

**BOULDER CITY COUNCIL MEETING
COUNCIL CHAMBERS, 1777 Broadway
Tuesday, March 18, 2014**

4:00-5:30 PM Briefing: Flood Recovery and Resiliency

AGENDA – 6:00 PM Regular Meeting of City Council

1. **CALL TO ORDER AND ROLL CALL**
2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE** (limited to 45 min.) Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place, any remaining speakers will be allowed to address council. All speakers are limited to three minutes.
3. **CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time.
 - A. Consideration of a **motion to approve the City Council Meeting Minutes from February 18, 2014**
 - B. Consideration of a **motion to approve the City Council Meeting Minutes from March 5, 2014**
 - C. Consideration of a motion to **accept the summary of the February 11, 2014, study session regarding the 2014-2015 work plan** and next steps
 - D. **Third reading** and consideration of a motion to adopt **Ordinance No. 7959, amending Chapter 7-6, “Parking Infractions,” B.R.C. 1981**, by adding a new Section 7-6-30 **prohibiting parking by non-electric vehicles at electric vehicle charging stations**, amending Section 7-6-2 by adding a penalty of \$50 and setting forth related details
 - E. **Third reading** and consideration of a motion to adopt **Ordinance No. 7962 amending Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981**, by adding a new Section 6-3-12 **requiring bear resistant containers in a designated area** of the city; amending Section 6-3-2, by adding new definitions; adding administrative penalties for violations and setting forth related details
 - F. Consideration of a **motion to approve a twenty year lease for three right-of-way encroachments** (stone bench, accessible ramp and stairs) for the benefit of the property located at **934 Pearl Street**

Applicant: Rocky Mountain Boulder, LLC and AHM Properties, LLC

4. **POTENTIAL CALL-UP CHECK IN**

Opportunity for Council to indicate possible interest in the call-up of an item listed under agenda Item 8-A1.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS** (Items 5A and 5B public hearings will be combined as one).
 - A. Second reading and consideration of a motion to adopt **Ordinance No. 7965 amending Titles 4, 5, 6 and 8, B.R.C. 1981, to modify the general penalty provisions and amending Titles 5 and 7 by repealing Section 7-5-17 regarding pedestrian interference with vehicles Section 7-5-25 regarding staying on medians and adding those provisions to new Sections 5-6-15 and 5-6-16, B.R.C. 1981, and setting forth related details**
 - B. Second reading and consideration of a motion to adopt **Ordinance No. 7966 amending Title 5, "General Offenses," B.R.C. 1981 by adding a new section 5-5-20 adding a provision prohibiting unlawful conduct on public property and amending Chapter 2 "General Provisions," by amending Section 5-2-4, B.R.C. 1981 to allow for criminal penalties under the new Section 5-5-20 and setting forth related details**
6. **MATTERS FROM THE CITY MANAGER**
 - A. **Update on Xcel Partnership Task Force**
 - B. Consideration of a **motion to authorize the City Manager to use the negotiated method of sale for issuing Open Space bonds in 2014**
7. **MATTERS FROM THE CITY ATTORNEY**

None
8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL**
 - A. Potential Call-Ups
 1. **Site Review at 1301 Walnut Street Information** Packet Date: March 18 Last opportunity for call-up: March 18
 - B. **Appointments to Boards and Commissions**
 - C. **Consideration of a motion to approve a funding request from the Boulder/Yamagata Friendship Committee** related to the 20th Anniversary Celebration of the Boulder-Yamagata Sister City Relationship
9. **PUBLIC COMMENT ON MATTERS** (15 min.) Public comment on any motions made under Matters.

10. **FINAL DECISIONS ON MATTERS** Action on motions made under Matters.

11. **DEBRIEF** (5 Min.) Opportunity for Council to discuss how the meeting was conducted.

12. **ADJOURNMENT**

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CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
February 18, 2014

1. CALL TO ORDER AND ROLL CALL – 6:00 PM

Mayor Appelbaum called the regular February 18, 2014 City Council meeting to order at 6:00 PM in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Cowles, Jones, Karakehian, Morzel, Plass, Shoemaker, Weaver and Young.

Mayor Appelbaum moved, seconded by Council Member Plass, to amend the agenda by adding item 3I, a motion to call a special meeting on Thursday, February 20, 2014 at 6:00 PM to consider changing the date of the March 4 meeting. The motion carried 9:0 at 6:08PM.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE - 6:07 PM

1. Molly Davis – Spoke in support of requiring bear resistant containers in the areas west of Broadway designated in the agenda packet.
2. Brenda Lee – Spoke in opposition to the proposed ordinance requiring bear resistant containers in specific areas, she expressed concern that the ordinance was still not robust enough to be enforced.
3. Kris Middendorf – Spoke on behalf of the Department of Wildlife asking that the enforcement of the proposed ordinance relating to trash and bear resistant containers be consistent going forward. He was in favor of the proposed ordinance.
4. Anne Tapp – Spoke on behalf of Safehouse Progressive Alliance for Nonviolence, she provided Council with information on services offered.
5. Dick Harris – Spoke on behalf of PLAN Boulder County regarding future growth of the city of Boulder and affordable housing. He recalled his time on Council and requesting a growth rate of 1% be used in growth projections.
6. Steve Pomerance – Spoke in opposition to the US 36 agreement being negotiated by Colorado Department of Transportation that involved financing of the project and included tolls.
7. Mark Rushton – Spoke about alternatives to requiring bear resistant containers.
8. Steven Keenan – Spoke in opposition to the US 36 agreement being negotiated by CDOT.
9. Zane Selvans – Agreed with other speakers opposed to the US 36 contract that was being negotiated.

10. Christina Gosnell – Spoke in opposition to the occupancy limits in place for rental housing. She was pleased that Council was going to address housing as part of their work plan in 2014.
11. Karey Christ-Janer – Spoke about various electric reports that she had sent to the Council. She spoke in favor of lowering emissions and increasing the use of renewables.
12. John Caraluzzi – Spoke as an owner of a medical marijuana dispensary concerned about the moratorium on modifications to marijuana businesses that were currently in place.
13. Judy Knapp – Spoke on behalf of Safehouse Progressive Alliance for Nonviolence, she gave statistics on the services offered and their impact in the community.
14. Carolyn Bninski – Spoke on behalf of the Rocky Mountain Peace and Justice Center, she requested that Council sign a letter stating opposition to the transpacific partnership proposed by congress.
15. Lynne Segal – Spoke in opposition to the US 36 funding agreement being negotiated. She also spoke in opposition to the rules related to tagging and disposing of bears that came into city limits.

Staff Response:

City Manager Jane Brautigam commented that the standards for permanent affordable housing had not exceeded the threshold of what were allowed in 2013. She also noted that the Comprehensive Housing Strategy would be coming to Council, but if Council required staff to do research on twenty years of affordable housing there would be a large amount of staff time involved.

City Attorney Tom Carr responded that defining a bear resistant container in the municipal code would be difficult to change over time through ordinance and he had written the ordinance to allow the City Manager to make an administrative rule consistent with best practices which may change over time. He also noted that the city did not utilize voter records to enforce occupancy limits in housing.

3. CONSENT AGENDA – 6:59 PM

A. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE AMENDING CHAPTER 6-3, “TRASH, RECYCLABLES AND COMPOSTABLES,” B.R.C. 1981, BY ADDING A NEW SECTION 6-3-12 REQUIRING BEAR RESISTANT CONTAINERS IN A DESIGNATED AREA OF THE CITY; AMENDING SECTION 6-3-2, BY ADDING NEW DEFINITIONS; ADDING ADMINISTRATIVE

PENALTIES FOR VIOLATIONS, AMENDING SECTION 6-12-5, "CONTAINERS FOR RECYCLING OR COMPOSTING COLLECTION," AND SETTING FORTH RELATED DETAILS

- B. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ADOPT EMERGENCY ORDINANCE NO. 7963, ADOPTING SUPPLEMENT NO. 118, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 7832, 7910, 7912, 7913, 7914, 7916, 7920, 7922, 7925, 7929, 7930, 7931, 7938, 7939, 7941, 7945, 7946, 7949 AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981**

- C. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION AND QUITCLAIM DEED FOR THE PROPERTY KNOWN AS 3211 PEARL AND A SEPARATE 1,820 SQUARE-FOOT PORTION OF PEARL STREET RIGHT-OF-WAY GENERALLY LOCATED EAST OF THE BNSF RAILWAY COMPANY CROSSING, NEAR THE WESTERN TERMINUS OF PEARL STREET ALONG THE FRONTAGE OF 3211 PEARL STREET, AND CONSIDERATION OF A MOTION TO AUTHORIZE THE CITY MANAGER, PURSUANT TO SECTION 2-2-8"CONVEYANCE OF CITY REAL PROPERTY INTERESTS," TO DISPOSE OF THE VACATED 1,820 SQUARE FOOT PORTION OF PEARL STREET AND SETTING FORTH RELATED DETAILS**

- APPLICANT: CITY OF BOULDER, PUBLIC WORKS – TRANSPORTATION**

- D. SECOND READING, AND CONSIDERATION OF A MOTION TO ADOPT EMERGENCY ORDINANCE NO. 7961 AMENDING SECTION 4-20-68, "FLOOD RELATED FEE WAIVER," B.R.C. 1981, TO EXTEND TEMPORARY AUTHORITY TO WAIVE CERTAIN FEES TO FACILITATE RECOVERY AND REPAIR WORK RESULTING FROM FLOOD IMPACTS**

- E. CONSIDERATION OF A MOTION TO APPROVE DISPOSAL OF 6,883 SQUARE FEET OR APPROXIMATELY 0.16 ACRES OF COMMUNITY HOSPITAL OPEN SPACE LAND DESCRIBED AS A PERMANENT EASEMENT TO SILVER LAKE DITCH AND RESERVOIR COMPANY TO ALLOW THE RELOCATION AND PIPING OF A PORTION OF THE SILVER LAKE DITCH. THIS IS A DISPOSAL OF OPEN SPACE LAND UNDER CITY CHARTER SECTION 177**

- F. CONSIDERATION OF A MOTION TO RENEW THE EMPLOYMENT AGREEMENT OF BOULDER MUNICIPAL COURT ASSOCIATE JUDGE JEFFREY CAHN AND TO AWARD A 3.5% MERIT INCREASE**

- G. CONSIDERATION OF A MOTION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BOULDER AND BOULDER COUNTY FOR FUNDING ENERGY EFFICIENCY PROGRAMS**

- H. CONSIDERATION OF A MOTION AUTHORIZING THE CITY MANAGER TO CONVEY THE PERMANENTLY AFFORDABLE HOUSING UNIT AT 4330 VINEYARD LANE**

- I. CONSIDERATION OF A MOTION TO HOLD A SPECIAL MEETING ON FEBRUARY 20, 2014 TO CONSIDER A MOTION TO CHANGE THE REGULAR MEETING OF CITY COUNCIL ON MARCH 4, 2014 TO MARCH 5, 2014**

Council Member Plass moved, seconded by Council Member Morzel, to approve consent agenda items 3A-3I. The motion carried 9:0. Vote taken at 7:05 PM.

4. **POTENTIAL CALL- UP CHECK IN**

Council Member Morzel asked if it was typical for construction to begin on a project that had not received approval from Council. This was related to a Landmark Alternation Certificate.

Senior Planner James Hewat responded that there were instances where construction would begin prior to Council approval. He noted that one particular house had been found to be in the right-of-way and had to be moved.

No interest was expressed in calling-up items 8A-1 or 8A-2.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS**

A. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7958 DESIGNATING THE BUILDING AND PROPERTY AT 1815 MAPLETON AVENUE, TO BE KNOWN AS THE BECK-RAY-SHELL HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION ORDINANCE

Historic Preservation Planner Marci Cameron and Senior Planner James Hewat presented on this item.

Disclosure of *Ex parte* Communications:

Council Member Cowles recused himself because of the proximity of the home to his.

Council Member Morzel commented that she had a site visit to the location.

The public hearing was opened at 7:16 PM. There being no speakers present, the public hearing was closed.

Council Member Morzel moved, seconded by Council Member Karakehian, to adopt Ordinance No. 7958 designating the building and property at 1815 Mapleton Avenue, to be known as the Beck-Ray-Schell House, as an individual landmark under the city's Historic Preservation Ordinance.

Council Member Morzel commented on the beauty of the home and expressed joy that staff worked with the property owner to landmark the home rather than demolish it.

Council Member Plass agreed with the comments made by Council Member Morzel and corrected the date in section 3 of the ordinance related to the date of adoption by Council.

The motion carried 8:0, with Council Member Cowles recused. Vote taken at 7:18 PM.

B. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7960 APPROVING SUPPLEMENTAL APPROPRIATIONS TO THE 2014 BUDGET

Chief Financial Officer Bob Eiche presented on this item.

The public hearing was opened at 7:29 PM. There being no speakers present, the public hearing was closed.

Council Member Morzel moved, seconded by Council Member Plass, to adopt Ordinance No. 7960 approving supplemental appropriations to the 2014 Budget. The motion carried 9:0. Vote taken at 7:30 PM.

C. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7957 AMENDING TITLE 2, "GOVERNMENT ADMINISTRATION," CHAPTER 7, "CODE OF CONDUCT," B.R.C. 1981

City Attorney Tom Carr presented on this item.

The public hearing was opened at 8:05 PM.

1. Carolyn Bninski – Spoke on behalf of Rocky Mountain Peace and Justice Center in favor of clarifying code of conduct issues in the Boulder Revised Code.

There being no other speakers present, the public hearing was closed at 8:08p.m..

City Attorney Tom Carr presented the following questions to Council and received direction.

1. Should discounts be included expressly as gifts?

Council direction was affirmative.

2. Should Council be informed before a member takes paid travel?

Council direction was affirmative, to the extent possible.

3. Should city officials be permitted to accept travel from for-profit organizations?

Council direction was affirmative.

4. Should there be a time-limitation on speaking out regarding official action taken while holding office?

Council directed staff to work on this section and provide context before action was taken.

5. Should the prohibition on employment with an organization or an employee that a Council Member worked with while employed by the city be longer than six months?

Council clarified that employment should be limited if there was a benefit to the organization because of the employee's position at the city.

City Attorney Tom Carr noted that this provision applied more to employees than Council.

Mayor Appelbaum commented that it may be impossible to expect someone to remember everything they took action on in their tenure. He thought it would be easier if this section were limited to the length of a council term, or four years.

Council Member Karakehian asked if there was a criminal sanction if a Council Member or employee accepted employment that was prohibited under this item.

City Attorney Tom Carr responded that there were civil remedies, not criminal sanctions.

Council Member Karakehian responded that he was not comfortable preventing employees from accepting employment to provide for their family.

Council directed staff to work on this section and provide context before action was taken.

6. Should the prohibition on suing the city exclude certain types of litigation?

Council directed the City Attorney to remove the word "party" from the code and leave this section intact.

7. Should the code clarify the meaning of direct and indirect benefits?

Council directed the City Attorney to come up with clearer examples to explain this portion of the code of conduct for Council and employees.

8. Should the code include a prohibition on solicitation of employment?

Council Member Weaver suggested changing the word "solicitation" to "accept."

Mayor Appelbaum wondered if having the person recuse themselves would serve the same purpose without forcing someone to disclose information regarding potential employment that had not yet been finalized.

Council directed the City Attorney to recraft this section and allow for discretion before bringing it back for Council to take action.

9. Should the code discourage rudeness to constituents?

Council Member Shoemaker expressed concern that a citizen could sue an employee or Council Member over perceived rudeness.

City Attorney Tom Carr noted that the intent was to direct employees to be courteous to constituents.

Council Member Cowles noted that members of the public could be quite rude and it was sometimes difficult for employees to be courteous when the situation was one involving elevated emotions.

City Manager Jane Brautigam reviewed the core values that employees are expected to exhibit.

Council Member Shoemaker applauded the efforts of the City Attorney to clarify a very vague portion of the code. He noted that the code of conduct should be sufficiently vague due to no one person being able to conceive all possible issues that could arise from the behaviors and actions of any person.

City Attorney Tom Carr noted that he would work on this section and provide language limiting the right to sue an employee or Council Member under this section.

10. Should the code prohibit the use of a city cell phone for campaign activities?

City Attorney Tom Carr noted that the use of a city cell phone for campaign purposes was prohibited.

Council direction was to make no changes to the city cell phone use policy.

11. Is buying an expensive dinner using city funds for personal benefit?

Council directed the City Attorney to clarify the examples given and bring them back for Council consideration.

12. Should the code exempt certain meals from the gift prohibition?

City Attorney Tom Carr pointed out that the \$50 cap on gifts applied toward meals as well. He also noted that City Council had an exception when they attend an event on behalf of the city and that was capped at \$150. He suggested that when the code was changed, sporting event tickets be allowed as part of the \$150 gift provision.

Mayor Appelbaum commented that not all events were open to the public and that could present a problem.

City Attorney Tom Carr noted that when an event was private, Council Members could use their budgeted amount for events and conferences to pay for it rather than accept a free ticket if the cost was over \$50. He also stated that this applied to organizations that do business with the city.

Council directed staff to allow sporting and concert event tickets to be allowable under the \$150 gift provision and bring back better examples to further clarify this section for Council and staff.

13. Should board or commission members be permitted to use their title in endorsements?

Council direction was affirmative.

Mayor Appelbaum moved, seconded by Council Member Weaver, to continue this item to a future meeting. The motion carried 9:0. Vote taken at 11:08 PM.

6. MATTERS FROM THE CITY MANAGER – 11:09 PM

A. COMPREHENSIVE FINANCIAL STRATEGY AND CIP UPDATE

City Manager Jane Brautigam presented on this item and Deputy Director Cheryl Pattelli was available to answer Council's questions. She asked for direction regarding the following three questions:

1. Is Council interested in pursuing a "pay as you go" approach for the November 2014 ballot? If so, would Council prefer a single ballot measure, or a "themes" approach?

Council Member Shoemaker expressed support for the "pay as you go" approach and placing an item on the ballot that took the "themes approach."

Council Member Plass also supported the "pay as you go" approach, but thought it would be easier for voters if everything was packaged into one ballot question.

Council Member Morzel agreed with Council Member Shoemaker's comments.

Council Member Weaver commented that he did not have a preference. He was concerned that a three-year tax could be a short time horizon, but acknowledged that voters might prefer to vote on taxes more frequently.

Mayor Appelbaum supported the "pay as you go" approach.

Council Member Jones also agreed with the "pay as you go" approach and supported a three-year tax that would require voters to approve it again once it sunset.

Council Member Young expressed concern regarding the total cost and noted that she would prefer a single bond issue.

Council Member Cowles commented that he liked the "themes" approach, but thought it was too early to make decisions regarding the ballot question. He noted that he would like to see the project list solidified before making a decision.

Council Member Karakehian supported the "pay as you go" approach. He agreed with Council Member Cowles that it was too early to decide whether to have one ballot issue or multiple.

Council directed staff to bring the question relating to the ballot back when the project list was defined.

2. Is Council interested in a major bond ballot measure for either 2014 or 2015?

City Manager Jane Brautigam commented that a major bond issue may not be ready until 2015 or 2016.

Council was interested in a 2014 ballot measure sun setting in three years and then a major bond issue following the sunset.

3. Are there specific projects of interest for which Council would like more detail or information?

Council Member Young asked for more information on a community-wide Eco-Pass.

Council Member Plass asked for more information on the Flatiron's Event Center.

Council Member Morzel asked for more information on the North Boulder Library.

Council Member Weaver was pleased to see public safety issues addressed in the capital project list. He wondered if there were additional programs like flood response and resiliency for the west side of Boulder.

Mayor Appelbaum was also interested in the Flatiron's Event Center and its purpose. He also commented that if the Civic Area Project was funded, he wanted to ensure that the project was funded through completion.

Council Member Cowles asked for more information on community park enhancements to be brought back before a decision was made. He was specifically interested in transportation enhancements that would give a larger population access to pocket and community parks.

Council Member Karakehian expressed concern about artifacts related to city history being stored all over the county. He indicated he wanted to support the Museum of Boulder.

Council Member Weaver supported increasing bike lane projects.

Council wondered if the city could pursue a limited bond issue limited only to parks and the arts and if it could be placed on the 2014 ballot.

City manager Jane Brautigam responded that staff would bring back more information in April.

Mayor Appelbaum conducted an agenda check.

7. MATTERS FROM THE CITY ATTORNEY – 10:30 PM - None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL – 10:30 PM

A. POTENTIAL CALL-UPS

1. LANDMARK ALTERATION CERTIFICATE FOR 611 CONCORD AVENUE

No interest was expressed in calling-up this item.

2. LANDMARK ALTERATION CERTIFICATE FOR 2003 PINE STREET

No interest was expressed in calling-up this item.

B. Regional Transportation Issues

Mayor Appelbaum provided an overview regarding the pending action on US 36 by Colorado Department of Transportation (CDOT) and the Governor’s office. He also updated Council on the North Area Mobility Study (NAMS).

Director of Public Works for Transportation Tracy Winfree was available to answer questions.

Mayor Appelbaum moved, seconded by Council Member Weaver, to suspend the rules and continue the meeting. The motion carried 8:1, with Council Member Karakehian opposed. Vote taken at 10:54 PM.

9. PUBLIC COMMENT ON MATTERS – 11:15 PM

None.

10. FINAL DECISIONS ON MATTERS – 11:15 PM

None.

11. DEBRIEF – 11:15 PM

None.

12. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on February 18, 2014 at 11:15 PM.

Approved this ___ day of _____, 2013.

APPROVED BY:

Matthew Appelbaum
Mayor

ATTEST:

Alisa D. Lewis
City Clerk

**CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
March 5, 2014**

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the regular March 5, 2014 City Council meeting to order at 6:04 PM in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Cowles, Karakehian, Morzel, Plass, Shoemaker, Weaver and Young. Council Member Jones arrived at 6:33 PM.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE – 6:05 PM

1. Steve Stolz – Spoke as a retired firefighter thanking Council for a recent increase in monthly pension payments.
2. Tiffany O’Meara – Spoke in opposition to the proposed changes to the Green Tag Program requiring voice and sight control of dogs off-leash on open space.
3. Alex Bollman – Spoke in opposition to the rental property occupation limits in Boulder.
4. Daniel Suple – Spoke in opposition to the proposed changes to Voice and Sight regulations regarding dogs off-leash on open space.
5. Tony Gannaway – Spoke in opposition to the proposed changes to the Green Tag Program, he expressed concern regarding the total cost of implementation.
6. Carolyn Usher – Spoke in opposition to the proposed changes to the Green Tag Program, she expressed concerns regarding the possibility that frequent users would be targeted when the infrequent users are more likely to be the offenders.
7. Nora Hartmann – Spoke on behalf of the Safehouse Progressive Alliance and gave statistics and information on domestic violence programs for women and children in the community.
8. Karen Hollweg – Spoke on behalf of FIDO’s in support of the proposed changes to the Green Tag Program allowing off-leash dogs on open space.
9. Eileen Monyok – Spoke in opposition to the proposed changes to the Green Tag Program, she was concerned about the rule revoking a green tag after two infractions.
10. Leslie Glustrom – Spoke in favor of the municipalization project and expressed concern for citizens working on the city and Xcel working group without an updated memorandum of understanding.

11. Denise Maes – Spoke on behalf of the ACLU Colorado Chapter in opposition to proposed ordinances related to social misbehavior.
12. Lori Fuller – Spoke on behalf of FIDO’s expressing concern about the Green Tag Program ordinance. She stated that the biggest problem related to dogs on open space was related to excrement and not whether or not the dogs were on a leash or not.
13. Jerry Gordon – Spoke about a book he had read on the impacts of laws meant to silence the homeless and poor.
14. James Illg – Spoke as the president of FIDO’s concerned about the proposed ordinance amending the Green Tag Program and restricting off-leash access on open space trails.
15. Susan Levy – Spoke on behalf of the Boulder Valley Women’s Health Center thanking Council for continued human service funding.
16. Jennifer Sullivan – Spoke in opposition to the proposed social misbehaviors ordinances.
17. Sarah Krakoff – Spoke in opposition to the proposed ordinances related to social misbehaviors.
18. Andrea Malanowski – Spoke in opposition to the proposed changes to the Green Tag Program.
19. Aldona Siczek – Spoke in opposition to the proposed changes to the Green Tag Program.
20. Thomas Price Kirby – Spoke in opposition to video cameras installed on the municipal campus and financial disclosure requirements for Council Members.

Council Member Cowles corrected comments made regarding the Green Tag Program regarding violations and penalties.

Council Member Morzel reviewed the process regarding first and second reading ordinances. She also noted that financial disclosure was discussed at a study session and Council had yet to take action on that item.

Mayor Appelbaum commented that the ordinance related to the Green Tag Program would be brought back for a public hearing on April 1, 2014.

Council Member Shoemaker responded to comments on the social misbehavior ordinances stating that the ordinances are directed at members of the public that are not obeying laws and not targeting a specific group in the community such as the homeless.

Council Member Weaver thanked FIDO's for the email they had sent regarding the Green Tag Program ordinance.

3. **CONSENT AGENDA – 6:58 PM**

A. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM NOVEMBER 19, 2013 MORNING MEETING**

B. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM JANUARY 7, 2014**

C. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM JANUARY 21, 2014**

This item was amended to correct typos in the agenda packet.

D. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM FEBRUARY 4, 2014**

E. **CONSIDERATION OF A MOTION TO ACCEPT THE FEBRUARY 11, 2014 STUDY SESSION SUMMARY REGARDING SOCIAL MISBEHAVIOR ON THE MUNICIPAL CAMPUS**

F. **CONSIDERATION OF A MOTION TO AMEND RESOLUTION NO. 936 AND NO. 936A**

G. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7964 VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION AND QUITCLAIM DEED FOR THE PROPERTY KNOWN AS 3211 PEARL AND A SEPARATE 1,820 SQUARE-FOOT PORTION OF PEARL STREET RIGHT-OF-WAY GENERALLY LOCATED EAST OF THE BNSF RAILWAY COMPANY CROSSING, NEAR THE WESTERN TERMINUS OF PEARL STREET ALONG THE FRONTAGE OF 3211 PEARL STREET, AND CONSIDERATION OF A MOTION TO AUTHORIZE THE CITY MANAGER, PURSUANT TO SECTION 2-2-8, "CONVEYANCE OF CITY REAL PROPERTY INTERESTS," TO DISPOSE OF THE VACATED 1,820 SQUARE-FOOT PORTION OF PEARL STREET AND SETTING FORTH RELATED DETAILS**

APPLICANT: CITY OF BOULDER, PUBLIC WORKS – TRANSPORTATION

H. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE AMENDING TITLES 4, 5, 6 AND 8, B.R.C. 1981, TO MODIFY THE GENERAL PENALTY PROVISIONS AND AMENDING TITLES 5 AND 7 BY REPEALING SECTION 7-5-15 REGARDING PEDESTRIAN INTERFERENCE WITH VEHICLES SECTION 7-5-25 REGARDING STAYING ON MEDIANS AND ADDING THOSE PROVISIONS TO NEW SECTIONS 5-6-15 AND 5-6-16, B.R.C. 1981, AND SETTING FORTH RELATED DETAILS**

I. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE AMENDING TITLE 5, "GENERAL OFFENSES," CHAPTER 5, "OFFENSES AGAINST GOVERNMENT OPERATIONS," B.R.C. 1981, BY ADDING A NEW SECTION 5-5-20 PROHIBITING UNLAWFUL CONDUCT ON PUBLIC**

PROPERTY AND AMENDING CHAPTER 2 “GENERAL PROVISIONS,” BY AMENDING SECTION 5-2-4, B.R.C. 1981 TO ALLOW FOR CRIMINAL PENALTIES UNDER THE NEW SECTION 5-5-20 AND SETTING FORTH RELATED DETAILS

J. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE AMENDING SECTIONS 4-20-60, “VOICE AND SIGHT CONTROL EVIDENCE TAG FEES,” 6-1-16, “DOG RUNNING AT LARGE PROHIBITED,” 6-13-4, “VOICE AND SIGHT CONTROL EVIDENCE TAGS UPON VIOLATIONS,” AND ADDING A NEW SECTION 6-13-4.5, “TERMS OF VOICE AND SIGHT CONTROL EVIDENCE TAG,” B.R.C. 1981, AND SETTING FORTH RELATED DETAILS

K. CONSIDERATION OF A MOTION TO APPROVE THE CITY MANAGER’S SIGNATURE, JANE BRAUTIGAM, ON AN INTERGOVERNMENTAL AGREEMENT TO CREATE A MULTI-AGENCY GOVERNMENTAL AUTHORITY ON THE COLORADO INFORMATION SHARING CONSORTIUM (CISC)

Council Member Cowles clarified that the revocation of a Green Tag would not occur for violations related to excrement.

Council Member Young noted that members of the public could go the city’s website and sign up for Hotline emails. She explained that Hotline was a tool used by Council to ask questions and suggest changes and it was open and available to interested public.

Mayor Appelbaum stated that emails from the public were very helpful for Council in making important decisions for the city.

Council Member Shoemaker agreed with the Mayor and Council Member Young regarding email and Hotline.

Council Member Plass moved, seconded by Council Member Karakehian to approve Consent Agenda items 3A - 3K with item 3C as amended. The motion carried 9:0 at 7:03 p.m.

4. POTENTIAL CALL- UP CHECK IN

There were no call-up items on the agenda.

ORDER OF BUSINESS

5. PUBLIC HEARINGS

A. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7959, AMENDING CHAPTER 7-6, “PARKING INFRACTIONS,” B.R.C. 1981, BY ADDING A NEW SECTION 7-6-30 PROHIBITING PARKING BY NON-ELECTRIC VEHICLES AT ELECTRIC VEHICLE CHARGING STATIONS, AMENDING SECTION 7-6-2 BY ADDING A PENALTY OF \$20 AND SETTING FORTH RELATED DETAILS

City Attorney Tom Carr presented on this item.

The public hearing was opened at 7:08 PM. There being no speakers present, the public hearing was immediately closed.

Council Member Jones moved, seconded by Council Member Morzel to approve Ordinance No. 7959 amending Chapter 7-6, "Parking Infractions," B.R.C. 1981, by adding a new Section 7-6-30 prohibiting parking by non-electric vehicles at electric vehicle charging stations, amending Section 7-6-2 by adding a penalty of \$20 and setting forth related details as amended in the staff memo and by a friendly amendment to change the fee to \$20.

Council Member Cowles expressed concern that the fine was too low and he would prefer to see it raised to \$75-100.

Mayor Appelbaum commented that he agreed with Council Member Cowles regarding the amount of the fine being too low for gas powered vehicles parked in electric charging stations.

Council Member Shoemaker also agreed with concerns related to the fine.

Council Member Karakehian commented that he would support a \$50 fine.

Council Member Weaver agreed that a \$50 fine would be more appropriate.

Council Member Young also agreed.

Council Members Jones and Morzel agreed to amend their motion to raise the penalty to \$50.

Council Member Jones moved, seconded by Council Member Morzel to approve Ordinance No. 7959 amending Chapter 7-6, "Parking Infractions," B.R.C. 1981, by adding a new Section 7-6-30 prohibiting parking by non-electric vehicles at electric vehicle charging stations, amending Section 7-6-2 by adding a penalty of \$20 and setting forth related details as amended in the staff memo and by a friendly amendment to change the fee to \$50. The motion carried 9:0. Vote taken at 7:16 p.m.

B. SECOND READING CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7962 AMENDING CHAPTER 6-3, "TRASH, RECYCLABLES AND COMPOSTABLES," B.R.C. 1981, BY ADDING A NEW SECTION 6-3-12 REQUIRING BEAR RESISTANT CONTAINERS IN A DESIGNATED AREA OF THE CITY; AMENDING SECTION 6-3-2, BY ADDING NEW DEFINITIONS; ADDING ADMINISTRATIVE PENALTIES FOR VIOLATIONS, AMENDING SECTION 6-12-5, "CONTAINERS FOR RECYCLING OR COMPOSTING COLLECTION," AND SETTING FORTH RELATED DETAILS

Urban Wildlife Conservation Coordinator Val Matheson presented on this item.

Chris Middendorf from Colorado Parks and Wildlife supported the proposed ordinance related to bears and trash; he was also available to answer questions.

Frank Bruno from Western Disposal presented information on impacts to rates and retro-fit options for bear resistant trash containers.

Mick Mahoney from One-Way Disposal reviewed options for bear resistant containers that his company would offer if the ordinance were to pass.

The public hearing was opened at 8:02 PM:

1. Brenda Lee – Presented thank you letters from local Girl Scouts expressing gratitude for passage of Ordinance No. 7962. They believe the requirement of bear resistant containers would help protect the bears and help keep them out of the city and in their regular environment.

There being no further speakers, the public hearing was closed at 8:05 PM.

Council Member Weaver expressed concern about the amount of the fines being proposed. He wondered if multi-family and single-family homes could utilize different deterrents.

Ms. Matheson responded that the intent was to send a strong message to the community regarding the new requirements.

Council Member Shoemaker expressed concerns about allowing officers discretion over whether or not to issue a ticket for a violation.

City Attorney Tom Carr responded that the judge would not have discretion if evidence presented is clear that a violation occurred, but he could draft language allowing the judge discretion over the amount of the fine.

Council Member Shoemaker asked if the judge could have a range in regard to the amount of the fine.

Council Member Cowles wondered if the court would be able to reduce the fine for those unable to pay a larger fine.

Council Member Weaver indicated that he would prefer a range for each level of violation that increased based on the number of violations. He also preferred separate fine schedules for those living in multi-family.

