. Staff also intends to refer any code changes to the previously assembled Community Working Group and the Beverage Licensing Authority for review and comment.

ATTACHMENTS:

- A. Resolution No. 960
- B. Summary of 2009 study session
- C. Matrix of peer community regulations
- D. Beverage Licensing Authority (BLA) Incentives, Regulation, Education and Enforcement Options Chart

RESOLUTION NO. 960

A RESOLUTION CONCERNING ALCOHOL ABUSE IN OUR COMMUNITY

WHEREAS, the Boulder City Council has a responsibility to lead in addressing the critical issues of health, safety, and well being stemming from alcohol abuse within the city; and

WHEREAS, alcohol abuse is a multi-faceted social problem with many causes, requiring the efforts of the entire community to address; and

WHEREAS, Boulder is not alone in experiencing the impacts of alcohol abuse, as indicated by recent alcohol-related incidents in other communities; and

WHEREAS, leaders of the University of Colorado have re-committed to changing the prominence of alcohol in the culture of student life, and University officials have asked for support from the City in this effort; and

WHEREAS, the City of Boulder participates with the University of Colorado and community members on a University-City Oversight Committee to address issues of mutual concern, including alcohol abuse; and

WHEREAS, the University of Colorado Student Union and the City already cooperate in promoting personal responsibility among students through joint funding of the University Liaison, a position that provides education and outreach to support the quality of life of students who live off campus; and

WHEREAS, the City's ability to influence beverage licensing policies, code enforcement and zoning and land use regulations are other areas where changes in City codes, programs or practices might compliment the efforts of the University of Colorado; and

WHEREAS, ways the City can address alcohol abuse should not focus simply on legal options but also on the City's human service and community education programs as well as partnerships with the University of Colorado, University of Colorado Student Union, Boulder County, the Boulder Valley School District, the Human Services Coordinating Council and others;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOULDER:

The City of Boulder recognizes and encourages the University of Colorado's commitment to changing a culture among CU students in which high-risk use of alcohol is tragically too common, and the City of Boulder will cooperate with the University of Colorado's efforts.

The City of Boulder will address, to the extent it is capable, the health and safety issues associated with alcohol abuse in the greater community.

The City of Boulder will participate in community-wide efforts, involving both private and public sector leaders from throughout Boulder County and the region, to better understand the causes of alcohol abuse and consider appropriate, collaborative solutions.

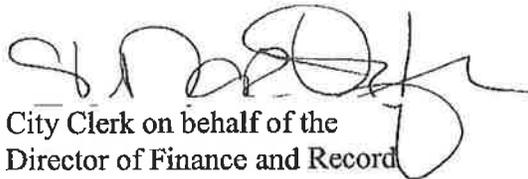
The City of Boulder, as part of this community-wide effort, will undertake a review of City beverage licensing policies, code enforcement and zoning and land use regulations in order to identify the existing and relevant authorities available to the City. Staff shall propose policy and ordinance changes, if appropriate, to address identified concerns.

The City of Boulder will review the impacts of past efforts to address alcohol abuse and underage alcohol use, including an analysis of the unintended consequences of past efforts.

Approved this 19th day of October, 2004.


Mayor

ATTEST:


City Clerk on behalf of the
Director of Finance and Record

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: July 7, 2009

AGENDA TITLE: Consideration of a motion to accept the summary of the April 14, 2009 City Council Study Session regarding alcohol abuse prevention.

PRESENTERS:

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichem, Finance Director / Acting Executive Director of Administrative Services
David Driskell, Executive Director of Community Planning
Ruth McHeyser, Deputy Director of Community Planning
Charles Ferro, Senior Planner
Mishawn Cook, Deputy City Clerk for Licensing
Jennifer Korbelik, University Liaison

EXECUTIVE SUMMARY:

The purpose of the April 14, 2009 City Council Study Session was to summarize the direction from Resolution 960, report on progress to date in addressing the issues raised in the resolution, and receive Council's feedback on:

- Council's goals for alcohol abuse prevention in the community and specific objectives related to the role of land use regulations and beverage licensing establishments in addressing the goals;
- Land use and beverage licensing options to analyze further; and
- Whether council supports initiation of the development of a larger alcohol abuse prevention strategy with other partners in the community.

STAFF RECOMMENDATION:

Staff recommends that City Council accept the April 14, 2009 City Council Study session summary included with this agenda item as **Attachment A**.

NEXT STEPS:

Land Use Regulation

Several actions for future work are suggested:

- Declare the work of LUAAG complete, and dissolve the group. The LUAAG project highlighted the difficulty of using only conditional use standards to resolve location and

impact issues. Specific regulatory changes did not result, but their work showed the need for a different approach.

