

Boulder Junction Access District (BJAD)
Joint Commission Meeting
January 7, 2014
9 to 11 a.m.
Council Chambers, 1777 Broadway
AGENDA

1. Roll Call
2. Approval of the December 3, 2014 Meeting Minutes
3. Disclosure of Conflicts of Interest
4. Public Participation
5. Parking Pricing for the Depot Square Garage
6. Election of Representative to the Depot Square Condo Association Board
7. Matters from Commissioners
 - Status of Projects
 - Council/Commissioner Liaison List
8. Matters from Staff
 - New Policy Regarding Televising Board and Commission Meetings
 - AMPS Update – Joint Board Meeting January 21st.
 - Update on EcoPasses and Car Share- Hagelin
 - Joint District Board Meeting date

Attachments:

- Memo Regarding Parking Pricing
- Meeting Minutes
- Response to City Council Retreat Questions for 2015
- Council/Commissioner Liaison List
- 2015 Meeting Dates and Locations
- Depot Square Condo Dec Section 6.3 Regarding Condo Board
- Televising Board and Commission Meetings

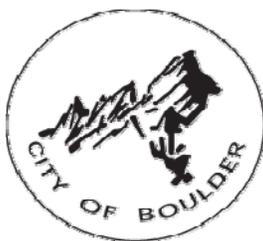
Upcoming Meetings/Topics

AMPS Joint Board Workshop: January 21st

City Council Retreat: January 23 – 24

AMPS Study Session: May 26th

Joint District Board Meeting?



DOWNTOWN AND UNIVERSITY HILL MANAGEMENT DIVISION
AND PARKING SERVICES (DUHMD/PS)
MEMORANDUM

To: Boulder Junction Access District (BJAD) Parking Commissioners

From: Molly Winter, Director, DUHMD/PS
Kurt Matthews, Parking Manager, DUHMD/PS
Donna Jobert, Finance Manager, DUHMD/PS

Ref: Depot Square BJAD Parking Pricing

Date: January, 7, 2015

Background

As part of the Depot Square project, a shared parking garage is being built to provide parking for the district. Garage ownership is shared between the district, RTD, the hotel, and the housing unit as a Condominium Association. A parking management agreement (PMA) is also in place governing aspects of the garage, in that all parking is to be shared, unbundled, managed, and paid (SUMP). (See Attachment A). Each owner will have their own management system. PMA allows for owners to place unused spaces into pool that would be managed by the BJAD Parking District.

Negotiations and design considerations are currently underway for the parking access and revenue control system (PARCS) that will control access to the garage and monitor utilization by all condominium members. It is envisioned that the garage will be managed via this PARC system, and there will not be a lot attendant present during hours of operation.

The Depot Square garage parking allocation is as follows:

- 100 - BJAD Parking
- 71 - Residential Units
- 136 - Hyatt Hotel
- 75 - RTD
- 9 - Depot Square Restaurant

Current development projections show that demand on the District spaces will be generated by the overflow RTD bus station patrons, commercial properties, employees and restaurant users.

New development is underway north of the new bridge with commercial and residential uses that will also be a factor. Boulder Junction is a nascent district and demand is unknown and very dependent upon development and the types of uses.

Parking Pricing Approach

The BJAD parking pricing approach is based on the SUMP principles, current parking management strategies as well as incorporating the Transit Oriented Development (TOD) approach of Boulder Junction with the overlay of the BJAD Transit Demand Management (TDM) district. The access management and parking strategy (AMPS) project which is developing a citywide strategy for access and parking management will also be applicable to the on-going development of parking management and pricing throughout the city. A key element of the strategy will be to monitor utilization and demand and remain flexible to the evolutionary nature of Boulder Junction.

As background information, below are the essential components of the current parking pricing in the existing access/parking districts:

- Current rates in the Downtown and Hill managed parking are \$1.25/hour for on-street parking (average time limit of three hours) and \$1.25/hour in the garages for the first 4 hours, then \$2.50/hour after that.
- There is no limit on hours charged in the garages; however, we set a \$20 maximum per day, which is in line with a lost ticket fee of \$20.
- Permit rates are currently \$330/quarter in the downtown garages; surface lots are \$200/quarter downtown and \$175/quarter on the hill. (There is currently a 1200 person waiting list for downtown permits.)

In considering the parking pricing strategy, there are a number of factors that will influence the decisions. These include:

- integration with the TDM access district programs;
- additional demand for residential permits from Solana;
- the rates charged to the affordable housing units for their parking spaces and potential additional demand;
- potential demand for employee permits particularly from the hotel;
- the short term demand from the hotel and the Depot restaurant;
- the number of spaces that will be allocated to District management from the other condominium members;
- the spillover parking demand from the RTD station (scheduled to open in August 2015);
- the timing and type of development within the area; and,
- the financial viability of the District.

Staff Recommendations:

Short Term Rates

Staff recommends that the short term District parking rates for the Depot Square garage be consistent with the current on-street parking rate of \$1.25/hour in the other access districts. The AMPS project will be considering changes to parking pricing both in terms of rates and how parking is charged by location and by duration.

Regarding the duration of charging for parking, staff is recommending that the short term rates be charged 24/7. There are several reasons for this. First, we are not envisioning a parking lot attendant at this location since there are multiple users with varying needs. Parking attendants allow for more flexibility in when parking is charged. Secondly, the district is just one of five garage users and automated entry is the best system to accommodate all users (RTD, housing, Depot, hotel and the district). All parking rates will be integrated into the PARCS system based on the individual user needs. And finally, given the proximity to the RTD Bus Rapid Transit (BRT) station, it is important that the district spaces are not used for long term storage by individuals that would arrive when parking is not charged; leave their car during vacation and take RTD to Denver International Airport (DIA); and then return when parking is not charged and depart the garage without paying. It would essentially be providing free long term parking to non-district users.

Long Term Permit Rates

Paying for permit parking is a new concept in the Boulder Junction area – both for residents and employees; and thus there is not a robust market from which to make comparisons. The most immediate comparable is the permit rate at the residential Solana development which is \$50/month. To our knowledge, there is not a comparable for employee parking permits in the area.

Given the uncertainty of demand and lack of comparable pricing for long term permit parking, staff recommends following the current market rate of \$50/permit or \$150/quarter. It will be very important to closely monitor the demand and utilization during the next several years as the Boulder Junction area and surrounding developments are built out and make the appropriate adjustments.

Allocation of Parking between Permits and Short Term

As with the permit parking rates, it is currently difficult to have a definitive formula for the allocation spaces between short and long term users. The demand for parking will drive the allocation of the spaces. As a starting point, the initial approach will be to ensure that all user types – permits for residential and employees, and short term users – will have accessibility to parking. A lesson learned from the other districts includes the potential for overselling employee permits. The introduction of residential permits into the parking mix is a new one; the other district management districts do not include residential permits. Again, closely monitoring the situation and remaining flexible and responsive to the evolving demand will be essential to both meet the needs of the Boulder Junction residents, employees and users, and remain consistent with the TOD and SUMP principles.

Questions for the Board:

- Does BJAD Parking Commission support the staff approach to the BJAD parking pricing strategy?
- Does BJAD Parking Commission support the staff recommendations regarding: short term pricing, long term permit rates and parking allocation?
- Does BJAD Parking Commission have any other suggestions or comments?