Council Member Karakehian responded that he would rather allow flexibility in regard to the first violation and not subsequent violations.

Council Member Cowles moved, seconded by Council Member Morzel, to approve Ordinance No. 7962 amending Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981, by adding a new Section 6-3-12 requiring bear resistant containers in a designated area of the city; amending Section 6-3-2, by adding new definitions; adding administrative penalties for violations, amending Section 6-12-5, “Containers for Recycling or Composting Collection,” and setting forth related details as amended to add a section that states “the hearing officer may adjust the fine based on evidence presented at a hearing” plus an

amendment to Section 6-3-12 Bear Resistant Containers Required - adding the following language in the last sentence in (a) “not in a bear resistant container.” The motion carried, 9:0. Vote taken at 8:38 p.m.

This item was scheduled for a third reading on March 18, 2014 on the Consent Agenda.

6. MATTERS FROM THE CITY MANAGER - 8:39 PM

A. CONSIDERATION OF A MOTION TO REVISE THE CITY OF BOULDER’S 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

Policy Advisor Carl Castillo presented on this item. He reviewed the changes to the legislative agenda and gave a summary of his recent trip to Washington D.C. with the Mayor and Mayor Pro Tem the past week. Discussions in Washington D.C. included additional support for NASA and the Federal Laboratories located in Boulder. He also commented on updates related to support for local broadband and interest in the Boulder municipalization project.

Mayor Appelbaum added an update on a meeting with state legislators from Colorado regarding flood recovery.

Policy Advisor Carl Castillo reviewed substantive changes to the legislative agenda including items related to energy and climate reduction, human rights and immigration, human rights and same sex couples, and transportation.

Council discussed a program called UberX, a taxi network that would allow passengers to sign up online and request rides via an online application with no set fee for the ride. The riders then could be rated by drivers and drivers rated by riders as well.

Council Member Plass moved, seconded by Council Member Jones, to approve the proposed changes to the Legislative Agenda.

B. UPDATE ON 2014 HUMAN SERVICES FUND ALLOCATIONS

City Manager Jane Brautigam introduced Director of Human Services Karen Rahn who presented on this item.

Director of Human Services Karen Rahn reviewed the process for funding requests related to Human Services and answered Council’s questions.

7. MATTERS FROM THE CITY ATTORNEY -

None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL – 9:50 PM

A. POTENTIAL CALL-UPS - None

B. BOARD AND COMMISSION APPLICANT LIST POSTING REQUEST

Council directed staff to post the list of board and commission applicants on the website.

Mayor Appelbaum expressed displeasure regarding a survey that had been sent to applicants regarding conflict of interest at the direction of CAC (Council Agenda Committee) in his absence.

Council Member Cowles agreed with Mayor Appelbaum's comments.

Council Member Jones recalled a potential conflict of interest issue in the 2013 appointment process and noted that she was not in agreement that the information collected had no value.

Mayor Appelbaum stated that he would rather survey applicants after the process ended than while it was ongoing. He clarified that his concerns related to changes to the process being the responsibility of the council as a whole and not an appropriate direction coming from the CAC. Council concurred with this opinion.

Council Member Weaver suggested redacting personal information and making the entire application packet available in the future.

9. PUBLIC COMMENT ON MATTERS - 10:15 PM

None.

10. FINAL DECISIONS ON MATTERS – 10:15 PM

Vote was taken on the motion to approve the proposed changes to the Legislative Agenda. The motion carried 9:0. Vote taken at 10:15 p.m.

11. DEBRIEF

Council Member Shoemaker asked Council to consider making changes to the penalties regarding snow removal.

Mayor Appelbaum responded that Council had already set the work plan for the year.

City Attorney Tom Carr suggested making the change before the next snow season rather than bringing an ordinance back in April.

Council Member Weaver asked for an update on the status of the building that formerly belonged to the Daily Camera. He was specifically interested in information pertaining to the theater.

City Manager Jane Brautigam responded that the developer was planning to build the theater, but was in the process of looking for a new operator for the space. She also noted that there were no plans to make changes to the parking plan that was proposed.

Council Member Weaver wondered if there would be another site and use review at any point if the changes to the original plan were extensive.

City Attorney Tom Carr noted that the building went through site review, the use of the property would not be able to be addressed. He noted that the building would go through review again if the developer abandoned the theater portion of the project.

Council Member Jones suggested that Council reconsider the process for calling-up an item.

Council Member Weaver commented on a resolution passed in the city of Golden supporting net metering. He wondered if Council was interested in passing a similar resolution.

Council Member Cowles suggested Council Member Weaver contact Golden and then make the request at CAC.

Council Member Cowles commented on the quality of the council meeting on television still needing improvement and that it seemed apparent that attendees in the back portion of the council chambers were having a difficult time hearing.

12. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on March 5, 2014 at 10:16 PM.

Approved this ___ day of _____, 2013.

APPROVED BY:

ATTEST:

Matthew Appelbaum
Mayor

Alisa D. Lewis
City Clerk

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE: Consideration of a motion to accept the summary of the February 11, 2014, study session regarding the 2014-2015 work plan and next steps.

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Heather Bergman – Facilitator

EXECUTIVE SUMMARY

This agenda item provides a summary of the February 11, 2014 study session on the 2014-2015 Council Retreat and resulting work plan. The purpose of the study session was for City Council to review the work plan, ask questions and provide feedback for the next iteration of the work plan.

STAFF RECOMMENDATION

Suggested Motion Language:

Motion to accept the study session summary from February 11, 2014 on the 2014-2015 work plan (Attachment A) and the next steps (below).

BACKGROUND: The background for this topic can be found in the Study Session Memorandum dated February 11, 2014. [Draft Work Plan for 2013-2015 City Council Term](#)

Next Steps:

- The Vision and Outcomes wall graphics would be moved from Council Chamber to the City Manager's office hallway.
- Council approved the addition of Briefings as a way to get additional information about a topic. The Briefing is similar to the Roundtable used in the Energy project. Information would be shared with Council but no materials are provided in advance. The Briefing would be held from 5-6 pm with the second Study Session each month.
- In the next version of the work plans:
 - Staff will clarify decision points for Council
 - Milestones will be added for the Open Space items discussed

ATTACHMENT:

- A. Draft Summary of the February 11, 2014 Study Session regarding the 2014-2015 Council Work Plan

City Council Study Session Summary
February 11, 2014
2014-2015 Work Plan

PRESENT:

City Council: Mayor Appelbaum, Mayor Pro Tem Karakehian and Council Members Cowles, Jones, Morzel, Plass, Shoemaker, Weaver and Young.

Staff members: City Manager Jane Brautigam, City Attorney Tom Carr, Deputy City Manager Paul Fetherston, Executive Director of Public Works Maureen Rait, Executive Director of Community Planning and Sustainability David Driskell, CFO Bob Eichem, Police Chief Mark Beckner, Fire Chief Larry Donner, Human Services Director Karen Rahn and Acting Director of Parks and Recreation Jeff Dillon, Acting Housing Director Jeff Yegian, Executive Director of Downtown and University Hill Management Division and Parking Services Molly Winter, Director of Public Works for Transportation Tracy Winfree, Director of Public Works for Utilities Jeff Arthur, Communications Director Patrick von Keyserling, Director of Open Space and Mountain Parks Mike Patton, Director of IT Don Ingle, Courts Administrator Lynne Reynolds and City Clerk Alisa Lewis.

Facilitated by Heather Bergman of Peak Facilitation Group.

Purpose:

The purpose of the February 11, 2014 study session was as follows:

1. Discuss work plan developed by staff following the January Council Retreat
2. Agree on any items on the proposed work plan which should be deferred to allow work on other priority items
3. Agree on whether to proceed with Council Briefings or not

Overview of the Study Session:

The session was facilitated by Heather Bergman with Peak Facilitation Group. Ms. Bergman explained the purpose and objectives of the meeting and City Manager Brautigam gave a short overview of the context and content of the work plans. The session was facilitated with the following questions:

1. Does council have any questions or feedback about the draft plan?
2. Are any priority items missing from the draft work plan?
3. Are there any items on the proposed work plan which should be deferred to allow work on other priority items?
4. Is there any other information regarding the draft work plan that council wants to provide for staff consideration as it develops the next iteration of the work plan?

Mayor Appelbaum clarified that this portion of the study session would deal with the review of the 2014-2015 Work Plan and the Council Retreat wrap up. City Manager Brautigam presented two wall graphics, the Vision and Desired Two Year Outcomes that were created by the Council Retreat graphic artist. She then asked council to consider whether they should remain in the Council Chambers or be located elsewhere, perhaps within the Manager's Office. Ms. Brautigam

explained that the outcomes from the retreat had been organized into the work plan by the four categories that were discussed at the Council Retreat:

1. Livability-Homelessness, Social Behaviors and Issues, The Arts, University Hill and Code Enforcement
2. Local Food/Climate and Energy/Open Space
3. Housing/Land Use Planning/Transportation
4. Other

City Manager Brautigam reviewed the work plan and handouts and noted that staff believed that all Retreat items had been covered except two items that were discussed at the Retreat:

- DDAB (Downtown Design Advisory Board)- design guidelines– some parts are there and some parts are not there
- Review of Shelter Operations - not in the work plan but would be included in the strategic plan

Ms. Brautigam noted that some things in the work plan may not be as obvious as Council would like. Therefore, staff was present to answer any questions. She then turned the meeting back over to Mayor Appelbaum and Heather Bergman.

Prior to discussion of the work plan, a question was raised about Briefings. Ms. Brautigam explained that staff needed to provide information to Council in a way that didn't take up as much time. A briefing would be an additional tool, as often information included in "Heads up" or "IPs" gets lost. The Briefing would be similar to the Roundtable process utilized in the Energy project. Before a Study Session, information would be shared with Council without a formal packet. Briefings would be held from 4-6 pm prior to the second Study Session each month.

Questions on Livability:

Q1. Can we get more information about timeframe for leases, including Dairy Center? There has been interest from a community member on this topic.

A. In second quarter, a study session on Library and Arts would occur with an update on the Community Cultural Master Plan to get Council feedback; the scope, purpose and guidelines would be identified and could include the Dairy Center lease and interim temporary extensions. Master Plan updates could be a year long process.

Q2. Will the Hill reinvestment strategy be fleshed out?

A. A lot of work is being done specifically around the residential service district concept as well as service capital improvement projects and quality of life issues including code enforcement and safety. Beautification projects include parklet pilots, public art, staffing and resources to get all the work done, and perhaps a Hill Coordinator. Work is also being done with CU to fund a residential service district. Staff is looking more broadly at the long term organizational structure for the Hill including redevelopment options. More detail on these items will be provided in a Q2 study session.

Q3. How will staff activities and briefings roll up to the decision points for Council, particularly in the Hill and Human Services area?

A. Staff will add decision points.

Q4. How will check-ins be held with the Hill Re-development Site Plan?

A. There will be an IP update in Q1 and another update in Q2 as well as outreach to Boards and progress on negotiations.

Q5. With respect to homeless issues, how do we educate the community and other cities within the County about homelessness? What's the status of the analysis and outreach component to be taken to Boulder Consortium of Cities?

A. This would be part of the Homeless Action Plan Study Session scheduled in May.

Questions on Local Food/Climate and Energy/Open Space:

Q1. It was noted that there are several contentious issues regarding Open Space. How will they be addressed?

A. White papers have been produced on topics such as night time use, temporal separation, and on-trail use, etc. and staff is prepared to deliver information at a Study Session whenever Council is ready. Clarity was requested of Council regarding its interest in sustainability and carrying capacity of regional trails. One council member noted that the city needed to deal with all the issues, but cautioned that Council should not "bite off" too much initially, but rather intersperse some of the issues gradually with less contentious items. Staff clarified the City is not in control of regional trails. Mayor Appelbaum noted the Open Space Board of Trustees had asked to look at the issues. Council agreed that while it did not have to take action on all of the Open Space Issues it could not realistically address Sustainability without at least having the discussion about those issues. OSMP staff suggested a first step of bringing the information to council and explaining the impacts. Then council can decide how to deal with matters. Staff clarified that Heil Ranch is an area the city controls.

Q2. Is Heil Ranch a stand-alone process or would it go hand in hand with the north TSA process?

A. A stand-alone approach would likely be the way to look at it from a resource context. OSMP staff did not think it would get to the north TSA this year. The difference in this case was the existence of farm roads and the expectation that Heil Ranch will be closed for a year. That noted, it was not clear whether the County would reopen it this year.

Q3. What about cattle grates?

A. OSMP met with FEMA and four of eight cattle grates have been installed with four more planned later this year. The Open Space Mountain Parks Department will use this year to analyze if grates work. There are exterior gates where pedestrians enter and the cattle grates are in addition to the gates, not replacements. Grates will continue to be used if they successfully contain the livestock.

Q4. Does the Q3 timing of resolving issues around ownership of a portion of Flagstaff Road allow enough time prior to the finalization of the 2015 Bike Race?

A. *City Attorney Carr responded that those issues had been resolved. The Council interpreted the charter two years ago, but it could be reconsidered. A related issue that surfaced was with regards to e-bikes and ‘What is the appropriate mechanism to say something is no longer open space?’ This is a complex issue and the charter has conflicting information. The issue needs to go to the Open Space Board of Trustees and then to Council. It is anticipated Council will be asked to scope this large project in Q3.*

Questions about Housing/Land Use Planning/Transportation:

Q1. Where are the negotiations on Longs Garden?

A. *City Attorney Tom Carr indicated that negotiations are ongoing, but there was nothing to nothing to report to Council at that time.*

Q2. Are there going to be code changes suggested for ADUs/ODUs and cooperatives since the current rules don't seem to work?

A. *Staff noted there was a Study Session scheduled to address prioritization and clarity on goals and objectives for ADU's and ODU's.*

Q3. There was an article about how Aspen was handling VRBOs (Vacation Rentals by Owners); how does that impact housing supply?

A. *An article is being circulated that describes how Aspen is addressing vacation rentals by owner. Finance is working with the information from Aspen to develop options for a potential ballot issue that would address the issue.*

Q4. Can issues like ADUs, co-op housing /unrelated people, be pulled out of the comprehensive housing strategy and looked at separately?

A. *There will be a two part process. At the briefing there will be an update on work under way and the study session in Q2 would be for a prioritization of work effort, short and long term.*

Q5. Is the briefing an opportunity for Council to say it wants to pull OAU's and ADUs out and work on them separately?

A. *Staff responded that by the time of the briefing, staff would like to have a sense of what council hopes to achieve by using these as it relates to the Comprehensive Housing Strategy.*

Q6. Where are we with capturing the ideas for opportunity sites and having the correct zoning?

A. *A discussion on opportunity sites revealed that each site has different challenges associated with it. It would come down to what role the city should play in instigating change. The Comprehensive Plan is the best opportunity to work out those issues and clarify the vision. Staff also pointed out that we have more control over the sites we own for example, 30th and Pearl. Privately owned sites present more challenges as the city has to negotiate with property owners.*

Q7. Can pattern books be added to the list?

A. A pattern book is a tool to guide development outcomes, similar to design guidelines but typically less prescriptive. It is one of the tools that has previously been contemplated as a potential outcome of the “Sustainable Streets and Centers” project. In 2014, next steps in that project are being integrated with a corridor planning effort focused on East Arapahoe. At a recent joint board meeting (with Planning Board, Design Advisory Board, and Transportation Advisory Board), meeting participants urged staff to focus first on developing a vision for the corridor before jumping to conclusions related to potential tools and strategies. Based on this input, an interdepartmental staff team is preparing for a corridor visioning process—drawing on some of the engagement strategies used in the Civic Area and piloting some new approaches as well. Based on the outcome of that visioning effort, a “pattern book” remains one of the potential implementation tools that could be developed.

Q8. Is that the most expedient way to address what is getting redeveloped?

A. The East Arapahoe Corridor visioning process is being used as a pilot for a “lighter touch” approach to area visioning and planning. Pattern books are one potential tool to help guide implementation, helping developers anticipate what kinds of plans or designs might be acceptable in a certain area. Other potential tools include more prescriptive design guidelines, code changes (zoning, design and construction standards, etc.), rezoning and/or area plans.

It was also noted by one councilmember that pattern books could be used in post-WWII era neighborhoods to help homeowners modernize and maintain their homes in creative ways. Planning responded that a focus on post World War II neighborhoods is not currently in the work plan. Pattern books for post World War II neighborhoods cannot be added to the work plan due to staff capacity unless something else can come off.

Q9. Could DDAB members discuss taking on the pattern book work?

A. Boards were part of the earlier workshop and the thinking was that pattern books were premature until there is understanding of the vision first. This approach would still require staff work.

Q10. Will we get an updated work plan? It would be helpful to have visibility on what is coming up and how will we handle what did not come up at the retreat? Will there be a comprehensive work plan?

A. No, but staff will provide agendas for Council that attempt to have visibility out more than one meeting in advance.

Questions about the “Other” category:

Q1. What is the status of the innovation blueprint with the Chamber?

A. It would be considered as part of the Economic Vitality Plan and Paul Leef has been assigned to meet with John Tayer to ensure that we are involved as part of the Civic Center Plan.

Comments from Council:

- The Briefing was a great tool and also allowed the public to listen.
- Concern was expressed about the stress and workload on staff. There was interest in what could come off the work plan to minimize the sacrifice of personal life. Amazement was expressed that everything Council asked for was on the work plan.
- In the context of Local Food, there was mention of edible agriculture land guidelines being formulated and whether the space between sidewalks and curbs should be included.
- The plans around the Emerald Ash Borer will get people focused on the urban forest. This might be a good time to wrap in a tree ordinance or regulations that deal with the rest of our urban forest.
- Council expressed appreciation for the work of staff. Even taking into account the flood, a lot has been accomplished and is a testament to the work of the staff.
- Thanks to Retreat Committee.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE: Third reading and consideration of Ordinance No. 7959, amending Chapter 7-6, "Parking Infractions," B.R.C. 1981, by adding a new section 7-6-30 prohibiting parking by non-electric vehicles at electric vehicle charging stations, amending section 7-6-2 by adding a penalty of \$50 and setting forth related details.

PRESENTERS:

Tom Carr, City Attorney

Jonathan Koehn, Regional Sustainability Coordinator

Kurt Matthews, Manager, Parking Services, Downtown University Hill Management Division
Parking Services

EXECUTIVE SUMMARY:

On February 4, 2014, council considered and passed on first reading with amendment, an ordinance prohibiting non-electric vehicles from parking in parking spots designated for access to electric vehicle charging facilities. Council amended the ordinance to remove the requirement that the electric vehicle actually be charging while parked in the space. Council also discussed the appropriate level of fine for violating the new requirement. Council decided not to amend the ordinance, leaving the fine at the recommended amount of \$20. On second reading, at the recommendation of the city attorney, council amended the ordinance to clarify that only electric vehicles with plug-in capacity can use the spaces. In addition, council increased the fine amount to \$50.

More details about plug-in hybrid-electric vehicles at can be found in the [first reading memorandum](#) and the [second reading memorandum](#).

STAFF RECOMMENDATION:

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance No. 7959 amending Chapter 7-6, "Parking Infractions," B.R.C. 1981, by adding a new section 7-6-30 prohibiting parking by non-electric vehicles at electric vehicle charging stations, amending section 7-6-2 by adding a penalty of \$50 and setting forth related details.

BACKGROUND:

At the 2014 City Council Retreat, council members directed staff to propose an ordinance prohibiting internal combustion vehicles from parking at electric vehicle parking stations. Council was responding to community concerns raised by electric vehicle owners who have been unable to use such facilities because non-electric vehicles use the spaces to park. This presents challenges for users of some electric vehicles who can become stranded if they are unable to access a charging facility.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:**
Currently, there is one dealership in the city selling plug-in electric vehicles. It is likely that additional car dealerships will sell such vehicles in the near future.
- **Environmental:**
With more electric vehicle charging stations being installed throughout the region, electric vehicle drivers can extend their battery life and driving range while reducing their overall transportation costs and their impact on the environment. Supporting plug-in electric vehicles is consistent with the city's climate action goals.
- **Social:**
Access to charging infrastructure is critical for commuters with electric vehicles.

OTHER IMPACTS

- **Fiscal:**
The city receives a fee of \$1 per hour of charging time for charging stations on its property. This fee offsets the cost of the electricity used.
- **Staff Time:**
Implementing this ordinance can be accomplished within existing work plans.

Attachments:

Proposed Ordinance – Attachment A

ORDINANCE NO. 7959

AN ORDINANCE AMENDING CHAPTER 7-6, "PARKING INFRACTIONS," B.R.C. 1981, BY ADDING A NEW SECTION 7-6-30 PROHIBITING PARKING BY NON-ELECTRIC VEHICLES AT ELECTRIC VEHICLE CHARGING STATIONS, AMENDING SECTION 7-6-2, BY ADDING A PENALTY OF \$50 FOR VIOLATIONS, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Chapter 7-6, "Parking Infractions," B.R.C. 1981 is amended by the addition of a **new section** to read:

7-6-30 Parking in Space Designated for Charging an Electric Vehicle.

- (a) No vehicle shall be parked in a space designated for charging any electric vehicle by any sign or pavement marking using terms "electric vehicle charging," or otherwise reasonably indicating designation for electric vehicle charging unless the vehicle is a plug-in electric vehicle.
- (b) This section applies to all spaces designated for electric vehicle charging on public property and on private property. The designation of such spaces by a private property owner or lessee has the same effect as designation by public authority and operates as a waiver of any objection to enforcement by peace officers.
- (c) When a traffic control sign is in place giving notice thereof, no vehicle shall remain in a space designated for electric vehicles for longer than the time designated thereon.
- (d) As used in this section "plug-in electric vehicle" shall mean any motor vehicle that draws electricity from a battery that is capable of being charged from an external source. It shall be presumptive evidence that a vehicle is a plug-in electric vehicle if the vehicle displays a plug-in electric vehicle decal issued by the State of Colorado.

Section 2. Section 7-6-2, B.R.C. 1981 is amended to read:

7-6-2 Parking Penalties.

Violations of any of the provisions of this chapter are traffic infractions. Every person who is convicted of, who admits liability for, or against whom a judgment is entered for such a traffic infraction shall be fined or penalized according to the following schedule:

- (a) Section 7-6-22, "Parking in Handicapped Space Prohibited," B.R.C. 1981: \$112.00.

- 1 (b) Paragraph 7-6-13(a)(10) (concerning parking in a fire lane), paragraph 7-6-
 2 13(b)(2) (concerning parking within five feet of a fire hydrant), paragraph 7-6-
 3 13(b)(8) (concerning parking in a work zone or closed street), paragraph 7-6-
 4 23(a)(5) (concerning parking with expired license plates), B.R.C. 1981 and section
7-6-30, "Parking in Space Designated for Charging an Electric Vehicle," B.R.C.
1981: \$50.00.
- 5 (c) All violations in section 7-6-21, "Parking in Loading Zone Prohibited," subsection
 6 7-6-27(d) (concerning parks and open space parking permits), and all violations in
 7 section 7-6-13, "Stopping or Parking Prohibited in Specified Places," B.R.C. 1981,
 8 except the paragraphs listed in subsection (b) of this section: \$25.00.
- 9 (d) Sections 7-6-14, "Unauthorized Parking Prohibited," and 7-6-15, "Overtime
 10 Parking, Signs," B.R.C. 1981: \$20.
- 11 (e) Sections 7-6-16, "Overtime Parking, Meters," 7-6-17, "Time Limit, Meter
 12 Parking," and 7-6-20, "Parking for More Than Seventy-Two Hours Prohibited,"
 13 B.R.C. 1981: \$15.00.
- 14 (f) All other sections for which no amount is specifically provided: \$15.00.
- 15 (g) Where specific penalties are otherwise provided, those penalties apply.

16 Section 3. This ordinance is necessary to protect the public health, safety, and
 17 welfare of the residents of the city, and covers matters of local concern.

18 Section 4. The City Council deems it appropriate that this ordinance be published
 19 by title only and orders that copies of this ordinance be made available in the office of the
 20 city clerk for public inspection and acquisition.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED

2 BY TITLE ONLY on the 4th day of February, 2014.

4
5 _____
6 Mayor

5 Attest:

6
7 _____
8 City Clerk

8 READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED

9 BY TITLE ONLY this 6th day of March, 2014.

11
12 _____
13 Mayor

13 Attest:

14
15 _____
16 City Clerk

17 READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED

18 PUBLISHED BY TITLE ONLY this 18th day of March, 2014.

20
21 _____
22 Mayor

23 Attest:

24
25 _____
City Clerk

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE: Consideration of a motion to adopt on third reading Ordinance No. 7962 amending Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981, by adding a new section 6-3-12 requiring bear resistant containers in a designated area of the city; amending section 6-3-2, by adding new definitions; adding administrative penalties for violations and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Mark Beckner, Police Chief
Susan Richstone, Deputy Director of Community Planning & Sustainability
Lesli Ellis, Comprehensive Planning Manager
Valerie Matheson, Urban Wildlife Conservation Coordinator
Kara Mertz, Environmental Action Project Manager

EXECUTIVE SUMMARY:

The purpose of this memo is third reading and consideration of an ordinance that would: 1) require trash be secured in bear resistant containers; 2) apply initially only to certain neighborhoods west of Broadway (see Bear Zone One map at www.boulderwildlifeplan.net); 3) increase the penalty to \$250 for violations of B.R.C. 6-3-12 Bear Resistant Containers Required and 4) allow for notification of violations by posting a notice at the offending property, by telephone, email, or by mail to the property owner. The proposed ordinance (*Attachment A*) reflects council’s direction on options to secure trash and curbside compost from bears provided at its Jan. 21 meeting, and incorporates feedback provided during the first and second reading council discussions on Feb. 18, and March 5, respectively. This ordinance responds to community concerns for four bears that had come to depend on trash in urban areas for food and were euthanized in Boulder last year.

STAFF RECOMMENDATION:

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt on third reading ordinance No. 7962 amending Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981, by adding a new section 6-3-12 requiring bear resistant containers in a designated area of the city; amending section 6-3-2, by adding new definitions; adding administrative penalties for violations and setting forth related details.

BACKGROUND:

On Jan. 21, 2014 staff presented options to council and were directed to develop an ordinance to require trash and compost containers to be secure from bears at all times in most of the city west of Broadway. First reading of the ordinance was on Feb. 18, 2014 and on March 5, 2014, City Council amended and unanimously approved second reading of Ordinance No. 7962. Amendments included: language to clarify the nature of the city manager’s rule and attending unsecured refuse attractants; and removing the minimum fine requirement for 6-3-12 Bear Resistant Containers Required. Council considered but did not include an amendment to the definition of “refuse attractant.”

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - Proper storage of trash and preventing it from being strewn by animals supports the aesthetic character and economic vitality of Boulder.
- Environmental - Unsecured trash is harmful to native wildlife. Trash that is easily accessible invites bears to forage in town as opposed to adjacent natural areas. Trash consumption by bears results in cellophane, foil, and other non-digestible materials to be ingested by bears with food waste. Ingesting these materials is harmful to bears. In addition, bears in town that are repeatedly a nuisance, or pose a threat to public safety, are destroyed.
- Social - Though there have been no attacks on humans by black bears in the City of Boulder, the presence of these large predators in the urban area poses a safety threat to the community. Bear activity has been reported near areas where children congregate and along streets and alleys where children walk to school. In addition, bears that access trash often drag and spread household waste on streets, lawns and alleys, compromising basic neighborhood sanitation and aesthetics. Euthanizing bears compromises the civic value of living in harmony with the natural surroundings.

OTHER IMPACTS

- Fiscal - Staff’s plan includes hiring additional code enforcement officers and

developing a fund to assist low income residents with acquiring or leasing trash containers to offset their costs. The fiscal impact of the additional staffing, and the fund to assist low-income residents will be addressed in a budget supplemental ordinance.

- Staff time - Current activities are covered by existing department work plans. Additional enforcement or introduction of bear proof trash containers will require additional staff time.

PUBLIC FEEDBACK

One speaker provided comments during the public hearing at the March 5, 2014 second reading, expressing support for the ordinance.

ANALYSIS

Proposed Ordinance

The proposed ordinance is intended to implement council's policy direction. The major features of the proposed ordinance are as follows:

A. Area

The proposed ordinance would apply initially in an area bounded by the city's southern¹ and western borders, Broadway and a line through Wonderland Lake Park as if Sumac Avenue extended across Broadway to the city border (see Bear Zone One map at www.boulderwildlifeplan.net). The ordinance authorizes the city manager to adopt a rule extending the applicable area when necessary.

B. Requirement to Secure Trash.

The proposed ordinance requires that all trash in the area be secured at all times. Trash can be secured by being stored in a bear resistant container or enclosure. In addition, trash may be secured by storage in a garage or shed. If trash is stored securely in a garage or shed, it need not be stored in a bear resistant container. In such cases, the trash may be transported in a non-bear resistant container for pickup, but must at all times be attended by a person within fifteen feet of the container. This provision is intended to fulfill council's direction to allow for trash services that will collect trash directly from a garage or other storage area. The language would also allow for a resident to move the trash from a garage to the curb and wait with the trash for pickup. During second reading of the ordinance council amended language to clarify refuse attractants that are not contained in a bear resistant container must be attended by a person.

¹ At the January 24, 2014 update, staff suggested that the southern boundary be Greenbriar Boulevard. Greenbriar Boulevard ends at Lehigh Street. To avoid confusion, staff recommends that the southern boundary extend to the city's southern border.

C. Definition of Bear Resistant Container, Dumpster or Enclosure.

The proposed ordinance delegates to the city manager the authority to define “bear resistant.” Some cities, such as Aspen, have included such language in an ordinance. Aspen’s definition of “Wildlife Resistant Container” is as follows:

Wildlife-resistant refuse container means a fully enclosed container that can be constructed of pliable materials, but must be reinforced to deter access by wildlife. The container must employ a sturdy lid that has a latching mechanism preventing access to its contents by wildlife. Wildlife Resistant Containers must meet the standards of testing by the Living With Wildlife Foundation and a “passing” rating by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 60 minutes or otherwise be approved by a City-designated official.

Aspen Municipal Code § 12.08.010(2). Technology and organizations change. While the city’s definition may be similar to that adopted by Aspen, it is better practice to include such definitions in rules that can be adjusted to address such changes. During second reading of the ordinance council amended language to clarify the nature of the city manager’s rule, modifying the definition of bear resistant from “certified by” to “established by” the city manager.

D. Administrative Remedy.

Staff recommends that the proposed ordinance include an administrative remedy in addition to existing criminal penalties. This is the model employed for both rental licenses and snow removal. The principal reason for this recommendation is to facilitate service by posting rather than personal service. A criminal summons must be served pursuant to state court rules, which require either personal service or service upon a person at the residence of the offending party. An administrative remedy does not have similar requirements.

E. Fine amounts.

The proposed ordinance includes a fine of \$250 for the first violation, \$500 for the second violation and \$1,000 for a third violation. During second reading of the ordinance council amended the fine schedule to allow for penalties to be adjusted based on evidence presented at a hearing.

NEXT STEPS

Staff is developing a program of city assistance for members of the community who cannot afford the increased cost of bear-resistant containers; and an ordinance implementation timeline which will begin with alleys west of Broadway (see Zone Three map at www.boulderwildlifeplan.net) in the spring of 2014.

Attachments:

A: Ordinance No. 7962

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ORDINANCE NO. 7962

AN ORDINANCE AMENDING CHAPTER 6-3, "TRASH, RECYCLABLES AND COMPOSTABLES," B.R.C. 1981, BY ADDING A NEW SECTION 6-3-12 REQUIRING BEAR RESISTANT CONTAINERS IN A DESIGNATED AREA OF THE CITY; AMENDING SECTION 6-3-2, BY ADDING NEW DEFINITIONS; ADDING ADMINISTRATIVE PENALTIES FOR VIOLATIONS, AMENDING SECTION 6-12-5, "CONTAINERS FOR RECYCLING OR COMPOSTING COLLECTION," AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 6-3-2, B.R.C. 1981, is amended to read:

6-3-2 Definitions.

The definitions in chapter 1-2, "Definitions," B.R.C. 1981, shall apply to this chapter, including, without limitation, the definitions of "Compostables," "Hauler," "Recyclable materials," "Trash," "Trash container," "Visible to the public" and "Wildlife-resistant container."

The following terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

"Bear Resistant Container" shall mean a container that meets the requirements for such a container established by the city manager in a rule adopted pursuant to section 6-3-11 "City Manager Authorized to Issue Rules," B.R.C. 1981

"Bear Resistant Dumpster" shall mean a dumpster that meets the requirements for such a container established by the city manager in a rule adopted pursuant to section 6-3-11 "City Manager Authorized to Issue Rules," B.R.C. 1981

"Bear Resistant Enclosure" shall mean a fully enclosed structure meets the requirements for such a container established by the city manager in a rule adopted pursuant to section 6-3-11 "City Manager Authorized to Issue Rules," B.R.C. 1981

"Person" shall have the meaning set forth in chapter 1-2, "Definitions," B.R.C., and shall also include, without limitation, owner of any property or vacant land; occupant, owner, operator or manager of any single unit dwelling, multi unit dwelling, mobile home, mobile home park, private club or other similar property; or owner, operator, manager or employee of any business or business property.

1 “Refuse Attractant” shall mean any trash or other substance which could
2 reasonably be expected to attract wildlife or does attract wildlife, including, but not
3 limited to, soiled diapers, sanitary pads, food products, pet food, feed, kitchen
4 organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices,
5 seasonings or grease. Attractants do not include recyclable materials properly
6 enclosed in a recycling container, or materials that do not meet the definition of
7 trash in section 1-2-1, “Definitions,” B.R.C. 1981 and is fruit associated with a
8 fruit tree or bush, produce associated with a garden, or a bird feeder.