- Develop a work program to create policy and code changes to implement the Concentration model (Policy Model) for location of high risk licensed establishments, and new use definitions and standards for high risk licensed establishments (Option 4).
- Establish a new community working group to assist staff in developing the specific regulatory changes.

Staff will bring the future work program to Planning Board in fall 2009 for direction and feedback.

Beverage Licensing

Several actions for future work are suggested:

- If council accepts any licensing objectives and options and it chooses to implement the 1st Priority future options, the clerk will coordinate with the BLA, other city departments, and the RHG.
- If council accepts any of Land Use's objectives and tools and it chooses to implement them, the clerk will assist Planning related to liquor licensing in their new community working group.
- If council accepts any licensing objectives and options and it chooses to implement any other future options, the clerk will conduct a cost and benefit analysis on the selected options with other city departments and the BLA.
- The clerk will provide this costs and benefits analysis on the council-selected options to the city manager for the council's review.
- The clerk will participate in new licensee mentoring and licensee education on behalf of the BLA, and from the beverage licensing perspective, will work with all community partners in a coordinated effort to reduce alcohol over-consumption.

In that Council was generally in favor of the options presented at the April 14th study session, with exceptions mentioned herein, the Deputy City Clerk for Licensing (Clerk) scheduled a public hearing at the BLA May 20, 2009 hearing. The Clerk has also presented and explained options provided to Council to the Responsible Hospitality Group (RHG) and informed the RHG of BLA's May 20th public hearing. The Clerk is continuing to participate in available community discussion on alcohol issues. As well, the Clerk is now attending, in conjunction with new licensee inspections, licensee mentoring meetings that will include BPD alcohol enforcement officer, an RHG member, and a DUHMD staff member and which are coordinated by business assistance staff from Downtown and University Hill Management Division (DUHMD).

At the May 20th BLA hearing, the BLA members were generally in favor of the options provided to council, but they were not in favor of: i) occupation tax waiver for licensees who are RHG members in the amount of RHG membership dues, ii) acceptance of the e-version of TIPS alcohol service classes as requested by licensees, iii) a city press release to publicize licensees that pass yearly compliance checks, and iv) after discussion with Officer Heather Frey, BPD alcohol enforcement officer, they were not in favor of random selection of licensees to undergo compliance checks to allow more police officer time for undercover enforcement because

additional officers would be needed for any city undercover operations due to the fact that licensees would recognize the BPD alcohol enforcement officer in their establishments.

The BLA also expressed concern, similar to council, with the mode of gathering petitions in Boulder, suggesting that a map of BLA designated Neighborhood should be available to prospective petition signers that would include numbers of existing liquor licenses located within the designated boundaries. The BLA discussed the type of undue concentration data and instructions given to BPD, discussed heavy pours and over-service in Boulder, and discussed the state law changes needed to mandate server training before any sale or service of alcohol begins.

During their May 20th hearing, the BLA also recommended several helpful text changes to the options chart for beverage licensing options, suggested combination of several options so that any changes to current processes would be most efficient, and suggested ways to better engage CU in BLA public hearings through more effective hearing notice and possible strategic publication of confiscated fake and false IDs with CU. The BLA was generally in favor (with expected consultation with the RHG) of evening hearing times, greatly encouraged increased funding for BPD undercover alcohol enforcement (especially for over-service enforcement), and the BLA thought, if funds were made available for this purpose, that notice to all addresses within 600 feet of new license locations could increase public participation in BLA hearings.

The BLA also discussed additional topics beyond the beverage licensing options given to council. The BLA expressed that further discussion is warranted on the current BLA practice of allowing licensees to select their own suspension days when a violation occurs. The BLA also gave the Clerk a hearing process suggestion to schedule all new liquor licensees to undergo a renewal hearing before the BLA after their first year of operation. This required renewal hearing would allow the BLA to check-in with new licensees to ensure compliant businesses, and this suggestion will be reviewed by the Clerk for addition to the possible options for council review.

As was mentioned at the study session and in specification of the Clerk's continuing work, once BLA input has been organized and RHG comment has been gathered, assistance from other city departments will be enlisted as to the feasibility of proceeding with options and to conduct a cost benefit analysis of the options. The Clerk will also schedule additional public hearings on council options as needed before the BLA. The Clerk will assist in future with liquor licensing resource materials for any Land Use public process with Planning.