Attachments

Attachment A: Parking Management Agreement Depot Square

**PARKING MANAGEMENT AGREEMENT
DEPOT SQUARE**

This Parking Management Agreement is entered into to be effective the 26th day of July, 2013, by and between the City of Boulder, a Colorado home rule city (the "City"), 3001 Pearl, LLC, a Colorado limited liability company as owner of the Residential Unit ("Residential Unit Owner"), HP Boulder, L.L.C., a Delaware limited liability company, as owner of the Hotel Unit, ("Hotel Unit Owner"), the Regional Transportation District, a political subdivision of the State of Colorado ("RTD") as Owner of the RTD Parking Unit, Depot Square Owners Association, Inc., the Colorado non-profit corporation formed pursuant to the Declaration defined below (the "Association"), and the Boulder Junction Access General Improvement District-Parking, a general improvement district (the "District"), (individually a "Party" and collectively the "Parties") and 3001 Pearl, LLC, a Colorado limited liability company (the "Declarant") to implement the Parking Program for the use, management and maintenance of the Parking Facilities located at Depot Square, a planned community located in Boulder Colorado.

RECITALS

A. "Depot Square" refers to the planned community created by the Community Declaration thereof recorded on July 29, 2013, at Reception No. 3330983, and the Community Map thereof recorded on July 29, 2013, at Reception No. 3330984 in the records of the Clerk and Recorder of the County of Boulder, State of Colorado (the "Declaration").

B. The District is a general improvement district organized and existing as a general improvement district under the laws of the State of Colorado and the Charter and municipal code of the City formed by the City of Boulder by Ordinance No. 7731 adopted on July 20, 2010 and recorded at Reception No. 03125016 on January 6, 2011 in the records of the Clerk and Recorder of the County of Boulder, and created, *inter alia*, to implement the zoning requirements regarding parking applicable to Depot Square and other properties within the District. The zoning requirements and the formation of the District were adopted and created to further the goals of the City of Boulder set forth in the Transit Village Area Plan dated September, 2007 ("TVAP"). The TVAP requires that Depot Square be constructed in accordance with the requirements of the City, the approved site plan, and the construction documents approved by the City, to create a Transit-Oriented Development ("TOD"). The zoning for Depot Square allows higher densities because of its inclusion into the District and management of its parking in accordance with this Agreement. An integral component of the success of the City's goal for a TOD is the bus transit facility and high density residences and commercial uses which are not dependent on single-use parking within the Boulder Transit Village. This Agreement is to implement the TVAP requirements and for the success of the Parties.

C. The land for Depot Square was jointly purchased by the City and RTD in 2004, for construction of a bus transit facility and development of a TOD. The City and RTD have

agreed to implement the goals agreed upon by them in the Boulder Transit Village Master and Site Planning and Preliminary Construction Agreement between the City and RTD dated September, 2007 as such goals have been further refined by approved development plans and subsequent agreements between the City and RTD and to work collaboratively to utilize new and existing technology to implement a successful shared-management parking facility that does not violate the existing statutory limitations on RTD's ability to charge fees or receive income from patrons utilizing the parking facility.

D. The parking within Depot Square is to be managed as a single unit by the Association in accordance with the terms of this Agreement. This Agreement implements the Parking Program described in Section 16.3 of the Declaration and is the Parking Management Agreement identified in Section 16.4 of the Declaration.

E. Except for the Association, the Parties to this Agreement and Declarant own Parking Units within Depot Square as described in the Declaration and have agreed that all parking and the Parking Units within the Parking Facility are to be governed by this Agreement.

F. The purpose of this Agreement is to:

a. Meet the access needs of all Depot Square owners in order to support a successful mixed use TOD, and for those owners participating in shared parking, in compliance with the TVAP principles, to implement shared, unbundled, managed and paid (SUMP) parking, as such terms are defined in this Agreement as the SUMP Principles;

b. Implement a comprehensive and holistic parking maintenance and management strategy that benefits all users and is more efficient than each Party providing its own services; and

c. Maximize utilization of parking spaces within the Parking Facilities to the benefit of all the Parties. Ownership of a Parking Unit as defined in the Declaration provides that each Party owns a specific airspace in the Parking Facility, without a right to use the spaces within such airspace, but has a right to use a specific number of spaces within the Parking Facility.

G. Except for the RTD Parking Unit which is for RTD Users only, parking within Depot Square is to be shared, unbundled, managed, and paid in accordance with the following definitions collectively referred to as the "SUMP Principles":

a. **Shared:** Shared parking reduces the number of parking spaces needed within an area by allowing different uses to access the same parking spaces. At mixed-use development, the various uses tend to have different parking demand peaks. An office, restaurant and retail store can share parking because the office's peak parking demand will occur in the day, and a restaurant in the evening, and the retail on the weekend. Shared parking allows shared use among different users whose peak parking

demands occur at different times and thus fewer spaces are needed to meet all the different parking demands, reducing development costs and improving urban design. It also allows for more efficient and cost effective use of each space. For example, if there were reserved spaces, the space designated for a single employee would sit empty when the permit holder is on vacation, sick or away from the office. Shared parking allows a smaller parking supply to serve more trips.

b. **Unbundled:** Unbundling refers to separating the cost of parking from the cost of a commercial space or housing units so that real estate is sold or leases are entered into separately from the parking it serves. Unbundled parking allows residents and employers the choice to purchase the amount of parking they need at a given time, separate from their property purchase or lease. For example, rather than renting an apartment with two parking spaces for say \$1,000 per month, an individual can rent just the apartment for a lesser amount with no parking spaces and choose to pay a monthly rate for parking spaces as needed. This can significantly reduce the cost of housing for those able to reduce their parking needs. Unbundling parking also leads to an increase in shared parking.

c. **Managed:** Parking management refers to various policies, strategies, tools and programs that result in more efficient use of parking resources. These include parking supply, utilization, technology, coordination with transit demand management principles and pricing. Managed parking is critical to the efficient utilization of parking and to the overall access to an area by incentivizing use of all access modes including transit, walking and biking. Managed parking also maximizes the efficiency of the overall transportation system, the quality of the urban design, and cost effectiveness. Parking management tools can most effectively be used when there are a variety of available alternative modes of transportation.

d. **Paid:** Paying for parking has several objectives: first to off-set the costs of parking by the user (there is no such thing as free parking); second as a tool to manage utilization and location of parking; and finally it is used to encourage and promote the use of other modes of transportation. Maintaining the infrastructure for parking, either on-street, a surface lot or a structure has a real cost that should be covered in some proportion by the actual user rather than the entire community which may or may not utilize the resource. Using varying parking rates can assist users in determining whether they wish to prioritize convenience over cost or encourage users to use different modes of transportation. Event parking charges, either for performances or sporting events, are a practical example of how parking pricing can influence demand and the location of parking – close-in parking is the most expensive; the cost decreases at locations further away from the event venue.

H. The District and the Declarant have entered into a Parking Purchase Agreement dated as of the date hereof (the “Parking Purchase Agreement”) pursuant to which the District will purchase 100 spaces for use by the general public that are visitors to the users at Depot

Square. The Parties may pool any or all of their spaces for defined periods of time for use by the general public to maximize the parking available. When a Party pools any spaces, it shall receive the revenue derived from the use of the Pooled Parking as provided herein. The Pooled Parking spaces shall be used for parking after the District Parking Unit is full, and the revenues from the Pooled Parking shall be allocated proportionately among the owners that have contributed spaces for the time the revenue was generated.

I. RTD is currently prevented by C.R.S. 32-9-119.9 from charging for parking except in limited circumstances. Separate provisions are set forth herein for parking by RTD Users while RTD is subject to C.R.S. 32-9-119.9. If the statute is amended or repealed, RTD shall determine whether it shall continue being treated as provided herein, or whether it elects for the RTD Parking Unit to be fully incorporated into the provisions of this Agreement.

COVENANTS

NOW THEREFORE, in consideration of the promises and obligations set forth below, the Parties and Declarant agree as follows:

1. The Recitals above are incorporated as part of this Agreement. This Agreement is entered into to meet the terms and conditions of TVAP and satisfy the requirements of B.R.C. 9-9-22 for the parking within Depot Square.