9 Section 2. Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981 is
10 amended by the addition of a **new section 6-3-12** to read:

11 **6-3-12 Bear Resistant Containers Required.**

12 (a) No private owner, agent appointed pursuant to section 10-3-14, "Local Agent
13 Required," B.R.C. 1981, or manager of any property, lessee leasing the entire
14 premises, or adult occupant of a single-family dwelling, a duplex, a triplex, or a
15 fourplex shall fail to keep all refuse attractants in bear resistant enclosures, in bear
16 resistant containers, bear resistant dumpsters or securely stored within a house,
17 garage, shed or other structure at least as secure as a bear resistant enclosure at all
18 times, except when being transported from a house, garage or bear resistant
19 enclosure for pickup. Refuse attractants transported for pickup **not in a bear**
20 **resistant container** shall be attended, by a person remaining within 15 feet of the
21 container at all times.

22 (b) This section shall apply to the area bounded by Broadway Street, the City’s
23 southern boundary, the city’s western boundary and a line extended from Sumac
24 Avenue due west through Wonderland Lake Park. Provided that the city manager
25 may extend the area by rule adopted pursuant to section 6-3-11 “City Manager
Authorized to Issue Rules,” B.R.C. 1981.

(c) If a container or enclosure is damaged, allowing access by wildlife, repairs must be
made within 72 hours after written notification by any city official, or such other
time designated in the notice by the city official.

(d) If the city manager finds that a violation of any provision of this section, the
manager, after notice and an opportunity for hearing under the procedures
prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a
civil penalty according to the following schedule:

- (1) For the first violation of the provision, \$250.00;
- (2) For the second violation of the same provision, \$500.00;
- (3) For the third violation of the same provision, \$1,000.00; and
- (4) **The Hearing Officer may adjust the penalty, based on evidence presented at a hearing.**

1 (e) The city manager's authority under this section is in addition to any other authority
2 the manager has to enforce this chapter, including but not limited to section 5-2-4,
3 General Penalties, and election of one remedy by the manager shall not preclude
4 resorting to any other remedy as well.

5 (f) The city manager may, in addition to taking other collection remedies, certify due
6 and unpaid charges to the Boulder County Treasurer for collection as provided by
7 section 2-2-12, "City Manager May Certify Taxes, Charges and Assessments to
8 County Treasurer for Collection," B.R.C. 1981.

9 (g) Notice under this subsection is sufficient if hand delivered, emailed, mailed or
10 telephoned to such person, or by posting on the premises.

11 Section 3. Section 6-12-5, B.R.C. 1981, is amended to read:

12 **6-12-5 Containers for Recycling or Composting Collection.**

13 (a) Haulers providing trash collection service to multifamily customers through
14 centralized collection areas shall provide containers for recyclable materials at no
15 additional charge. Containers shall be of a sufficient size to accommodate the
16 regular accumulation of recyclables from that customer, but at a minimum, such
17 containers shall be of a volume equal to one-half of the volume of the trash
18 collection service. If the city manager requires the collection of compostables,
19 haulers shall provide containers for that service of a sufficient size to
20 accommodate the regular accumulation of compostables from that customer.

21 (b) Haulers providing trash collection service to residential customers are not required
22 to provide recyclables or compostables containers. However, if the hauler requires
23 a specific type of container, then the hauler shall deliver such container at no cost
24 to the residential customer. This provision does not apply to any container
25 required by the city pursuant to section 6-3-12 "Bear Resistant Containers," B.R.C.
1981.

Section 4. This ordinance is necessary to protect the public health, safety, and
welfare of the residents of the city, and covers matters of local concern.

Section 5. The City Council deems it appropriate that this ordinance be published
by title only and orders that copies of this ordinance be made available in the office of the
city clerk for public inspection and acquisition.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED

2 BY TITLE ONLY this 18th day of February, 2014.

4
5 _____
Mayor

5 Attest:

6
7 _____
City Clerk

8 READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED

9 BY TITLE ONLY this 5th day of March, 2014.

12
13 _____
Mayor

13 Attest:

14
15 _____
City Clerk

16
17 READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED

18 PUBLISHED BY TITLE ONLY this 18th day of March, 2014.

20
21 _____
Mayor

21 Attest:

22
23 _____
City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE:

Consideration of a motion to approve a twenty-year lease for three right-of-way encroachments (stone bench, accessible ramp and stairs) for the benefit of the property located at 934 Pearl Street.

Applicant: Rocky Mountain Boulder, LLC and AHM Properties, LLC

PRESENTER/S

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

David Driskell, Executive Director of Community Planning and Sustainability

Charles Ferro, Land Use Review Manager

Sloane Walbert, Planner I

EXECUTIVE SUMMARY

Pursuant to Section 2-2-8, "Conveyance of City Real Property Interests", B.R.C. 1981, City Council approval is required for lease terms which exceed three years.

The purpose of this item is to obtain City Council approval to authorize a twenty-year lease for 119 square feet in right-of-way encroachments at 934 Pearl Street, and authorize the City Manager to execute the necessary documents to accomplish this transaction. The encroachments include a decorative stone bench, wheel chair accessibility ramp, and stairs located at the entrance to a historic building. The proposed Right-of-Way Lease is attached (see **Attachment A**). The wheel chair ramp encroachment and stairs have existed since 1998 and the stone bench was installed in 2008. The areas of encroachment were previously leased from the city via two separate short term leases. However, considering the permanency of the encroachments a long term lease is appropriate.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to authorize the City Manager to approve and execute the attached right-of-way lease for property located at 934 Pearl Street for a stone bench, accessible ramp and stairs, for the lesser of twenty (20) years or the life of the encroachment, whichever occurs first.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** The encroachments further economic sustainability by enhancing the commercial viability of the property.
- **Environmental:** The location of the accessible ramp and stairs in the right-of-way serves to preserve the landmarked building for future generations. The ramp provides accessible access to the historic structure for public benefit. In addition, the bench serves as a streetscape amenity that enhances the pedestrian environment.
- **Social:** The ramp is a means to provide accessible entry to individuals with disabilities, pursuant to the ADA Standards for Accessible Design. It is not possible to provide physical accessible access to the historic structure on the property. The location of the ramp and stairs in the right-of-way protects the historic armory building as an important community asset.

OTHER IMPACTS

- **Fiscal:** Annual rental rate of \$210 per year, escalating annually by increase in the “Consumer Price Index” for the Denver/Boulder Metropolitan area. The lease rate was determined based on the nature of the encroachments and the public purpose served. Lease rates are reviewed annually by the Downtown Management Commission and a recommendation made to City Council. City Council approves the annual rate as part of the annual budget process.
- **Staff time:** The applicant has paid the required application fee to cover the staff review time of the proposed lease.

PUBLIC FEEDBACK

This item is being heard as part of the consent agenda and has been advertised in the Daily Camera.

BACKGROUND

Any term of three years or greater, up to twenty years, must be approved by the City Council. The City Manager is authorized to permit encroachments within the public right-of-way for a period of three years or less. See Section 2-2-8, “Conveyance of City Real Property Interest,” B.R.C. 1981, and the City Charter Section 111, “Terms not longer than twenty years – compensation.” The encroachments at 934 Pearl Street are

permanent in nature and can be leased for a period exceeding three years only upon approval of the City Council. Staff has determined that there will be no public need for the leased area during the lease period. A copy of the proposed Right-of-Way Lease is attached (see **Attachment A**).

The armory building at 934 Pearl Street was built by John Brierley in 1898 for Company H of the First Colorado Infantry. The Richardsonian Romanesque building was designated as one of the city's first local landmarks in 1975. The property is located in the Downtown Historic District, which was listed on the National Register of Historic Places in 1980 and designated as a local historic district in 1999. All exterior alterations to the building require review by the historic preservation program. Stairs at the front entry to the building have encroached into the public right-of-way since at least 1974. The subject wheel chair accessibility ramp and stone steps were approved by the Landmarks Preservation Advisory Board in 1997 and were installed in 1998 (see **Figure 1**). The subject basalt memorial bench was approved by the historic preservation program in 2007 and was installed in 2008 (see **Figure 2**). The proposed Right-of-Way Lease would cover the 105 square feet of public property directly beneath the ramp and stairs and the 14 square feet of public property directly beneath the bench.



Figure 1: The bench and ramp encroachments looking east on Pearl Street.

If a revocable lease is denied the property owner must resolve the area of encroachment. The encroachments may require removal at the owner's expense or purchase of enough right-of-way to accommodate the encroachments.

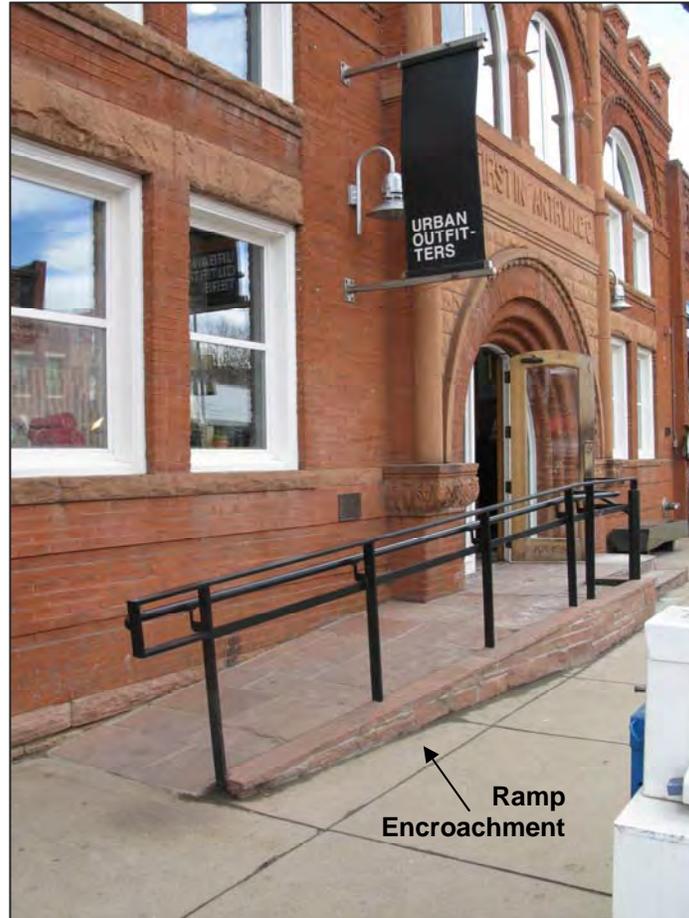


Figure 2: The ramp and bench encroachments looking west on Pearl Street.

ANALYSIS

Since the encroachments are permanent in nature, a long term lease may be approved, if the following criteria are met, pursuant to Section 8-6-6(f), B.R.C. 1981:

1. *The encroachment does not constitute a traffic or other hazard.*

The ramp, stairs and bench do not encroach onto the roadway and do not create a traffic hazard.

2. *The encroachment does not destroy or impair the public's use of the land for its intended purposes or serves a public purpose that cannot otherwise be accomplished without such minor impairment.*

The encroachments do not impair the public use of Pearl Street and the leased area is not part of the street surface. The existing ramp is a means to provide accessible entry to individuals with disabilities, pursuant to the ADA Standards for Accessible Design. It is not possible to provide physical accessible access to the historic structure on the property.

- 3. Encroachment on a sidewalk in commercial areas maintains a minimum clearance of eight feet vertically and horizontally of unobstructed pedestrian way. The requirements of this paragraph may be modified by the City Manager if reasonable passage is provided on the sidewalk and the safety of pedestrians, bicyclists and motorists is not impaired.*

Adequate space exists horizontally to safely accommodate pedestrian and vehicular traffic.

- 4. A longer term use of the public property for the specific term approved will not be contrary to the public interest and ultimate use of the public right-of-way or public easement; and there will be no public need for the leased area during the lease period.*

A twenty-year lease to allow for the encroachments is not contrary to the public interest. There is no contemplated public need for the leased space on Pearl Street during the term of the lease.

- 5. Adequate compensation is provided to the city throughout the lease term.*

A lease rate of \$210 per year has been established by the city, escalating annually by increase in the “Consumer Price Index” for the Denver/Boulder Metropolitan area. The lease rate was determined based on the nature of the encroachments and the public purpose served. Lease rates are reviewed annually by the Downtown Management Commission and a recommendation made to City Council. City Council approves the annual rate as part of the annual budget process.

MATRIX OF OPTIONS

City Council may:

1. Approve the twenty-year lease as proposed.
2. Deny the twenty-year lease, but direct the City Manager to approve a three-year short term lease. The applicant renews the lease in three years as directed by the city.
3. Deny both the long and short term lease and direct the applicant to purchase the area of encroachment from the city.
4. Deny both the long and short term lease and agree to a lot line adjustment between the City right-of-way and applicant’s property for the area of encroachment.
5. Deny both the long and short term lease and require removal of the encroachments.

ATTACHMENTS

A. Right-of-Way Lease, Exhibits

**CITY OF BOULDER
RIGHT-OF-WAY LEASE (REV2013-00012)**

THIS Lease is entered into this _____ day of _____, 20____, by and between the City of Boulder, a Colorado home rule City, hereinafter called "Lessor," and AHM Properties, LLC, a California limited liability company, and Rocky Mountain Boulder, LLC, a California limited liability company, herein called "Lessee.

RECITALS

A. AHM Properties, LLC, a California limited liability company, and Rocky Mountain Boulder, LLC, a California limited liability company, are the owners of the property and improvements located at 934 Pearl Street, and more particularly described as West 12.5 feet of Lot 2 and east 37.5 feet of Lot 3, Block 64, West Boulder, County of Boulder, State of Colorado; and

B. The Lessor is the owner of the public right-of-way adjacent to the property located at 934 Pearl Street; and

C. The ADA Ramp and Bench is located at 934 Pearl Street, portions of which encroach into the aforementioned public right-of-way of the City of Boulder; and

D. On _____, 20____, the City Council approved this Lease for a period to exceed three years pursuant to Section 2-2-8, B.R.C. 1981; and

E. The Lessor had determined that the said public right-of-way will not be required for a public purpose during the term of this Lease and that the use of the surface of said public right-of-way by the public or the Lessor for the benefit of the public will not be impaired.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Premises Leased. The Lessor hereby leases, demises, and sets off to the Lessee the following described right-of-way located in the County of Boulder, State of Colorado, to-wit:

As depicted on Exhibit A attached hereto ("Leased Premises").

The lease covers only the _____ square feet of property directly beneath the encroachment.

2. Lease Term: This lease term shall be for the lesser of twenty (20) years or the life of the aforementioned ADA Ramp and Bench, whichever first occurs, said term commencing at noon on _____. During the Lease Term, Lessee shall have the right to repair said ADA Ramp and Bench.

3. Rent. Lessee hereby agrees to pay as and for an **annual** rental for use of the above described ADA Ramp and Bench, the sum of \$210 per year, which sum shall be escalated annually by increase in the "Consumer Price Index" for the Denver/Boulder Metropolitan area. This amount is due and payable without requirement of notice or billing by Lessor.

Please remit payment to City of Boulder, Planning & Development Services, 1739 Broadway, 3rd Floor, Post Office Box 791, Boulder, CO 80306-0791.

4. Maintenance. The Lessee agrees to construct and maintain the ADA Ramp and Bench in said public right-of-way with due caution and regard for the Lessor's and the public's right of use and access to the land adjoining 934 Pearl Street.

The City shall not be responsible for any maintenance in the Leased Premises. However, the City reserves the right to access the Leased Premises to maintain any and all City utilities located in said public right-of-way. It is expressly understood that interruptions of utility services to Lessee's property or damage to Lessee's property by act of God or sabotage are beyond the control of the City and do not constitute breach of Lease agreement. The City agrees to endeavor to correct manifestations of the foregoing and to return the Leased Premises to normal operation as soon as possible. Loss or damage to property of any kind in the Leased Premises or loss suffered by the business or occupation by Lessee as a result of the foregoing events shall be at Lessee's risk.

5. Removal and Restoration. Lessee agrees that upon removal of any private improvements, to restore public improvements in the public right-of-way to its original condition. If the Lessor determines that all or portions of the public improvements have been damaged beyond reasonable repair, Lessee agrees to replace such improvements in accordance with standards for construction in the public right-of-way prescribed by the Public Works Department's more current "Design Criteria and Standard Specifications." Lessee agrees to notify the City within five working days of removal of any such private improvements so the Lessor may inspect the public right-of-way.

6. Indemnification. The Lessee agrees to indemnify and hold harmless the City of Boulder from and against all claims, suits, losses, and expenses in any manner resulting from, arising out of, or connected with the construction, use, operation or maintenance of the Leased Premises.

- 7. Insurance. Prior to the execution of the Lease, the Lessee shall submit to the City all insurance policies or Certificates of Insurance as evidence of compliance with the provisions of this paragraph and subject to approval by the City. Lessee shall be liable for and agrees to, at Lessee's sole expense, maintain, or cause to be maintained with insurers approved by Lessor, a comprehensive general liability insurance policy with minimum limits of \$1 million per occurrence and a \$2 million aggregate. Subrogation shall be waived in favor of the Lessor. This policy shall name the City of Boulder and its elected officials and employees as Additional Insured. The above stated policy limits shall be raised by Lessor to meet any additional coverage required by amendments to the Colorado Governmental Immunity Act.

This policy shall stand as the primary liability policy with respect to any interest the Lessor may have in this property. This policy shall remain in effect for the duration of the Lease. Lessee, or Lessee's insurance broker, shall notify the City of any cancellation or reduction in coverage or limits of any insurance policy within 7 (seven) days of receipt of insurers' notification to that effect.

- 8. Renewal. This Lease may be renewed for additional periods of time not greater than two (2) years, 364 days upon the mutual consent of the Lessee and Lessor. Any term greater than two (2) years, 364 days but less than 20 years in length requires the mutual consent of the Lessee and Lessor after appropriate action by the Boulder City Council.
- 9. Warranty of Authority. The Lessee warrants and agrees that Lessee has the good right, full power and lawful authority to execute this Lease.
- 10. Binding Provision. The provisions of the Lease shall be binding upon the parties hereto and upon their respective heirs, successors, and assigns.

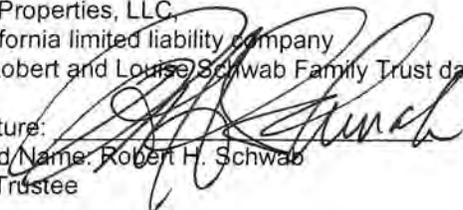
DATE OF ISSUANCE: _____

DATE OF EXPIRATION: _____

IN WITNESS WHEREOF, we have set our hands on this date above mentioned.

LESSEE/BUILDING OWNER:

AHM Properties, LLC,
a California limited liability company
By: Robert and Louise Schwab Family Trust dated January 16, 1984 as Manager

Signature: 
Printed Name: Robert H. Schwab
Title: Trustee

State of California)
County of Los Angeles) ss.

The foregoing instrument was acknowledged before me this 18th day of February, 2014, by Robert H. Schwab as Trustee of Robert and Louise Schwab Family Trust dated January 16, 1984, as Manager of AHM Properties, LLC, a California limited liability company.

Witness my Hand and Seal.
My Commission Expires: 5/28/16

[SEAL]

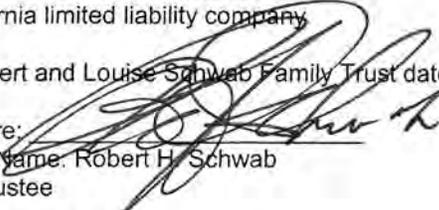

Notary Public



LESSEE/BUILDING OWNER:

Rocky Mountain Boulder, LLC,
a California limited liability company

By: Robert and Louise Schwab Family Trust dated January 16, 1984, as Sole Member

Signature: 
Printed Name: Robert H. Schwab
Title: Trustee

State of California)
County of Los Angeles) ss.

The foregoing instrument was acknowledged before me this 18th day of February, 2014 by Robert H. Schwab as Trustee of Robert and Louise Schwab Family Trust dated January 16, 1984, as Sole Member of Rocky Mountain Boulder, LLC, a California limited liability company.

Witness my Hand and Seal.
My Commission Expires: 5/28/16

[SEAL]




Notary Public

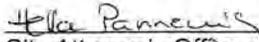
CITY OF BOULDER

By: _____
City Manager

Attest:

City Clerk

Approved As To Form:


City Attorney's Office

Date: 9-25-2013

Exhibits:

- Exhibit A: Map of Leased Premises
- Exhibit B: Certificate of Insurance

EXHIBIT A

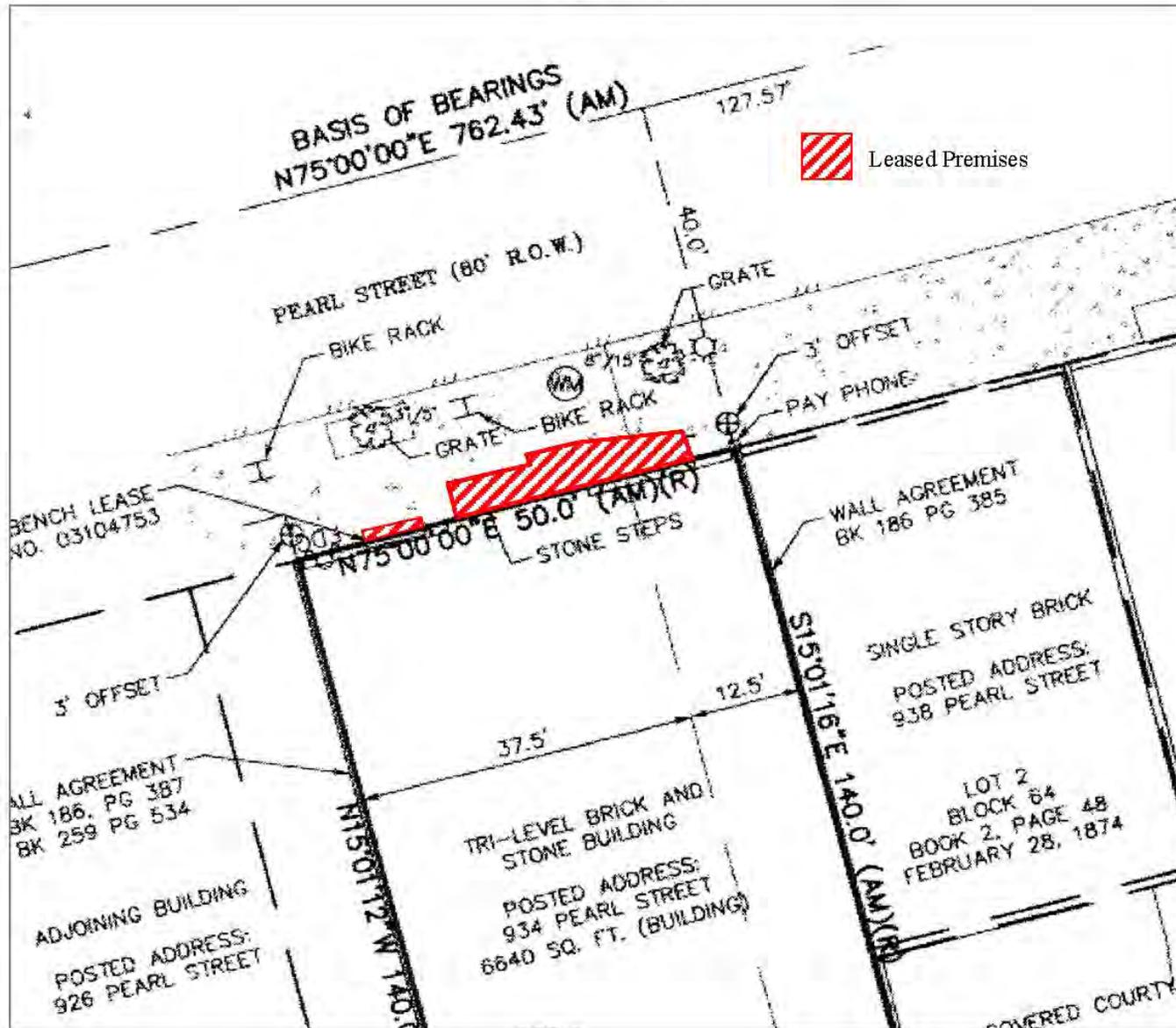


EXHIBIT A

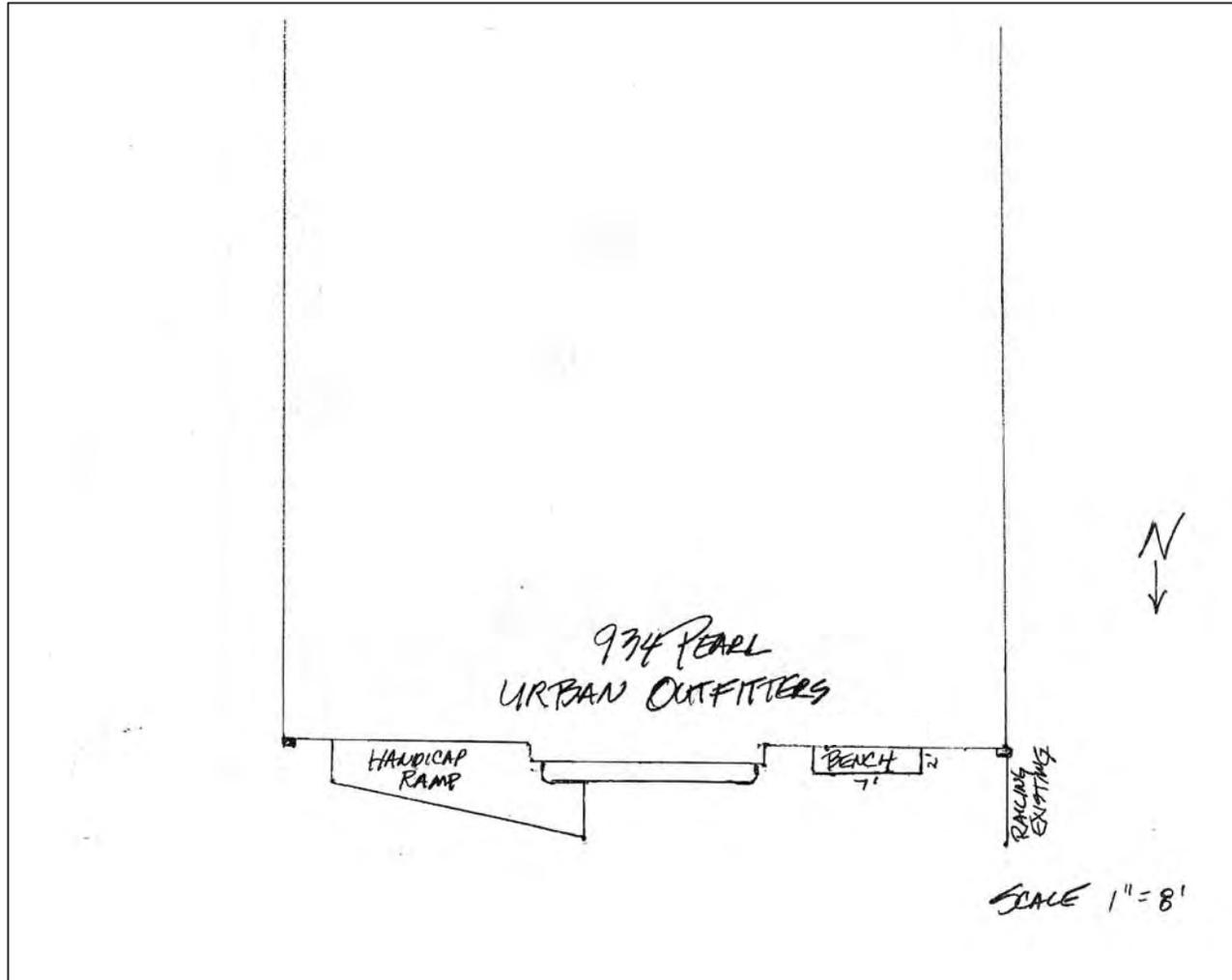


EXHIBIT B



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/06/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Jules Berlin Agency Lic.#0387848 P.O. Box 5588 Beverly Hills CA 90209-5588	CONTACT NAME: PHONE (A/C, No, Ext): (323) 655-6470 FAX (A/C, No): (323) 655-3910 E-MAIL ADDRESS: ADDRESS: INSURER(S) AFFORDING COVERAGE NAIC # INSURER A: Travelers Property Casualty Ins INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
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COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X	X	Y-630-2A746626	04/17/2013	06/01/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/CP AGG \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED \$ ATTENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYEES LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				WC STATU-TORY LIMIT \$ OTH-ER \$ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 RE: 934 Pearl Street, Boulder, CO (Including ADA Ramp and bench area). The Certificate holder, City of Boulder and its elected officials and employees are recognized as Additional Insureds per the terms and conditions of the contract.
 Waiver of Subrogation applies in favor of the certificate holder.

CERTIFICATE HOLDER () - () - City of Boulder P.O. Box 791 Boulder CO 80306	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE: Second reading and consideration of Ordinance No. 7965 amending Titles 4, 5, 6 and 8, B.R.C. 1981 to modify the general penalty provisions and amending Titles 5 and 7 by repealing Section 7-5-17 regarding pedestrian interference with vehicles and Section 7-5-25 regarding staying on medians and adding those provisions to new Sections 5-6-15 and 5-6-16, B.R.C. 1981, and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Mark Beckner, Police Chief
Janet Michels, Senior Assistant City Attorney – Lead Prosecutor

EXECUTIVE SUMMARY:

The purpose of this agenda item is for consideration of an ordinance to implement direction given by council at the February 11, 2014 study session.

Attached is a proposed ordinance which would:

1. Repeal certain sentencing limitations imposed by Ordinance No.7831, adopted by council on February 7, 2012; and
2. Allow for the imposition of criminal sanctions for interference with vehicles and remaining on a median.

The net effect of these changes would be that the Municipal Court would have more discretion in imposing sentences in appropriate cases. If approved, there would be no change in what is illegal conduct. The purpose is to provide the municipal court with better tools to deal with a small minority of the defendant population who do not comply with court orders. The court's probation

officers work to provide resources to assist homeless defendants and the judges employ alternatives to incarceration, such as community service in lieu of jail. These efforts can be futile if there is nothing to compel compliance. Without the threat of incarceration, some defendants will simply walk away.

This also can create a frustrating situation for police officers. There have been instances where a person cited has torn up the citation in front of the police officer. Staff does not believe that these changes will result in a significant increase in incarceration – that would require a sea change in the municipal court’s approach to sentencing. The hope is that the threat of incarceration will induce individuals to change their behavior.

STAFF RECOMMENDATION:

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to approve on second reading Ordinance No. 7965 amending Titles 4, 5, 6 and 8, B.R.C. 1981 to modify the general penalty provisions and amending Titles 5 and 7 by repealing Section 7-5-17 regarding pedestrian interference with vehicles and Section 7-5-25 regarding staying on medians and adding those provisions to new Sections 5-6-15 and Section 5-6-15 and setting forth related details.

BACKGROUND:

Details related to the ordinance can be found in the [first reading memorandum](#). There was some public response. Much of the response was generated by a “action alert” on the website of the Colorado ACLU. This website provided an automated system for sending emails to council. As of noon on March 11, the council email address had received 124 emails regarding the proposed ordinance. Of these 120 were generated by the automated system. The other four emails were split evenly between support and opposition to the ordinance. The “Take Action” webpage included misleading information. It included the following introduction:

Tell the Boulder City Council to reject the "social misbehavior" ordinance

Rather than working to find real solutions to poverty, the Boulder City Council is considering a measure that would add new criminal penalties for panhandling and give judges increased power to jail

people for minor offenses. Laws that criminalize homelessness are unconstitutional and make no fiscal sense.

Please tell the City Council to reject the so-called “social misbehavior” ordinance. Punishing the most vulnerable among us is not the answer.

While a certain level of hyperbole is expected in political discourse, the website significantly mischaracterized council’s actions and the proposed ordinances. Council is in fact working to find real solutions to homelessness. The city supports numerous social services with a budget of over \$2 million each year. The city’s funding is in addition to funding provided by Boulder County, which has the principal responsibility for social services under Colorado law. The city of Boulder has more per capita social service funding than any other city in Colorado.

The true answer to homelessness is housing. The city’s housing division has a budget of over \$5 million to run a progressive and effective affordable housing program.

The city has worked hard to address homelessness in the community. The issue addressed by the proposed ordinances is behavior by individuals who have taken over several important public spaces. The city needs more effective tools to address this behavior. The proposed ordinances provide those tools.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Criminal behavior in public spaces can deter visitors from using those spaces. Reduction in the number of visitors can have a detrimental effect on associated economic activity.
- Environmental – While not criminal, the recent intense use of the municipal campus has resulted in a negative environmental impact on the campus. Large areas of grass have required reseeding in the past and will most likely require reseeding again in the spring. Quantities of trash and abandoned property left in the park also have a negative environmental effect.
- Social – Public parks are intended for all to enjoy. Intimidating and criminal behavior have effectively precluded large segments of the city’s population from enjoying these amenities. Among those affected are homeless individuals who use the parks as a place to rest and should be permitted to do so without fear. In addition, the location of criminal activity in close proximity to Boulder High School places those students at risk.

OTHER IMPACTS

- Fiscal – None identified.
- Staff time - Current activities are covered by existing department work plans.