Approved by:

Jane S. Brautigam
City Manager

ATTACHMENTS:

- A Summary of the April 14, 2009 Study Session on Alcohol Abuse Prevention: next steps on Land Use Regulation and Beverage Licensing

April 14, 2009
City Council Study Session

Study Session Summary

PRESENT:

City Council: Mayor Matthew Appelbaum, Deputy Mayor Crystal Gray, Suzy Ageton, Macon Cowles, Angelique Espinoza, Lisa Morzel, Susan Osborne, Ken Wilson

Staff: Jane Brautigam, City Manager; Jerry Gordon, City Attorney; David Gehr, Deputy City Attorney; Ruth McHeyser, Executive Director of Community Planning; Police Chief Mark Beckner; Maureen Rait, Executive Director of Public Works; Charles Ferro, Senior Planner; Mishawn Cook, Deputy City Clerk for Licensing; Jennifer Korbelik, University Liaison and Brett Weideman, Code Enforcement Supervisor

Consultant: Robert Cole

PURPOSE:

The purpose of the April 14, 2009 City Council Study Session was to summarize the direction from Resolution 960, report on progress to date in addressing the issues raised in the resolution, and receive Council's feedback on:

- Council's goals for alcohol abuse prevention in the community and specific objectives related to the role of land use regulations and beverage licensing establishments in addressing the goals;
- Land use and beverage licensing options to analyze further; and
- Whether council supports initiation of the development of a larger alcohol abuse prevention strategy with other partners in the community.

OVERVIEW:

Following introductions of staff and the study session by Jane Brautigam, Jennifer Korbelik, Charles Ferro, Mishawn Cook and Ruth McHeyser presented an overview of the topics to be discussed and identified questions to help frame City Council's discussion. The discussion was divided into three general parts, followed by council discussion of the related guiding questions:

1. Overall Goals/ Strategy,
2. Land Use Regulations, and
3. Beverage Licensing.

CITY COUNCIL DISCUSSION:

Council discussed the issues and provided feedback on the questions as noted below.

OVERALL GOALS/ STRATEGY

1. Does the following goal statement reflect council's goals for addressing alcohol abuse prevention?

Establish city policies and regulations in order to reduce over-consumption of alcohol in the community, in order to:

- Keep people alive
- Keep people healthy
- Keep people out of trouble; and
- Lower the level of community conflict

Council discussion:

Generally, City Council supported the goal of establishing policies and regulations to reduce over-consumption of alcohol. There was some concern expressed that the bullet points relating to keeping people alive, healthy, out of trouble, and lower the level of community conflict was somewhat negative. Council members suggested incorporating language about keeping the community safe and healthy and providing congenial places to socialize as well as tying the goal to the city's social sustainability goals.

Council also discussed the importance of including the Boulder Valley School District, parents, and middle school students as stakeholders in the city's work related to over-consumption of alcohol.

In addition, Council requested that an analysis of unintended consequences of past efforts to address alcohol abuse, as mentioned in Resolution 960, be completed.

2. Does council generally agree that:

- a. *a more comprehensive approach is needed to address alcohol abuse in the community, utilizing research-based best practices, and working with key community partners and stakeholders to design and implement the appropriate structure and strategies?*
- b. *further evaluation of land use regulations and city beverage licensing tools and techniques is needed in order to continue the alcohol abuse prevention work that falls under the city's purview?*

Council discussion:

Council supported the adoption of a comprehensive, "Environmental Management" approach and emphasized the importance of including house parties as well as licensed establishments in the city's strategies. Council members requested an update on enforcement strategies and tools, house parties and nuisance abatement, including an analysis of whether there has been a correlation between parties/problem properties and the "broken window" theory.

City Council agreed with staff's recommendations for future work:

- Continue on-going work related to over-consumption of alcohol;
- Develop a comprehensive strategy/approach that builds on current and past work, in partnership with community stakeholders.

LAND USE REGULATIONS

3. Does council agree with the following objectives for land use regulations in addressing the goal and staff's further development of code or code amendments, based on the objectives for council consideration?

- Recognize distinctions between high risk and low risk types of licensed establishments;
- Avoid locating high risk types of licensed establishments near neighborhoods, the university and within mixed use developments;
- Minimize external impacts of high risk type licensed establishments;
- Support the city's long-standing policies and city structure that promote a variety of regional, subcommunity and neighborhood activity centers distributed throughout the community in focused nodes of concentrated activities and result in efficient delivery of services (eg, police and transportation).
- Coordinate land use policies for location of high risk establishments with existing policies for location of community activity/entertainment centers

Council discussion:

City Council agreed with the objectives presented by staff and had a detailed discussion relative to the over consumption of alcohol.

