

# STOP 63<sup>RD</sup> STREET SUBDIVISION / STOP63RDSTREETSUBDIVISION.ORG

Talking points for opposition of the August 2024 **Revised Configuration** Docket SD-23-0003 / Rodriguez TDR PUD (Transferred Development Rights/Planned Urban Development)  
(Southwest corner of Niwot Rd & 63<sup>rd</sup> Street)

Although the applicants have reduced the request to 3 houses, many if not all of the same reasons for opposition still apply because the density of the housing was not an issue.

“Chipping away” at this 40-acre parcel for development by using TDRs would set a dangerous **precedent** that would threaten rural properties everywhere in Boulder County.

## **The property is not considered a receiving site for Transferred Development Rights (TDRs)**

From Boulder County Community Planning & Permitting document 10/11/2023 (staff findings from the original application of 2023; this document is linked on our website):

*Staff finds that the proposed TDR/PUD is not within or adjacent to any urban area but rather is located in a generally agricultural area. As such, the proposal would not be consistent with this goal. The proposal would result in creating increased sprawl into a rural, primarily agricultural area. There are existing subdivisions north of the subject property, however they all date back to the 1960s, prior to the County’s goal of limiting sprawl. One of the purposes of the Comprehensive Plan is to respond to growth patterns which are deemed to be undesirable; as such, development which occurred prior to the current Comprehensive Plan does not necessarily justify new development which conflicts with the Plan just because the proposed development is adjacent to the older, undesirable development pattern.*

## **The specific goals and policies with which the initial and current proposal conflicts with the Boulder County Comprehensive Plan (BCCP) include the following:**

- Countywide Goal 1 Cluster Development. The first countywide goal of the BCCP states:  
*“Future urban development should be located within or adjacent to existing urban areas in order to eliminate sprawl and strip development, to assure the provision of adequate urban services, to preserve agriculture, forestry and open space land uses, and to maximize the utility of funds invested in public facilities and services.”*

- Agricultural Element Policy AG 1.01 Agricultural Land Preservation. This policy states: *“It is the policy of Boulder County to promote and support the preservation of agricultural lands and activities within the unincorporated areas of the county, and to make that position known to all citizens currently living in or intending to move into this area.”*
- Agricultural Element Policy AG 1.03 Agricultural Land of Importance. This policy states: *“It is the policy of Boulder County to encourage the preservation and utilization of those lands identified in the Agricultural Element as Agricultural Lands of National, Statewide, or Local Importance and other agricultural lands for agricultural or rural uses.”*
- Agricultural Element Policy AG 1.12 Land Unification. This policy states: *“The county shall continue to discourage the fragmentation of large parcels of agricultural land and to encourage the assemblage of smaller parcels into larger, more manageable and productive tracts.”*

From the Boulder County Community Planning & Permitting document 10/11/2023 (staff findings from the original application of 2023; this document is linked on our website): *Staff finds that the proposal is not in accordance with this policy as it would not result in the preservation of any vacant lands with significant environmental, agricultural, visual, or cultural values; rather it would result in the development of lands identified as Agricultural Lands of Statewide Importance and environmental conservation area. Additionally, the proposal would not maintain the rural character of the area.*

**Comments from Boulder County Parks & Open Space document 8/2023** (this document is linked on our website)

The parcel has the following designations in the Boulder County Comprehensive Plan, or from other resource inventories:

- Significant Agricultural Lands of Statewide Importance – entire parcel
- Environmental Conservation Area – Boulder Valley Ranch/Beech, western area
- Bald Eagle Summer Foraging – Colorado Parks & Wildlife (CPW) data
- Bald Eagle Winter Foraging – CPW data
- Prairie Dog Colony – active; therefore, possible burrowing owl use
- Documented Use by other County Species of Concern – rough-legged hawk, Northern harrier
- Documented Nearby Use by Species of Concern – ferruginous hawk (700 linear feet)
- Riparian Area – “buffer”
- Major Agricultural Ditch – Reformed New Hinman Ditch
- View Protection Corridors – 63rd Street, and Niwot Road
- “Adjacent” to Public Lands – City of Boulder OSMP, 140 feet away
- Adjacent to Historic Site – Ryssby School, on south, archeological

## Shallow Groundwater Concerns

- The water table is quite high on the parcel, just a few feet below ground level. Neighbors have long noted that the portion of the subject property at the Southwest corner at 63rd and Niwot Road frequently floods during rainy periods. During the 2013 flood, a large portion of the property (exactly where the subdivision houses are proposed) became a lake that stood for many days. There is no sewer service to the parcel, and separate septic systems will be required for each new house. Even if “engineered” extensively for the proposed houses, the high water table in the property would compromise the septic systems of the new homes, creating a health hazard for the new residents and also the neighbors to the north who are on well water. Runoff from the engineered parcel would be increased by the engineering and loss of permeable ground surface area due to the development, posing new flood hazards for properties across Niwot Road from the new houses.
- Colorado Geological Survey: This agency reviewed the 2023 proposal and determined that there are no geological hazards or constraints that would prevent the proposed residential development. They did note, however, that there is very shallow groundwater on the subject property. As such, they recommend against any basement construction. They also recommend that the bottom of footing elevation should be at least 2 feet above the seasonal high groundwater table, which is anticipated to be close to 3 feet below ground surface. As such, to achieve a bottom of foundation elevation of at least 2 feet (preferably 3 to 5 feet) above the seasonal high groundwater table, the site grades will need to be raised or an underdrain system sufficient at lowering water levels installed. We would add that new risks to neighbors would be created and a detailed engineering study to assess and mitigate risks would be required.
- As discussed in more detail in staff analysis of Article 6-1000 below, staff finds that the development of each lot will require extensive engineering and designing in order to build a house due to shallow groundwater levels; staff finds that this will increase the cost of developing each lot, further reducing any potential for affordability.
- Boulder County Public Health: Boulder County Public Health noted that each of the proposed lots will require a separate onsite wastewater treatment system (OWTS), and that each lot will require a unique soils analysis and OWTS design; **the submitted preliminary engineering report cannot be used for the new individual lots.**
- The Boulder County Stormwater Quality Coordinator reviewed the application materials and noted that a stormwater quality permit (SWQP) is required for the overlot grading and infrastructure associated with the proposed development. They also noted that development on each of the created parcels will require a Boulder County SWQP. Finally, they noted that the development will need to adhere to the Boulder County Storm Drainage Criteria Manual, which will require a drainage report

meeting the requirements in Section 200 and demonstrating that the project meets Low Impact Development, detention, and permanent stormwater quality outlined in Section 1200.

### **Traffic Considerations**

- No traffic analysis has been submitted with the revised application.
- The revised configuration adds a driveway for each additional house within close proximity to the stop sign at 63rd Street & Niwot Road and would not meet the criterion in BCCP Article 6-1000 A-8: *Undue traffic congestion or traffic hazards will not result from the proposed PUD*

### **Protected View Corridor Status**

- Both 63rd Street and Niwot Road are protected view corridors in the Boulder County Comprehensive Plan (Flatirons, Haystack Mountain).
- Both view corridors would be impacted by the proposed development.
- The Niwot Road view corridor would be most impacted by the configuration proposed in the revised sketch plan; and it has the higher View rating in the County protection scale.