BOARD AND COMMISSION FEEDBACK

None.

ANALYSIS

The proposed ordinances will address individuals. The Boulder Municipal Court very rarely imposes jail as a sanction. Most sentences involve some level of community service and a fine. Some individuals refuse to perform community service and cannot pay a fine. Boulder does not jail individuals for failure to pay fines. Thus, there is a segment of the population for whom there is no incentive to obey the law. The proposed ordinance would allow the court to impose jail as a sanction for first offenses. It returns to the judges the discretion that council removed in 2012.

The second part of the ordinance allows for jail in two additional circumstances. The net effect of this change is that fewer individuals will be jailed for failure to appear in court. The court will stop issuing warrants for failure to appear for all other traffic offenses. Thus, fewer people will be subjected to arrest for failure to appear, although a small number will continue to be subject to such sanctions.

These are small steps to induce a few recalcitrant defendants to change their behavior. The design is to better protect everyone in the community, but particularly the homeless population. Homeless individuals are far more likely to be victims of crime than perpetrators. Homeless people deserve the same protection as the rest of the community.

Attachments: Proposed Ordinance No. 7965

ORDINANCE NO. 7965

AN ORDINANCE AMENDING TITLES 4, 5, 6, 7 AND 8, B.R.C. 1981, TO MODIFY THE GENERAL PENALTY PROVISIONS, BY RELOCATING SECTION 7-5-15(b) REGARDING PEDESTRIAN INTERFERENCE WITH VEHICLES ON THE ROADWAY TO A NEW SECTIONS 5-6-15 AND RELOCATING SECTION 7-5-25 REGARDING STAYING ON MEDIANS TO A NEW GENERAL OFFENSE 5-6-16 IN THE BOULDER REVISED CODE, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 4-1-11 B.R.C. 1981, is amended to read:

4-1-11 Revocation Not Exclusive Penalty.

Nothing in this title shall be deemed to prohibit the city manager from imposing other penalties authorized by this code or other ordinance of the city, including filing a complaint in the municipal court for a violation of this code or other ordinance of the city. ~~If a complaint is filed in the municipal court for a violation of this title, the maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 2. Section 5-3-11, B.R.C. 1981, is amended to read:

5-3-11 Nuisance Party Prohibited.

(a) No owner, occupant, tenant, or other person having possessory control, individually or jointly with others, of any premises shall sponsor, conduct, host, or permit a social gathering or party on the premises which is or becomes a public nuisance where such nuisance is either the intentional result of, or reasonably anticipated by, the person or persons having such possessory control. Reasonable anticipation shall be adjudicated using a reasonable person standard.

...

(d) All participants in any party or social gathering declared to be a public nuisance by a police officer shall cease participating in that party or social gathering and disperse immediately upon the order of a police officer, and all persons not domiciled at the site of such party or social gathering shall leave the premises immediately. No person shall fail or refuse to obey and abide by such an order.

~~(e) The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~

1 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
2 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 Section 3. Section 5-4-7, B.R.C. 1981, is amended to read:

4 **5-4-7 Grazing on Public Property.**

5 No person shall knowingly cause or permit any domesticated animal that such person owns,
6 possesses, or controls, including, without limitation, cows, goats, llamas, burros, mules, horses,
7 pigs, or sheep, to graze, pasture, or run at large or to be driven or herded within any property
8 belonging to the city or under the possession and control of the city, except pursuant to a written
9 permit from the city manager. ~~The maximum penalty for a first or second conviction within two~~
10 ~~years, based on date of violation of this section, is a fine of \$500.00. For a third and each~~
11 ~~subsequent conviction within two years, based upon the date of the first violation, the general~~
12 ~~penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

13 Section 4. Section 5-4-8, B.R.C. 1981, is amended to read:

14 **5-4-8 Rolling or Throwing Rocks on Public Property.**

15 No person shall roll, throw, or otherwise move any rocks or boulders on any public property. But
16 this section does not apply to city employees acting within the scope of their employment. ~~The~~
17 ~~maximum penalty for a first or second conviction within two years, based on date of violation of~~
18 ~~this section, is a fine of \$500.00. For a third and each subsequent conviction within two years,~~
19 ~~based upon the date of the first violation, the general penalty provisions of section 5-2-4,~~
20 ~~"General Penalties," B.R.C. 1981, shall apply.~~

21 Section 5. Section 5-4-9, B.R.C. 1981, is amended to read:

22 **5-4-9 Unauthorized Research Projects.**

23 No person shall conduct any research project that includes marking, tagging, sampling, trapping,
24 or removing any soil, rock, fossil, tree, shrub, plant, flower, or wildlife or that includes the
25 construction of a physical grid in or on any property belonging to the city or under the possession
and control of the city, except pursuant to a written permit from the city manager. ~~The maximum~~
~~penalty for a first or second conviction within two years, based on date of violation of this~~
~~section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based~~
~~upon the date of the first violation, the general penalty provisions of section 5-2-4, "General~~
~~Penalties," B.R.C. 1981, shall apply.~~

Section 6. Section 5-4-12, B.R.C. 1981, is amended to read:

5-4-12 Depositing Trash on Property in Violation of Sign.

(a) No person shall deposit or cause to be deposited, any trash, refuse, garbage, or rubble in any
receptacle designated or designed for the deposit of such materials without the express or implied
consent of the owner or a person in possession and control of the property on which the
receptacle is located.

...

1 (c) Nothing in this section shall be construed to exempt a person posting a sign from complying
2 with the sign code, section 9-9-21, "Signs," B.R.C. 1981.

3 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
4 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
5 two years, based upon the date of the first violation, the general penalty provisions of section 5-
6 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

7 Section 7. Section 5-4-13, B.R.C. 1981, is amended to read:

8 **5-4-13 Littering.**

9 (a) No person shall deposit, leave, dump or cause to be deposited, left, or dumped any trash,
10 refuse, garbage, or rubble on any public or private property other than within those containers
11 specifically designated for the deposit of such materials.

12 ...
13 (g) This section does not apply to deposit of hazardous wastes in violation of section 18-13-112,
14 C.R.S.

15 ~~(h) The maximum penalty for a first or second conviction within two years, based on date of
16 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
17 two years, based upon the date of the first violation, the general penalty provisions of section 5-
18 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

19 Section 8. Section 5-4-15, B.R.C. 1981, is amended to read:

20 **5-4-15 Posting Signs on Property of Another Prohibited.**

21 (a) No person shall post a sign in the public right-of-way or on any other public property except
22 on a kiosk or public bulletin board meant solely for posting signs. No beneficiary of any such
23 sign shall fail to prevent the violation of this section. This prohibition does not extend to persons
24 employed or authorized by the public property's owner and acting within the scope of their
25 employment or authority.

...
(c) For the purposes of this section:

"Beneficiary of a sign" means a person who is the intended recipient of the benefit brought about
by the posting of a sign in the downtown DT zone and in that portion of the P zone adjacent
thereto, or in the University Hill BC-2 zone adjacent to Broadway and College, and includes,
without limitation, any business whose premises are specified in such sign.

"Kiosk" means a freestanding structure located within a pedestrian circulation area used for
posting of notices or advertisement of goods.

"Post" means to affix in any manner, including, without limitation, nailing, tacking, taping, tying,
gluing, pasting, painting, staking, marking, or writing.

"Sign" has the meaning given in section 9-16-1, "General Definitions," B.R.C. 1981.

1 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of~~
 2 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 3 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 4 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

5 Section 9. Section 5-5-4, B.R.C. 1981, is amended to read:

6 **5-5-4 Refusal to Permit Inspections.**

7 (a) No person, knowing that a public servant is legally authorized to inspect property, shall:

8 (1) Refuse to produce or make available the property for inspection at a reasonable hour;
 9 or

10 (2) Refuse to permit the inspection at a reasonable hour if the property is available for
 11 inspection.

12 (b) For purposes of this section, "property" means any real or personal property, including,
 13 without limitation, books, records, and documents that are owned, possessed, or otherwise
 14 subject to the control of the defendant. A "legally authorized inspection" means any lawful
 15 search, sampling, testing, or other examination of property, in connection with the regulation of a
 16 specific business or occupation, that is authorized by an ordinance, statute, or lawful regulatory
 17 provision regulating such business or occupation or by a search warrant.

18 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 19 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 20 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 21 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

22 Section 10. Section 5-6-3, B.R.C. 1981, is amended to read:

23 **5-6-3 Unlawful Use of Vehicles as Residence.**

24 No person shall occupy a vehicle upon any city street or streets or other public property if any of
 25 the purposes for such occupation is to use the vehicle as a permanent or temporary residence.
 Sleeping overnight upon any city street once in any seven-day period does not constitute use of
 the vehicle as a temporary residence. ~~The maximum penalty for a first or second conviction~~
~~within two years, based on date of violation of this section, is a fine of \$500.00. For a third and~~
~~each subsequent conviction within two years, based upon the date of the first violation, the~~
~~general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

26 Section 11. Section 5-6-4, B.R.C. 1981, is amended to read:

27 **5-6-4 Hotel and Motel Registration.**

28 (a) No person who manages or keeps a hotel, motel, boarding house, rooming house, or lodging
 29 house in the city shall fail:

30 (1) To keep a book in which shall be registered shortly after arrival the name and
 31 residence address of each transient guest and, if the guest is traveling in a motor vehicle,
 the license number and owner of such motor vehicle;

1 (2) To number the rooms available for transient guests;

2 (3) To record the number of the room occupied by any such guest in such register; and

3 (4) To maintain such register for three years and open it for inspection at all times to all
4 federal, state, and local peace officers.

5 (b) No person shall register in other than such person's true name or by the name by which such
6 person is generally known.

7 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of
8 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
9 two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

9 Section 12. Section 5-6-5, B.R.C. 1981, is amended to read:

10 **5-6-5 Juvenile Curfew.**

11 (a) No person under sixteen years of age shall be or remain upon any public street, sidewalk,
12 alley or any public place or right-of-way between 11:00 p.m. and 5:00 a.m., except as provided
13 in subsection (b) of this section. ~~The maximum penalty for a first or second conviction within
14 two years, based on date of violation of this section, is a fine of \$500.00. For a third and each
15 subsequent conviction within two years, based upon the date of the first violation, the general
16 penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

17 (b) In the following exceptional cases, a minor may be or remain in a public place beyond the
18 hours set forth in subsection (a) of this section:

19 ...

20 Section 13. Section 5-6-8, B.R.C. 1981, is amended to read:

21 **5-6-8 Skateboards on Mall.**

22 No person on the mall shall ride upon the mall any skateboard, skates, coaster, or other similar
23 device. ~~The maximum penalty for a first or second conviction within two years, based on date of
24 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
25 two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

26 Section 14. Section 5-6-9, B.R.C. 1981, is amended to read:

27 **5-6-9 Projectiles on Mall.**

28 (a) No person shall cast, throw, or propel any projectile on the mall. This prohibition includes,
29 without limitation, throwing balls, boomerangs, bottles, darts, frisbees and other like devices,
30 model airplanes, rocks, snowballs, and sticks. ~~The maximum penalty for a first or second
31 conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a~~

1 ~~third and each subsequent conviction within two years, based upon the date of the first violation,~~
 2 ~~the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 (b) This section does not apply to a juggler if the juggler does not cast, throw, or propel a knife,
 4 including, without limitation, a knife with a blade three and one-half inches in length or less, or
 5 burning projectile or if the juggler is acting within the terms of a special entertainment permit
 6 issued under the provisions of chapter 4-11, "Mall Permits and Leases," B.R.C. 1981.

7 Section 15. Section 5-6-10, B.R.C. 1981, is amended to read:

8 **5-6-10 Camping or Lodging on Property Without Consent.**

9 (a) No person shall camp within any park, parkway, recreation area, open space or other city
 10 property.

11 ...
 12 (e) Testimony by an agent of the persons specified in subsection (b) of this section that such
 13 agent is the person who grants permission to camp or lodge upon such property, or that in the
 14 course of such agent's duties such agent would be aware of permission and that no such
 15 permission was given, is prima facie evidence of that fact.

16 ~~(f) The maximum penalty for a first or second conviction within two years, based on date of
 17 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 18 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 19 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

20 Section 16. Section 5-6-13, B.R.C. 1981, is amended to read:

21 **5-6-13 Public Nudity Prohibited.**

22 (a) No person who is ten years of age or older shall intentionally expose any portion of his or her
 23 anus, vulva, penis or scrotum while that person is located:

24 (1) In a public right of way, in a park or recreation center, in a public building, in a public
 25 square or while located in any other public space or mall; or

(2) On private property if the person is in a place that can be viewed from the ground
 level by another who is located on public property and who does not take extraordinary
 steps such as climbing a ladder or peering over a screening fence in order to achieve a
 point of vantage.

(b) This prohibition does not extend to:

(1) People who are undergoing bona fide emergency medical examinations or treatment;
 or

(2) People located in dressing rooms, shower rooms, bathrooms or in other enclosed areas
 specifically designated for changing clothes or in which nudity is explicitly permitted.

~~(c) The maximum penalty for a first or second conviction within two years, based on date of
 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~

1 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
2 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 Section 17. Chapter 5-6, B.R.C. 1981, is amended by the addition of a **new section 5-6-**
4 **15** to read:

5 **5-6-15 Pedestrian Interference in Roadway Prohibited.**

6 Every pedestrian crossing or otherwise within a roadway shall yield the right of way to and avoid
7 any interference with all vehicles upon or approaching the roadway. This section does not apply
8 to pedestrians crossing in crosswalks or in accordance with subsection 7-5-15(d), B.R.C. 1981.

9 Section 18. Chapter 5-6, B.R.C. 1981, is amended by the addition of a **new section 5-6-**
10 **16** to read:

11 **5-6-16, Staying on Medians Prohibited.**

12 (a) No person shall stand or be upon a median of any street for longer than is reasonably
13 necessary to cross the street.

14 (b) For the purposes of this section, "median" means:

15 (1) The area of a street, generally in the middle, which separates traffic traveling in one
16 direction from traffic traveling in another direction, or which, at intersections, separates
17 traffic turning left from traffic proceeding straight. Such an area is physically defined by
18 curbing, landscaping, or other physical obstacles to the area's use by motor vehicles, or by
19 traffic control markings which prohibit use of a portion of the pavement of a street by motor
20 vehicles other than to drive generally perpendicularly across the markings, or to wait there
21 awaiting the opportunity to cross or merge with the opposing lanes of traffic (also known as
22 painted medians, which are wider than a double yellow line); or

23 (2) The area of a street at an intersection between the streets and a right turn only lane,
24 roughly triangular in shape, and separated from the motor vehicular traffic lanes by curbing,
25 landscaping, or other physical obstacles to the area's use by motor vehicles (also known as a
right turn island).

(c) This section does not apply to medians which are thirty or more feet wide, to the medians on
Mapleton Avenue between Fourth Street and Ninth Street, or to persons maintaining or working
on the median for the government which owns the underlying right of way or for a public utility.

Section 19. Section 5-7-2, B.R.C. 1981, is amended to read:

5-7-2 Possession and Consumption of Alcoholic Beverages in Public Prohibited.

(a) No person within the city limits shall possess an opened container of or consume any malt,
vinous, or spirituous liquor or fermented malt beverage in public, except upon premises licensed
for consumption of the liquor or beverage involved.

1 ...

(g) No person shall drive or sit in the driver's seat of any motor vehicle, other than one carrying passengers for hire, in which a violation of subsection (a) of this section is occurring.

3 ~~(h) The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

6 Section 20. Section 5-7-4, B.R.C. 1981, is amended to read:

7 **5-7-4 Possession and Sale by Minors Unlawful.**

(a) No person under the age of twenty-one years (underage person) shall consume, possess or have under such person's control or request that any other person purchase for such minor person or sell, serve, give away or offer for sale any ethyl alcohol. "Ethyl alcohol," under this section, means any substance which is or contains ethyl alcohol.

10 ...

(h) In any judicial proceeding in any court of this state concerning a charge under this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva or urine for the presence of alcohol and of the design and operation of devices certified by the department of public health and environment for testing a person's blood, breath, saliva or urine for the presence of alcohol. This subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

15 ~~(i) The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

18 Section 21. Section 5-7-8, B.R.C. 1981, is amended to read:

19 **5-7-8 Taking Fermented Malt Beverage From Premises Licensed for On-Premises Consumption Only Prohibited.**

No person shall transport or remove from premises licensed for on-premises consumption only of fermented malt beverages any fermented malt beverage. This prohibition applies to premises licensed pursuant to paragraph 4-2-3(b)(9), B.R.C. 1981, or pursuant to a fermented malt beverage special event permit issued under section 12-48-101 et seq., C.R.S. This prohibition does not apply to employees or agents of the licensee acting in accordance with lawful directions of the licensee. ~~The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

25 Section 22. Section 5-7-9, B.R.C. 1981, is amended to read:

5-7-9 Alcoholic Beverage on Mall on Halloween Prohibited.

(a) No person shall possess any malt, vinous, or spirituous liquor or fermented malt beverage in or upon any public highway, street, alley, walk, parking lot, the Downtown Boulder Mall or any other public property or place, or in or upon those portions of any private property upon which the public has an express or implied license to enter or remain, within the area bounded by the north curblineline of Spruce Street, the east curblineline of 15th Street, the south curblineline of Walnut Street, and the west curblineline of 10th Street between 6:00 p.m. October 31 and 6:00 a.m. November 1 of each year.

...

(d) The defenses at subsections 5-7-2(e) and (f), B.R.C. 1981, are applicable to this section.

~~(e) The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 23. Section 5-9-3, B.R.C. 1981, is amended to read:

5-9-3 Exceeding Decibel Sound Levels Prohibited.

(a) No person shall:

- (1) Operate any type of vehicle, machine, or device;
- (2) Carry on any activity; or

- (3) Promote or facilitate the carrying on of any activity, which makes sound in excess of the level specified in this section.

...

(e) This section shall not be construed to conflict with the right of any person to maintain an action in equity to abate a noise nuisance under the laws of the state.

~~(f) The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 24. Section 5-9-4, B.R.C. 1981, is amended to read:

5-9-4 Exceeding Decibel Sound Levels From a Motor Vehicle Prohibited.

(a) Sound from a motor vehicle located within the public right-of-way shall not exceed eighty decibels on the "A" weighting scale (dBA), except that sound from a vehicle with a manufacturer's gross weight rating of ten thousand pounds and above may exceed eighty dBA but shall not exceed eighty-eight dBA. Such sound shall be measured at a distance of at least twenty-five feet from a vehicle located within the public right-of-way.

(b) Such sound measurements shall be made on a sound level meter that meets the requirements of subsection 5-9-3(c), B.R.C. 1981.

1 (c) It shall be an affirmative defense to a charge of violating this section that:

2 (1) The sound was made by an authorized emergency vehicle when responding to an
3 emergency or as otherwise authorized by law or acting in time of emergency or by an
4 emergency warning device operated by a government;

5 (2) The sound was made by the sounding of the horn of any vehicle as a danger warning
6 signal or by the sounding of any warning device as required by law;

7 (3) The sound was made within the terms and conditions of a sound level variance
8 granted by the city manager;

9 (4) The sound was made by an alarm system installed in a motor vehicle, if the car alarm
10 shuts off automatically after no longer than five minutes; or

11 (5) The sound was made by snow removal equipment equipped with a standard muffling
12 system in good repair while removing snow.

13 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
14 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
15 two years, based upon the date of the first violation, the general penalty provisions of section 5-
16 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

17 Section 25. Section 5-9-5, B.R.C. 1981, is amended to read:

18 **5-9-5 Disrupting Quiet Enjoyment of Home.**

19 (a) No person shall engage in, or be responsible for, a course of conduct which is so loud that it
20 materially interferes with or disrupts another individual in the conduct of activities at such
21 individual's home.

22 (b) The following standards and definitions shall be used in the application of this section:

23 ...

24 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of
25 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 26. Section 5-9-6, B.R.C. 1981, is amended to read:

5-9-6 Unreasonable Noise Prohibited Between the Hours of 11:00 P.M. Through 7:00 A.M.

Between the hours of 11:00 p.m. through 7:00 a.m., no person shall:

(a) Amplified Sound: Electronically amplify any sound, or make any noise by means of any
electronic amplifier, which is loud enough to be audible to a person of normal hearing:

1 (1) One hundred or more feet beyond the property line of the property upon which the
2 loudspeakers are located where they are located in a residential district; or

3 (2) One hundred fifty or more feet beyond the property line of the property upon which
4 the loudspeakers are located where they are located in a commercial or industrial district.

5 (3) Each resident or person in control of an activity or event in or on the premises of a
6 dwelling unit who is present within that dwelling unit or upon the premises of that
7 dwelling unit when sound in violation of this section is amplified or generated upon the
8 premises shall be responsible for the generation of that sound or noise.

9 (4) Each owner, manager, or person in control of an activity or event in or on the
10 premises of a commercial or industrial property upon which sound in violation of this
11 subsection is generated shall be responsible for the generation of that sound or noise.

12 (5) It shall be an affirmative defense to a charge of violating this subsection that:

13 (A) The sound was made by an authorized emergency vehicle when responding to
14 an emergency call or acting in time of emergency or by an emergency warning
15 device operated by a government;

16 (B) The sound was made by the sounding of the horn of any vehicle as a danger
17 warning signal or by the sounding of any warning device as required by law;

18 (C) The sound was made within the terms of a parade or temporary street closure
19 permit issued by the city manager;

20 (D) The sound was made on property belonging to or leased or managed by a
21 federal, state, or county governmental body other than the city and made by an
22 activity of the governmental body or by others pursuant to a contract, lease, or
23 permit granted by such governmental body;

24 (E) The sound was made by a police alarm device, if the police alarm shuts off
25 automatically after no longer than ten minutes, by a fire alarm, or by an alarm
system installed in a motor vehicle, if the car alarm shuts off automatically after
no longer than five minutes;

(F) For a charge of violation based on paragraph (a)(3) or (a)(4) of this section,
the defendant did all that a reasonable person could have done under the
circumstances of the creation of the noise to prevent the offense, and, if requested
to do so, cooperated with law enforcement officers to identify accurately the
offender or offenders; or

(G) For a charge of violation based on paragraph (a)(4) of this section, the sound
was made by a trespasser.

1 (c) Trash Pickup: No person shall make any trash pickup with a truck which has a compactor or
 2 the capacity to raise and dump dumpsters in any residential or commercial district, and no
 3 employer shall fail to prevent its employee from violating this subsection while the employee is
 4 driving a trash truck owned by or under the control of the employer. For the purposes of this
 5 subsection, testimony that the name of a business which holds itself out as being in the business
 6 of trash hauling was written on the trash truck shall be prima facie evidence that the trash truck
 7 was owned by or was under the control of the employer so identified.

8 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
 9 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 10 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 11 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

12 Section 27. Section 5-9-7, B.R.C. 1981, is amended to read:

13 **5-9-7 Unreasonable Noise Prohibited Between the Hours of 9:00 P.M. Through 7:00 A.M. -
 14 Lawn Mowers, Leaf Blowers, and Construction.**

15 Between the hours of 9:00 p.m. through 7:00 a.m., no person shall:

16 (a) Lawn Mowers and Leaf Blowers: Operate any lawn mower, leaf blower, or other power lawn
 17 or gardening tool on any private property within, or within one hundred feet of the boundary of,
 18 any residential district.

19 (b) Construction in a Residential Zone: In a residential zone, use power tools which are audible
 20 off the property upon which they are being used as part of construction work for which a
 21 building permit has been issued or is required for the work.

22 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of
 23 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 24 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 25 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 28. Section 5-9-8, B.R.C. 1981, is amended to read:

5-9-8 Unreasonable Noise Prohibited at Any Time - Motor Vehicle Amplified Sound.

(a) No person shall operate any electronic amplifier in or attached to any motor vehicle so that
 the sound is audible at a distance of twenty-five feet or more from the motor vehicle, or which
 emits vibrations which can be felt by persons outside of that vehicle. This prohibition does not
 apply to sound made on private property with the permission of the property owner and not
 audible or palpable beyond the property line.

(b) It shall be an affirmative defense to a charge of violating this section that:

(1) The sound was made by an authorized emergency vehicle when responding to an
 emergency call or acting in time of emergency or by an emergency warning device
 operated by a government;

1 (2) The sound was made by the sounding of the horn of any vehicle as a danger warning
2 signal or by the sounding of any warning device as required by law;

3 (3) The sound was made within the terms of a parade or temporary street closure permit
4 issued by the city manager; or

5 (4) The sound was made by an alarm system installed in a motor vehicle, if the car alarm
6 shuts off automatically after no longer than five minutes.

7 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of
8 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
9 two years, based upon the date of the first violation, the general penalty provisions of section 5-
10 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

11 Section 29. Section 5-9-9, B.R.C. 1981, is amended to read:

12 **5-9-9 Certain Musical Instruments Prohibited on the Mall Between 12:00 Midnight and
13 7:00 A.M.**

14 No person shall play any percussive or amplified musical instrument on the mall between the
15 hours of 12:00 midnight and 7:00 a.m. ~~The maximum penalty for a first or second conviction
16 within two years, based on date of violation of this section, is a fine of \$500.00. For a third and
17 each subsequent conviction within two years, based upon the date of the first violation, the
18 general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

19 Section 30. Section 5-10-2, B.R.C. 1981, is amended to read:

20 **5-10-2. Consumption of Marijuana in Public Prohibited.**

21 (a) No person shall consume any marijuana in public.

22 ...

23 (c) No person shall drive or sit in the driver's seat of any motor vehicle, other than one
24 licensed to carry passengers for hire, in which a violation of Subsection (a) of this section is
25 occurring.

~~(d) The maximum penalty for a first or second conviction within two years, based on date of
violation of this section, is a fine of \$500. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of Section
5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 31. Section 5-10-4, B.R.C. 1981, is amended to read:

5-10-4. Possession and Sale by Minors Unlawful.

(a) No underage person shall consume, possess, or have under such person's control or
request that any other person purchase for such underage person or sell, serve, give away, or
offer for sale any marijuana or any product containing marijuana.

1 . . .

2 (f) It shall be an affirmative defense to a charged violation of this section that the underage
3 person (1) on the date of the alleged offense lawfully possessed a current registry
4 identification card issued by the state of Colorado to the underage person, and (2) possessed
5 no more marijuana than the amount permitted by Article XVIII, Section 14 of the Colorado
6 Constitution. Before evidence of this affirmative defense is presented to a jury, the underage
7 person shall first provide written notice of this defense to the court and prosecution and a
8 photocopy of the underage person's registry identification card, at least 10 days prior to trial.
9 An underage person who raises this defense waives doctor-patient privilege and
10 confidentiality concerning the underage person's patient registry information.

11 ~~(g) The maximum penalty for a first or second conviction within two years, based on date of
12 violation of this section, is a fine of \$500. For a third and each subsequent conviction within
13 two years, based upon the date of the first violation, the general penalty provisions of Section
14 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

15 Section 32. Section 6-1-3, B.R.C. 1981, is amended to read:

16 **6-1-3 Limitation on Keeping of Domesticated Animals.**

17 (a) No person shall own or keep a domesticated cat over four months of age unless such cat is
18 currently inoculated against rabies.

19 . . .
20 (c) No person shall own or keep any horse, goat, sheep, cow, llama, burro, or other equine or
21 bovine animal unless such person has a total lot area on the lot of one-half acre per animal plus
22 its young under six months of age.

23 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
24 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
25 two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

26 Section 33. Section 6-1-4, B.R.C. 1981, is amended to read:

27 **6-1-4 Limitation on Possession of Exotic Animals.**

28 (a) No person shall own or keep any animal for which a state license is required unless such
29 person possesses the appropriate license from the Colorado Division of Wildlife.

30 . . .
31 (f) It is a specific defense to a charge of violating subsection (b) of this section that the person
32 holds a state wildlife rehabilitation license for the animal and is acting in accordance with the
33 license.

34 ~~(g) The maximum penalty for a first or second conviction within two years, based on date of
35 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1 Section 34. Section 6-1-12, B.R.C. 1981, is amended to read:

2 **6-1-12 Damaging Prairie Dog Burrows Prohibited.**

3 (a) Except as authorized by other provisions of this chapter, no person shall damage any prairie
4 dog burrow.

5 ...
6 (c) If the manager has reason to believe that work pursuant to any permit or other approval will
7 damage any prairie dog burrow not subject to the defenses set forth in this chapter, the manager
8 shall deny the permit or approval or condition its exercise on lawful relocation of the animals.
9 Appeal from such a denial or conditional approval shall be in accordance with the provisions for
10 denials of such permits or approvals.

11 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
12 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
13 two years, based upon the date of the first violation, the general penalty provisions of section 5-
14 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

15 Section 35. Section 6-1-14, B.R.C. 1981, is amended to read:

16 **6-1-14 Dyeing Fowl and Rabbits Prohibited; Selling Dogs, Cats, and Fowl Limited.**

17 (a) No person shall dye or color live fowl, rabbits, or any other animals or have in possession,
18 display, sell, or give away such dyed or colored animals.

19 ...
20 (c) No person shall sell, offer for sale, or give away any fowl under six weeks old. It is a specific
21 defense to a charge of violating this subsection that the fowl are sold or given away in lots of ten
22 or more for commercial, agricultural, or scientific purposes.

23 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
24 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
25 two years, based upon the date of the first violation, the general penalty provisions of section 5-
26 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

27 Section 36. Section 6-1-19, B.R.C. 1981, is amended to read:

28 **6-1-19 Barking, Howling, or Other Unreasonable Animal Noise Prohibited.**

29 (a) No person owning or keeping any animal shall fail to prevent such animal from disturbing the
30 peace of any other person by loud and persistent or loud and habitual barking, howling, yelping,
31 braying, whinnying, crowing, calling, or making any other loud and persistent or loud and
32 habitual noise, whether the animal is on or off the guardian's or keeper's premises.

33 ...
34 (d) The provisions of subsections (b) and (c) of this section do not apply when the animal is a
35 cat and it is proven beyond a reasonable doubt that the cat was off the premises of its guardian or
36 keeper at the time of the disturbance.

1 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 2 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 3 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 4 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

5 Section 37. Section 6-1-21, B.R.C. 1981, is amended to read:

6 **6-1-21 Animals as Nuisance Prohibited.**

7 (a) No person shall own or keep any animal that constitutes a nuisance by violating any of
 8 sections 6-1-5, "Animal Fighting Prohibited," 6-1-6, "Subjecting Animals to Unnecessary
 9 Suffering," and 6-1-7, "Improper Care of Animals Prohibited," B.R.C. 1981, being a safety or
 10 health hazard, damaging the property of another, or creating offensive odors, any of which
 11 materially interferes with or disrupts another individual in the conduct of lawful activities at
 12 such individual's home. ~~The maximum penalty for a first or second conviction within two years,~~
 13 ~~based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent~~
 14 ~~conviction within two years, based upon the date of the first violation, the general penalty~~
 15 ~~provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

16 (b) No person shall be charged with violating this section unless a written warning was given to
 17 the person by an agent or employee of the city within twelve months preceding the first date
 18 alleged as a date of violation in the complaint. Such warning is sufficient if it recites subsection
 19 (a) of this section and states that a complaint has been received that an animal of which the
 20 defendant is the guardian or keeper is disturbing the peace of another individual. A warning is
 21 given under this subsection if it is personally given to a person owning or keeping an animal or if
 22 it is mailed first class to such person. The city manager shall keep records of all warnings given,
 23 and such records are prima facie evidence that such warnings were given.

24 ...

25 Section 38. Section 6-1-22, B.R.C. 1981, is amended to read:

26 **6-1-22 Nuisance Cat Prohibited.**

27 No person owning or keeping any domestic house cat shall fail to prevent the cat from damaging
 28 the property of another. ~~The maximum penalty for a first or second conviction within two years,~~
 29 ~~based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent~~
 30 ~~conviction within two years, based upon the date of the first violation, the general penalty~~
 31 ~~provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

32 Section 39. Section 6-2-3, B.R.C. 1981, is amended to read:

33 **6-2-3 Growth or Accumulation of Weeds Prohibited.**

34 No owner, lessee, agent, occupant, or person in possession or control of any occupied or
 35 unoccupied lot or tract of land or any part thereof in the city shall permit or maintain on any such
 36 lot or tract of land or along the sidewalk, street, or alley adjacent thereto any growth of weeds to
 37 a height greater than twelve inches. ~~The maximum penalty for a first or second conviction~~
 38 ~~within two years, based on date of violation of this section, is a fine of \$500.00. For a third and~~
 39 ~~each subsequent conviction within two years, based upon the date of the first violation, the~~
 40 ~~general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1 Section 40. Section 6-2-4, B.R.C. 1981, is amended to read:

2 **6-2-4 Growth and Accumulation of Brush Prohibited.**

3 No owner, lessee, agent, occupant, or person in possession or control of any occupied or
4 unoccupied lot or tract of land or any part thereof in the city shall permit or maintain on any such
5 lot or tract of land or along the sidewalk, street, or alley adjacent thereto any growth of brush.
6 ~~The maximum penalty for a first or second conviction within two years, based on date of
7 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
8 two years, based upon the date of the first violation, the general penalty provisions of section 5-
9 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

7 Section 41. Section 6-3-3, B.R.C. 1981, is amended to read:

8 **6-3-3 Accumulation of Trash, Recyclables and Compostables Prohibited.**

9 (a) No owner of any vacant land or property; occupant, owner or manager of any single family
10 dwelling or similar property; owner, manager or operator of any multiple family dwelling,
11 private club or similar property; or owner, operator, manager or employee of any commercial or
12 industrial establishment or similar property shall fail to:

11 (1) Prevent the accumulation of trash, recyclables and compostables that are visible to the
12 public on such property and on the public right of way adjacent to the property;

12 (2) Remove trash, recyclables and compostables located on such property and on the
13 public right of way adjacent to the property;

13 (3) Remove trash frequently enough so that it does not cause putrid odors on the property.