Council discussed land use and zoning in relation to the over consumption of alcohol as well as the specific options provided by staff. Council's discussion focused on establishing hours of operation for high risk establishments as well as the fact that restaurant / tavern size affects the amount of impacts a use has on a surrounding area. There was also a discussion related to the correlation between liquor license concentration and calls for 911 service and that licenses for beer and wine only may be appropriate for certain areas.

Council discussed the fact that clearly defining goals and focusing efforts on the larger issue of reducing over consumption of alcohol should not be confused with issues of neighborhood impacts such as noise and neighborhood parking problems. Council agreed that these were separate issues and that the focus should be targeted specifically at reducing the over consumption of alcohol and creating places that are safe and healthy for the entire community.

There was some frustration expressed regarding the fact that there are many causes related to the over consumption of alcohol and that the focus should not be to prohibit all establishments that serve alcohol but rather to create specific zoning definitions that define high and low risk uses. Council agreed that better defined uses would provide more certainty to business owners and neighbors in all areas of the city.

4. Does council have any questions or comments on the policy and regulatory options that can most effectively address these objectives (for land use regulations)?

Generally, council agreed with staff's preferred option to develop a work program to create policy and code changes to implement the concentration model for location of high risk licensed establishments and new use definitions with standards for high risk licensed establishments.

This option would result in the creation of new use definitions and help to control locations of high risk uses through zoning, while also providing new conditional use standards and reduced need for discretionary use review.

This option provides the most balanced approach and greatest potential effectiveness. Implementing changes to use definitions and zoned locations would set clearer community expectations about allowed locations, and would simplify the needed conditional use standards.

BEVERAGE LICENSING

5. Does council generally agree with the following objectives for city beverage licensing in addressing the goal and staff's further development of code or code amendments, based on the objectives for council consideration?

- Provide *incentives* to license applicants and existing licensees to operate liquor licensed establishments in a responsible way.
- Broaden application of state and city *regulations* to local authority hearing processes, to provide better public hearing notice, community involvement, licensing information and to require operation of liquor licensed establishments in more compliant ways.
- Encourage server *education* in responsible alcohol service and owner and manager training in proper licensed establishment operations.
- Comprehensively *enforce* state laws and regulations and local laws and procedures, through partnership with alcohol enforcement and beverage licensing hearings, to mandate responsible operation of liquor licensed premises.

Council discussion:

Generally, City Council was in favor of the balanced approach presented, including Licensee Incentives and Server Education on the one side and Robust Regulations and Comprehensive Enforcement on the other side. Council expressed a sentiment that much of the over-consumption of alcohol that occurs happens at house parties and that they would like the problem of house parties actively addressed.

6. Does council have any questions or comments on the policy and regulatory options that can most effectively address these objectives for beverage licensing)?

Council discussion:

Council evidenced interest in all 22 beverage licensing options provided to it, except for the 2nd option in the incentives category, that of a city occupation tax waiver of half of the RHG membership dues for licensees that belong to RHG. Council provided feedback to the licensing area to explore all of the other 21 options provided. Council stated, for the last option under the regulations objective, that of mandatory notice to all addresses within 300 feet of a proposed licensed premise, that 300 feet may be too small a radius, and instead, suggested using 600 feet radius.

In addition, council discussed the City of Boulder's use of the state recommended penalty guidelines for licensee violations and the Beverage Licensing Authority's increase in 1 of the 16 violation types, that being penalties different from those recommended for conduct of

establishment violations. Council evidenced concern about the opinion of Boulder, as was stated at a Responsible Hospitality Institute conference held in Boulder on October, 2007 that Boulder has heavy pours (high amount of alcohol in each drink served) and has an overall culture of over-service. Council expressed surprise that servers may be under 21 years old and that alcohol service training is not mandatory before employment, but instead, servers may receive training up to six months after hire while still complying with current local training conditions.

As to beverage licensing and in addition to the possible options presented, council also questioned if keg registration might be made mandatory. Council suggested that compliance checks should be focused on problem establishments to ensure their continued compliance with applicable laws. Council wondered if there might be a possibility of more cost recovery for alcohol violations. Council also expressed interest in reviewing the way that petitioning is conducted for City of Boulder liquor license applications.

Council expressed several times the need to receive feedback from the Beverage Licensing Authority members on all of the options presented.

OTHER/ SUMMARY

7. Are there options that should be added? Which options should be analyzed further?

Council discussion:

The options that council focused on for further analysis are included in the above beverage licensing discussion summary.