2. If a conflict should arise between this Agreement and the Declaration, this Agreement shall control so long as this Agreement is consistent with the description of the Parking Management Agreement in Section 16.4 of the Declaration.

3. Declarant shall not be considered a Party to this Agreement unless (a) the Declarant is the Residential Unit Owner, in which case the Declarant is a party as an Owner and not as Declarant, or (b) the District fails to appropriate funds for a payment due by the terms of the Parking Purchase Agreement, and the Subdivided Parking Unit, as defined in the Parking Purchase Agreement is created. In the event (b) occurs, the Subdivided Parking Unit shall be considered Pooled Parking and the Declarant shall be considered an Owner entitled to revenues from such Pooled Parking. Declarant may not use the spaces within the Subdivided Parking Unit except as Pooled Parking.

4. Definitions. The following terms shall have the following definitions. Any capitalized term herein that is not defined below shall have the same definition as in the Declaration. For ease of reference, some of the terms used herein that are defined in the Declaration are attached as Exhibit A. When not inconsistent with context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. Words not defined in this Section or the Declaration shall be given their common and ordinary meaning.

“**Applicable Laws**” shall mean all laws applicable to Depot Square by any entity with jurisdiction, and specifically includes the parking maximums allowed under the zoning

for Depot Square per the approved site plan, and all other zoning requirements of the City.

“**Board**” shall mean the governing body of the Association.

“**Declaration**” shall have the meaning provided in Recital A.

“**Facility Operator**” shall have the meaning provided in Section 11 below.

“**General Public User**” shall mean any vehicle parking in the Parking Facility who is not an RTD User, and is not an Owner Parker.

“**Owner**” shall mean a Party to this Agreement. The Declarant shall be considered an Owner only if it owns the Residential Unit or if the Subdivided Parking Unit is created as provided in the Parking Purchase Agreement.

“**Owner Parker**” shall mean a vehicle driven by a person that is a Permittee of the Owner (which shall include hotel guests and customers that the Hotel Unit Owner has authorized to use spaces allotted to the Hotel Unit) so long as the number of Parking Spaces allocated to the Owner is available for such vehicle. Unless RTD has elected to contribute its spaces to the Pooled Parking, Owner Parker shall not include an RTD User.

“**Parking Facility**” shall mean the Parking Common Elements and the Parking Units collectively including all parking areas within the Parking Structure and the surface parking spaces adjacent to the access drive to the Parking Structure as depicted on the Community Map.

“**Parking Management Professional**” shall have the meaning provided in Section 9 below.

“**Pooled Expenses**” shall mean the actual expenses of (a) accounting for revenues from General Public Users using Pooled Parking in the Parking Facility; (b) allocating such revenues among the owners of the Pooled Parking; (c) collecting and distributing such revenues; and (d) enforcing the terms of this Agreement to the extent this Agreement provides that recovery from such enforcement shall be paid to Parties contributing spaces to Pooled Parking.

“**Pooled Parking**” shall mean Parking Spaces for which any Party, other than the District, has submitted a writing to the District as provided herein for such spaces to be used by General Public Users.

“**SUMP Principles**” shall mean parking that is shared, unbundled, managed and paid as such terms are more specifically defined in Recital G.

“System” shall mean the entry/exit system and all components thereof that are necessary to track each vehicle entering and exiting the Parking Facility to determine whether the vehicle is a RTD User, an Owner Parker or a General Public User and, upon exit, charge vehicles for parking as determined by this Agreement at the rate determined by the District.

5. Parking Program. Each Party, except RTD, submits its Parking Unit as defined in the Declaration to be governed by the SUMP Principles as set forth herein. This Agreement implements the Parking Program as described in the Declaration. Each Party shall have the use of the number of Parking Spaces as defined in the Declaration. The designation in the initial Declaration are as follows, but the number of spaces defined in the Declaration, if amended, shall control:

Depot:	10
District:	100
Hotel:	136
Residential:	71
RTD:	<u>75</u>
	392

6. RTD Parking Unit and Coordination. Until and unless RTD elects to be treated as other Owners, in order to implement C.R.S. 32-9-119.9 and the SUMP Principles for the other Parking Units, the RTD Parking Unit shall be located at the highest part of the Parking Facilities. No vehicle other than a RTD User may use the RTD Parking Unit until such election is made or RTD has contributed spaces to the Pooled Parking. In addition RTD shall:

- a. Work collaboratively with the other Parties for the success of the SUMP Principles at the Parking Facility;
- b. Coordinate its use with the System to verify which vehicles that enter and exit the Parking Facilities using the RTD Parking Unit are qualified RTD Users; and
- c. Not take any action to interfere with the charging for parking by General Public Users.

7. Rules for Owners. In addition to all other terms of this Agreement, the Owners of the Parking Units agree for their respective Parking Units as follows:

- a. Parking Spaces may not be used for any other purpose than parking of vehicles in compliance with this Agreement.
- b. Except for RTD Users in the RTD Parking Unit, Owners cannot allow General Public Users to use its spaces except through contribution to the Pooled Parking described herein.

c. Owners cannot reserve any Parking Space for their own use or use of one of its Permittees, except RTD for RTD Users in the RTD Parking Unit.

8. Role of Owners. In their capacity as Owners of the Parking Units, the Parties are each responsible for the following:

a. Management of its allotted Parking Spaces among its users. Such management includes the distribution of passes for the users of their allotted Parking Spaces and, except for RTD, the manner in which it will charge or distribute allotted passes to its users for use of the Parking Spaces in compliance with the SUMP Principles and this Agreement and setting rules therefor.

b. Parking Spaces are used by Owner Parkers only, unless those spaces have been added to Pooled Parking at the time of use by the General Public User.

c. Owners may not set rules for its users that are inconsistent with this Agreement or the Declaration, provided however, RTD may set rules for RTD Users in the RTD Parking Unit that are consistent with Sections 5 and 6 above.

d. Enforce the rules of use of its Parking Spaces that are consistent with this Agreement as approved by the Board.

e. In the event a Party transfers its Parking Unit in violation of the terms of the Declaration, such transfer shall be null and void and the spaces allocated to such Parking Unit shall be deemed contributed to the Pooled Parking.

f. It shall be a breach of this Agreement for any Party to allow the use of any Parking Space to someone other than its Owner Parker other than if the Owner has made such Parking Spaces available for Pooled Parking.

9. Role of Parking Management Professional. The Board shall hire a professional company or individual (the "Parking Management Professional") to provide parking management services as directed by the Board from time to time and including the following:

a. Maintain and manage the System in accordance with this Agreement and Article 16 of the Declaration.

b. Monitor occupancy and report to the Parties.

c. Prepare monthly and quarterly reports reflecting compliance with SUMP Principles for the District and the Association.

d. Make recommendations to the Board for budgets for long term (10, 15 and 20 years) maintenance, preventative maintenance, capital improvements and technology

upgrades, and plan for and implement long-term preventative maintenance and capital improvements as approved by Board.

e. Manage the Pooled Parking pursuant to this Agreement and the rates to be charged set by the District.

f. Provide an account of expenses monthly allocated as Parking Expenses or Pooled Expenses.

g. Provide a monthly account of revenues from General Public Users allocated among the Parties then participating in the Pooled Parking.

h. Provide a monthly report as to violations of this Agreement, enforcement activity and other matters as may be reasonably required by the Board.

i. Promptly notify the Board of any matter that requires the Board's attention.

j. Perform the duties delegated by the Board.

The Board shall negotiate, approve and enter into a separate agreement with the Parking Management Professional outlining responsibilities, fees and compensation and terms of engagement for such Parking Management Professional.