14 (4) Remove or repair broken or damaged windows located on such property. However, it
15 shall be an affirmative defense to a violation of this provision that a person is a tenant
16 who, under the terms of the tenancy, is not responsible for the maintenance of that
17 property and who failed to address a particular maintenance issue for that reason;

18 (5) Remove accumulated newspapers or other periodical publications from such property
19 when such accumulated newspapers or publications are visible to the public and remain
20 so for a period of more than twenty-four hours. It shall be an affirmative defense to any
21 alleged violation of this provision that no more than three such newspapers or periodicals
22 were accumulated for each residential unit or each business entity located on the property
23 and that no newspaper or periodical more than three days old is located on the property;

22 (6) Sufficiently bundle or contain recyclable materials so that those materials are not
23 scattered onto the public right of way or onto other properties.

24 ...
25 (c) No property owner or contractor in charge of any construction site or responsible for any
construction activity shall fail to:

1 (1) Prevent trash from being scattered onto the public right of way or onto other
2 properties; and

3 (2) Ensure that all trash generated by construction and related activities or located on the
4 site of construction projects is picked up at the end of each workday and placed in
5 containers sufficient to prevent such trash from being scattered onto the public right of
6 way or onto other properties.

7 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
8 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
9 two years, based upon the date of the first violation, the general penalty provisions of section 5-
10 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

11 Section 42. Section 6-3-4, B.R.C. 1981, is amended to read:

12 **6-3-4 Containers Required.**

13 No owner or occupant of any single family dwelling; owner or manager of any multiple family
14 dwelling or private club; or owner, operator or manager of any business; or any similar property
15 shall fail to provide at all times one or more trash containers on such property. Such containers
16 shall be of a size sufficient to accommodate the regular accumulation of trash from the property.
17 ~~The maximum penalty for a first or second conviction within two years, based on date of
18 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
19 two years, based upon the date of the first violation, the general penalty provisions of section 5-
20 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

21 Section 43. Section 6-3-5, B.R.C. 1981, is amended to read:

22 **6-3-5 Storage, Disposal and Screening of Trash, Recyclables, Compostables and Specified
23 Other Materials.**

24 (a) No person shall:

25 (1) Store trash, recyclables and compostables except in containers in a manner so that
they are not overflowing, their contents are not scattered by animals, wind or other
elements and so that the containers remain closed except when being filled or when
opened in order to allow for collection. However, large and unusual items may be stored
for collection in the manner set forth in subparagraph (6) below.

(2) Store trash, recyclables and compostables except in containers that are in a location so
as to have the minimum possible impact on nearby properties.

(3) Store or locate trash in plastic bags in alleys.

(4) Store trash, recyclables and compostables in a manner that allows putrid odors to
emanate from the property.

(5) Store liquids, animal or vegetable oils, gasoline or other petroleum products other
than water, unless such liquids are stored in a manner that prevents leakage and are not
conspicuously visible from a public street.

1
2 (6) Store brush, fence posts, crates, vehicle tires, vehicle bodies or parts, bed mattresses
3 or springs, water heaters or other household appliances, damaged or stored or discarded
4 furniture and other household goods or items, materials recovered from demolition and
5 other stored or discarded objects three feet or more in length, width or breadth, unless
such materials are stored in a manner reasonably calculated to prepare them for collection
or to conserve them for use on the premises with the minimum possible impact on nearby
properties.

6 (7) Store piles of soil or rocks unless such materials are stored in a manner reasonably
7 calculated to conserve such materials for use on the premises and with the minimum
8 possible impact on nearby properties and in a manner that is not conspicuously visible
9 from a public street.

10 (8) Place a trash, recycling or composting container on the sidewalk or in the city right of
11 way unless it is placed so as not to impair or obstruct pedestrian, bicycle or vehicular
12 traffic. However, this provision shall not apply to trash, recycling or composting
13 containers placed in a public alley with the authorization of the city manager in order to
14 accommodate efficient collection of trash, recyclables or compostables.

15 (9) Place a trash, recycling or composting container in a front yard setback or in the
16 public right of way, excepting public alleys, any earlier than 5:00 a.m. on the day on
17 which such materials are scheduled to be collected. All such containers shall be removed
18 from those locations by 9:00 p.m. of the same day.

19 (10) Place any refrigerator, freezer or other unused appliance in or upon nonsecured
20 portions of a property, including, without limitation, a location awaiting trash or
21 recycling pickup, unless all doors of such appliances are secured or removed so that
22 children cannot be trapped within.

23 (11) Store trash, recyclables or compostables in such a manner as to constitute or create a
24 fire, health or other safety hazard or harborage for wildlife or pests, including, without
25 limitation, rodents, insects or other animals.

(12) In a RM or RH zone, store any materials intended to be discarded, recycled or
composted in a place visible to the public, other than materials contained within trash,
recycling or composting containers.

(13) In a RM or RH zone, fail to screen from view from the street, all trash, compostable
and recyclable containers, stored on the property that such person owns or occupies,
except on collection day. However, it shall not be a violation of this provision if
containers for these materials are located in an alley and are visible to the public from a
street at the point at which that street intersects with the alley.

(b) Nothing in this section shall be deemed to prohibit any person from keeping building
materials on any premises before or during the period of active construction pursuant to a city

1 building permit under chapter 10-5, "Building Code," B.R.C. 1981, nor to prohibit any person
 2 from storing any materials used in the operation of a business located in a zone allowing such
 3 use. Nor shall this section prohibit any person from maintaining building or landscaping
 4 materials on any premises during the period of active use of those materials for a building or
 5 landscaping project that does not require a building permit so long as such materials are secured
 6 or contained during periods when they are not in use.

7 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of
 8 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 9 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 10 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

11 Section 44. Section 6-3-6, B.R.C. 1981, is amended to read:

12 **6-3-6 Compost Piles Permitted If Not Nuisance.**

13 (a) Any person may maintain compost piles. Such compost piles shall be in a segregated area and
 14 shall contain alternate layers of plant materials maintained to facilitate decomposition and
 15 produce organic material to be used as a soil conditioner.

16 (b) No person who maintains a compost pile shall fail to prevent it from becoming a nuisance
 17 due to putrid odors or attraction of wildlife or pests, including, without limitation, rodents,
 18 insects or other animals.

19 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of
 20 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 21 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 22 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

23 Section 45. Section 6-3-9, B.R.C. 1981, is amended to read:

24 **6-3-9 Special Trash Service Requirements on Certain Residential Rental Properties at
 25 Certain Times.**

(a) The city manager may, by regulation, designate a period of time up to sixteen consecutive
 days in the second quarter of the calendar year, and up to thirty-five consecutive days in the third
 quarter of the calendar year, as the periods during which this section is in effect in the special
 trash service zone.

...

(e) It shall be an affirmative defense to a charge of violation of this section that trash hauling
 service meeting the requirements of this section was not commercially available. This defense
 shall not apply if the asserted unavailability was due to refusal by a commercial hauler to provide
 such services based on legitimate business reasons concerning the property owner, including,
 without limitation, being in arrears on payments or refusing to sign a commercially reasonable
 contract.

~~(f) The maximum penalty for a first or second conviction within two years, based on date of
 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~

1 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 2 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 Section 46. Section 6-4-3, B.R.C. 1981, is amended to read:

4 **6-4-3 Smoking Prohibited Within Buildings and Enclosed Areas.**

5 (a) No person shall smoke within any building or enclosed area except in one of the following
 6 locations:

7 (1) In any dwelling. This exception does not extend to a lobby, common elevator,
 8 common hallway or any other common area of a building containing attached dwelling
 9 units;

10 (2) In a hotel/motel room or bed and breakfast guest room rented to one or more guests if
 11 the total percentage of such smoking rooms in such hotel/motel or bed and breakfast does
 12 not exceed twenty-five percent. This exception does not extend to a lobby, common
 13 elevator, common hallway or any other common area of a hotel/motel or bed and
 14 breakfast;

15 (3) In a tobacco store;

16 (4) In a cigar-tobacco bar which existed as of December 31, 2005, provided that it does
 17 not expand its size or change its location from the size and location in which it existed as
 18 of December 31, 2005;

19 (5) In a building or on property which is occupied by the state of Colorado, the United
 20 States government, Boulder County or the Boulder Valley School District which was not
 21 designated as a smoke free area by the manager of such area. The city council urges such
 22 governmental entities to designate smoke free areas in order to promote full access by the
 23 public and protect the health of employees;

24 (6) In private homes, private residences and private automobiles; not to include any such
 25 home, residence or vehicle being used for child care or day care or a private vehicle being
 used for the public transportation of children or as part of health care or day care
 transportation; or

(7) In a limousine under private hire.

...
 (c) Nothing in this chapter shall prevent an owner, lessee, principal manager or person in control
 of any place, including, without limitation, any motor vehicle, outdoor area, or dwelling, from
 prohibiting smoking completely in such place, and no person shall fail to abide by such a private
 prohibition.

(d) ~~The maximum penalty for a first or second conviction within two years, based on date of
 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 2-4, "General Penalties," B.R.C. 1981, shall apply.

1 Section 47. Section 6-4-4, B.R.C. 1981, is amended to read:

2 **6-4-4 Smoking Prohibited in Public Conveyances.**

3 No person shall smoke in any public conveyance. ~~The maximum penalty for a first or second~~
 4 ~~conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a~~
 5 ~~third and each subsequent conviction within two years, based upon the date of the first violation,~~
 6 ~~the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

7 Section 48. Section 6-4-5, B.R.C. 1981, is amended to read:

8 **6-4-5 Smoking Areas in Cigar-Tobacco Bars.**

9 (a) The owner, lessee, principal manager or person in control of a cigar-tobacco bar may
 10 designate one smoking area of no more than fifty percent of the square footage of the floor area
 11 of the establishment which is open to the public so long as it meets all of the following criteria:

12 (1) It is independently ventilated from the non-smoking areas;

13 (2) It is physically separated from the non-smoking areas;

14 (3) A designated smoking area under this section may not include any waiting area,
 15 lobby, hallway, elevator, restroom, or area adjacent to a self-service food line or cash
 16 register, and such areas shall also be excluded from the calculation of the square footage
 17 of floor area under this subsection;

18 (4) Any service or amenity which the establishment chooses to provide to patrons, other
 19 than smoking, shall at all times be at least as available in the non-smoking majority
 20 portion of the establishment as in the designated smoking area. This requirement
 21 includes, without limitation, live entertainment and games; and

22 (5) The city manager may make reasonable rules interpreting the terms "independently
 23 ventilated" and "physically separated" and specifying ventilating and construction
 24 measures which will accomplish these goals.

25 ...
 (d) *Physically separated* means that there are physical barriers such as walls and doors extending
 from floor to ceiling that prohibit smoke from entering a nonsmoking area.

(e) ~~The maximum penalty for a first or second conviction within two years, based on date of~~
~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 49. Section 6-4-5.5, B.R.C. 1981, is amended to read:

6-4-5.5 Smoking Prohibited on the Mall.

1 (a) No person shall smoke on the Mall.

2 ~~(b) The maximum penalty for a first or second conviction within two years, based on the date of~~
 3 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 4 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

5 Section 50. Section 6-4-6, B.R.C. 1981, is amended to read:

6 **6-4-6 Signs Required to be Posted.**

7 ~~(a)~~ To advise persons of the existence of "No Smoking" or "Smoking Permitted" areas, no
 8 owner, lessee, principal manager or person in control of a building, enclosed area or an
 establishment within a building shall fail to post signs with letters no less than one inch high or
 symbols no less than three inches high as follows:

9 ~~(a1)~~ Where smoking is prohibited in the entire establishment, a sign using the words "No
 10 Smoking" or the international no-smoking symbol shall be posted conspicuously either
 11 on all public entrances or in a position clearly visible on entry into the building, enclosed
 area or establishment.

12 ~~(b2)~~ Where certain areas are designated as smoking areas pursuant to this chapter, a sign
 13 using the words "No Smoking Except in Designated Areas" shall be posted
 14 conspicuously either on all public entrances or in a position clearly visible on entry into
 the building or establishment.

15 ~~(c3)~~ In tobacco stores, a sign shall be posted conspicuously either on all public entrances
 16 or in a position clearly visible on entry into the building or establishment using the words
 "Smoking Permitted: children under eighteen years of age must be accompanied by a
 parent or guardian."

17 ~~(d4)~~ A sign using the words "No Smoking within fifteen feet of the entryway" shall be
 18 posted conspicuously on all entryways of buildings, enclosed areas or establishments.

19 ~~(e5)~~ The requirements of this section do not apply to an exempt dwelling.

20 ~~(b) The maximum penalty for a first or second conviction within two years, based on date of~~
 21 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 22 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

23 Section 51. Section 6-4-7, B.R.C. 1981, is amended to read:

24 **6-4-7 Additional Responsibilities of Proprietors.**

25 (a) No owner, lessee, principal manager, or person in control of a building or establishment shall
 fail to:

- 1 (1) Ask smokers to refrain from smoking in any smoke free area;
- 2 (2) In a cigar-tobacco bar, affirmatively direct smokers to designated smoking areas; and
- 3 (3) Use any other means which may be appropriate to further the intent of this chapter.

4 (b) No owner, principal manager, proprietor or any other person in control of a business shall fail
5 to ensure compliance by subordinates, employees and agents with both the restrictions on sale
6 and display of tobacco products contained in section 6-4-8, "Restrictions on Sale and Display of
7 Tobacco Products," B.R.C. 1981, and the restrictions on smoking within fifteen feet of any
8 entryway contained in section 6-4-9, "Entryway," B.R.C. 1981.

9 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of
10 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
11 two years, based upon the date of the first violation, the general penalty provisions of section 5-
12 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

13 Section 52. Section 6-4-9, B.R.C. 1981, is amended to read:

14 **6-4-9. Entryway.**

15 (a) No person shall smoke within any entryway of a building, enclosed area or common entrance
16 to a multifamily dwelling, except a single family dwelling.

17 (b) No owner, principal manager, proprietor or any other person in control of a business shall fail
18 to ensure compliance of this section by subordinates, employees and agents.

19 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of
20 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
21 two years, based upon the date of the first violation, the general penalty provisions of section 5-
22 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

23 Section 53. Section 6-6-4, B.R.C. 1981, is amended to read:

24 **6-6-4 Planting in Public Areas.**

25 (a) No person shall plant in or remove from any city property any plant or tree without first
obtaining written permission from the city manager to do so.

...

(d) A property owner may plant trees along the streets of the City, fronting on such person's
property, if the person plants the trees of the species, in the places, and in the manner set forth in
the City of Boulder Design and Construction Standards or as designated by the city manager,
between the gutter line and the property line.

~~(e) The maximum penalty for a first or second conviction within two years, based on date of
violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1 Section 54. Section 7-5-17, B.R.C. 1981, is amended to read:

2
3 **7-5-17 Pedestrian Crossing at Other Than Crosswalk.**

4 (a) No pedestrian shall cross a roadway other than by a route at right angles to the curb or by the
5 shortest route to the opposite curb.

6 ~~(b) Every pedestrian crossing or otherwise within a roadway shall yield the right of way to and
7 avoid any interference with all vehicles upon or approaching the roadway.~~

8 (be) Where a traffic control signal is in operation at an intersection, no pedestrian shall cross a
9 roadway within fifty feet of the crosswalk at the intersection except in the crosswalk in
10 conformance with section 7-5-15, "Pedestrian Obedience to Traffic Signal Required," B.R.C.
11 1981.

12 ~~(cd)~~ The provisions of this section do not apply to pedestrians crossing in crosswalks or in
13 accordance with subsection 7-5-15(d), B.R.C. 1981.

14 Section 55. Section 7-5-25 is repealed and subsequent sections renumbered. This section
15 has been added as new section 5-6-16 above.

16 ~~**7-5-25 Staying on Medians Prohibited.**~~

17 ~~(a) No person shall stand or be upon a median of any street for longer than is reasonably
18 necessary to cross the street.~~

19 ~~(b) For the purposes of this section, "median" means:~~

20 ~~(1) The area of a street, generally in the middle, which separates traffic traveling in one
21 direction from traffic traveling in another direction, or which, at intersections, separates
22 traffic turning left from traffic proceeding straight. Such an area is physically defined by
23 curbing, landscaping, or other physical obstacles to the area's use by motor vehicles, or by
24 traffic control markings which prohibit use of a portion of the pavement of a street by motor
25 vehicles other than to drive generally perpendicularly across the markings, or to wait there
26 awaiting the opportunity to cross or merge with the opposing lanes of traffic (also known as
27 painted medians, which are wider than a double yellow line); or~~

28 ~~(2) The area of a street at an intersection between the streets and a right turn only lane,
29 roughly triangular in shape, and separated from the motor vehicular traffic lanes by curbing,
30 landscaping, or other physical obstacles to the area's use by motor vehicles (also known as a
31 right turn island).~~

32 ~~(c) This section does not apply to medians which are thirty or more feet wide, to the medians on
33 Mapleton Avenue between Fourth Street and Ninth Street, or to persons maintaining or working
34 on the median for the government which owns the underlying right of way or for a public utility.~~

1 Section 56. Section 8-2-14, B.R.C. 1981, is amended to read:

2 **8-2-14 Vaults and Cellars to be Covered.**

3 (a) No person shall dig or cause to be dug a vault in any street, alley, or sidewalk in the City,
4 except under the terms of a permit or lease issued under chapter 8-6, "Public Right-of-Way and
Easement Encroachments, Revocable Permits, Leases, and Vacations," B.R.C. 1981.

5 (b) No person shall keep or leave open or cause to be left or kept open any cellar door, grating, or
6 other covering of any vault or cellar in or along any street, sidewalk, or alley in the City or fail to
maintain any such door, grating, or other covering.

7 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of~~
8 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
9 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
2-4, "General Penalties," B.R.C. 1981, shall apply.

10 Section 57. Section 8-2-15, B.R.C. 1981, is amended to read:

11 **8-2-15 Location of Pipes and Conduits.**

12 No person shall excavate for or lay any water, gas, or sewer pipe, except service connections to
13 abutting properties, or any wire, cable, or conduits in or upon any street, alley, or public highway
of the City, except upon a line or in a place located and designated by the city manager. ~~The~~
14 ~~maximum penalty for a first or second conviction within two years, based on date of violation of~~
this section, is a fine of \$500.00. ~~For a third and each subsequent conviction within two years,~~
15 ~~based upon the date of the first violation, the general penalty provisions of section 5-2-4,~~
"General Penalties," B.R.C. 1981, shall apply.

16 Section 58. Section 8-2-16, B.R.C. 1981, is amended to read:

17 **8-2-16 Attaching Devices to Public Property Prohibited.**

18 No person shall attach any object to any city property or locate any object on city property in
such a manner as to damage the city property, obstruct public right-of-way, or interfere with the
19 function of the city property. ~~The maximum penalty for a first or second conviction within two~~
years, based on date of violation of this section, is a fine of \$500.00. ~~For a third and each~~
20 ~~subsequent conviction within two years, based upon the date of the first violation, the general~~
penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.

21 Section 59. Section 8-2-17, B.R.C. 1981, is amended to read:

22 **8-2-17 When Sidewalks are to be Constructed or Reconstructed.**

23 (a) Sidewalks shall be constructed in any area of the City where:

24 (1) Sidewalks are necessary to provide adequate and safe routes for school children to
25 and from their dwellings and to and from educational facilities;

1 (2) Pedestrian traffic is not adequately accommodated by existing sidewalks;

2 (3) No sidewalks are in existence; or

3 (4) The health, welfare, and safety of the public require that adequate sidewalks be
4 provided for the public convenience.

5 ...
6 (c) If any existing sidewalk consists of sandstone and the abutting property owner requests that it
7 be retained, the city manager shall retain such sandstone sidewalk if the stones or slabs are at
8 least two inches thick; are set in a base of concrete not less than four inches or compacted
9 subgrade not less than six inches thick; have all sections grouted to the base to provide a uniform
10 surface grade throughout all portions of the sidewalk; have no longitudinal joints; and are at least
11 four feet by two feet in size. Only a concrete base is allowed over a curb cut or at driveways.

12 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
13 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
14 two years, based upon the date of the first violation, the general penalty provisions of section 5-
15 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

16 Section 60. Section 8-2-25, B.R.C. 1981, is amended to read:

17 **8-2-25 Adjacent Owners' Duty to Maintain Street Trees.**

18 A property owner shall maintain trees required pursuant to sections 6-6-7, "Mitigation of Trees
19 or Plants Removed or Destroyed," B.R.C. 1981; 9-2-14(h)(2)(C), "Site Review," B.R.C. 1981;
20 and 9-9-12, "Landscape and Screening Standards," B.R.C. 1981, on or adjacent to the owner's
21 property in the public right of way, by providing sufficient irrigation to sustain the life of the tree
22 and landscaping or a mulched sod-free base around all trees with a diameter of six inches and
23 under measured fifty-four inches above the ground. ~~The maximum penalty for a first or second
24 conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a
25 third and each subsequent conviction within two years, based upon the date of the first violation,
the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 61. Section 8-3-6, B.R.C. 1981, is amended to read:

8-3-6 Vehicle Regulation.

(a) No person, other than persons authorized by the city manager, shall:

(1) Fail or refuse to comply with any lawful order or direction of any park patrol officer
authorized and instructed to direct traffic in any park, parkway, recreation area, or open
space and on the public roads and parkways therein;

(2) Fail to comply with any traffic control device in a park, parkway, recreation area, or
open space regulating the operation of motor vehicles;

1 (3) Drive a motor vehicle within any park, parkway, recreation area, or open space, in
 2 excess of the posted speed limit. If no speed limit is posted, then no person shall drive a
 motor vehicle in a park, recreation area, or open space in excess of twenty miles per hour;

3 (4) Drive a motor vehicle within or upon any part of a park, parkway, recreation area, or
 4 open space, except on designated roadways, parking areas, or areas that the city manager
 designates as temporary parking areas;

5 (5) Remove or relocate any barricade, barrier, or other device erected to control motor
 6 vehicle traffic in a park, parkway, recreation area, or open space; or

7 (6) Drive a non-motorized vehicle upon any area in mountain parks or open space
 8 property except a trail or roadway designated and posted for that use by the city manager
 or a paved or graveled roadway open to motorized vehicles.

9 (b) The city manager may post "tow away" no-parking zones within any park, parkway,
 10 recreation area, or open space to clear off-street parking areas after designated hours of operation
 and to clear designated fire roads and other emergency access routes. Vehicles parked in
 11 violation of such traffic control devices may be towed and impounded pursuant to the provisions
 of chapter 7-7, "Towing and Impoundment," B.R.C. 1981.

12 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of~~
 13 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 14 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4,~~
~~"General Penalties," B.R.C. 1981, shall apply.~~

15 Section 62. Section 8-3-9, B.R.C. 1981, is amended to read:

16 **8-3-9 Glass Bottles Prohibited.**

17 No person shall carry or possess any glass bottle or other glass container, except one containing
 18 prescription medication, in any city park, parkway, recreation area, or open space. ~~The~~
~~maximum penalty for a first or second conviction within two years, based on date of violation of~~
 19 ~~this section, is a fine of \$500.00. For a third and each subsequent conviction within two years,~~
~~based upon the date of the first violation, the general penalty provisions of section 5-2-4,~~
~~"General Penalties," B.R.C. 1981, shall apply.~~

20 Section 63. Section 8-3-11, B.R.C. 1981, is amended to read:

21 **8-3-11 Sledding in Open Space and Mountain Parks Prohibited.**

22 No person shall sled, toboggan, or slide in any recreation area or open space or mountain park,
 23 except on roadways, designated trails, or other areas designated and posted for that use by the
 city manager. ~~The maximum penalty for a first or second conviction within two years, based on~~
 24 ~~date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction~~
~~within two years, based upon the date of the first violation, the general penalty provisions of~~
~~section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1 Section 64. Section 8-3-17, B.R.C. 1981, is amended to read:

2 **8-3-17 Swimming and Boating in Certain Waters Prohibited.**

3 (a) No person shall swim in any pond, lake, stream, reservoir, or other body of water owned or
4 controlled by the city. It is a specific defense to a charge of violating this subsection that a person
5 was wading or using a raft or other flotation device on Boulder Creek or other stream. It is a
6 specific defense to a charge of violating this subsection that the person was swimming in the
7 Boulder Reservoir or in any body of water owned by the city at which a lifeguard is on duty at
8 the site and where the Boulder County Health Department has approved the water for swimming.

9 (b) No person shall operate any boat powered by an outboard or inboard motor or a sailboat
10 exceeding fourteen feet in length or a hand-powered boat exceeding seventeen feet in length on
11 any lake, pond, stream, reservoir, or other body of water owned or controlled by the city, except
12 the Boulder Reservoir.

13 (c) ~~The maximum penalty for a first or second conviction within two years, based on date of
14 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
15 two years, based upon the date of the first violation, the general penalty provisions of section 5-
16 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

17 Section 65. Section 8-3-20, B.R.C. 1981, is amended to read:

18 **8-3-20 Fixed Hardware Prohibited.**

19 No person engaged in rock climbing in a park, recreation area, or open space shall place or attach
20 any object on such land unless the object is inherently capable of removal for reuse by
21 reasonable effort, unless done pursuant to a written permit from the city manager. ~~The
22 maximum penalty for a first or second conviction within two years, based on date of violation of
23 this section, is a fine of \$500.00. For a third and each subsequent conviction within two years,
24 based upon the date of the first violation, the general penalty provisions of section 5-2-4,
25 "General Penalties," B.R.C. 1981, shall apply.~~

Section 66. Section 8-3-21, B.R.C. 1981, is amended to read:

8-3-21 Tents and Nets Prohibited.

 No person shall erect any tent, net, or structure in a park or recreation area located outside the
 corporate limits of the City, or on any open space land, unless done pursuant to a written permit
 or contract from the city manager. The prohibitions of this section do not apply to developed and
 landscaped city parks located outside the city limits, if they are designated by the manager as
 such city parks. ~~The maximum penalty for a first or second conviction within two years, based
 on date of violation of this section, is a fine of \$500.00. For a third and each subsequent
 conviction within two years, based upon the date of the first violation, the general penalty
 provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1 Section 67. Section 8-3-22, B.R.C. 1981, is amended to read:

2 **8-3-22 Reservation and Use of Park and Recreation Facilities.**

3 (a) The city manager may establish and from time to time change a schedule of available times
4 and fees for reservation and use of facilities for no more than five consecutive days for social or
5 athletic use as appropriate to the facility.

6 (1) The manager may also require a reasonable damage deposit for such use. After the
7 reservation is over and during working hours, the person required to post a deposit under
8 this section shall contact the city manager to inspect the area used. If no damage has been
9 done and the area has been properly cleaned, the manager shall return the deposit. If the
10 person has failed to meet this obligation, the manager shall retain a sum from the deposit
11 sufficient to cover the damage or restore the premises to a neat condition.

12 (2) If the deposit does not completely indemnify the City for damage or cleaning costs
13 necessary to restore the area, the person shall not fail to pay forthwith to the City a sum to
14 cover these extra costs.

15 (b) No person who offers a program of instruction and charges a fee for such a program, either
16 directly or by way of a membership fee, shall use a city facility as part of such program without
17 first obtaining a permit and paying any associated fee.

18 (1) Permits may be obtained after a person makes an application on a form acceptable to
19 the city manager.

20 (2) The city manager shall deny such a permit if the proposed use is not reasonably
21 compatible with the area intended for use; would conflict unreasonably with a previously
22 scheduled use of the area or with normal public use of the area; or would be in violation
23 of any law or regulation. The city manager may also deny a permit for the area requested
24 but instead issue a permit for a more appropriate area if such an alternative is available.

25 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of
violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 68. This ordinance is necessary to protect the public health, safety, and welfare
of the residents of the city, and covers matters of local concern.

Section 69. The City Council deems it appropriate that this ordinance be published by
title only and orders that copies of this ordinance be made available in the office of the city clerk
for public inspection and acquisition.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 5th day of March, 2014.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this _____ day of _____ 20____.

Mayor

Attest:

City Clerk

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE: Second reading and consideration of Ordinance No. 7966, amending Chapter 5, “General Offenses,” B.R.C. 1981, by adding a new section 5-5-20 adding a provision prohibiting unlawful conduct on public property, and amending Chapter 2 “General Provisions,” by amending section 5-2-4, B.R.C. 1981 to allow for criminal penalties under the new section 5-5-20 and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Mark Beckner, Police Chief
Janet Michels, Senior Assistant City Attorney – Lead Prosecutor

EXECUTIVE SUMMARY:

The purpose of this memo is second reading and consideration of Ordinance No. 7966 to implement direction given by council at the February 11, 2014 Study Session and passed on first reading on March 5, 2014. More information can be found in the [first reading memorandum](#). Attached is a proposed Ordinance 7966 which would incorporate the state law prohibiting unlawful conduct on public property.

STAFF RECOMMENDATION:

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to approve on second reading Ordinance No. 7966 amending Chapter 5, “General Offenses,” B.R.C. 1981, by adding a new section 5-5-20 adding a provision prohibiting unlawful conduct on public property, and amending Chapter 2 “General Provisions,” by amending section 5-2-4, B.R.C. 1981 to allow for criminal penalties under the new section 5-5-20 and setting forth related details.

BACKGROUND:

The proposed ordinance would incorporate a currently existing state law provision into the municipal code. This is not a substantive change. The police already can and do cite defendants under the existing state law. By creating a municipal violation, the council

will promote efficiency and allow the municipal court to more effectively address repeat violations.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Criminal behavior in public spaces can deter visitor from using those spaces. Reduction in the number of visitors can have a detrimental effect on associated economic activity.
- Environmental – None identified.
- Social – The proposed change will promote criminal justice efficiency and allow for the municipal court to impose more effective sentences.

OTHER IMPACTS

- Fiscal – None identified.
- Staff time - Current activities are covered by existing department work plans.

BOARD AND COMMISSION FEEDBACK

None.

ANALYSIS

State law prohibits unlawful conduct on public property as follows:

C.R.S. § 18-9-117. Unlawful conduct on public property

(1) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on the same in violation of any order, rule, or regulation concerning any matter prescribed in this subsection (1), limiting or prohibiting the use or activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management, or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules, or regulations as are reasonably necessary for the administration, protection, and maintenance of such public buildings and property, specifically, orders, rules, and regulations upon the following matters:

(a) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings and grounds, and other structures, and any object of scientific, historical, or scenic interest;

(b) Restriction or limitation of the use of such public buildings or property as to time, manner, or permitted activities;

(c) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance or which may interfere with, impair, or disrupt a funeral or funeral procession;

(d) Necessary sanitation, health, and safety measures, consistent with section 25-13-113, C.R.S.;

(e) Camping and picnicking, public meetings and assemblages, and other individual or group usages, including the place, time, and manner in which such activities may be permitted;

(f) Use of all vehicles as to place, time, and manner of use;

(g) Control and limitation of fires, including but not limited to the prohibition, restriction, or ban on fires or other regulation of fires to avert the start of or lessen the likelihood of wildfire, and the designation of places where fires are permitted, restricted, prohibited, or banned.

(2) No conviction may be obtained under this section unless notice of such limitations or prohibitions is prominently posted at all public entrances to such building or property or unless such notice is actually first given the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this section.

(3) (a) Except as otherwise provided in paragraphs (b) and (c) of this subsection (3), any person who violates subsection (1) of this section is guilty of a class 3 misdemeanor.

(b) Any person who violates any order, rule, or regulation adopted pursuant to paragraph (g) of subsection (1) of this section is guilty of a class 2 misdemeanor and shall be assessed a fine of not less than two hundred fifty dollars and not greater than one thousand dollars. The fine imposed by this paragraph (b) shall be mandatory and not subject to suspension. Nothing in this paragraph (b) shall be construed to limit the court's discretion in exercising other available sentencing alternatives in addition to the mandatory fine.

(c) Any person who violates any order, rule, or regulation adopted pursuant to paragraph (c) of subsection (1) of this section concerning funerals or funeral processions is guilty of a class 2 misdemeanor.

The proposed ordinance incorporates the bulk of the state law. Staff recommends not incorporating sections (3)(b) and (c) because cities have only one level of misdemeanor, which is the equivalent of a class 3 misdemeanor under state law. Staff also altered the

notice requirement slightly. Under state law section notice is required to be “posted at all public entrances to such building or property or unless such notice is actually first given the person by the officer or agency. . .” It would be difficult to identify “all public entrances” to the municipal campus or central park. Staff recommends altering this requirement to allow for prominent posting of notices.

Attachments: Ordinance No. 7966

ORDINANCE NO. 7966

AN ORDINANCE AMENDING TITLE 5, "GENERAL OFFENSES," CHAPTER 5, "OFFENSES AGAINST GOVERNMENT OPERATIONS," B.R.C. 1981, BY ADDING A NEW SECTION 5-5-20 PROHIBITING UNLAWFUL CONDUCT ON PUBLIC PROPERTY AND AMENDING CHAPTER 2 "GENERAL PROVISIONS," BY AMENDING SECTION 5-2-4, B.R.C. 1981 TO ALLOW FOR CRIMINAL PENALTIES UNDER THE NEW SECTION 5-5-20 AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Title 5, Chapter 5 of the Boulder Revised Code, 1981 is amended by adding a

new section 5-5-20 as follows:

5-5-20 Unlawful Conduct on Public Property.