REGULATION OF ALCOHOL ESTABLISHMENTS IN PEER COMMUNITIES					
	(1) Specific regulations on bars/taverns?	(2) Special procedures/permits?	(3) Concentrated or dispersed?	(4) Design requirements?	(5) Coordination with local/State beverage control?
Eugene, OR	No specific regulations for alcohol establishments.	Bars require Conditional Use Permit in neighborhood commercial zone.	No dispersal or concentration requirements.	None.	Liquor licenses issued by OLCC. No local beverage control exists.
Palo Alto, CA*	No; however, <u>stand alone bars and taverns are not permitted.</u> Establishments must qualify as “eating and drinking services” where at least 50% of revenues are from food.	CUP required for any establishment serving alcohol. Neighbors receive notice. Staff level unless called up. <u>CUP also required for any commercial business within 50 feet of a residential property that is open from 10pm to 6am.</u>	Generally dispersed. Where ever “eating and drinking services” are permitted.	No. There is a maximum size of eating and drinking services in some zoning districts (e.g., 5,000 sf).	After CUP, applicant would have to get approval from CA ABC. No local beverage control exists.
Santa Cruz, CA*	Yes. <u>High risk and low risk uses defined.</u> Look @ 24.12.1100. High risk applicants must provide “responsible beverage service” training. <u>Special security and management plans may be required.</u>	Conditional Use Permits and public involvement required for high risk alcohol establishments. See 24.12.1100. <u>Low risk establishment reviewed as administrative use permits.</u>	<u>High risk establishments may not be closer than 600 feet of each other.</u> May not be located any closer than 600 feet from any school, playground, hospital, etc. PC or CC can reduce this requirement. Appears to be dispersal model.	Walls may be required around parking areas adjacent to residential.	Yes with CA ABC. No local beverage control exists.
Santa Barbara, CA	No specific regulations on alcohol establishments.	None.	Wherever allowed by zoning.	No.	California ABC issues license and coordinates with zoning to determine if use permitted in a particular zone. No local beverage control exists.
Tempe, AZ*	<u>Alcohol sales are linked to the State liquor license types (17 series).</u>	Use permit required for bars (Series 6) and liquor stores (series 9). Restaurants (series 12) and Convenient Stores (series 7 or 10) are by-right. <u>Security plan with Police Department required.</u> Use permits go to public hearing.	No distance requirements. However, most uses are concentrated in downtown or at the mall.	Not specifically, but there are general design guidelines that apply to all uses. There is a requirement to delineate outdoor areas where alcohol is consumed. Angled railings required to avoid drinks being set.	Permitting process expressly linked to State processes. Liquor license starts at State and forwarded to City for recommendation. Council Liquor License Review Committee reviews applications prior to submission to the State Liquor Control.
Fort Collins, CO*	Yes. <u>Definitions for various types of restaurants, bars, and nightclubs exist.</u>	Some uses are required to go through Type 2 review (Planning and Zoning Board) prior to operation in certain zoning districts.	Dependent on zoning district.	No.	Planning reviews requests prior to City Clerk and clerk sends inspection requests following approval. <u>Local Beverage Authority replaced by municipal judge.</u>
Norman, OK	Bars considered “special use” and	Requires Special Use Permit,	Dispersed by virtue of commercial	Not specifically to alcohol	OK law requires spacing