10. Role of District. The Parties recognize and the District agrees that, except for the RTD Parking Unit, the District shall provide the following support and duties in its capacity as the District regardless of whether it owns a Parking Unit:

a. Monitor the use of the Parking Facility to ensure that the SUMP Principles and the rules of the District are complied with.

b. Propose procedure and implement Pooled Parking procedure for Owner approval in accordance with this Agreement and the Declaration.

c. Determine the amount of fees for General Public Users.

d. Seek strategic opportunities to maximize the use of parking in the Parking Facilities and throughout the District.

e. Coordinate with the Boulder Junction Access General Improvement District-Travel Demand Management to implement the goals of both Districts.

f. Provide input to the Budget for the Parking Facility.

11. Role of Facility Operator. The Board shall hire an operator for the Parking Facility (the "Facility Operator"), who shall have the following responsibilities as directed by the

Board (in addition to any other responsibilities as may be determined by the Board from time to time):

- a. Daily and periodic maintenance of the Parking Facilities, including without limitation, trash and litter pickup, cleaning, graffiti removal, and routine maintenance.
- b. Maintain the Parking Facility in a clean and orderly manner according to the Standards of Maintenance defined by the Association.
- c. Perform the duties delegated by the Board.

The Board shall negotiate, approve and enter into a separate agreement with the Facility Operator outlining responsibilities, fees and compensation and terms of engagement for such Facility Operator.

12. Parking Access System. The Parties intend that the System, or any individual system that is added to the System as permitted by this Agreement, is operated as a unified parking system. No System shall be purchased or installed without the prior written consent of each Party, which shall not be unreasonably withheld. The cost of initially purchasing the System shall be paid by Declarant. The System shall be designed to:

- a. track each vehicle entering and exiting the Parking Facility for purposes of determining whether the vehicle is an RTD User, or an Owner Parker, or a General Public User;
- b. determine the length of time the vehicle was in the Parking Facility;
- c. determine when all of the District spaces are used so that the revenues generated from General Public Users in addition to those using District spaces can be allocated to the pool;
- d. charge the vehicle upon exit for any fees due by General Public Users; and
- e. produce monthly and quarterly reports of the use by each Owner, the revenues collected from General Public Users allocated among the District and other Parties.

In addition, to the extent reasonably possible, the System shall integrate with the property management system and keycard locking system utilized by the Hotel Unit Owner and shall permit "in and out" privileges for Owner Parkers; provided, however, that if the Hotel Unit Owner determines in its reasonable discretion that the System does not integrate with its management system in a manner sufficient to meet its needs, the Hotel Unit Owner, at its cost and expense, may elect to install and operate its own separate parking entry/exit system and all components thereof that are necessary to track each vehicle of its Owner Parkers entering and

exiting the Parking Facility, which separate system shall be integrated with the System. The Hotel Unit Owner shall be responsible for all costs and expenses associated with integrating its own separate parking entry/exit system and all components thereof into the System.

Further, if the RTD Unit Owner determines in its reasonable discretion that the System does not integrate with its management system in a manner sufficient to meet its needs, the RTD Unit Owner, at its cost and expense, may elect to install and operate its own separate parking entry/exit system and all components thereof that are necessary to track each vehicle of its RTD Users entering and exiting the Parking Facility, which separate system shall be integrated with the System. The RTD Unit Owner shall be responsible for all costs and expenses associated with integrating its own separate parking entry/exit system and all components thereof into the System.

For the purposes of this section, “integrate” or “integration” of an individual system into the System means that together, the systems will meet the requirements of the subparagraphs a. through e. above.

13. Pooling of Spaces. To optimize the implementation of the SUMP Principles the spaces within the Parking Facilities may be pooled for use by General Public Users when an Owner elects to contribute spaces to the pool. Each Party may pool any or all of its spaces for particular hours, days, weeks or months as provided in this section. When a Party contributes any spaces to the pool, it shall receive the revenue derived therefrom, calculated as provided in this section.

a. Calculation of Revenues for Pooled Parking. For any General Public Users entering the Parking Facilities after the District spaces are full, the System shall count the vehicles and the fees received for such Pooled Parking. The fee revenue from such Pooled Parking shall be distributed to the Owners pooling spaces on a monthly basis, after deduction of the Pooled Expenses. The formula for distribution of such revenue shall be:

Amount Payable to Owners for Spaces Contributed to Pooled Parking =

$$\frac{(\text{Revenue from Pooled Parking} - \text{Pooled Expenses})}{\text{Number of spaces in Pooled Parking}}$$

X *Number of spaces Owner designated for Pooled Parking during period of calculation*

b. Procedure for Pooling Spaces. The Party desiring to contribute spaces to the pool shall complete the written form developed by the District, specifying the number of spaces, the time(s), and day(s) for which it desires to contribute spaces to the Pooled Parking. The District may rely on such completed form for programming the System and planning use of the Parking Facilities. The Party may revoke or revise the spaces

contributed to the pool by completing a revised written form and providing such writing to the District.

14. Delineation of Parking Spaces. The initial delineation of each Parking Space marked in the Parking Facility for one vehicle, and whether it is for a handicapped, compact or regular vehicle or a bicycle, is included within the tech docs for Depot Square. In the event that the Parties determine that a reallocation of spaces within the Parking Facilities other than the RTD Parking Unit is necessary to accommodate a different mix of parkers, the District shall propose a revised plan for demarcation to be approved by the Parties. In the event that the revised plan results in more or less parking spaces, the increase or reduction of spaces shall be allocated proportionately among the Owners unless otherwise agreed by the Parties.

15. Enforcement of Agreement. In the event any Party breaches this Agreement, and such breach continues beyond written notice and 10 days to correct the breach, in addition to any other remedy allowed at law or equity, the breaching Party shall pay to the District the amount for its spaces corresponding to the full-time use of the portion of the Parking Spaces related to the breach allotted to its Parking Unit by a General Public User. The District shall distribute any revenues received from a defaulting Party as provided for distribution of other revenue from General Public Users as if the spaces of the Party in breach were part of the Pooled Spaces (but excluding the defaulting Party as a recipient of such revenue).

16. Disputes – mediation. If disputes remain unresolved after negotiations between the Parties, the Parties shall submit the disputes to nonbinding mediation. The Parties shall attempt to jointly select the mediator from a list of proposed mediators generated by the Parties. The Parties may seek the assistance of the American Arbitration Association in generating a list of potential mediators. Each party shall bear its own costs associated with presenting any disputes to the mediator, which costs shall not be recoverable as part of a change order or in any subsequent litigation or arbitration. No decisions or statements of the mediator may be admitted as evidence in any subsequent litigation between the Parties nor may the mediator be called to testify in any litigation.

In the event any dispute, mediation, arbitration, or litigation arises under this Agreement and during the time such dispute, mediation, arbitration, or litigation is pending, the Parties shall continue performance under this Agreement in accordance with the terms and conditions hereof. The submittal of disputes to non-binding mediation shall be a condition precedent to commencing litigation or arbitration by either party. Except as may otherwise be provided by law, no claims, disputes, or other disagreements arising out of this Agreement shall be decided by arbitration.