(1) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on the same in violation of any order, rule, or regulation concerning any matter prescribed in this subsection (1), limiting or prohibiting the use or activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management, or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules, or regulations as are reasonably necessary for the administration, protection, and maintenance of such public buildings and property, specifically, orders, rules, and regulations upon the following matters:

(a) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings and grounds, and other structures, and any object of scientific, historical, or scenic interest;

(b) Restriction or limitation of the use of such public buildings or property as to time, manner, or permitted activities;

(c) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance or which may interfere with, impair, or disrupt a funeral or funeral procession;

(d) Necessary sanitation, health, and safety measures.

(e) Camping and picnicking, public meetings and assemblages, and other individual or group usages, including the place, time, and manner in which such activities may be permitted;

1 (f) Use of all vehicles as to place, time, and manner of use;

2 (g) Control and limitation of fires, including but not limited to the prohibition, restriction, or ban
3 on fires or other regulation of fires to avert the start of or lessen the likelihood of wildfire, and
4 the designation of places where fires are permitted, restricted, prohibited, or banned.

5 (2) No conviction may be obtained under this section unless notice of such limitations or
6 prohibitions is prominently posted at all public entrances to such building or on such property or
7 unless such notice is actually first given the person by the officer or agency, including any agent
8 thereof, or by any law enforcement officer having jurisdiction or authority to enforce this section.

9 (3) Any violation of this section shall be considered a violation punishable pursuant to section 5-
10 2-4(a) "General Penalties," B.R.C. 1981.

11 Section 2. Subsection 5-2- 4(c) of the Boulder Revised Code, 1981 is amended to read:

12 (c) The penalty for violation of any rule or regulations promulgated under authority delegated by
13 the charter, this code, or any ordinance of the city is a fine of not more than \$1,000.00 per
14 violation, except as provided in paragraph (a)(4) of this section and in section 5-5-20, B.R.C.,
15 1981.

16 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
17 the residents of the city, and covers matters of local concern.

18 Section 4. The City Council deems it appropriate that this ordinance be published by title
19 only and orders that copies of this ordinance be made available in the office of the city clerk for
20 public inspection and acquisition.

21 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
22 TITLE ONLY this 4th day of March, 2014.

23 _____
24 Mayor

25 Attest:

City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
2 PUBLISHED BY TITLE ONLY this 18th of March, 2014.

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Mayor

5 Attest:

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City Clerk

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE: Consideration of a motion to authorize the City Manager to use the negotiated method of sale for issuing Open Space bonds in 2014.

PRESENTERS

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Mike Patton, Director of Open Space Mountain Parks
Bob Eichen, Chief Financial Officer
Cheryl Pattelli, Director of Fiscal Services

EXECUTIVE SUMMARY

On November 5, 2013, the voters of the City of Boulder approved amending the City charter to allow the city to sell bonds by negotiated sales if approved by the city council.

In that same election, the voters approved the extension of the open space sales and use tax. This extension provides an ongoing stream of revenue to pay for the debt service on bonds once they are issued. In 2009, the voters approved converting the remaining approximately \$35 million of authorized revenue bonds to general obligation (GO) bonds. GO bonds have the full faith and credit of the city behind them. If the open space sales tax would not be adequate to pay the debt service on the bonds, city council could raise taxes to pay for the shortage. This type of tax action has never happened for any type of city GO bonds and it is not expected that it will for these bonds either. Due to the safety of having a tax backup, GO bonds carry a lower interest rate than revenue bonds. Having the GO backing also removes the potential of having to set aside approximately ten percent of the amount of bonds issued in a non-spendable reserve during the life of the bonds.

Some open space trails suffered severe damage during the September 2013 flood. By having bond proceeds on hand, land purchases can continue to be made and trails can be repaired at the same time. This is the essence of fiscal resiliency; the fund can bounce back in a fiscally

responsible way and the community does not have settle for one or the other. At the same time, progress can continue toward implementing the vision plan (as identified in the “Update to the OSMP Acquisition Plan 2013-2019”) while repairing and maintaining what is already owned.

In the past, there has been high level of local interest in purchasing open space bonds. With the competitive method of sale that was required prior to last year’s charter change, it was not possible to provide preference to local buyers who wished to purchase some of the bonds. Under the new charter language, this would be possible by using the negotiated sale process. Prior to the bonds being sold to anyone anywhere in the world, they could be made available to people in the Boulder area for one day by isolating certain zip codes.

Best practices when using the negotiated method of sale are published by the Government Finance Officers Association of the United States and Canada (**Attachment A**). It recommends using a competitive request for proposal (RFP) process to choose the underwriter. During council discussions regarding the potential charter change, staff stated that this practice would be followed if the negotiated sales method were ever used by the city. Following this best practice eliminates the potential for kick-backs, or pay-to-play instances of favoritism that have occurred in some cities in the United States that did not follow this best practice process.

The city’s financial advisor, Piper Jaffray will help negotiate the cost per bond the city will pay the chosen underwriter (the company who will purchase the bonds from the city and then sell them to retail and institutional buyers).

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to authorize the city manager to conduct a bond sale using the negotiated method for issuing open space bonds in 2014.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - Open Space and Mountain Parks (OSMP) lands contribute to the diverse and vibrant character of the City of Boulder and to the scenery, ecological setting, and recreational infrastructure that help attract and retain a wide range of employers and institutions, and in turn help those employers to recruit and retain quality employees.
- Environmental - The acquisition program is a fundamental element upon which the city depends to preserve the community values of open space lands. The OSMP system is a significant element responsible for City of Boulder’s global reputation as a leader in community environmental sustainability.
- Social - OSMP lands are equally accessible to members of all economic classes, ethnicities, and cultures. All residents of Boulder are welcome to feel part of

OSMP and thrive when visiting city-owned open space lands. Open space also supports individuals' physical and mental health and wellness.

OTHER IMPACTS

- Fiscal – The issuance of the bonds would mean that an annual debt service payment would occur during the length of time that the bonds are outstanding. The specific impact would be known when the bonds were sold.
- Staff time – The issuance of the bonds is a normal part of the workload of staff and can be absorbed.

BOARD AND COMMISSION FEEDBACK

The Open Space Board of Trustees will discuss the proposed method of sale at their meeting on March 12, 2014. This will most likely be after the submission of this agenda item. If that occurs, staff will provide the information at the council meeting.

PUBLIC FEEDBACK

Voters approved the use of negotiated bond sales at the November 5, 2013 election.

ATTACHMENTS

Attachment A: GFOA Best Practice on Selecting Underwriters for Negotiated Bond Sales

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BEST PRACTICE

Selecting Underwriters for Negotiated Bond Sales (2008) (DEBT)*

Note: This Best Practice (BP) is one of a group of five relating to the sale of bonds. These five BPs should be read and considered in conjunction with each other because of the interaction of the processes to which they apply. The five BPs are:

Selecting and Managing the Method of Sale of State and Local Government Bonds
Selecting Financial Advisors
Selecting Bond Counsel
Selecting Underwriters for Negotiated Bond Sales
Pricing Bonds in a Negotiated Sale

Background. State and local governments select underwriters for the purpose of selling bonds through a negotiated sale. The primary role of the underwriter in a negotiated sale is to market the issuer's bonds to investors. Assuming that the issuer and underwriter reach agreement on the pricing of the bonds at the time of sale, the underwriter purchases the entire bond issue from the issuer and resells the bonds to investors. In addition, negotiated sale underwriters are likely to provide ideas and suggestions with respect to structure, timing and marketing of the bonds being sold.

Issuers must keep in mind that the roles of the underwriter and the financial advisor are separate, adversarial roles and cannot be provided by the same party. Underwriters do not have a fiduciary responsibility to the issuer. A financial advisor represents only the issuer and has a fiduciary responsibility to the issuer. In considering the roles of underwriter and financial advisor, it is the intent of this Recommended Practice to set a higher standard than is required under MSRB Rule G-23, because disclosure and consent are not sufficient to cure the inherent conflict of interest.

The issuer's goal in a negotiated bond sale is to obtain the highest possible price (lowest interest cost) for the bonds. To maximize the potential of this occurring, the issuer's goal in the underwriter selection process is to select the underwriter(s) that has the best potential for providing that price. Those underwriters are typically the ones that have demonstrated both experience underwriting the type of bonds being proposed and the best marketing/distribution capabilities.

Recommendation. The Government Finance Officers Association (GFOA) recommends that unless the issuer has sufficient in-house expertise and access to market information, it should hire an outside financial advisor prior to undertaking a negotiated debt financing. The financial advisor can lend objective knowledge and expertise in the selection of underwriters for negotiated sales. GFOA recommends that a firm hired as a financial advisor should not be allowed to resign in order to underwrite the proposed negotiated sale of bonds.

GFOA further recommends the use of a Request for Proposal (RFP) process when selecting underwriters in order to promote fairness, objectivity and transparency. The RFP process allows the issuer to compare respondents and helps the issuer select the most qualified firm(s) based on the evaluation criteria outlined in the RFP. An issuer and its financial advisors should have a clear understanding of the issuer's underwriting needs and should carefully develop an RFP that complies with state and local bidding requirements (including the use of regional, local or disadvantaged firms if deemed appropriate by the issuer).

A negotiated bond sale does not entail the purchase of any goods or services by an issuer from an underwriter. Therefore, an RFP process for underwriters should not be treated as a procurement process for goods or services, notwithstanding the obligation of the issuer to comply with state and/or local procurement requirements. The only legal relationship between the issuer and an underwriter is created by a Bond Purchase Agreement signed at the time of the pricing of the bonds, wherein the issuer agrees to sell the bonds to the underwriter at an agreed upon price.

An RFP process can result in selection of one or more underwriters for a single transaction or result in identification of a pool of underwriters from which firms will be selected over a specific period of time for a number of different transactions. Each issuer should weigh the advantages and disadvantages of each type of arrangement with the assistance of their financial advisor.

No firm should be given an unfair advantage in the RFP process. Procedures should be established for communicating with potential proposers, determining how and over what time period questions will be addressed, and determining when contacts with proposers will be restricted.

Request for Proposal Content. The RFP should include at least the following components:

1. A clear and concise description of the contemplated bond sale transaction.
2. A statement noting whether firms may submit joint proposals. In addition, the RFP should state whether the issuer reserves the right to select more than one underwriter for a single transaction.
3. A description of the objective evaluation and selection criteria and explanation of how proposals will be evaluated.
4. A requirement that all underwriter compensation structures be presented in a standard format. Proposers should identify which fees are proposed on a “not-to-exceed” basis, describe any condition attached to their fee proposal, and explicitly state which costs are included in the fee proposal and which costs are to be reimbursed.
5. A requirement that the proposer provide at least three references from other public-sector clients, preferably clients where the firm provided underwriting services similar to those proposed to be undertaken as the result of the RFP.

Requested Proposer Responses. RFPs should include questions related to the areas listed below to distinguish firms’ qualifications and experience, including but not limited to:

1. Relevant experience of the firm and the individuals assigned to the issuer, and the identification and experience of the individual in charge of day-to-day management of the bond sale, including both the investment banker(s) and the underwriter(s).
2. A description of the firm’s bond distribution capabilities including the experience of the individual primarily responsible for underwriting the proposed bonds. The firm’s ability to access both retail and institutional investors should be described.
3. Demonstration of the firm’s understanding of the issuer’s financial situation, including ideas on how the issuer should approach financing issues such as bond structures, credit rating strategies and investor marketing strategies.
4. Demonstration of the firm’s knowledge of local political, economic, legal or other issues that may affect the proposed financing.
5. Documentation of the underwriter’s participation in the issuer’s recent competitive sales or the competitive sales of other issuers in the same state.
6. Analytic capability of the firm and assigned investment banker(s).
7. Access to sources of current market information to provide bond pricing data before, during and after the sale.
8. The amount of uncommitted capital available and the ability and willingness of the firm to purchase the entire offering of the issuer, if necessary, in the case of a firm underwriting.

9. Any finder's fees, fee splitting, or other contractual arrangements of the firm that could present a real or perceived conflict of interest, as well as any pending investigation of the firm or enforcement or disciplinary actions taken within the past three years by the SEC or other regulatory bodies.

Additional Considerations. Issuers should also consider the following in conducting the underwriter selection process:

1. Take steps to maximize the number of respondents by using mailing lists, media advertising, resources of the GFOA, resources of the financial advisor and applicable professional directories.
2. Give adequate time for firms to develop their responses to the RFP. Two weeks should be appropriate for all but the most complicated RFPs.
3. Establish evaluation procedures and a systematic rating process, conduct interviews with proposers, and undertake reference checks. Where practical, one individual should check all references using a standard set of questions to promote consistency. To remove any appearance of a conflict of interest resulting from political contributions or other activities, elected officials should not be part of the selection team.
4. Document and retain the description of how the selection was made and the rankings of each firm.

Underwriter's Compensation. The underwriter in a negotiated sale is compensated in the form of an underwriter's discount or "spread", which consists of the negotiated difference between the amount the underwriter pays the issuer for the bonds and the amount the underwriter expects to receive selling the bonds to investors. The underwriter's discount includes up to four components: the management fee, takedown, expenses and underwriting fee. The only component of spread that can be fixed in a proposal is the management fee. The management fee compensates the investment bankers for the time and expertise brought to the negotiated sale by the investment bankers. It is appropriate to ask the proposer for a firm management fee quote, although its weighting in the evaluation criteria should be low. In addition, issuers may want to leave room to negotiate this fee lower or higher, depending on the actual complexities of the transaction.

The remaining components of spread, as noted below, should be determined through the negotiation process.

1. Expenses – includes various fees and overhead expenses and also should not be part of the RFP evaluation criteria. However it is important to note that all underwriter expenses be clearly identified and defined at the appropriate time during the bond negotiation.
2. Takedown – is the "sales commission" of the deal. Current market levels of takedown can be determined by the issuer or its financial advisor just prior to the time of negotiation. The takedown is the principal component of the potential profit to an underwriter in a bond sale. The issuer must weigh the impact of takedown on the resulting true interest cost to the bond issuer. An inadequate takedown may result in less aggressive marketing of the bonds and a higher interest cost to the issuer. A fair balance must be struck between a "market rate" takedown and the cost to the issuer in future interest costs.
3. Underwriting Fee – is almost never part of the final underwriter's discount and should not be part of the discussion at the RFP stage. Discussion of the payment of an underwriting fee may occur during pricing negotiation, but only to the extent the underwriter agrees to underwrite a substantial amount of unsold bonds.

Issuers should include a provision in the RFP prohibiting any firm from engaging in activities on behalf of the issuer that produce a direct or indirect financial gain for the firm, other than the agreed-upon compensation, without the issuer's informed consent. Procedures should be established for communicating with potential proposers, determining how and over what time period questions will be addressed, and determining when contacts with proposers will be restricted.

References

- *Preparing Requests for Proposals*, Issue Brief No. 3, California Debt Advisory Commission, October 1994.
- *Debt Issuance and Management: A Guide for Smaller Governments*, James C. Joseph, GFOA, 1994.
- *A Guide for Selecting Financial Advisors and Underwriters: Writing RFPs and Evaluating Proposals*, Patricia Tigue, GFOA, 1997.
- GFOA Best Practice, “Selecting Bond Counsel,” 2008.
- GFOA Best Practice, “Selecting Financial Advisors,” 2008.
- GFOA Best Practice, “Selecting and Managing the Method of Sale of State and Local Government Bonds,” 2007.
- Municipal Securities Rulemaking Board Rule G-23, *Activities of Financial Advisors*, <http://www.msrb.org/msrb1/rules/ruleg23.htm>.

* This Recommended Practice, along with the Recommended Practice on Selecting Financial Advisors, replaces the 1997 RP, Preparing RFPs to Select Financial Advisors and Underwriters.

Approved by the GFOA’s Executive Board, October 17, 2008.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE

Appointments to Boards and Commissions

PRESENTERS

Jane Brautigam, City Manager

Paul Fetherston, Deputy City Manager

Alisa D. Lewis, City Clerk and Director of Support Services

Alisa R. Darrow, Deputy City Clerk

SUMMARY:

Staff is requesting that Council make appointments to the City of Boulder Boards and Commissions for the 2014 annual recruitment.

The following is an excerpt from council procedures, Section VII, B.R.C., 1981 outlining the process for nominating and appointing board and commission members. You may also refer to your City Council Handbook on page 21. Please note that item F below indicates that board and commission appointments are to be conducted in the same manner as described in this section.

IX. Nominations and Elections

E. Nominations. At the conclusion of public testimony, council will consider nominations for mayor and mayor pro tem. Any council member may nominate anyone that expressed an interest and made a speech at the second Tuesday in November, including himself or herself, for either position. Provided, however, that the requirement of prior expression of interest shall be waived for any council member whose election was not decided before the second Tuesday in November. Nominations for mayor and acting mayor (generally referred to as mayor pro tem) are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may at this time withdraw his or her name from nomination. Silence by the nominee shall be interpreted as acceptance of candidacy.

F. Order of Vote. A motion then is made and seconded to close the nominations and acted on as

any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.

G. Ballots. If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.

H. Elimination Process. If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.

I. Impasse Process. In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor or mayor pro tem.

J. Appointment of Board Alternates. In the event that the Boulder Revised Code provides for the appointment of temporary alternate board members, such members shall be appointed as follows: The most recently departed member of the board needing a temporary alternate, who is eligible and able to serve, shall be appointed. In the event that more than one member departed at the same time, alternates shall be chosen in reverse alphabetical order, with appointments alternating between the eligible and able former members who departed at the same time. In the event that the most recently departed member is not eligible or able to serve, the next previously departed member shall be chosen, applying the procedure above if there is more than one potential appointee. No person shall be eligible for a temporary alternate appointment if he or she was removed from the board by the council. A temporary alternate shall be appointed only when a member's absence either results in the lack of a quorum or may prevent the board from taking action. No person appointed as a temporary alternate shall serve at two consecutive meetings of the board to which he or she is appointed unless it is necessary to complete an agenda item that

has been continued to another meeting.

K. Boards and Commissions. Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.

L. Advertising of Vacancies After Partial Terms. Prior to advertising board and commission vacancies, when a person has already served on the board or commission and is seeking reappointment, council should make the decision of whether or not to advertise that particular vacancy.

LIST OF APPOINTMENTS REQUESTED:

Arts Commission	Appoint one new member to a five-year term
Beverages Licensing Authority (BLA)	Appoint one new member to a five-year term
Board of Zoning Adjustment (BOZA)	Appoint one new member to a five-year term
Boulder Design Advisory Board (BDAB)	Appoint one new member to a five year term
Boulder Junction Access District – Parking Commission (BJAD-PC)	Appoint one new member to a five-year terms One citizen at large
Boulder Junction Access District – Travel Demand Management Commission (BJAD-TDM) – Recommend reopening Recruitment	Appoint one new member to a five-year terms One citizen at large
Boulder Urban Renewal Authority (BURA)	Appoint two new members to five-year terms
Downtown Management Commission (DMC)	Appoint one new member to a five-year term Must be a property owner/representative
Environmental Advisory Board (EAB)	Appoint one new member to a five-year term
Housing Authority	Appoint two new members, one to a five-year term and one to an unexpired term ending March 31, 2016
Human Relations Commission (HRC)	Appoint one new member to a five-year term
Landmarks Board – Recommend reopening Recruitment	Appoint one new member to a five-year term (no applications received)

Library Commission	Appoint one new member to a five-year term
Open Space Board of Trustees (OSBT)	Appoint one new member to a five-year term
Parks and Recreation Advisory Board (PRAB)	Appoint one new member to a five-year term
Planning Board	Appoint three new members Two to a five-year terms and one to an unexpired term ending March 31, 2017
Transportation Advisory Board (TAB)	Appoint one new member to a five-year term
University Hill Commercial Area Management Commission (UHCAM) – Recommend reopening Recruitment	Appoint three new members, one to a five-year term, one to an unexpired term ending March 31, 2017 and one to an unexpired term ending March 31, 2018 Must be property owners/representatives
Water Resources Advisory Board (WRAB)	Appoint one new member to a five-year term

* Property Owner/Representative: A person who owns, or an entity which owns, taxable real or personal property within the district or an agent authorized in writing by such a person or entity to sign Consents for petitions.

MATTERS TO CONSIDER IN MAKING APPOINTMENTS

The following people currently hold seats that are set to expire March 31, 2014 and are seeking reappointment:

Arts Commission	Felicia Furman (appointed 03/2013)
Board of Zoning Adjustment	Thomas Krueger (appointed 03/2001)
Boulder Urban Renewal Authority	Chet Winter (appointed 04/2009)
Downtown Management Commission	Susan Deans (appointed 09/2011)
Environmental Advisory Board	Morgan Lommele (appointed 06/2013)

Additional Information:

- Nikki McCord has applied to the Boulder Housing Authority, Boulder Urban Renewal Authority and the Human Relations Commission

- David Takahashi has applied to the Environmental Advisory Board and the Planning Board
- John Gerstle has applied to the Open Space Board of Trustees and the Planning Board
- Daniel Stellar has applied to the Open Space Board of Trustees and the Transportation Advisory Board

Attachment A – 2014 Board and Commission Vacancies
Attachment B – 2014 Board and Commission Applications

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2014 Board and Commission Vacancies

Board Name	# of Vacancies – Term	Special Requirements
Arts Commission	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Beverages Licensing Authority	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Board of Zoning Adjustment	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Boulder Design Advisory Board	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Boulder Junction Access District – Parking Commission	1 Vacancy – 5 Year term expiring March 31, 2019	1 – Citizen at Large
Boulder Junction Access District – Travel Demand Management (TDM) Commission	1 Vacancy – 5 Year term expiring March 31, 2019	1 – Citizen at Large
Boulder Urban Renewal Authority	2 Vacancies – 5 Year terms expiring March 31, 2019	Citizen at Large
Downtown Management Commission	1 Vacancy – 5 Year term expiring March 31, 2019	Property Owner/Representative*
Environmental Advisory Board	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Housing Authority	2 Vacancies – One 5 Year term expiring March 31, 2019, and One Unexpired Term ending March 31, 2016	Citizen at Large
Human Relations Commission	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Landmarks Board	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Library Commission	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Open Space Board of Trustees	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Parks and Recreation Advisory Board	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
Planning Board	3 Vacancies – Two 5 Year terms expiring March 31, 2019, One Unexpired Term ending March 31, 2017	3 – Citizen at Large
Transportation Advisory Board	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large
University Hill Commercial Area Management Commission	3 Vacancies – One 5 Year term expiring March 31, 2019, One Unexpired Term ending March, 31, 2017 and One Unexpired Term ending March 31, 2018	3 – Property Owner/Representative*
Water Resources Advisory Board	1 Vacancy – 5 Year term expiring March 31, 2019	Citizen at Large

* Property Owner/Representative: A person who owns, or an entity which owns, taxable real or personal property within the district or an agent authorized in writing by such a person or entity to sign Consents for petitions.

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Boards and Commissions Database

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Applicant List

Arts Commission Applicants

Sam Bair
2012 Spruce St Apt. 2
Boulder, CO 80302
Occupation: Museum Liaison

Felicia Furman
2319 Mapleton Avenue
Boulder, CO 80304
Occupation: Self Employed - documentary filmmaker

Bev Pogreba
960 Crescent Drive
Boulder, CO 80303
Occupation: Arts Entertainment Agency Owner

Chelsea Pohl
1809 Yarmouth Ave
Boulder, CO 80304
Occupation: Art Teacher, Business and Project Manager

Andrew Varnell
1453 Broadway Street
Boulder, CO 80302
Occupation: Publisher

Tomas Waples-Trefil
3300 Bridger Tr
Apt. 204
Boulder, CO 80301
Occupation: Ticket Operations Manager

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Applicant List

Beverages Licensing Authority Applicants

Doyle Albee
2575 Cragmoor Road
Boulder, CO 80305
Occupation: Company Owner

Keith Collins
729 Concord Ave
Boulder, CO 80304
Occupation: Attorney

Steve Wallace
1813 Pine Street
Boulder, CO 80302
Occupation: General Manager - Boulder Inn

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Boards and Commissions Database

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Applicant List

Board of Zoning Adjustment Applicants

Bruce Douglass
5688 College Place
Boulder, CO 80303
Occupation: Consultant, Life Planner, Facilitator and Pro

Thomas Krueger
655 Pleasant St.
Boulder, CO 80302
Occupation: Self-Employed General Contractor

Thom Ward
3237 Carbon Place
Boulder, CO 80301
Occupation: Attorney

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Applicant List

Boulder Design Advisory Board Applicants

Jamison Brown
1924 Pine Street
Boulder, CO 80302
Occupation: Landscape Architect and Urban Designer

Jerry Shapins
644 Dewey Avenue
Boulder, CO 80302
Occupation: retired/self employees - urban designer/land

Leonard Thomas
3135 23rd Street
Boulder, CO 80304
Occupation: Architect

Tim Williams
1360 Walnut St
Boulder, CO 80302
Occupation: Multi-Business Owner

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Boards and Commissions Database

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Applicant List

Boulder Junction Access District - Parking Commission Applicants

Susan Osborne
525 College Ave.
Boulder, CO 80302
Occupation: Retired City Planner

Jeff Shanahan
PO Box 328
Boulder, CO 80306
Occupation:

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Applicant List

Boulder Junction Access District - Travel Demand Management (TDM) Commission Applicants

Susan Osborne
525 College Ave.
Boulder, CO 80302
Occupation: Retired City Planner

Jeff Shanahan
PO Box 328
Boulder, CO 80306
Occupation:

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Applicant List

Boulder Urban Renewal Authority Applicants

Eric Hutchens
1727 Pine St Apt. 3
Boulder, CO 80302
Occupation: Attorney

Nikki McCord
2654 Kalmia Ave
Boulder, CO 80304
Occupation: Business Consultant

Chet Winter
1025 5th Street
Boulder, CO 80302
Occupation: NewWest Capital Partners - General Partner

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Applicant List

Downtown Management Commission Applicants

Susan Deans
1439 North Street
Boulder, CO 80304
Occupation: Retired Journalist, freelance writer and com

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Applicant List

Environmental Advisory Board Applicants

Morgan M. Lommele
1310 Lehigh Street
Boulder, CO 80305
Occupation: Kearns & West, Inc.

Brad Queen
4070 Dawn Court
Boulder, CO 80304
Occupation: Energy Consultant

Michael SanClements
2753 14th St
Boulder, CO 80304
Occupation: Environmental Scientist/Faculty Member/No

David Takahashi
326 29th Street
Boulder, CO 80305
Occupation: Software Engineer

Nicholas Vanderborgh
495 Locus Place
Boulder, CO 80304
Occupation: Chemist - Emission Control

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Boards and Commissions Database

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Applicant List

Housing Authority Applicants

Nikki McCord
2654 Kalmia Ave
Boulder, CO 80304
Occupation: Business Consultant

Mark Ruzzin
1955 Grape Avenue
Boulder, CO 80304
Occupation: Senior Policy Analyst

Robert (Bob) Wettergren
1955 Tincup Court
Boulder, CO 80305
Occupation: Retired

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Applicant List

Human Relations Commission Applicants

Jose Beteta
2525 Arapahoe Ave E4-229
Boulder, CO 80302
Occupation: Self Employed - Boulder

Mary Friedrichs
787 Meadow Glen Drive
Boulder, CO 80303
Occupation: Clinical Social Worker

Judith Landsman
4166 Longview Lane
Boulder, CO 80301
Occupation: Artist/Scholar/Business Owner/Parent

Nikki McCord
2654 Kalmia Ave
Boulder, CO 80304
Occupation: Business Consultant

Nancy Trigg
2248 Edgewood Drive
Boulder, CO 80304
Occupation: Manager of Sales and Business Operations

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Applicant List

Library Commission Applicants

Rachel Cohen
5360 Pennsylvania Ave
Boulder, CO 80303
Occupation: Homemaker/Special Projects

Joni Teter
200 Pawnee Drive
Boulder, CO 80303
Occupation: Environmentals/Sustainability/Consultant/Re

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Applicant List

Open Space Board of Trustees Applicants

Joscelyn Blumenthal
614 Streamside Lane
Boulder, CO 80302
Occupation: Self Employed

Mitchell Smith
360 Oneida Street
Boulder, CO 80303
Occupation: Array BioPharma Inc.

Bill Briggs
825 7th Street
Boulder, CO 80302
Occupation: Writer

Daniel Stellar
5646 Rim Rock Court
Boulder, CO 80301
Occupation: Nonprofit Executive

Michelle Estrella
2400 Kenwood Drive
Boulder, CO 80305
Occupation: Sr. Director Finance and Business Operatio

Bradley Fontanese
1240 Cedar Ave #22
Boulder, CO 80304
Occupation: Information Technology

John Gerstle
920 Jasmine Circle
Boulder, CO 80304
Occupation: Gerstle & Company LLC, consultant on wate

Joe Glynn
4787 6th Street
Boulder, CO 80304
Occupation: Engineer/Designer/Photographer

Kevin Bracy Knight
4653 17th Street
Boulder, CO 80304
Occupation: CU/Boulder Ecologist PhD Researcher

Stephen Lommele
1310 Lehigh St.
Boulder, CO 80305
Occupation: National Renewable Energy Laboratory (NR

Dan Luecke
3870 Norwood Court
Boulder, CO 80304
Occupation: Hydrologist and Environmental Scientist

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Applicant List

Parks and Recreation Advisory Board Applicants

Thomas Klenow
2985 E. College Ave.
Boulder, CO 80303
Occupation: Entitlement Analyst

Murray Lull
5440 Centennial Trail
Boulder, CO
Occupation: Retired Banker

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Applicant List

Planning Board Applicants

Ed Byrne
4324 Snowberry Court
Boulder, CO 80304
Occupation: Attorney

David Takahashi
326 29th Street
Boulder, CO 80305
Occupation: Software Engineer

Jonathan Dings
77 Pima Ct
Boulder, CO 80303
Occupation: Chief of Planning & Assessment BVSD

Harmon Zuckerman
280 30th Street
Boulder, CO 80305
Occupation: Law Student and Law Clerk

John Gerstle
920 Jasmine Circle
Boulder, CO 80304
Occupation: Gerstle & Company LLC, consultant on water

Crystal Gray
1709 Spruce St.
Boulder, CO 80302
Occupation:

Jonathan Hager
1920 Glenwood Drive
Boulder, CO 80304
Occupation: Telecom Projects Manager at local power co

Shari Leach
500 Northstar Court
Boulder, CO 80304
Occupation: Women's Wilderness Institute , Non-Profit E

Ellen McCready
1575 Mariposa Avenue
Boulder, CO 80302
Occupation: Inspirator, real estate manager

Bart Miller
4530 Hanover
Boulder, CO 80305
Occupation: Attorney

Elizabeth Payton
2605 5th Street
Boulder, CO 80304
Occupation: web developer and editor

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Applicant List

Transportation Advisory Board Applicants

Eric Budd
3025 Broadway Apt. 38
Boulder, CO 80304
Occupation: Product Firmware Manager

Stephen Conley
4661 17th Street
Boulder, CO 80304
Occupation: Atmospheric Scientist

Kevin Crouse
2815 Elm Avenue
Boulder, CO 80305
Occupation: Operations Manager

John Doherty
2900 Aurora Ave #306
Boulder, CO 80303
Occupation: Economics Masters Student

Daniel Stellar
5646 Rim Rock Court
Boulder, CO 80301
Occupation: Nonprofit Executive

Karen Worminghaus
1736 Yaupon Avenue
Boulder, CO 80304
Occupation: Executive Director

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Applicant List

University Hill Commercial Area Management Commission Applicants

Brian Buckley
1203 13th Street
Boulder, CO 80302
Occupation: Bookstore and Café Owner

Daniel Dorrell
1535 10th Street
Boulder, CO 80302
Occupation: Carpenter, Artist, Landlord

Ronald Mitchell
1127 14th Street
Boulder, CO 80302
Occupation: Real Estate Investor

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Boards and Commissions Database

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Applicant List

Water Resources Advisory Board Applicants

Michael Barnes
1715 View Point Road
Boulder, CO 80305
Occupation: Engineer

Michael Cohen
2620 7th Street
Boulder, CO 80304
Occupation: Water Policy Specialist

Clancy Phillipsborn
5316 Pennsylvania Ave
Boulder, CO 80303
Occupation: Retired Community Disaster Recovery and

Lesley Smith
345 Evergreen Ave
Boulder, CO 80304
Occupation: Reesearch Scientist

Tellinghuisen Stacy
4405 Martin Drive
Boulder, CO 80305
Occupation: Senior Energy/Water Policy Analyst



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 18, 2014

AGENDA TITLE Consideration of a motion to approve a funding request from the Boulder/Yamagata Friendship Committee related to the 20th Anniversary Celebration of the Boulder – Yamagata Sister City Relationship

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Alisa D. Lewis, Director of Support Services/City Clerk
Alisa R. Darrow, Deputy City Clerk
Tim Plass, Council Member/Yamagata Sister City Representative

BACKGROUND

The Boulder/Yamagata Sister City relationship will be celebrating the 20th anniversary of its existence in May of 2014. The Boulder Sister City Group will be hosting a delegation of 20-40 representatives coming from Yamagata to celebrate this important occasion.

The Boulder/Yamagata Sister City relationship has been strong throughout the years with annual visits of support by each community and also through more direct actions of support. The city of Boulder donated funds to support the victims of the 2011 Tsunami that affected Yamagata, and Yamagata recently donated \$12,000 to the city of Boulder to assist children affected by the 2013 September floods.