	can be permitted in commercial zones.	which is done through a rezoning procedure. Very subjective outcomes. No specific standards.	district locations. Spacing requirements are enforced by OK law.	establishments.	requirements and licensing.
Madison, WI	No specific regulations related to alcohol establishments.	Outdoor eating areas or uses that do not meet parking requirements are conditional uses. Use has to be identified to be permitted.	Dispersed by virtue of the location of zones that permit bars etc.	Adequate buffered separation from patio to pedestrian way. Relatively subjective.	Alcohol establishments principally regulated by state liquor license laws.
Ann Arbor, MI*	<u>Not in the zoning code.</u> Not regulated differently than restaurants. See Section 109, Liquor.	No zoning review or use permit. <u>City Council Liquor License Committee (LLC) reviews all on-premise consumption applications.</u>	Generally, concentrated in downtown and around campus. No zoning requirement for spacing. State law requires spacing from schools etc.	No.	LLC review. No zoning review.
Provo, UT	Yes. City code distinguishes between bars, night clubs, cabarets, taverns, and standard restaurants. Regulation is by land use and by the beverage licensing authority.	Conditional Use Permits are required for alcohol establishments and require Planning Commission approval.	<u>Stand-alone bars are only permitted in the CBD and are becoming non-conforming as new regs will require them in association with a restaurant use citywide.</u>	None specific to alcohol establishments.	Business licensing department coordinates with the State on any required inspections and approvals. No local beverage control exists, but the municipality does have a business licensing division that enforces State regulations on alcohol.
Colorado Springs, CO*	Yes. <u>Specific definitions for restaurant, bar, and liquor establishment exist.</u> Specific regulations for each also exist. <u>See limitations on bar area.</u>	Certain uses that have liquor licenses require CUP approval in certain zones. CUP requires public notification and meetings. Must go to PC.	Liquor stores and restaurants do not have spacing requirement; however, <u>taverns require at least 200' to a residential zone or property.</u>	No.	Land use review reviews liquor licenses forwarded from city clerk. Determines spacing requirements etc. and if CUP required. <u>Local liquor board exists.</u>
Goleta, CA	No specific definitions for bars and taverns exist. Regulated the same as restaurants.	CUP required for bars/tavern/restaurants in certain zoning district. Permitted by-right in others. Planning Commission decision required for CUP.	No distance requirements exist in the Zoning Code.	Design Review Board reviews exterior changes, but there are not specific standards for alcohol establishments.	Coordination with California ABC is done. ABC may impose additional restrictions if requested by the city. Does not allow an over concentration without a waiver.
Denver, CO	Yes. Eating & Drinking Establishments, Brewpubs and liquor stores are defined.	Use permits are required for such establishments and are reviewed by zoning. Excise and license perform licensing of bars, taverns, brew pubs, etc.	Protected districts exist where if an alcohol establishment is within certain buffers, they must cease operation by 10pm (except Fridays) and must go through variance procedures (12.4.7). Liquor stores must be dispersed (1,000 feet from one another)	Requirements exist for closure times, wall heights, and location of outdoor seating areas. Permits temporary canvas or umbrellas to provide shade. Wall weather surfaces required.	No local beverage board. Coordination with State ABC.
Lincoln, NE	Yes. Any establishment (e.g., bar, grocery store) serving/selling alcohol requires Special Permit approval.	Limited to commercial and industrial zoning and no closer than 100 feet to a residential district. Other requirements in code.	Generally dispersed, however, 100 foot limit eliminates many older commercial districts.	No.	Internal Liquor Committee exists. Is more advisory on "big picture" items and is not coordinated with zoning applications.

*Indicates additional research into municipality code.

- 1) **Does your community have specific use definitions for alcohol establishments, such as bars or taverns? Are they regulated differently from restaurants (e.g., high risk vs. low risk)? Where in your zoning code can the applicable definitions found?**
- 2) **If your community regulates alcohol establishments, where might we find those specific standards and review processes in the zoning code? Do alcohol establishments require a conditional use permit to operate? Are the community and/or review bodies generally involved (e.g., public hearings, neighborhood meetings) in the review of such establishments?**
- 3) **Are alcohol establishments permitted in concentrated areas or are they generally dispersed? In other words, is there a spacing requirement of such uses from residential areas or from other alcohol establishments?**
- 4) **Are there any specific design requirements for such establishments related to outdoor seating, lighting, and general size? Are management plans reviewed to inquire about or regulate hours of operation, trash removal, delivery hours etc.?**
- 5) **How is review coordinated with local beverage control authorities? Are liquor license types a factor in zoning review?**

Beverage Licensing Authority (BLA)
Incentives, Regulation, Education, & Enforcement Options Chart with BLA
majority input from May 20, 2009 and August 19, 2009 BLA Public Hearings

1) Objective: Provide <i>incentives</i> to license applicants and existing licensees to operate liquor licensed establishments in a responsible manner.			
Goal: To reduce over-consumption through non-regulatory incentives, often in cooperation with Responsible Hospitality Group (RHG), a local volunteer trade organization of liquor licensees.			
Option	Resource Impact	Timeframe	BLA Input
a) Periodic specialty training, such as door staff/ security training, fake/ false IDs, & best practices for private parties.	RHG and BPD	Currently Done	Yes. BLA suggests that further specialty training might be encouraged through use of DBI & DUHMD contacts.
(cont.) Assistance and suggestions for struggling licensees.	BLA, Licensing, w. help of RHG, DBI, & BPD	Currently Done	Yes
(cont.) RHG membership as mitigating factor by BLA.	BLA	Currently Done	Yes
(cont.) BLA hearing attendance and mentoring.	RHG Chair	Currently Done	Yes
b) Occupation tax waiver for half of RHG dues.	City	Future Option	No, RHG membership should have value itself.
c) Honor Licensees who have no violations after 10 and 20 years of operation.	RHG with input from the City	Future Option	Yes, BLA discussed that IDing is uniformly done, but avoidance of over-service should be new focus.
d) Advertising campaign on over-service and community expectations.	City, RHG, & perhaps CU	Future Option	Yes, BLA states, as in New Zealand, campaigns, for ex., "We serve drinks, not drunks" campaign was effective. Added funds or grant needed.