17. Responsibility. Each party assumes responsibility for itself and its Permittees the actions and omissions to act in the performance or failure to perform work under this Agreement. Neither RTD, the District, nor the City waives or intends to waive the limitations on liability which are provided to RTD, the District and the City, their officers, and employees under the Colorado Governmental Immunity Act, C.R.S. 24-10-101 *et. seq.*

18. Notice. Any notice required by this Agreement shall be in writing, made by hand-delivery or certified mail, return receipt requested, or electronic mail and addressed to the following:

To RTD: Assistant General Manager for Safety, Security and Facilities
1600 Blake Street
Denver CO 80202

With a copy to:
General Counsel
1600 Blake Street
Denver CO 80202

To District: City Manager
With a copy to BJAD-P District Manager
Municipal Building
P.O. Box 791
Boulder, CO 80306

To City: City Manager
Boulder Municipal Building
P.O. Box 791
Boulder, Colorado 80306

To Residential
Unit Owner: 3001 Pearl, LLC
Scott Pedersen, Manager
P.O. Box 328
Boulder, CO 80306

To Hotel
Unit Owner: HP Boulder, L.L.C.
c/o Hyatt Corporation
71 South Wacker Drive
Chicago, IL 60606
Attention: General Counsel
Telephone: 312/750-1234

With a copy to:

Hyatt Corporation
71 South Wacker Drive
Chicago, IL 60606
Attention: Charles Barcus

To Declarant: 3001 Pearl, LLC
Scott Pedersen, Manager
P.O. Box 328
Boulder, CO 80306

Notice given by hand-delivery or electronic mail shall be effective immediately and notice by mail shall be effective three days after it is deposited in the United States mail depository correctly addressed with sufficient postage for delivery.

19. General Provisions

a. Term. Unless otherwise agreed by the Parties in writing, this Agreement shall be effective unless and until the Project is terminated as described in the Declaration.

b. Complete Agreement. This document represents the complete agreement between the Parties with respect to the Parking Management Agreement defined in the Declaration. Parties to this Agreement must be Owners of Parking Units in the Parking Facilities or the District, and no Party shall assign, sublet or transfer its interest in the Agreement separate from ownership of its Parking Units. No amendments or modifications shall be made to this Agreement unless it is in writing and signed by all Parties.

c. Attorney's Fees. If there is a default in the payment or performance of this Agreement, the defaulting party shall pay the other Parties' reasonable attorneys fees and costs incurred to pursue correction of the default, even though no suit or action is filed, as well as any other fees or expenses incurred by the non-defaulting party.

d. Governing Law. This Agreement is governed by the laws of the State of Colorado and the Applicable Laws. Any suit between the Parties arising under this Agreement shall be brought only in a court of competent jurisdiction for the Twentieth Judicial District of the State of Colorado.

e. No Third Party Beneficiaries. This Agreement and all terms in this Agreement are for the benefit of the Parties hereto, and no other party.

f. Binding Effect. This Agreement shall be binding upon the Parties and their successors and assigns. Except for the District, this Agreement is among the Parties in their capacities as Acceptable Owners. Except for the District, no Party may remain a beneficiary of this Agreement if it sells or otherwise conveys its Unit in Depot Square. This Agreement is assignable and shall be assigned by a party if it sells or otherwise conveys its Unit in Depot Square.

g. Waiver. No waiver of any right under this Agreement shall operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision of this Agreement.

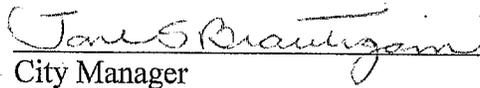
h. Cooperation. Each party agrees to perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intent and purposes of this Agreement.

i. Severability. Each provision of this Agreement shall be severable. If any provision is held invalid, contrary to, or in conflict with any law or regulation by a tribunal with competent jurisdiction, the remainder of this Agreement shall remain in effect.

j. Counterparts. This Agreement may be signed in counterparts.

CITY:

CITY OF BOULDER



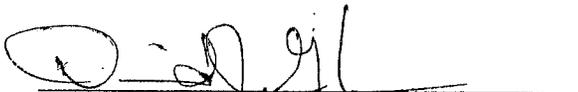
City Manager

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney's Office

DECLARANT:

3001 PEARL, LLC, a Colorado limited liability company

By: 
Scott Pedersen, Manager

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 26th day of July, 2013, by Scott Pedersen, as Manager of 3001 Pearl, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 5/25/2016


Notary Public

COLIN G. SNODY
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 05/25/2016

DISTRICT:

**BOULDER JUNCTION AREA GENERAL
IMPROVEMENT DISTRICT – PARKING**

By Jane S. Brautigam
City Manager as General Manager of BJAD-P

ATTEST:

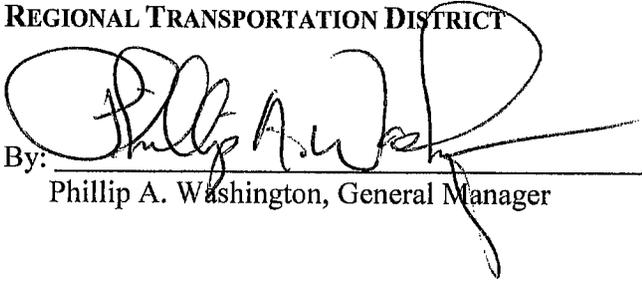
By Alisa D. Lewis
City Clerk

APPROVED AS TO FORM:

[Signature]
City Attorney's Office

RTD:

REGIONAL TRANSPORTATION DISTRICT

By: 
Phillip A. Washington, General Manager

APPROVED AS TO LEGAL FORM
FOR RTD:


General Counsel

RESIDENTIAL UNIT OWNER:

3001 PEARL, LLC, a Colorado limited liability company

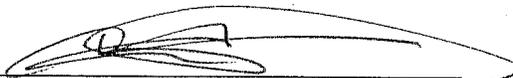
By: 
Scott Pedersen, Manager

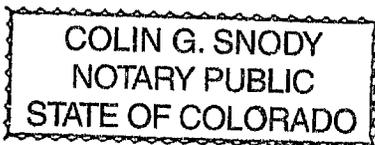
STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 26th day of July, 2013, by Scott Pedersen, as Manager of 3001 Pearl, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 5/25/2016

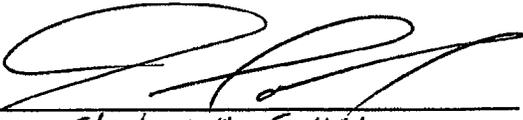

Notary Public



My Commission Expires 05/25/2016

HOTEL UNIT OWNER:

HP BOULDER, L.L.C., a Delaware limited liability company

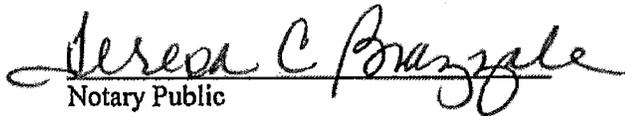
By: 
Name: Stephen M. Sokal
Title: VICE PRESIDENT

Illinois
STATE OF COLORADO)
Cook) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 12 day of August, 2013, by Stephen M. Sokal, as Vice President of HP Boulder, L.L.C., a Delaware limited liability company.

Witness my hand and official seal.

My commission expires: 8/6/2015


Notary Public

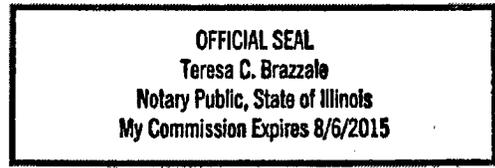


EXHIBIT A

DEFINITIONS FROM DECLARATION

In the event any of the following definitions are revised in the Declaration, the definition of the term in the Declaration shall control

“Acceptable Owner” is defined in Section 16.2 of the Declaration.

“Parking Expenses” are defined in Section 9.2.3 of the Declaration.

“Parking Spaces” shall mean the area delineated by markings within the Parking Facilities for use by one vehicle. References to a Parking Space(s) do not entitle the owner or user thereof to exclusive use of a particular space or area, but only the number of vehicles a Party has a right to park in the Parking Facility.

“RTD User” shall mean a vehicle using the Parking Facility while the driver is utilizing the mass transportation system operated by RTD and complying with RTD parking requirements while parked in the Parking Facility, which vehicle is using a Parking Space included in the Parking Unit owned by RTD.