EXECUTIVE SUMMARY

Resolution No. 631 states “No separate sister city budget item will be established. The City Council and City Manager will at their discretion authorize such funds as may be required for ceremonial functions.”

Based on this portion of Resolution No. 631 the City Council Sister City subcommittee recommends approving a request of \$1,000 (Was \$2000 without P&R staff costs) to support the 20th Sister City Anniversary between Boulder and Yamagata.

Each year for the past 8 years, the Boulder Yamagata Sister City group donated 30 cherry trees to the city of Boulder. This year, the Boulder Yamagata Sister City group will be hosting a 20th year celebration event on May 10th at Harlow Platts Park and the group will again donate 30 cherry trees to be planted in the park. The Yamagata Sister City event at Harlow Platts Park will have a formal component between the Yamagata dignitaries and city of Boulder dignitaries and also entertainment and food for the Boulder and Yamagata dignitaries and community members.

The Boulder Yamagata Sister City group is requesting financial support in the amount of \$1,000 to help offset the cost of hosting the celebration. The Yamagata Friendship Committee has committed to donating 30 cherry trees, entertainment, and food for the event. The total cost for the cherry trees is \$1200.00 and the entertainment and food has not yet been confirmed.

Total costs for the city of Boulder, including staff and equipment costs, are anticipated to be \$2490.00. The city of Boulder will be giving a Haertling Sculpture to the Yamagata Mayor/delegation and smaller gifts to each member of the delegation. The anticipated cost for these items is \$600.00. The costs for the event include \$1890.00 total staff and equipment costs for the Parks and Recreation Department. These costs include:

- Planting 30 trees at Harlow Platts Park - Forestry staff time and equipment costs will be approximately \$980.00. This cost would be incurred with or without the event.
- Event set up to include seating for 75 delegates from Yamagata, Boulder, and community members: 2 tents from the Boulder Reservoir (20' x 30'), 12 tables from the North Boulder Recreation Center, PA system and podium from the Flatirons Golf Course – Staff time and equipment for hauling, set up and removal will be approximately \$910.00.

The total “hard costs” are \$600.00 for the city to purchase gifts for the delegation. If the city provides \$1000.00 for the event, \$400.00 would be available for the Yamagata Sister City group to use for food and entertainment for the event. All other event costs would be incurred by the Parks and Recreation Department to support the community event.

RECOMMENDATION

Suggested Motion Language:

The Council Sister City Sub-Committee requests council consideration of this matter and action in the form of the following motion:

Motion to approve funding in the amount \$1,000 and allow for Parks and Recreation staff and equipment costs for the Boulder/Yamagata Sister City 20th Anniversary celebration.

OTHER IMPACTS

- Fiscal - \$1000.00 total to include costs for gifts for the Yamagata delegation, event entertainment and food.
- Staff and equipment costs for event set up and take down, and planting of 30 trees.

ANALYSIS

The 20th year of the Boulder/Yamagata Sister City relationship is a meaningful milestone that is bringing 20-40 delegates from Yamagata to Boulder for the celebration. This Sister City relationship is strong and both communities have shown support for the other through difficult times.

In order to provide adequate funding for the event and for gifts for the delegation, it is recommended that council should dedicate \$1000.00 for gifts for the Yamagata delegation and support for the event, and allow for Parks and Recreation to provide staff and equipment to support the community event.

Attachment A – Courtesy Call Event Plan

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**BOULDER PARKS & RECREATION
EVENT PLAN**

Yamagata 20th Anniversary Sakura Tree Planting

CONNECTION OF EVENT/PROGRAM/ACTIVITY TO COMMUNITY OUTREACH AND DEVELOPMENTAL GOAL:

- Building Community and Relationships
- Community Tradition – 30 trees each year for the last 9 years
- Tie to Civic Area with Sister City Plaza and the International Peace Garden

WHEN & WHERE:

- Saturday, May 10, 2014
- Harlow Platts Community Park

OBJECTIVES/GOALS:

More formal than past Sakura plantings because formality expectation with Japanese Mayor visiting
200+ community members in attendance
Tie to the civic area sister city plaza peace garden
Plan for future planting in the civic area

ATTENDEES:

Mayor of Yamagata, Japan with 30-40 delegates travelling from Japan to attend
Yamagata Boulder Friendship Association – Approximately 10 members will attend
Boulder City Officials- approximately 10
Open to Boulder Residents
Total attendees: 90-120

BUDGET/ EXPENSES/CONTRIBUTIONS:

Yamagata Friendship Committee contributions

- Donation of 30 cherry trees –30 Cherry trees will cost \$1,200.
- Food – \$1,375

City Contributions

- \$400 for Haertling Sculpture gift (CMO)
- \$100 for smaller individual gifts (CMO)
- Planting trees at Harlow Platts Park - staff time and Forestry Staff time & costs will be approximately \$980. We use \$35.00 for staff time (includes benefits, OT, average salary) and \$15.00 per hour for a vehicle. Total of 3 hours for set up and travel and 3 hours for tear down and travel.
- Getting our city dignitaries to the event/providing talking points to our city dignitaries (CMO)
- Tents from the Reservoir 2 (20 x 30)- will seat approximately 75 people. Tables and chairs set up under the tent. The delegation will be no larger than 40 so it would be nice to have extra room for Boulder officials and residents to sit with the delegation.
- 12- 6ft Tables/ 75 Chairs- provided by NBRC
- PA system – To rent it costs approximately \$230 per day- Parks and Recreation will most likely purchase for all events
- Podium- Staff will borrow for the day from Golf Course

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TO: Members of Council
FROM: Dianne Marshall, City Clerk's Office
DATE: March 18, 2014
SUBJECT: Information Packet

1. Call Ups

A. 1301 Walnut Street (the Wencel Building) Site Review (case no. LUR2013-00031)

2. Information Items

A. Annexation Package for Flood Impacted Area II Residents

B. Incentive Programs - Flexible Rebate and Microloan Programs

3. Boards and Commissions

A. Landmarks Board – January 8, 2014

B. Landmarks Board – February 5, 2014

4. Declarations

None.



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Susan Richstone, Deputy Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Elaine McLaughlin, Senior Planner

Date: March 10, 2014

**Subject: Call-Up Item: 1301 Walnut Street (the Wencel Building) Site Review
(case no. LUR2013-00031)**

EXECUTIVE SUMMARY

On Feb. 27, 2014, the Planning Board unanimously approved (5-0, L. May absent) the above-referenced application with conditions as provided in the attached Notice of Disposition (**Attachment A**), finding the project consistent with the Site Review criteria of Land Use Code section 9-2-14(h), B.R.C. 1981. Approval of the application to redevelop the site located at the northeast corner of 13th and Walnut streets would permit construction of a four-story, 55-foot tall building as infill into an existing surface parking lot and through demolition of an existing building, located in the DT-5 (Downtown -5) zoning district. The proposed application includes requests for four stories where three are allowed by-right on a corner.

The application also includes modifications for the front and side yard setbacks from a street for the third story and above where portions of the west and south elevations are planned to 0 and 10.5 feet setbacks, where 15 feet is standard. The application also includes a floor area transfer under the terms of Land Use Code section 9-8-2(e)(4), B.R.C. 1981.

The Planning Board decision is subject to City Council call-up within 30 days concluding on March 31, 2014. There is one City Council meeting within this time period for call-up consideration on March 18, 2014.

The staff memorandum of recommendation to Planning Board and other related background materials are available on the city website. Follow the links: www.bouldercolorado.gov → A to Z → Planning Board → search for past meeting materials planning board → 2014 → 02.27.2014 PB Packet.

BACKGROUND

As shown in Figure 1, the building site is currently occupied by an existing three and a half-story building on the corner and a 15,500 square foot surface parking lot. Adjacent to the parking lot is the eight and one-half story Colorado Building, built in 1956 as the “Colorado Insurance Group Building” designed by noted Boulder Modernist architect James Hunter for both office and retail uses. A three story portion of the building on the west side adjacent to the parking lot was built to house Joslin’s Department Store which operated there until 1980. An architectural survey and context study of Modernism in Boulder undertaken in 2000 identified this as a “Mies van der Rohe-inspired building” and as the only “big city high-rise” in the city.

The site also contains the former Peyton Insurance and James Hotel buildings, now housing Conor O’Neills Irish Pub and offices, along with the Brewing Market and Tibet Company and offices, respectively. There is also a small historic carriage house adjacent to the alley that had been associated with a residence that was located on the site up until the 1940s. None of the historic structures within the site are planned for removal or alteration however, some maintenance and cosmetic improvements have been discussed which would be subject to review and approval through a Landmarks Alteration Certificate.



Figure 1: Aerial View of Subject Site

A proposal for a similar, but larger project was reviewed as a Concept Plan on Jan. 24, 2013. At that time, the applicant had requested second and third story connections from the proposed building to the

adjacent Colorado Building, under common ownership, to create very large floor plate offices. Because the floor area of the entire Colorado Building would have had to been counted together with the proposed building, the concept plan proposal would have ultimately required an ordinance to approve greater floor area than is permitted. The project as approved by Planning Board is not proposed to connect to the Colorado Building. In addition, the approval by Planning Board included a condition of approval that the Colorado Building be landmarked by the applicant.

Boulder Valley Comprehensive Plan (BVCP). The subject site is located within one of the three Regional Activity Center’s defined on page 20 of the BVCP as follows,

“Boulder’s commercial, entertainment, educational and civic centers are focused in concentrated nodes of activities at a variety of scales distributed throughout the community. At the highest level of intensity are the city’s three regional centers. They form a triangle at Boulder’s geographic center: the Historic Downtown, the Boulder Valley Regional Center (BVRC), and the University of Colorado (CU) with the University Hill business district, which also serves as a neighborhood center for the surrounding area. Each regional center has a distinct function and character, provides a wide range of activities and draws from the entire city as well as the region.”

Consistent with the identification of the area as a Regional Activity Center, the BVCP land use designation for the site is Regional Business, with the intent defined on page 64 of the BVCP as follows,

“Within these areas are located the major shopping facilities, offices, financial institutions, and government and cultural facilities serving the entire Boulder Valley and neighboring communities. These areas will continue to be refurbished and upgraded and will remain the dominant focus for major business activities in the region.”

Zoning. Located in the highest intensity downtown zoning district of the downtown, the DT-5 zoning district is defined within the Land Use Code section 9-5-2, B.R.C. 1981 as follow:

“The business area within the downtown core that is in the process of changing to a higher intensity use where a wide range of office, retail, residential and public uses are permitted. This area has the greatest potential for new development and redevelopment within the

The DT-5 zoning district permits three stories on a corner building by-right, four stories with a height up to 55 feet require Site Review analysis and approval.

Downtown Urban Design Guidelines. The site is located within the area defined in the Downtown Urban Design Guidelines as the Non-Historic area. A weblink to the guidelines is found on line at www.bouldercolorado.gov → A to Z → boards-commissions → bdab. The intent of the Non-Historic Area is noted on page 13 of the guidelines as follows:

“The Non-Historic Area offers unique opportunities for design options and creation of variety in building forms. A focus on pedestrian activity and attention to massing, scale and alignment of building features are important design considerations.”

The urban design objectives for the Non-Historic Area are noted on page 33 of the guidelines as follows:

- *Reinforce the character of downtown as a pedestrian place by encouraging architectural solutions that are visually interesting, stylistically appropriate to their context, and compatible in scale and character with their street.*
- *Strengthen the identity of downtown as a place where people feel welcome and comfortable through the careful selection of building materials and human scale design.*
- *Encourage development that complements pedestrian activity.”*

Surrounding Context. Across Walnut Street, the surrounding context includes the regional downtown RTD bus station, a four story office building, a drive thru bank, and the four story mixed use residential, retail, and office building of One Boulder Plaza. Across 13th Street to the west is the 42,600 square foot surface parking lot serving Wells Fargo Bank. To the north, across the alley, are a variety of retail and office buildings that front onto the Pearl Street Mall. Across the site to the east is a four story office building with ground floor retail.

Summary of Proposed Project. As shown in Figures 2, 3, and 4 the proposed project is a four-story office and retail building with above grade portion of the building proposed to be 56,634 square feet and at a 2.7 Floor Area Ratio. A 1.0 FAR addition is proposed consistent with land use code section 9-8-2(e)(3), 1981 and through payment of a housing linkage fee. A floor area transfer is proposed, consistent with land use code section 9-8-2(e)(4), B.R.C. 1981 to transfer permitted floor area away from the historic structures on the west side of the site and into the new building. A small 18 space parking area is proposed primarily at the rear of the building within the northeastern portion of the first floor. An area of approximately 15,600 square feet is also proposed below grade that is consistent with Land Use Code Section 9-8-2, B.R.C. 1981 that provides for below grade to not count toward overall floor area calculations. The below grade office space will open to a courtyard s, shown in the site plan of Figure 2, that is accessed from both Walnut Street and the alley and is planned for small “incubator” or start-up office space. The courtyard spaces created would be publically accessible and a street-level walkway allows access to the rear of the site for site permeability. A proposal to expand the patio at Conor O’Neills and incorporate the historic carriage house as a focal point from Walnut Street into the site is also included in the Site Review approval.

Figures 3 and 4 on the following page present the west and south elevations. The setback at the alley ranges from 45- to 73- feet from the property line. Other setbacks include fourth setbacks on the west and south elevations. Attachment B provides the project plans.





Figure 3: West (13th Street) Elevation



Figure 4: North (Walnut Street) Elevation

Public Comment and Participation. Required public notice for Site Review was given in the form of written notification mailed to all property owners within 600 feet of the subject site. The Planning Board hearing date was posted in the Daily Camera two weeks prior to the hearing and the public notification sign was posted on the property for at least 10 days, per the public notification requirements of Section 9-4-3, B.R.C. 1981. Three comment letters were received. All three indicated support, but one of the letters expressed concerns regarding the lower level courtyard space. The letter also indicated that the access (one-way) into the parking shouldn't occur from Walnut and that perhaps parking wasn't necessary. Another of the three letters received was from the property owner of the Cartwright Building located across the alley, indicating support for the application. This same neighboring property owner initially had concerns with the project during Concept Plan review. However since that time, as the letter indicated, the applicant worked with the neighbor to find

solutions to their concerns, particularly setting back the building significantly and addressing the rear courtyard of the building. In the neighboring property owners letter, the neighbor indicated the following:

“The design of the building and the treatment of the north side of the proposed building, preserving the pedestrian friendly appeal of the alley, and the consideration of view corridors and massing, as it relates to the transition from the DT5 to DT4 zone, have been well mitigated and have led to an enhanced design of the building.”

Design Advisory Board Review. The Design Advisory Board (DAB) reviewed and discussed the application twice, first on Jan. 8, 2013 and again on Nov. 13, 2013 at regularly scheduled DAB meetings and provided the applicant with recommended changes to an original building configuration. A written summary of the DAB review specific to each applicable design guideline within the Non-Historic area of the downtown was provided by the DAB chair. The applicant implemented the DAB and staff recommendations related primarily to building fenestration and materials.

PLANNING BOARD HEARING

At the hearing, the board discussed the following key issues:

- consistency of the proposed project with the BVCP Land Use of Regional Business, and the DT-5 zoning district;
- responsiveness of Site Review application to Concept Plan review comments;
- consistency of the proposed project with Site Review criteria including BVCP policies;
- consistency of the proposed project with the Downtown Urban Design Guidelines for the non-historic district; and
- consistency of proposed parking and circulation with the review criteria.

With regard to key issues, the board found consistency with the proposed project with the zoning, the BVCP land use and policies, and the Downtown Urban Design Guidelines. The board also acknowledged the applicant for the changes made since Concept Plan review to simplify the project, and their work with staff and BDAB to ensure compatibility in the context. With regard to the parking and circulation, the board and staff discussed the existing one way streets that circulate around the Pearl Street Mall and the one-way direction of the adjacent alley, like many downtown alleys that are directed toward Broadway to avoid stopping and turning vehicle movements on Broadway into the alleys. Given the existing circulation, the narrow 12-foot, one-way access into the parking from Walnut Street and the need for some amount of parking to serve the ground floor retail uses planned, the board indicated the proposed project was consistent with the review criteria for parking and circulation.

The board also discussed the applicant’s original Site Review submittal of three stories. Planning Board concurred with staff that a three story proposal for a site located in one of the highest intensity zoning districts, across from a regional bus facility in an area of high transit use, and where additional redevelopment and intensity is anticipated within the Regional Business area of the BVCP, would not have achieved many of the policies of the comprehensive plan. The board indicated support for the height and intensity in this location. The board concluded that the building had undergone a successful review process with the Boulder Design Advisory Board and that the Site Review process resulted in a better project than the original Concept Plan.

SUMMARY OF ANALYSIS

In approving the application, the Planning Board found that the proposal to be consistent with the Site Review criteria of the Land Use Code subsection 9-2-14(h), B.R.C. 1981 and Design Guidelines, because:

1. The proposed project's massing, scale, design and materials are compatible with the surrounding context where a variety of building heights exist in a high intensity context.
2. The proposed project meets the Site Review Criteria for pedestrian scale building design elements.
3. The application is consistent with the Downtown Urban Design Guidelines for the Non-Historic area for the following reasons:
 - a. The mass and scale of the building is articulated appropriately with placement of a four story building mass at the corner and, at the same time, visual interest is created by varying the center bays and upper stories of the building's south elevation in keeping with the intent of the Non-Historic area of the downtown as defined in the guidelines,

“areas offering unique opportunities for design options and creation of variety in building forms. A focus on pedestrian activity and attention to massing, scale and alignment of building features are important design considerations.”

- b. The proposed fourth story is set back from the face of the building from 10.5 to 20 feet in strategic places, particularly adjacent to the historic building to the north to help establish compatibility with adjoining buildings, as is recommended in the guidelines.
- c. The building will maintain a human scale with use of standard brick and capture of pedestrian interest on the first floor utilizing traditional building elements, as recommended in the guidelines and as demonstrated below in Figure 5.



Figure 5:
Consistency with Guideline 2.1: Incorporation of Traditional Design Elements

- d. Along both public street-facing elevations of 13th and Walnut streets, there is an appropriate traditional rhythm to the building bays and first floor openings, where a repetition or sequencing of visual interest for the pedestrian is critical.
 - e. The proposed building also has other traditional building features including first floor display windows with a kick plate and transom windows, a sign band along the front of the building, traditional size and patterning and of upper story windows.
 - f. The proposed building is consistent with guideline 2.4.C. which recommends the floor to floor heights of 12 to 15 feet for the ground level and up to 12 to 13 feet for the upper stories.
5. While the site is located within the Central Area General improvement District (CAGID), where parking is not required for non-residential uses, the provision of 18 vehicle parking spaces and 15 long-term bike parking spaces within the proposed building's rear first floor adjacent to the alley provides for future building users, particularly retail users.
 6. The proposed significant setbacks at the rear of the property and the placement of mass along the street frontage, established a strong concept such that the requested modifications to the fourth story setback from (15-feet to 10.5 feet and 0 feet) was acceptable to create the urban edge closest to the street.
 7. The floor area transfer proposed away from a portion of the lots encumbered by the two historic structures per Land Use Code section 9-2-14(b)(1)(C), B.R.C. 1981, to an area of surface parking lot meets the criteria.

CONCLUSION

By a unanimous vote the Planning Board agreed with the staff analysis and approved the application with conditions. Consistent with the land use code section 9-4-4(c), B.R.C. 1981, if the City Council disagrees with the decision of the Planning Board, it may call up the application within a 30-day call up period which expires on March 31, 2014, and with one City Council meeting during that time, it may consider this application for call-up at its **March 18, 2014** public meeting.

ATTACHMENTS:

- A. Planning Board Notice of Disposition dated Feb. 27, 2014
- B. Project Plans and Written Statement



CITY OF BOULDER
Community Planning & Sustainability

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

CITY OF BOULDER PLANNING BOARD
NOTICE OF DISPOSITION

You are hereby advised that on February 27, 2014 the following action was taken by the Planning Board based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION: **APPROVED WITH CONDITIONS**
PROJECT NAME: **THE WENCEL BUILDING**
DESCRIPTION: **A new four story commercial office building totaling approximately 46,700 square feet above grade floor area, along with 15,600 square feet of below grade area open to a courtyard space for incubator offices, building amenities and storage. 18 parking spaces to be structured within the east side of the first floor.**

LOCATION: **1301 WALNUT ST**
COOR: **N03W06**
LEGAL DESCRIPTION: **See Exhibit A Attached**
APPLICANT: **JEFFREY WINGERT**
OWNER: **APLAZA LLC (1900 13TH St)**
1916 LLC (1916 13th St)
Lookout LLC (1355 Walnut St)
1919 Street LLC (1919 14th St)

APPLICATION: **Site Review, LUR2013-00053**
ZONING: **DT-5**
CASE MANAGER: **Elaine McLaughlin**
VESTED PROPERTY RIGHT: **NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

APPROVED MODIFICATIONS FROM THE LAND USE REGULATIONS:

- §9-7-1: Height: 55 feet where 38 feet is standard; and four stories where three are standard**
- §9-7-1: Minimum front yard setback and side yard setback from a street for all principal buildings and uses for third story and above (portions of west and south fourth story elevation to 0 where 15' is standard)**

This decision may be called up by the City Council on or before March 31, 2014. If no call-up occurs, the decision is deemed final thirty days after the Planning Board's decision.

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED FINAL PLANS MUST BE SUBMITTED TO THE

PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING BOARD APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12, Boulder Revised Code 1981) the development within three years shall cause this development approval to expire.

At its public hearing on February 27, 2014 the Planning Board approved the request with the following motion:

On a motion by C. Gray, seconded by J. Putnam, the Planning Board voted 5-0 (L. May absent, Danica Powell participated as an appointed temporary alternate board member) to approve Site Review No. LUR2013-00053 incorporating the staff memorandum and the attached Site Review Criteria Checklist as findings of fact and subject to the following recommended conditions of approval which are conditions 1, 2, 3, and 4 in the memo.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all approved plans** dated February 3, 2014 on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval.
2. Prior to a building permit application, the Applicant shall submit a Technical Document Review application for the following items, subject to approval of the City Manager:
 - a. **Final architectural plans, including materials and colors, to ensure** compliance with the intent of this approval and compatibility with the surrounding area. The architectural intent shown on the approved plans dated February 3, 2014 is acceptable.
 - b. A **final site plan** which includes detailed floor plans and section drawings.
 - c. A **final utility plan** meeting the City of Boulder Design and Construction Standards.
 - d. A **final storm water report and plan** meeting the City of Boulder Design and Construction Standards, which include information regarding the groundwater conditions (geotechnical report, soil borings, etc.) on the Property, and all discharge points for perimeter drainage systems.
 - e. **Final transportation plans** in accordance with City of Boulder Design and Construction Standards, for all transportation improvements. These plans must include, but are not limited to: plan and profile drawings and construction plans for the public access drive and all public sidewalks.
 - f. A **detailed landscape plan**, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in city right-of-way must also receive prior approval of the City Forester.

EXHIBIT A

1900 13th Street – APLAZA LLC

PARCEL A:

A tract of land situated in Lots 7 and 8, Block 68, Boulder, County of Boulder, State of Colorado, described as follows:

Beginning at the Southwest corner of said Lot 7; thence Northerly along the West line of said Lot 7 a distance of 69.60 feet; thence Easterly at a right angle to the West line of said Lot 7 a distance of 22.95 feet; thence Southerly parallel with the West line of said Lot 7 a distance of 9.90 feet; thence Easterly parallel with the South line of said Lots 7 and 8 to the East line of the West half of said Lot 8; thence Southerly on and along the line between the East half of said Lot 8 and the West half of said Lot 8 to the South line of said Lot 8; thence Westerly along the South line of said Lots 8 and 7 to the Southwest corner of said Lot 7, the place of beginning.

PARCEL B:

All of that part of Lots 7 and 8, Block 68, Original Town of Boulder, a subdivision in the County of Boulder, State of Colorado, according to the recorded plat thereof, described as follows:

Commencing at the Southwest corner of said Lot 7; thence North 15° 02'06" West, 69.60 feet along the Westerly line of said Lot 7 to the Northwest corner of that tract of land conveyed to University Building Partnership as described in Warranty Deed recorded on Film 809 as Reception No. 57282 of the records of Boulder County, Colorado, and the true point of beginning;

Thence North 74° 57'54" East, 22.95 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282;

Thence South 15° 02'06" East, 9.90 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282;

Thence North 74° 55'30" East, 52.10 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282 to the Northeast corner thereof, a point on the Easterly line of the West 1/2 of said Lot 8;

Thence North 15° 02'03" West, 10.38 feet along the Easterly line of the West 1/2 of said Lot 8 to the Southeast corner of the North 1/2 of the West 1/2 of said Lot 8;

Thence North 74° 55'58" East, 25.02 feet along the Southerly line of the North 1/2 of said Lot 8 to the Southeast corner thereof;

Thence North 15° 02'02" West, 70.06 feet along the Easterly line of said Lot 8 to the Northeast corner thereof;

Thence South 74° 56'25" West, 15.88 feet along the Northerly line of said Lot 8 to the Northeast corner of that tract of land conveyed to T.J. Peyton and Clyde R. Reedy as described in Warranty Deed recorded in Book 886 at Page 556 of the records of Boulder County, Colorado;

Thence South 15° 17'06" East, 64.71 feet along the Easterly line of that tract of land as described in said Book 886 at Page 556 to the Southeast corner thereof;

Thence South 74° 46'54" West, 14.05 feet along the Southerly line of that tract of land as described in said Book 886 at Page 556;

Thence South 15° 07'06" East, 5.00 feet along the Southerly line of that tract of land as described in said Book 886 at Page 556;

Thence South 74° 46'54" West, 70.43 feet along the Southerly line of that tract of land as described in said Book 886 at Page 556 to the Westerly line of said Lot 7;

Thence South 15° 02'06" East, 0.60 feet along the Westerly line of said Lot 7 to the true point of beginning, except that portion described as follows:

A strip of land located in the East 1/2 of Lot 8, Block 68, Original Town of Boulder, a subdivision in the County of Boulder, State of Colorado, according to the recorded plat thereof, described as follows:

Commencing at the Southwest corner of said Block 68; thence North 15° 02'06" West, 69.60 feet along the Westerly line of said Block 68 to the Northwest corner of that tract of land conveyed to University Building Partnership as described in Warranty Deed recorded on Film 809 as Reception No. 57282 of the records of Boulder County, Colorado; thence North 74° 57'54" East, 22.95 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282; thence South 15° 02'06" East, 9.90 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282; thence North 74° 55'30" East, 52.10 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282 to the Northeast corner thereof, a point on the Westerly line of the East 1/2 of said Lot 8; thence North 15° 02'03" West, 10.38 feet along the Westerly line of the East 1/2 of said Lot 8 to the Southerly line of the North 1/2 of said Lot 8; thence North 74° 55'58" East, 9.44 feet along the Southerly line of the North 1/2 of said Lot 8 to the Easterly line extended Southerly of that tract of land conveyed to T.J. Peyton and Clyde R. Reedy as described in Warranty Deed recorded in Book 886 at Page 556 of the records of Boulder County, Colorado and the true point of beginning;

Thence continuing North 74° 55'58" East, 15.58 feet along the Southerly line of the North 1/2 of said Lot 8 to the Easterly line of said Lot 8;

Thence North 15° 02'02" West, 70.06 feet along the Easterly line of said Lot 8 to the Northeast corner thereof;

Thence South 74° 56'25" West, 15.88 feet along the Northerly line of said Lot 8 to the Northeast corner of that tract of land as described in said Book 886 at Page 556; Thence South 15° 17'06" East, 70.06 feet along the Easterly line and Easterly line extended Southerly of that tract of land as described in said Book 886 at Page 556 to the true point of beginning.

PARCEL C:

A strip of land located in the East half of Lot 8, Block 68, Original Town of Boulder, a subdivision in the County of Boulder, State of Colorado, according to the recorded plat thereof, described as follows:

Commencing at the Southwest corner of said Block 68; thence North 15° 02'06" West, 69.60 feet along the Westerly line of said Block 68 to the Northwest corner of that tract of land conveyed to University Building Partnership as described in Warranty Deed recorded on Film 809 as Reception No. 57282 of the records of Boulder County, Colorado; thence North 74° 57'54" East, 22.95 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282; thence South 15° 02'06" East, 9.90 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282; thence North 74° 55'30" East, 52.10 feet along the Northerly line of that tract of land as described on said Film 809 as Reception No. 57282 to the Northeast corner thereof, a point on the Westerly line of the East 1/2 of said Lot 8 and the true point of beginning;

Thence South 15° 02'03" East, 59.68 feet along the Westerly line of the East ½ of said Lot 8 to the Southerly line of said Lot 8;

Thence North 74° 55'30" East, 9.75 feet along the Southerly line of said Lot 8 to the Easterly line extended Southerly of that tract of land conveyed to T.J. Peyton and Clyde R. Reedy as described in Warranty Deed recorded in Book 886 at Page 556 of the records of Boulder County, Colorado;

Thence North 15° 17'06" West, 70.06 feet along the Easterly line extended Southerly of that tract of land as described in said Book 886 at Page 556 to the Southerly line of the North 1/2 of said Lot 8;

Thence South 74° 55'58" West, 9.44 feet along the Southerly line of the North 1/2 of said Lot 8 to the Westerly line of the East 1/2 of said Lot 8;

Thence South 15° 02'03" East, 10.38 feet along the Westerly line of the East 1/2 of said Lot 8 to the true point of beginning.

1916 13th Street – 1916 LLC

Parcel 1:

That part of Lots 7 and 8, Block 68, Boulder, County of Boulder, State of Colorado, described as follows:

Commencing at the Southwest corner of said Lot 7; thence North 14° 53' West, 70.20 feet to the true point of beginning;

Thence North 74° 56' East, 70.43 feet; thence North 14° 58' West, 5.00 feet; thence North 74° 56' East, 14.05 feet; thence North 15° 08' West, 65.16 feet to the North line of said Lot 8; thence South 74° 58' West, 84.20 feet to the Northwest corner of said Lot 7; thence South 14° 53' East, 70.20 feet to the true point of beginning.

1355 Walnut Street – Lookout LLC

A tract of land located in Lots 8 through 12 inclusive, Block 68, Original Town of Boulder, a subdivision in the County of Boulder, State of Colorado, according to the recorded plat thereof, described as follows:

Beginning at the Southeast corner of said Lot 12, thence North $15^{\circ} 01'54''$ West, 140.06 feet along the Easterly line of said Lot 12 to the Northeast corner thereof;

Thence South $74^{\circ} 56'25''$ West, 216.03 feet along the Northerly lines of said Lots 12, 11, 10, 9 and 8 to the Northeast corner of that tract of land conveyed to T.J. Peyton and Clyde R. Reedy as described in Warranty Deed recorded in Book 886 at Page 556 of the records of Boulder County, Colorado;

Thence South $15^{\circ} 17'06''$ East, 140.12 feet along the Easterly line and the Easterly line extended Southerly of that tract of land as described in said Book 886 at Page 556 to the Southerly line of said Lot 8;

Thence North $74^{\circ} 55'30''$ East, 215.41 feet along the Southerly lines of said Lots 8, 9, 10, 11 and 12 to the point of beginning,

Excepting therefrom the Easterly 12 feet of Lot 10, and all of Lots 11 and 12, Block 68, Original Town of Boulder, County of Boulder, State of Colorado.

1919 14th Street – 1919 Street LLC

The easterly 12 feet of Lot 10, and all of Lots 11 and 12, Block 68, Boulder, Original Town of Boulder, County of Boulder, State of Colorado.



Revised Site Review Narrative

The Wencel Building at 1301 Walnut by WW Reynolds

December 23, 2013

OWNERSHIP OF THE PROPERTY INCLUDED IN THIS SITE REVIEW INCLUDES:

- APLZA LLC, owner of 1900 13th Street
- 1916 LLC, owner of 1916 13th Street
- Lookout LLC, owner of 1355 Walnut Street
- 1919 Street LLC, owner of 1919 14th Street

ANTICIPATED CONSTRUCTION SCHEDULE:

Construction Start: Summer/Fall 2014

Construction Complete: Spring/Summer 2015

SPECIAL AGREEMENTS, CONVEYANCES, RESTRICTIONS OR COVENANTS THAT WILL GOVERN THE USE AND/OR MAINTENANCE OF THE PROJECT:

None

INTRODUCTION: BACKGROUND, LOCATION, AND PROJECT OBJECTIVES:

1. APPLICANT'S RESPONSES TO CONCEPT REVIEW COMMENTS

The Planning Board members had some very construction comments and suggestions in our January 24, 2013 Concept Review hearing. To address these concerns (outlined below), we took their input to heart and took a new look at how to present a much better project and building design.

Create more and better open space in the project

The revised project has clearly incorporated more open space at both the front and rear of the building. With the addition of the open courtyard, there is now an opportunity for public access to a quaint open area immediately adjacent to Walnut Street. In addition, this open plaza environment is more directly connect to both the alley and the historic carriage house structure and the James Building. Revisions to the north side of the project set the above grade portion of the new structure a minimum of 40 feet from the north property line, creating substantially more open area off of the alley and a significant setback from the neighboring buildings to the north. All this was achieved by reducing the above grade density to accommodate significantly more and noticeably better, accessible open areas on the site.