2) Objective: Broaden application of state and city *regulations* to local licensing processes, for better notice of public hearings, increase community involvement, license information, and to ensure compliant operation of establishments.

Goal: To reduce over-consumption through current and enhanced regulatory means.

Option	Resource Impact	Timeframe	BLA Input
a) Mandatory renewal hearings after over-service violations.	Licensing and BLA	Future Option-1 st Priority	Yes, however, first BLA must be presented with over-service violations for show cause hearings.
b) More thorough investigation of renewing licensees.	Licensing, city enforce depts., and BLA	Future Option	Yes, renewal hearings have shown positive changes at licensed locations w. issues and renewals deserve annual scrutiny.
c) CU participation of BLA hearings for license applications located in its neighborhood.	CU, Licensing, and BLA	Future Option-1 st Priority	Yes and BLA suggests that when CU is in designated Neighborhood to send notice to Gary Chadwick at CU who might coordinate CU's response on license applications.
d) (i) Reexamine 500 foot waiver for H&R adjacent to CU.	Input from CU, enacted by City, and followed by Licensing	Future Option	Yes, BLA by majority suggests reexamining the 500 ft. waiver, along with the definition of CU campus boundaries and amending to allow Beer and Wine licenses as more fully described below.
d) (ii) Reexamine CU principal campus definition as it relates to 500 foot waiver.	Input from CU, enacted by City, and followed by Licensing	Future Option	Yes, BLA by majority suggests reviewing what Denver does surrounding DU and other CU campuses.
d) (iii) Consider amending waiver to Beer & Wine licenses rather than Hotel-Restaurant which serve hard alcohol.	Input from CU, enacted by City, and followed by Licensing	Future Option	Yes, BLA by majority suggests review if city should allow inclusion of beer and wine licenses and if city could require that Uni Hill licensees convert to Beer and Wine and/or how best to provide incentives if city can't require conversion from H&R licenses. BLA discussed that Beer and Wine class licenses do not have a food percentage

			requirement, and as such, the BLA by majority is opposed to inclusion of Beer and Wine licenses in this area unless the zoning definition of "restaurant" includes a mandatory food percentage.
g) BLA evening meetings.	BLA and Licensing	Future Option-1 st Priority	Yes, BLA is in favor of this change to make hearings more available to neighbors. BLA suggests collecting data on whether other local licensing boards meet at night. <i>[Public comment: As of last RHG 5/21/09 mtg., RHG is not in favor of evening meetings].</i>
h) Mandatory license application notice to all addresses within 300 foot radius	Licensing and Zoning	Future Option	Yes, BLA, like council, thinks this is valuable, but feels that 600 ft. radius is better and realizes that licensing can only do this type of notice if it gets funds to complete it. BLA also feels legal notice text is too small. Also suggests better BLA notice through Neighborhood Associations, HOAs, ad campaigns, NFCH, Channel 8, and any print material, such as city newsletter.
i) BLA license renewal hearings required for 1 st year of license.	BLA, BPD, City Staff, Licensing, and new Licensees.	Future Option-1 st Priority	Yes, BLA suggested that they might have renewal hearings with all new licensees to review how first year of business operations went, acknowledging council's concern with heavy pours and over-service. This would allow BLA to intervene early and assist if there are problems at licensees. BLA did discuss if business licenses could add supplemental local conditions to establishments.
j) BLA will change procedure that allows licensees to select own suspension days	BLA and Licensing.	Future Option	Yes, BLA by majority determined to change hearing procedure allowing licensees to select their own suspension days, instead making all suspensions for violations from a show cause hearing begin on same date.
k) BLA suggests to review what changes in state law would be required to mandate server training and changes to BRC for server training in 90 days.	BLA, City, Licensees, and Licensing.	Future Option	Yes, BLA by majority would like council to discuss what changes in law are needed to advocate training requirement. BLA held a hearing and suggests a change to BLA Rules of Procedure so that server training is completed in 90 days, rather than 6 months and is renewed every 3 years. <i>[Public comment: RHG says that immediate training may be impossible unless e-training is accepted by BLA].</i>
l) BLA suggests review of petitioning practices and supplemental information	BLA, City, Applicants, and Licensing.	Future Option	Yes, BLA thinks that petitioning should be reviewed, as to if city could have more control over petition practices. BLA commented that local fees are maxed so the city would need to make a significant increase in licensing funding for petitioning oversight. At a minimum, BLA discussed that petitioners should provide total numbers of existing licenses already in designated Neighborhood and day of week.
m) Undue Concentration data to BPD to allow for a more extensive review.	BPD and Licensing	Future Option	Yes, BLA thinks that resource materials should be given to BPD command staff when an undue concentration opinion is requested so all parties better understand legal question.