**CITY OF BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING MINUTES FORM**

NAME OF BOARD/COMMISSION: **BOULDER JUNCTION ACCESS DISTRICT**

NAME/TELEPHONE OF PERSON PREPARING SUMMARY: **Ruth Weiss – 303-413-7318**

NAMES OF MEMBERS, STAFF, AND INVITED GUESTS PRESENT:

BOARD MEMBERS: KOVAL, SHANAHAN, PEDERSEN, OSBORNE, PAWLOWSKI, SUTHERLAND
(absent)

STAFF: WINTER, MATTHEWS, WEISS, HAGELIN, ROBERTS, BRACKE, HADDOCK,
STIFFLER

GUESTS:

TYPE OF MEETING: **Regular** **December 3, 2014**

AGENDA ITEM 1 – Roll Call: Meeting called to order at 9:06 a.m.

AGENDA ITEM 2 – Approval of the November 5, 2014 Joint Meeting Minutes (Action Item Below)

AGENDA ITEM 3 – Disclosure of Conflict of Interest: Completed.

AGENDA ITEM 4 – Public Participation: None

AGENDA ITEM 5 – City Council Questions for 2015: Winter discussed the council questions with the board. Osborne would like council to know that the fruits of planning work for Boulder Junction are now being seen and in the course of the coming years, council needs to think about the city’s housing needs for this property and how to accommodate alt modes. Koval said the message needs to be sent to council that planning needs to commence on the Pollard site. Winter said that the Pollard site is on the radar screen for council and there is the need to see how Boulder Junction develops out and it is a matter of prioritization. Winter acknowledged that there is a sense of urgency by the board in terms of getting started in the planning process on the Pollard site rather than waiting to 2016. Koval said that council needs to vision the community benefits and resources are needed for access, transportation and parking and the commission would like to be part of the prioritization. Osborne said that putting the Quiet Zone for Boulder Junction on council’s radar is necessary. Shanahan questioned the negotiation of the car share program enhancement. Priorities include transportation around Boulder Junction and district parameters. Enhancing Boulder Junction as a hub for transportation and internal circulation between areas similar to the HOP, enhancing car share program as an important part of the TDM program are suggested priorities. Koval said council needs to tap the commission for policy discussions, council seems to have no understanding of what the commission is doing, and should tap them as an advisory board. Pawlowski suggested asking council what they would like from the commission. Koval believes that the board has a different perspective to offer. Winter said some boards have a designated council person to communicate with and have a check in on an individual basis. This will be on the commission’s January agenda.

AGENDA ITEM 6 – City Attorney Update on Petition Process: Haddock said that notice was received from Packard Dierking that Depot Square is 4 months out for completion. Haddock spoke about the petition process and the inclusion of the properties as outlined in the agreements. Haddock said that BJAD is the final decision maker on properties to include unless arbitrary by council. The Pilot Agreement would need to be signed by new properties along with a promise to pay taxes, acknowledge all the rules and comply with the rules of the district. Haddock outlined the details of including a property in the district. Winter clarified that when it says BJ-P, it also includes the TDM. Pawlowski asked what it legally takes to expand the borders of the district. Koval asked if there have been any requests and Winter replied none formally. Haddock said that the criteria to evaluate needs to be determined. Hagelin said on the business EcoPass side, the more properties there are, the expense lessens. Winter offered that the concept to expand the boundaries of BJAD TDM to the east is something to consider. Koval what is the cost benefit analysis by an estimate of employees. Osborne questioned if additions to the district could be in the TDM district and not in the parking district. Winter gave an analysis of the parking situation. Winter mentioned that they may reach out to the Reve project and Google and see if this is something they may want to consider.

Haddock has received notice, under the Parking Purchase Agreement, that the parking structure is within 4 months of

substantial completion and the board needs to decide when to take title of the parking spaces in the garage. Pedersen offered that the hotel is projected for CO in the middle of February, residential should CO sometime in the middle of April. Koval questioned a fair way to allocate parking to 3100 Pearl, should a system be created? Winter replied that it will need to be looked at differently. Winter offered that the Depot restaurant scheduled to open in June. Winter said some spaces will be retained as short term parking and will also look at the demand at 3100 Pearl. Pedersen said should have the garage access system in place by the end of June. Winter remarked that the rate structure will need to be reviewed and the residential is a component and will need to review the market for permits. Haddock offered that the way the agreements are set up is with the Condo Association and representatives are needed to be on the Condo Association Board. Winter mentioned the condo declaration language and the parking management agreement. The process for the parking district board electing a representative to the condo board will take place at the January 7th BJAD commission meeting.

AGENDA ITEM 7 – Update on Pollard Property by Housing Department – Beth Roberts: Roberts, Housing Division, said that in 2015 staff will be tasked with an analysis of the Pollard site on processes and procedures but now there is no activity. There will be a Study Session in late 2015 with council. The Pollard lease expires in the fourth quarter of 2016 and it could be moved earlier but not extended. Koval said the site is currently being graded. Pedersen asked if Housing is entertaining purchasing the site. Roberts replied that anything is on the table right now.

AGENDA ITEM 8 – Matters from the Commissioners:

AGENDA ITEM 9 – Matters from the Staff: Kathleen Bracke, Go Boulder Manager, introduced Natalie Stiffler. Bracke said that all capital improvements are underway in Boulder Junction and the Transit Center is scheduled to have a soft opening in 2015 that serve existing routes. The grand opening will be in coordination with the launch of the I-36 bus rapid transit service scheduled in January 2016. The HOP will continue to stop at 30th and Pearl. Bracke continued that the Boulder Junction Transit Center will be branded as Boulder Junction Transit Center and not as an address, 30th and Pearl, as RTD typically brands stops. Service changes that are coming in January of 2015 by RTD is to the Bound and BX to enhance the routes and address overcrowding. There is a public meeting this evening at the Boulder County Courthouse from 5 – 7 pm. Bracke said the proposed changes by RTD is the branding the US36 route the Flatirons Flyer with a color scheme and graphics to create a unique identity. Staff's concerns include the Boulder Rapid Transit (BRT) service for all day and wide spread service will impact Peak Hour express service. Another concern is that RTD Service Planning is looking at existing ridership and staff believes they should look at future demand with changing community needs, a concern by Boulder and community staffs. Another concern is that the service proposal is showing Peak times and should look at frequency of service and reliability and need to enhance all services to Boulder and Boulder Junction. Pawlowski asked if RTD is de-committing and Bracke replied that RTD is looking to even out the service and not growing the service, a reallocation philosophy and not an enhancing philosophy. Osborne asked the theory behind the design of bus route. Osborne said that the RTD approach now is taking the current routes and moving them around and not adding new trips. Bracke responded it's about service hours and RTD is struggling with the allocation in the corridor. Staff hopes RTD will do an optimization of the routes. Bracke offered that the over the road buses will be used with the Flatiron Flyer, branded for the I36 route. RTD will work with local communities to design the bus and the I36 BRT is the first for RTD and there is an I36 Coalition working to influence RTD on the routes and service. There will be another meeting in January about these service changes. Bracke continued that in 2016 they are looking to reduce the service of the 209 and 206. Bracke remarked that staff is looking out for Boulder Junction and want to enhance the services.

Shanahan asked on an update on the Quiet Zone. Bracke replied they are looking for funding for the recommended improvements of \$5 million dollars. Pedersen questioned if the funding is completely through the grant process. Bracke replied that any type of combination would be a step in the right direction. Pedersen questioned the city's potential participation and Bracke replied that it is being investigated. Discussion continued on the technical issues of the improvements and range of costs. Pedersen questioned if a private entity could do it and Bracke said that it is the cost of the railroad and it could be done by a private entity but would have to be approved by the railroad. Bracke mentioned some grants to pursue for the funding. Shanahan questioned how many grants have been applied for and Bracke replied that there are no grants that fit the letter of certain types of funding programs. Koval questioned the HOP service and who runs it. Winter mentioned that downtown is looking at a trolley to access Boulder Junction. Osborne mentioned the transportation system in Portland, OR, and its efficiency. Bracke remarked that the Portland system is inspiring. Pedersen mentioned that RTD is branding the I36 BRT and asked about Boulder Junction. Bracke remarked that Boulder Junction at Depot Square does identify the place. Pedersen asked if staff is presenting any studies to RTD about services to Boulder Junction. Bracke replied that staff has done an in-depth analysis that they will share with RTD.

Chris Hagelin, Senior Transportation Planner, mentioned the neighborhood EcoPass is being renewed for Boulder Junction.

Of the 298 residential units with 246 occupied, over 200 EcoPasses have been issued so far for 3100 Pearl. The 2015 contract estimated cost is \$47,232 for the contract start and as new residential projects open, it will be adjusted. The business master contract is written and the estimated number of employees at the Hyatt has not been provided. The community wide EcoPass study is continuing with a kick off meeting tomorrow to talk about the possible paths to go down, funding sources, looking at implementation and service aspects, are moving forward. Hagelin continued that the city and county have jointly began looking at bike storage facility similar to the secure bike storage at the Table Mesa ParkNRide.

Winter mentioned the Joint District Board Meeting on January 21 and the District Board meeting may occur in March.

Meeting adjourned at 10:12 a.m.

ACTION ITEMS:

MOTION: Pawlowski motioned to approve the November 5, 2014 meeting minutes. Shanahan seconded the motion. With additions as suggested by Koval. The motion passed unanimously 5 -0.

January 7, 2014	FUTURE MEETINGS: Council Chambers	Regular Meeting
APPROVED BY:		BOULDER JUNCTION ACCESS DISTRICT JOINT COMMISSION

Attest:
Ruth Weiss, Secretary

Scott Pedersen, Chair - Parking

John Pawlowski, Chair - TDM

2015 Retreat Questions for Boards and Commissions

Boulder Junction Access District/Parking Commissions

What are your priorities within the framework of the current council work plan that was adopted at last year's council retreat?

The community is beginning to see the fruits of many years of planning and public investment focused on the building of the city's first transit-oriented development (TOD) – the RTD bus rapid transit station, the new hotel, multi-family housing including permanently affordable units, the restoration and repurposing of the depot, the shared street design of Junction Place, a public plaza and the implementation of a TDM taxing district and the mobility amenities that it provides.

As this new city neighborhood emerges, there are certain to be challenging new issues and opportunities that Council and the commissions will be called upon to address.

What would you like to see done to further advance the council goals?

1. Planning for the Pollard Site

The Boulder Junction Commissions feel strongly that planning work on the Pollard site must start sooner than the end of 2015. The site is key to the future of the area, and preliminary work exploring the options and development priorities for the site will take time. Further, from the perspective of the Boulder Junction commissions, the site may have a role to play in the parking supply for the area.

2. Implementing “quiet zone” improvements

Livability in the new neighborhood is compromised by excessive train noise, and this will become a greater factor as Boulder Junction builds out. The city must begin to explore funding options to make quiet zone improvements at Valmont and Pearl.

3. Planning for “last mile” strategies

Boulder Junction's role as a future transportation hub will be strengthened by the development of strong inter-city circulation options. Ideas to consider in a TMP update include a HOP-like shuttle to East Arapahoe and the employment area to the east, a car share station and a trolley to the downtown.

New goal from Susan:

4. Lobbying the state legislature for changes to promote ownership options in higher density residential projects (underline) The success of Boulder Junction, and other similar areas, will depend on providing both rental and ownership options to future residents. Current state law creates a

disincentive to build for sale units. The 2015 legislative agenda should include lobbying for a solution to this problem.

New goal from John P:

5. Expand the Boulder Junction TDM access district to include adjacent properties such as the REVE project and the Google, Pearl Place. This would expand the concept of the TOD district and provide those properties that would petition into the taxing district the opportunity for EcoPasses, and bike and car share memberships.

How can your board help reach the current council goals?

The members of the Boulder Junction Access and Parking Commissions are available to the Council to share knowledge and expertise. The commissioners often feel that they are operating in a vacuum, and that the Council doesn't understand what the commissions do.

Are there city policies that need to be addressed to enable your board to function at a higher level?

The commissioners request a reassessment of the current two commission structure -- one for travel demand management and one for parking. Most, but not all, members serve on both commissions. This has resulted in occasional confusion. Cannot the same members act on behalf of the TDM district, adjourn and reconvene as the parking district commission?

Are there other priorities outside of the council goals that your board/commission would like to address in the coming year?

It is the intention of commission members to reach out to individual council members to share information and to learn council expectations.

2015 City Council Members

Matt Appelbaum
Macon Cowles
Suzanne Jones
George Karakehian
Lisa Morzel
Tim Plass
Andrew Shoemaker
Sam Weaver
Mary Young

**BJAD JOINT COMMISSION
2015 MEETING SCHEDULE
9 – 11 am**

JANUARY 7	COUNCIL CHAMBERS
FEBRUARY 4	COUNCIL CHAMBERS
MARCH 4	COUNCIL CHAMBERS
APRIL 1	COUNCIL CHAMBERS
MAY 6	COUNCIL CHAMBERS
JUNE 9	COUNCIL CHAMBERS
JULY 1	COUNCIL CHAMBERS
AUGUST 5	COUNCIL CHAMBERS
SEPTEMBER 2	COUNCIL CHAMBERS
OCTOBER 7	COUNCIL CHAMBERS
NOVEMBER 4	COUNCIL CHAMBERS
DECEMBER 2	COUNCIL CHAMBERS

such Improvements, in each case, without the prior written approval of the Owners (except any borrower of the GCE/PCE Interest Holder who is also an Owner), which shall not be unreasonably withheld.

6.2 **PERSONAL PROPERTY.** The Association may acquire, hold and dispose of tangible and intangible personal property. The Owners shall have no beneficial interest in such property, except such right to enjoyment and use thereof as may be granted to the Owners by applicable Rules. Each Owner may use such personal property for its intended purpose, subject to the Rules, without hindering or encroaching upon the lawful rights of the other Owners.

6.3 **BOARD OF DIRECTORS.**

6.3.1 *Number and Classification of Directors.* The Board of Directors shall consist of five persons. One member shall be nominated and elected by the Owner of the Hotel Unit (or the Owners of Units resulting from a subdivision of the Hotel Unit), one member nominated and elected by the Owner of the RTD Unit (or the Owners of Units resulting from a subdivision of the RTD Unit), one member shall be nominated and elected by the Owner of the Residential Unit or the Residential Community, if created, one member shall be nominated and elected by the GID so long as the GID owns a Parking Unit and one member shall be appointed by the Owner of the Depot Unit (or the Owners of Units resulting from a subdivision of the Depot Unit). All members of the Board shall be Members of the Association, or in the event that a Member is an entity other than a natural person, such member of the Board shall be an authorized representative of such entity Member.