3) Objective: Encourage education participation in responsible alcohol service training.

Goal: Reduce perceived culture of over-consumption in our liquor licensed establishments through better education of our business owners, managers, servers, and door staff.

Option	Resource Impact	Timeframe	BLA Input
a) Boulder acceptance of e-version of server training.	City, BLA, Licensing, & outside vendor trainers	Future Option	No, BLA thinks that if state does not accept it, Boulder should not. <i>[Public comment: RHG suggests that this would be less expensive and more immediate for licensees].</i>
b) New liquor licensee mentoring.	RHG, DUHMD, Licensing, BPD, & Boulder Chamber.	Currently Done & Future Option With clerk at inspection-1 st Priority	Yes, BLA thinks that this mentoring should happen prior to receiving liquor license.

c) State law changes to certify or license servers independently	BLA, City, Licensees, and Licensing.	Future Option	Yes, BLA by majority would like council to discuss what changes in law are needed to advocate training requirements mandating licensing servers independently before they can apply for jobs. See also Objective 2, option K for other local changes.
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4) Objective: Comprehensive *enforcement* of state and local laws to mandate responsible operation of liquor licensed premises to reduce over-consumption and over-service.

Goal: To reduce over-consumption through active enforcement of current and enhanced regulations.

Option	Resource Impact	Timeframe	BLA Input
a) Targeted food percentages auditing.	BLA, Licensing, & Finance	Future Option	Yes, BLA thinks this should occur when needed.
b) BPD Patrols in parking lots and alleys to enforce against public consumption.	BPD	Future Option	No, BLA thinks that BPD officers are already in license dense areas. BLA asked that surrounding neighborhoods also be included in patrols and that bike patrols should be added.
c) Universal Trespass Agreement among Licensees	Boulder Licensees	Future Option	Yes, but BLA recommends to RHG that this item should be a cooperative effort among its members for them to undertake independently.
d) Random selection of licensees to undergo yearly compliance checks to allow more officer time for undercover enforcement.	BPD	Future Option	No. BLA is opposed to random selection of licensees for compliance checks, but BLA supports a distinction between low risk and high risk locations for compliance checks. BLA is also concerned that BPD resources may be lost if officer time is freed up, and that this item alone would not enable BPD to undertake more undercover actions since alcohol officer is so recognizable to licensees. Instead, added funding/officer resources must be available for on-site stake outs, esp. over-service, fake IDs etc. to allow 2 officer undercover ops.
e) Provide full funding for BPD alcohol undercover enforcement operations, such as over-service and fake/false IDs checks.	City and BPD	Future Option	Yes, BLA strongly recommends this option and suggests combination of it with below item i. As described above, BLA feels that the alcohol officer must have depth of resources to involve 2 officers when warranted to address known over-service or fake IDs etc. issues at licensed establishments.
f) City press release to publicize licensees that pass annual compliance checks.	City	Future Option	No, BLA thinks that this option would be supportive of licensees but would not reduce over-consumption issues.
g) Publicize licensees who confiscate fake/false IDs.	City, BPD, and poss. CU	Future Option	Yes, BLA thinks that this option would be a good idea; however, BLA would suggest it to CU, with a focus on marketing to young persons at welcome back to school time. Alcohol Strategy Group or CU Communications might take the lead on press release/articles for this.
h) Earmarking fines in lieu of suspension for BPD enforcement/education after deposit into general fund.	BLA, City, and Finance.	Future Option	Yes. However, often the deterrent effect is lost with fines. BLA suggests that if a fine is accepted, then fine should be paid for total of suspended and abeyance days. CAO/BLA notes that per law fines in lieu are to be deposited into city's general fund of local licensing authority.
i) Provide educational outreach to licensees who do not confiscate fake IDs.	BPD and Licensing	Future Option	Yes, BPD currently does some interventions in this area and BLA has seen some positive results with renewal discussions.

*Options that would require minimal additional staff resources or would require minimal additional collaboration, other than that which is currently occurring, from other city departments, BLA, and other community entities are identified above as **shaded** options.

**It is important to note that above listed options if selected will result in increased staff resource requirements, including but not limited to, Licensing Office, Boulder Police, City Attorney's Office and Finance departments. Additionally, there is likely to be an economic development impact in connection with above listed items.