6.3.2 *Powers of the Board.* Except for those matters expressly reserved to the Members as provided in the Association Documents or the Nonprofit Act, the Board may act in all instances on behalf of the Association and in a manner consistent with this Declaration, to:

- (a) Adopt and amend bylaws, Rules, Policies and Plaza Rules;
- (b) Determine Common Expenses and adopt and amend the Budget for revenues, expenditures and reserves;
- (c) Collect Assessments and suspend an Owner's use of Parking Spaces as a consequence of such Owner's failure to pay when due such Owner's Assessments, as provided in Section 6.9 below;
- (d) Determine whether issues to be submitted to the Members of the Association shall be categorized as Parking Issues, a specific LCE Issue or Project Issues;
- (e) Hire and terminate Managing Agents and other employees, agents and independent contractors;
- (f) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Project;
- (g) Make contracts and incur liabilities, except that any agreement for professional management of the Association's business or other contract providing for services by Declarant to the Association shall have a maximum term of three years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice;
- (h) Regulate the development, use, maintenance, repair, replacement and modification of Common Elements;

(i) Cause additional Improvements to be made as a part of the Common Elements;

(j) Acquire, hold, encumber and convey in the name of the Association any right, title or interest in real or personal property, provided that no financial encumbrances shall impair the use or value of any Common Element without the consent of all Owners to which use of the Common Element has been allocated;

(k) Subject to compliance with the Owner consent requirements imposed under Section 312 of the Act, dedicate, grant and convey any General Comment Element as public right-of-way to the City, in which event effective upon recording of such dedication and conveyance the public right-of-way so conveyed will be removed from the Project and thereafter no longer subject to the terms and conditions of this Declaration;

(l) Grant easements, leases, licenses and concessions through or over the Common Elements, provided that such easement, license or concession does not materially impair the value or use by Unit Owners of such Common Elements;

(m) Impose and receive any payments, fees or charges against the hosting Owner or user for any special use, rental or operation of the Common Elements (other than those Limited Common Elements described in Sections 202(1)(b) and (d) of the Act) for a specific reception or event;

(n) Enforce any Rules or Policies adopted by the Board, including enforcement by levying and collecting charges or fines for the violation thereof;

(o) Impose charges (including late charges and default interest) for late payment of Assessments, recover reasonable attorneys' fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of provisions of the Association Documents or otherwise suspend other membership privileges (except that notice and opportunity to be heard shall not be required before suspension of membership privileges for failure to pay Assessments within thirty (30) days after they become due);

(p) Impose reasonable charges for the preparation and recordation of amendments to this Declaration or statements of unpaid Assessments;

(q) Provide for the indemnification of its officers and Board to the extent permitted by applicable law and maintain directors' and officers' liability insurance;

(r) Assign its right to future income, including the right to receive Assessments, except that such Board action will be effective only with the consent of Sixty-Seven Percent of Owners and First Mortgagees;

(s) Obtain insurance coverage in accordance with the requirements of Article 10 below;

(t) Exercise any other powers conferred by this Declaration or the Bylaws;

(u) Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association, including those powers specified by the Nonprofit Act; and

(v) Exercise any other powers necessary and proper for the governance and operation of the Association.

6.4 SUBMISSION OF MATTERS TO OWNERS. Notwithstanding any provision of this Declaration, the Articles or the Bylaws to the contrary, any Owner or group of Owners of the Association holding fifteen percent (15%) or more of the Voting Interests (as determined under Section 9.3.1), applicable to any matter, shall have the right to require the Board to submit any decision of the Board of Directors to a vote of those Owners permitted to vote on such matter in their capacity as Members of the Association. If the Owners make a decision different from the Board by a vote of at least fifty-one percent (51%) of all eligible votes outstanding (not fifty-one percent (51%) of the votes that may be cast by Owners present at a meeting) or such higher percentage as may be specified in this Declaration or the Act, the decision of the Owners shall govern the actions of the Association.

6.5 ARTICLES OF INCORPORATION AND BYLAWS. The purposes and powers of the Association and the rights and obligations of the Association with respect to Owners set forth in this Declaration may be amplified, but not modified, by the provisions of the Articles and the Bylaws. In the event of a conflict between the provisions of the Articles and the Bylaws and the provisions of this Declaration, the provisions of this Declaration shall control.

6.6 COMMON ELEMENTS.

6.6.1 Except as otherwise provided in Sections 5.4 and 6.6.2, the Association shall provide for the care, operation, management, and Repair Work for the Common Elements. Without limiting the generality of the foregoing, such obligations shall include keeping the Common Elements in good, clean, attractive and sanitary condition, order and repair; repair of the exterior areas of the Common Elements (including glass); removal of snow and any other materials from such Common Elements that might impair access to the Units or the Project (including the pedestrian and vehicle areas of the Common Elements); and making necessary or desirable alterations, additions, betterments, or improvements to or on the Common Elements. In general, the Association shall exercise its duties in a manner designed to maintain the value of the Project as a first class mixed-use real estate property comparable to other first class mixed-use properties of similar size in Boulder, Colorado.

6.6.2 Notwithstanding the principal obligation of the Association to maintain the Common Elements, each Owner will maintain the exterior surface areas of its Unit in good, clean, attractive and sanitary condition and order (other than Repair Work to Common Elements that are structural elements), including without limitation, window cleaning.

6.7 MANAGING AGENT. The Association may contract with a Managing Agent to manage the affairs of the Association, which Managing Agent may charge competitive fees for the services provided. Any contract with a Managing Agent shall provide for the right of the Association to terminate such contract without penalty or termination fee at any time upon not more than ninety (90) days' notice.

6.8 BOOKS AND RECORDS. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and to Mortgagees, current copies of the Association Documents and the books, records and financial statements of the Association prepared pursuant to the Association's Bylaws and as required by the Nonprofit Act and the Act. The Association shall maintain and make reasonably available for inspection and copying by Owners and First Mortgagees such books and records as may be required under the Act and as required by the Nonprofit Act. The Association may charge a reasonable fee for copying such materials. For purposes of this Section, reasonably available shall mean (a) available during normal business hours upon at least five business days' prior notice or (b) at the next regularly scheduled meeting if such meeting occurs within thirty days after the request.

Weiss, Ruth

From: Winter, Molly
Sent: Friday, December 19, 2014 6:39 AM
To: Weiss, Ruth
Subject: FW: Video pilot project for Boards and Commissions - we START in JANUARY

Importance: High

From: von Keyserling, Patrick
Sent: Thursday, December 18, 2014 7:50 PM
To: Directors
Cc: Winstead, Josh; CMO Communication Team; City Clerk Staff
Subject: Video pilot project for Boards and Commissions - we START in JANUARY
Importance: High

At today's M-Team, I shared that the Board & Commission council committee (Shoemaker and Plass) directed us to move forward in January with televising **Study Sessions** and all regularly scheduled **Planning Board** and **OSBT** meetings. We also will develop a process for all boards and commissions to submit a request for TV coverage to CAC 30 days in advance of the proposed date. Such a request will require CAC approval and for the meeting to occur in Council Chambers. This also is the case if Planning Board or OSBT would schedule an extra meeting during the month that should be televised.

A few other details to be aware of:

- Televised meetings must be noticed in the Daily Camera public meeting ads.
- Televised meetings will be shown live and archived online. They may be repeated once during the month (scheduling is still being finalized.)
- All Board and Commission meeting dates/locations will be publicized on the Ch. 8 message board. (send ASAP your meeting dates, locations and times to Patrick von Keyserling for January B & C meetings)
- We are working on a recommended meeting length for televised meetings. **Currently the recommendation is 6-10 p.m.**
- We will be developing standard guidelines to notice B&C meetings and Agendas (such as Camera Ads, Ch. 8 Message boards, use of listserves, etc.)
- We will develop a Board & Commission web page that includes Agendas, minutes, calendar and video archives of televised meetings.
- The Council committee and staff will reconvene in early February to assess how January went.
- We will survey the community in May to determine if the pilot will continue past June 30.

Please make your board admins & support staff aware of the pilot project plans. Please also inform the Planning Board and OSBT that meetings will be televised beginning with the first meeting in January 2015. The first meeting will include a 15 minute instruction on TV etiquette. Please make sure there is time prior to the start of the first January meeting for this quick review.

If you have questions, concerns, or input, please contact me. Thanks for your support as we launch this pilot.