Provide a better street level and public experience

Revisions to the building façades on both Walnut Street and 13th Street provide a much stronger connection to the context of the historic downtown environment. The building is more inviting with warmer materials, better scale and connection to the street level. The inclusion of the open space described above not only draws people into the project, but it also creates unique place for the community to gather and interact. Redesign of the building has also proved better opportunities to incorporate more landscaping not only in the public right of way but also in the accessible open areas.

Improve the project connection to the alley and transition to historic buildings on Pearl Street

Creative architecture and reduced density provided the opportunity to set the above grade portion of the north side of the building 40 feet from the alley. While the building is still four stories, this setback allows the height to better transition from the taller buildings along Walnut and surrounding streets and transition down to the two and three story buildings on the north side of the alley. Furthermore, setbacks on the fourth floor of the building provide additional relief from the north property line, the alley and buildings on Pearl Street. In addition, the north façade now incorporates materials, such as stone and brick, which are far more contextual with the historic buildings along Pearl Street.



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Improve the building design in both terms of interest and integration

Design concerns from Planning Board included the need for a building with “more interest”, “better attention to massing, scale and building features” and a “better corner element”. To address these concerns we had to take a fresh look at the feel, image and function of this building. With a completely new attitude, we included new concepts in our new design:

- We did away with the subsurface parking to incorporate alternative office spaces in the basement that can meet the needs of Boulder’s entrepreneurial businesses.
- We modified the architectural character of the building to have a more historic feel that will better integrate with our neighbors and its historic downtown context.
- We integrated publically accessible open spaces that are bold, unique and allow opportunities for people to interact by incorporating spaces for dining, gathering and resting. We believe these amenities will fuel and facilitate creative thinking and inspire the public as well as office tenants.
- Use of materials that reflect the architectural character of the more modern Colorado Building and the historic brick buildings so prevalent downtown.

The redesign has created a simple, but strong presence at the corner of 13th and Walnut. While the corner may not incorporate more dramatic elements consistently incorporated into recent downtown buildings, its simplicity and historic personality make it unique.

Address the concerns of the neighbors

Since the Concept Review hearing, we have worked extensively with our neighbors on Pearl Street to better understand the concerns they raised. Through this effort, we have been able to create a much better building and project as detailed above. Their input has been invaluable to create a project that they can support going forward.

2. PROJECT SUMMARY

The 1301 Walnut project, named the Wencel Building, is located at the northeast corner of 13th and Walnut Streets and is zoned DT-5. Included in the proposal are Lots 7 through 12. The floor area calculation for this project is based on lots 7, 8 and 9. Lot 10 floor area is not used in the new Wencel Building floor area calculation, however, the new building will extend across that lot up to the west side of the Colorado Building. There is no connection or work being done on the Colorado building in this Site Review proposal.

The property currently includes a two and one half story office building on the SW corner with a surface parking lot on the east side of the site, a two story brick building in the NW corner (Conor O’Neills), and an historic brick carriage house on the alley toward the north side of the property. The brown brick building on the SW corner of the property will be deconstructed to make room for the new building, but all other existing structures will be preserved.

The proposed floor area for the new building is calculated using only Lots 7, 8 and 9 of Block 68. Again, the area of Lot 10 is not used in the maximum floor area calculation for the new building. The total site area is approximately 21,000 SF and the current zoning allows a maximum 1.7 FAR above grade by-right and up to 2.7 FAR above grade through Site Review using the 0.5 FAR bonus for non-residential floor area and an additional 0.5 FAR bonus for above grade parking within the building. None of the occupied below-grade area is counted against the maximum allowable floor area according to BRC Table 8-2.

The Wencel building is only one half block from the Downtown Transit Center and is close to many essential services in the downtown area. The project as proposed will include a total of



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56,700 SF of total (approximately 46,700 new construction and 10,000 attributable to the existing James Building) commercial space on the four levels above grade and 15,600 SF on one level of below grade office space, building amenities and storage for a total of 72,217 SF. 18 parking spaces are being provided on the east side of the first floor (against the Colorado Building) to support the proposed first floor retail and office uses. Primary access to this parking lot will be from Walnut on the east side of the site, and cars will also be able to enter from and exit into the alley. The existing site is generally flat, and soils studies at adjacent properties show stable soils and a relatively deep water table that will likely accommodate spread footing foundations.

The Wencel Building project is applying for Site Review due to the applicants request for a height modification to 55', increase four stories and the FAR bonuses allowed in Table 8-2.

A number of very important urban design goals have contributed to the resulting site plan. The design of the Wencel Building will:

- Respect and reflect Downtown Boulder's existing urban context through the modulation of architectural character, scale and massing.
- Maximize pedestrian activity, safety and interaction at the street level through the use of a public courtyard in the center of the property.
- Take advantage of excellent view opportunities to the Foothills and access to day light through the thoughtful orientation of the building on the site and use of the central open space courtyard.
- Create a pedestrian and bicycle friendly environment that reduces the impact of the automobile on the property and the surrounding neighborhood by reducing the number of surface parking lots in the Downtown area.
- Increase the building's energy efficiency by creating floor plates that will get natural light into as much of the building as possible.
- Maximize access to day light, views and fresh air through the thoughtful, creative location of open space on the site.

The existing streetscape along 13th and Walnut Streets will be upgraded to meet current city standards.

GENERAL CRITERIA FOR ALL SITE REVIEW APPLICATIONS

I. Boulder Valley Comprehensive Plan:

(A) How is the proposed site plan consistent with the purposes and policies of the Boulder Valley Comprehensive Plan?

(B) The proposed development shall not exceed the maximum density associated with the Boulder Valley Comprehensive Plan residential land use designation. Additionally, if the density of existing residential development within a 300 foot area surrounding the site is at or exceeds the density permitted in the Boulder Valley Comprehensive Plan, then the maximum density permitted on the site shall not exceed the lesser of:

- (i) the density permitted in the Boulder Valley Comprehensive Plan, or,***
- (ii) the maximum number of units that could be placed on the site without waiving or varying any of the requirements of Chapter 9-7, "Bulk and Density Standards," B.R.C. 1981.***

1. How is the proposed site plan consistent with the above density criteria?

The usable open space includes a publicly accessible central courtyard and the enhancement of the surrounding ROW with improved sidewalks and tree lawns. The central courtyard will help provide daylight and ventilation to office spaces within the project, both above and below grade, and create a unique open space amenity available to the public. The courtyard will allow the public to move north and south through the property providing access to the alley to the north of the site and access to amenities



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like the Conor O'neill's outdoor patio and the historic carriage house in the center of the block. It is our intent to integrate the carriage house, which may be repurposed to support the restaurant use in the existing building, and the patio at Conor O'neill's to encourage pedestrian traffic through the site. The landscape in the ROW will improve both the pedestrian nature of the site and enhance the character of the existing commercial district. This project will be no different and will conform to these relevant Comprehensive Plan policies:

Recognition of sustainability as a unifying goal to secure Boulder's future economic, ecological, and social health

Economic:

This project will contribute to the short and long term economic viability and sustainability of the Boulder community by adding downtown employees and additional sales tax and property tax revenues. More importantly, the project will provide much needed large floor plates that will meet the needs of larger users desiring downtown offices.

Ecological / Environmental:

The location of this development in Downtown Boulder adjacent to the RTD Bus Facility is consistent with the prevailing preference for compact infill development as a strategy to reduce carbon emissions and greenhouse gases. This location provides an opportunity for enhancement of the already compact downtown community with a mix of uses which, taken together, constitute a complete, viable, and sustainable community in which people can live and work. The new building will incorporate green building standards and will achieve a Leadership in Energy and Environmental Design certification. Passive and active environmental strategies will be integrated into the new building design and include attention to orientation and massing, facade treatment to recognize solar orientation and natural lighting, use of renewable and recycled building materials, natural ventilation, efficient mechanical and electrical systems including consideration of photovoltaic technology, an energy efficient building envelope, reduction of potable water usage, the use of drought tolerant planting, efficient irrigation, modest storm water quality treatment, and waste management practices.

Social:

This development will provide employment opportunities which will contribute to the downtown social fabric. Office users in this project will take advantage of the personal interaction and uses of the many downtown amenities and functions.

Encourage compact, contiguous development and a preference for infill land development as opposed to sprawl

This project will be in the Downtown, DT-5 zone which is considered the most intense downtown district in the City and zoned to accommodate the highest intensity of development within the downtown core. With few remaining opportunities for infill projects in this zone, this project will be a compact, innovative, sustainable project which significantly enhances the community's physical appearance by completing an underdeveloped downtown block.

Provision of quality urban spaces, parks, and recreation that serve all sectors of the community and trails and walkways that connect the community

The courtyard area on the north side of the new building will provide a connection from Walnut Street to alley, access to the historic structure on the alley and create a community plaza area not often found off an alley.

Commitment to preservation of natural, cultural, and historic features that contribute to defining the unique sense of place in Boulder

Part of this project is the historic James Hotel and the small brick carriage house structure located on the alley, both of which are listed as contributing buildings to the Downtown District. Preservation, renovation and adaptive reuse consideration will be given to both of these structures.

Recognition of the importance of the importance of the central area (Downtown University of Colorado, the Boulder Valley Regional Center) as a regional service center for the Boulder Valley



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and a variety of sub-community, and neighborhood activity centers distributed throughout the community

This proposed development is located in the Downtown regional center area and fills in an underutilized portion of the existing block. The area is zoned for the highest activity and highest level of intensity of use and the development program will include uses consistent with the City's land use policy. The design of this project will be based on proven planning, urban design and architectural principles and be representative of its time, honestly express its use, be sensitive to its context, the environment and reflect the spirit of its place in downtown Boulder. The building will anchor an important corner, occupy an existing surface parking lot, complete the block with an active street ground floor, place equal emphasis on the expression of the alley elevation and provide pedestrian oriented streetscape improvements. The design team will engage planning staff and the design review processes early in order to obtain useful input in order to preserve and enhance neighborhood character.

Commitment to a balanced multi-modal transportation system

Located across Walnut Street, the RTD bus station provides close proximity for bus commuters. In addition, the project is bordered by 13th Street, recognized as a main pedestrian and bike commuter corridor. The project will provide limited shared parking and bicycle parking will be provided. The Traffic Demand Management study will be incorporated to adequately encourage the use of alternative modes of transportation.

II. Site Design:

Projects should preserve and enhance the community's unique sense of place through creative design that respects historic character, relationship to the natural environment, and its physical setting. Projects should utilize site design techniques which enhance the quality of the project. In determining whether this subsection is met, the approving agency will consider the following factors:

A. Open space, including without limitation, parks, recreation areas, and playgrounds:

1. How is usable open space arranged to be accessible and functional?

The usable open space includes a publicly accessible central courtyard and the enhancement of the surrounding ROW with improved sidewalks and tree lawns. The central courtyard will help provide daylight and ventilation to office spaces within the project, both above and below grade, and create a unique open space amenity available to the public. The courtyard will allow the public to move north and south through the property and access amenities like the Conor O'neill's outdoor patio and the historic carriage house in the center of the block. It is our intent to integrate the carriage house, which may be repurposed to support the restaurant use in the existing building, and the patio at Conor O'neill's to generate pedestrian traffic through the site. The landscape in the ROW will improve both the pedestrian nature of the site and enhance the character of the existing commercial district.

2. How is private open space provided for each detached residential unit?

No detached residential units are proposed.

3. How does the project provide for the preservation of natural features, including, without limitation, healthy long-lived trees, terrain, significant plant communities, threatened and endangered species and habitat, ground and surface water, wetlands, riparian areas, and drainage areas?

We plan to save healthy existing trees within the right of way. Impacts to groundwater will be avoided by creating a "bath tub" foundation system, and we do not plan to pump ground water into the City's storm system unless it is necessary during construction. Although the site is entirely paved at this time, we plan to direct a portion of the surface runoff to water quality features integrated into proposed landscape areas before it is directed to the storm system.



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4. How does the open space provide a relief to the density, both within the project and from surrounding development?

The architecture of the project was designed to modulate the mass so that it would appear to be a series of three and four story brick buildings assembled over time. The courtyard and step back in the building along Walnut reduces the scale of the building by break its mass and connecting Walnut to the alley. On the east side of the building the fourth floor will be stepped back from Walnut to reflect the massing of the Colorado Building and reduce its apparent mass.

5. How does the open space provide a buffer to protect sensitive environmental features and natural areas?

The site is currently fully developed and doesn't have existing sensitive environmental features or natural areas.

6. If possible, how is open space linked to an area- or a city-wide system?

This is an urban site currently redeveloping. Open space is provided in a number of locations within four blocks of the site and includes the city's Central Park, the Boulder Creek path, the Pearl Street Mall, One Boulder Plaza at 1801 13th Street and other pocket parks that provide opportunities for both passive and active recreation for adults and children.

B. Open Space in Mixed Use Developments: Developments that contain a mix of residential and non-residential uses:

1. How does the open space provide for a balance of private and shared areas for the residential uses and common open space that is available for use by both the residential and non-residential uses that will meet the needs of the anticipated residents, occupants, tenants, and visitors of the property?

There are no residential uses proposed.

2. How does the open space provide active areas and passive areas that will meet the needs of the anticipated residents, occupants, tenants, and visitors of the property and how is the open space compatible with the surrounding area or an adopted plan for the area?

There are no residential uses proposed.

C. Landscaping:

1. How does the project provide for aesthetic enhancement and a variety of plant and hard surface materials, and how does the selection of materials provide for a variety of colors and contrast and how does it incorporate the preservation or use of local native vegetation where appropriate?

We are using a variety of plant materials that work well in the Downtown Boulder micro-climate, those with particularly low water requirements. We are proposing to use a variety of hardscape materials including natural stone, concrete and pavers in the courtyard areas.

2. How does the landscape and design attempt to avoid, minimize, or mitigate impacts to important native species, plant communities of special concern, threatened and endangered species and habitat by integrating the existing natural environment into the project?

There are no native species or plant communities of special concern or threatened and endangered species or habitats found on this urban site.

3. How does the project provide significant amounts of plant material sized in excess of the landscaping requirements of Sections 9-9-12 and 9-9-13, "Landscaping and Screening Requirements," and "Streetscape Design?"

We plan to protect any healthy existing street trees currently within the ROW. We plan to install shade trees along 13th Street and Walnut to meet or exceed city standards. The tree spacing will be within the street guidelines (30' o.c.) in order to work around existing trees and underground utilities. There will be



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gardens with xeric plants in planters, tree lawns and other areas of the courtyard to soften the building edges.

4. How are the setbacks, yards, and useable open space along public rights-of-way landscaped to provide attractive streetscapes, to enhance architectural features, and to contribute to the development of an attractive site plan?

See comments related to streetscape planting above and the landscape plan for more information.

D. Circulation, including, without limitation, the transportation system that serves the property, whether public or private and whether constructed by the developer or not:

1. How are high speeds discouraged or a physical separation between streets & the project provided?

The new parking area on the east side of the site will be reduced, redesigned to have only one-way access from Walnut, be enclosed and hidden by the building, and striped to meet all City of Boulder standards.

2. How are potential conflicts with vehicles minimized?

The vast majority of vehicle circulation is limited to the perimeter of the site. Pedestrians and bicyclists are aware that vehicular traffic will be moving along streets and alleys so this configuration helps to increase safety. We will be eliminating one of two existing curb cuts along Walnut and this arrangement will help preserve the pedestrian nature of the sidewalks along the street. The limited parking within the building will be provided with one-way traffic from Walnut to greatly reduce potential conflicts with pedestrians.

3. How are safe and convenient connections accessible to the public within the project and between the project and existing and proposed transportation systems provided, including without limitation streets, bikeways, pedestrian ways & trails?

As an infill property, the new pedestrian way provided through the central courtyard will increase the pedestrian accessibility of the site and enhance the pedestrian experience downtown by reducing the size of the existing parking lot along Walnut and providing a greater number of interesting and attractive amenities along the block.

4. How are alternatives to the automobile promoted by incorporating site design techniques, land use patterns, and supporting infrastructure that supports and encourages walking, biking, and other alternatives to the single occupant vehicle?

Enhanced paving and pedestrian lighting within the courtyard will make this area a safe and pleasant destination from the sidewalk and alley. The paving, planters and landscape materials will help to reinforce this pedestrian theme. Improvements to the ROW including upgrades to the existing sidewalks and tree lawn will make the street more pleasant and safe for pedestrians and bicyclists. The location of the property puts it within walking distance to nearly all shopping, entertainment and housing opportunities in the downtown area. It is one half block from Pearl Street Mall and one half block from the transit center with its bus connections to the larger Boulder and Denver metro area.

5. Where practical and beneficial, how is a significant shift away from single-occupant vehicle use to alternate modes promoted through the use of travel demand management techniques?

See our proposed TDM plan included with this application.

6. What on-site facilities for external linkage with other modes of transportation are provided, where applicable?

The site is very close to recreational, housing, retail and entertainment opportunities at the core of downtown that will help reduce the need for daily vehicle trips and promote pedestrian and bicycle transportation. Exterior bicycle storage racks and interior bike storage, including shower facilities available to building tenants, will be placed on the site for building occupants and guests. The Wencel



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Building project will also be involved in the city of Boulder and RTD's ECO Pass Program provided through CAGID. By supporting this program, the project hopes to reduce congestion in and around the community as well as minimize the pollution in this new neighborhood. Please see the proposal's Transportation Demand Management plan for more detailed information.

7. How is the amount of land devoted to the street system minimized?

This proposal does not include land devoted to the public street system since it is an urban infill project, however the proposal does reduce the amount of land currently dedicated to surface parking lots.

8. How is the project designed for the types of traffic expected, including, without limitation, automobiles, bicycles, and pedestrians, and how does it provide safety, separation from living areas, and control of noise and exhaust?

Service access to the project is located off of the alley to minimize any conflicts between vehicles and pedestrians. Pedestrian sidewalks are located around the perimeter of the site as well as through the central courtyard. Locations where different modes of transportation cross will be provided with required sight angles, stop signs, paving color and texture changes as necessary to ensure the safety of pedestrians and cyclists.

9. How will city construction standards be met, and how will emergency vehicle use be facilitated?

All city construction standards will be met using applicable model codes and the city's design and construction standards for site, building demolition and construction.

E. Parking:

1. How does the project incorporate into the design of parking areas, measures to provide safety, convenience, and separation of pedestrian movements from vehicular movements?

Parking is not required for nonresidential projects in CAGID. The parking lot on the east side of the site will be partially screened from the sidewalk and striped to increase the safety and convenience of both pedestrians and vehicles.

2. How does the design of parking areas make efficient use of the land and use the minimum amount of land necessary to meet the parking needs of the project?

The existing surface parking lots are being reduced and replaced by office floor area. Only a small portion of the site within the east side of the 1st floor will be used for parking.

3. How are parking areas and lighting designed to reduce the visual impact on the project, adjacent properties, and adjacent streets?

Parking and site lighting will be designed to meet City of Boulder standards. Lighting will be controlled to ensure pedestrian safety while still respecting the surrounding neighborhoods. Lighting will be integrated into the landscape and adhere to the principles laid out in the Dark Skies Initiative. The parking proposed will be covered, and for the most part, screened from the sidewalk and street by the new building.

4. How do parking areas utilize landscaping materials to provide shade in excess of the requirements in Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981.

Since the remaining parking spaces on the site will be within and screened by the new building, no landscaping will be provided. The parking spaces will be completely shaded by the building.

F. Building Design, Livability, and Relationship to the Existing or Proposed Surrounding Area:

1. How are the building height, mass, scale, orientation, and configuration compatible with the existing character of the area or the character established by an adopted plan for the area?

The Wencel Building has been designed to fit into a vibrant, diverse neighborhood of office and retail uses that is contextually sensitive to Boulder's existing urban core. The massing will be modulated to create the appearance of aggregated masonry office buildings on the site. It is also designed around a



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central courtyard that will link the north and south sides of the property so the middle of the building can be open to daylight, fresh air and pedestrian circulation. The exterior walls of the building will be brought out to the right of way to maintain a consistent street edge except where the courtyard steps back and provides pedestrian access along the sidewalk.

2. How is the building height(s) generally proportional to the height of existing buildings and the proposed or projected heights of approved buildings or approved plans for the immediate area?

The Wencel building will be 55' and at least 5 stories shorter than the existing Colorado building to the east. Even at four stories, the proposed Wencel Building will appear to be much smaller and more consistent with the height of buildings along Walnut which are generally four stories or more between 9th Street and 16th Street.

3. How does the orientation of buildings minimize shadows on and blocking of views from adjacent properties?

At four stories and 55' tall, the Wencel building at 1301 Walnut has been located on the site to create an urban environment similar to and compatible with the core of Downtown Boulder. The building is essentially surrounded by public rights of way so there are limited shadow impacts on adjacent properties. The four story massing is concentrated along Walnut to allow the building to stay at least 40' away from the alley and thereby reduce shadow impacts on properties to the north. This significant step back also helps preserve views for properties north of the proposed building.

4. If the character of the area is identifiable, how is the project made compatible by the appropriate use of color, materials, landscaping, signs, and lighting?

The general nature of the neighborhood is commercial and urban. The building has been designed to be compatible with the Downtown Design Guidelines. Brick, glass, stucco and metal accents will help tie the project into the surrounding neighborhood, but also give the project its own unique identity. The brick buildings on the NW side of the site will be preserved, and the new building will have large glass storefront windows at the street.

5. How do buildings present an attractive streetscape, incorporate architectural and site design elements appropriate to a pedestrian scale, and provide for the safety and convenience of pedestrians?

The Wencel Building will combine an articulated, modular facade along with a regular street tree pattern. The courtyard will include small outdoor seating areas and an attractive, pedestrian-scaled landscape design. The building will be articulated with lintels and masonry accents over retail-scaled, storefront windows on the first floor. Pedestrian scaled materials at the street level will generally include window mullions, sun shades and/or awnings, brick, metal, stone or cast concrete accents. Ample site lighting and accent paving in the courtyard and at building entries will make for an attractive, unique, safe and accessible pedestrian environment.

6. To the extent practical, how does the project provide public amenities and planned public facilities?

The courtyard provided at the center of the property will be a transitional space between the public space of the sidewalk, the building entry, future amenities provided on the interior of the site and the alley. This space will include both landscape and hardscape amenities as well as the potential public and private art opportunities for the enjoyment of the public and future tenants.

7. For residential projects, how does the project assist the community in producing a variety of housing types, such as multifamily, townhouses, and detached single family units as well as mixed lot sizes, number of bedrooms, and sizes of units?

There are no residential units in our proposal.



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8. For residential projects, how is noise minimized between units, between buildings, and from either on-site or off-site external sources through spacing, landscaping, and building materials?

There are no residential units in our proposal.

9. If a lighting plan is provided, how does it augment security, energy conservation, safety, and aesthetics?

A lighting plan has not been provided at this time, but will be included in the TEC application. Lighting will be designed to meet all city standards while providing for maximum safety and efficiency through location, lamp and fixture type selections.

10. How does the project incorporate the natural environment into the design and avoid, minimize, or mitigate impacts to natural systems?

The site is currently developed and includes a two and a half-story structure in the NW corner, a parking lot in the center and an eight story building on the east side of the property. The amount of site area that is currently dedicated to natural systems is extremely limited. The perimeter of the site, specifically the city ROW, is has been neglected in many areas. Our proposal includes the improvement of the sidewalk and tree lawn as well as the preservation of as many street trees as possible. We will be adding small landscape planters in areas to improve water quality.

11. How are cut and fill minimized on the site, and how does the design of buildings conform to the natural contours of the land, and how does the site design minimize erosion, slope instability, landslide, mud flow or subsidence, and minimize the potential threat to property caused by geological hazards?

The site is generally flat, slopes gradually to the SE corner of the property, and there are no unique geological or physical features known to exist at the site. No impact to ground water is anticipated at this time since we are not proposing to lift groundwater from the basement level. A mat slab and "bath tub" basement construction system is proposed that will seal the below grade level from groundwater infiltration. The property is outside the floodplain. A geotechnical report has not yet been completed but reports from adjacent properties have indicated stable soils and low ground water elevations.

G. Solar Siting and Construction: For the purpose of insuring the maximum potential for utilization of solar energy in the city, all applicants for residential site reviews shall place streets, lots, open spaces, and buildings so as to maximize the potential for the use of solar energy in accordance with the following solar siting criteria:

1. Placement of Open Space and Streets. Open space areas are located wherever practical to protect buildings from shading by other buildings within the development or from buildings on adjacent properties. Topography and other natural features and constraints may justify deviations from this criterion. How is this criterion met?

The building is surrounded by public rights of way on the south, west and north sides of the property so there are limited shadow impacts on adjacent properties on these sides. This configuration also allows each office space to have access to plenty of natural day light. In addition to providing solar access, the courtyards, narrow building footprint and 40' building setback from the alley will help reduce the impact of shadows on properties on the north side of the alley. The shadow study included in our submission exhibits this minimal impact and shows there is no impact to existing rooftop solar systems on adjacent properties.

2. Lot Layout and Building Siting. Lots are oriented and buildings are sited in a way which maximizes the solar potential of each principal building. Lots are designed to facilitate siting a structure which is unshaded by other nearby structures. Wherever practical, buildings are sited close to the north lot line to increase yard space to the south for better owner control of shading. How is this criterion met?



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The proposed building location on the NE corner of Walnut and 13th Street provides for extraordinary solar access and view opportunities. The site provides the maximum number of tenant spaces with direct and indirect solar access while the courtyard on the north side of the site will substantially improve indirect daylight opportunities for east and north facing spaces as well as for basement offices.

3. Building Form. The shapes of buildings are designed to maximize utilization of solar energy.

The courtyard design and generally shallow office bay depths proposed make the building extraordinary in terms of solar access potential.

Buildings shall meet the solar access protection and solar siting requirements of Chapter 9-9- 17, "Solar Access," B.R.C. 1981. How is this criterion met?

The building will be designed with a flat roof to accommodate solar panels in the future. A low SRI roofing membrane (white roof) will be used to limit the amount of heat absorbed by the building from the sun.

4. Landscaping. The shading effects of proposed landscaping on adjacent buildings are minimized. How is this criterion met?

Some mature deciduous street trees exist around the perimeter of the site. We intend to preserve these trees if they are healthy and integrate them into the streetscape concept if possible. New deciduous trees will be planted as necessary to reduce heat gain in adjacent office spaces during the summer but also increase the amount of solar gain during winter months when they lose their leaves. The site is surrounded by streets and an alley, so the potential reduction of solar access by our landscaping on adjacent properties is minimal.

H. Additional Criteria for Poles Above the Permitted Height. No site review application for a pole above the permitted height will be approved unless the approving agency finds all of the following:

1. The light pole is required for nighttime recreation activities, which are compatible with the surrounding neighborhood, or the light or traffic signal pole is required for safety, or the electrical utility pole is required to serve the needs of the city?

No light poles above the permitted height are currently planned for the site.

2. The pole is at the minimum height appropriate to accomplish the purposes for which the pole was erected and is designed and constructed so as to minimize light and electromagnetic pollution. If applicable, how are these criteria met?

No light poles above the permitted height are currently planned for the site.



Revised Site Review Narrative

The Wencel Building at 1301 Walnut by WW Reynolds

December 23, 2013

Downtown Design Guidelines Criteria:

2.1 – Consider Incorporating Traditional Façade Elements in New Designs

The design of the Wencel Building uses two anchoring masonry buildings on either end of the site, one at the corner of Walnut and 13th Street, the other directly adjacent to the Colorado Building on the east side of the property. The bases of both of these building elements include a kick plate, storefront display windows, and sign bands with sun shades. Above the pedestrian oriented storefront we have included windows reminiscent of historic warehouse buildings and a strong cornice on both of the masonry “buildings”. However, these two elements of the proposed design will be detailed differently to add visual interest along the Walnut facade.

2.2 – Consider the Alignment of Architectural Features and Established Patterns with Neighboring Buildings

The 55’, four story height limit in the DT-5 zone reduces our ability to align the floors of the Wencel building to the floors of the old James Hotel, however, the use of traditional masonry building patterns along 13th Street helps to reinforce the existing visual character of 13th Street. The more contemporary “bridge” element over the courtyard reflects the modernist aesthetic of the Colorado Building while the more traditional masonry clad “bookends” of our proposal reflect the traditional historic character of the downtown area.

2.3 – Maintain the Line of Building Facades and Storefronts at Sidewalk Edge in Block

Our proposal includes masonry “bookends” that are built up to the sidewalk to reestablish the traditional line of historic buildings. The courtyard is signaled by the setback of the more contemporary “bridge” element of the design. This effect is consistent with criteria (C) that recommends setting back new buildings to reveal more historic buildings.

2.4 – Consider the Height, Mass and Scale of Buildings

A. Maintain Visual Interest in Building Forms

The 4th floor setback along with the central break in the massing and below grade courtyard allow us to create architectural variety and visual interest along Walnut. By breaking the building into three distinct masses the building borrows from the traditional while juxtaposing it with a literal bridge to current, contemporary architecture.

B. Relate the Height of Buildings to Neighboring Structures at the Sidewalk Edge.

The Wencel Building will create a transition from the historic James Hotel structure on the west side of the site to the much taller 8 story Colorado building on the east side of the block. Nevertheless, the Walnut elevation will appear to be much smaller than the Colorado Building tower.

C. Maintain a Standard Floor to Floor Height

The new building’s floor to floor heights will be similar to the pattern established in downtown with a taller street level floor and slighting shorter upper floors.

D. Consider the Effect of Building Height on Shading and Views

Our building proposal will not shade the north side of any east-west running street since it is on the north side of Walnut. Although alleys are not typically considered sidewalks or pedestrian spaces in downtown Boulder, we have created a “U” shaped building with a central courtyard around the historic carriage house to reduce the building’s potential to shade the alley or existing buildings to the north.

2.5 – Maintain a Human Building Scale, Rather than Monolithic or Monumental Scale

The majority of our proposed building will be highly detailed at the first floor with masonry, precast and stone materials. More contemporary building elements at the center of the building will be highly detailed but in a more simple and refined manner. Window mullions, panel sizes and reveals will help reduce the monolithic appearance of these building elements, but they will also add visual interest to the Walnut streetscape.



Revised Site Review Narrative

The Wencel Building at 1301 Walnut by WW Reynolds

December 23, 2013

2.6 – Create Pedestrian Interest at the Street Level

A. Develop the First Level of Buildings to Provide Visual Interest to Pedestrians

The first floor of the proposed Wencel Building will be treated like typical storefronts at the base of traditional Downtown Boulder buildings with large expanses of glass, kick plates, sun shade devices, and other pedestrian scaled details including masonry reveals, lintels, sills, and sign bands.

B. Consider How the Texture and Pattern of Building Materials will be Perceived

The portions of the building that touch the ground and interact with pedestrians will be clad in masonry materials. Traditional storefront and window opening sizes will be repeated along the façade to create a familiar traditional scale and rhythm along the sidewalk.

C. Maintain the Design Distinction between Upper and Lower Floors

A strong, repetitive and transparent base is established along the sidewalk to make the building inviting to the public. The second, third and fourth floors are separated from the first with sign banding and additional masonry panels. We have elected to increase the amount of glass on the upper levels to increase the amount of daylight available and integrated sun shades will help us reduce heat gain. These features will also allow us to reduce the amount of energy needed to artificially light the space and mechanically cool the building during hot summer months.

2.7 – Avoid Half Level or Partial Level Basements that Extend More than 2 Feet above Grade

Not Applicable. As a matter of fact, we are demolishing the existing building at the corner of Walnut and 13th Street that current sits at least 2' above the sidewalk.

2.8 – Shade Storefront Glass by Appropriate Means

We propose to use metal sun shades and fabric awnings above the storefront to reduce glare, provide shade and add visual interest along the sidewalk.

2.9 – Maintain the Rhythm Established by the Repetition of the 25 Foot Façade Widths

We have divided the building into approximately 25' modules to respond to the traditional downtown context. Masonry pilasters, storefront windows and steel column details subdivide the larger building masses into comfortable pedestrian-scaled facades. The traditional, established break between the existing buildings along Walnut is reinforced with the new public courtyard and pedestrian way that creates a strong N-S pedestrian connection through the building. The two masonry "bookends" frame the courtyard in the middle of the Walnut side of the building.

2.10 – Consider Scale, Texture and Pattern of Building Materials

See comments in similar sections above.

2.11 – Consider the Quality of Open Space Incorporated in New and Renovated Buildings

A. Create Comfortable, Safe, Accessible and Appropriately Located Open Spaces to Provide Pedestrian Interest and Convenience

One of the most important design features of the Wencel Building design is not the building itself but the open space courtyard provided at the center of the building. Not only does this courtyard provide additional daylight and natural ventilation opportunities to the below grade and first floor office space, but it provides a valuable pedestrian connection from Walnut through the building to the alley and other public open spaces on the north side of the project. The outdoor seating area behind the existing James Hotel building will be improved, and we propose to integrate the carriage house into the existing restaurant's outdoor patio to create a more lively and visually appealing public space. The below grade portion of the courtyard will be surrounded by storefront glass so it will become an outdoor extension of the office and retail space adjacent to it. The public will access the lower level with a staircase on the north side of the courtyard. We believe this will be the perfect space to include public art and sculpture for the enjoyment of tenants and the public alike. Another semi-private landscaped courtyard is provided on the second floor of the proposed building to provide daylight and natural ventilation to office spaces on the second and



Revised Site Review Narrative

The Wencel Building at 1301 Walnut by WW Reynolds

December 23, 2013

third floors of the proposed Wencel and existing Colorado Building. This space will include small seating areas and xeriscaped planters to add visual interest.

B. Connect Open Spaces to Other Activity Areas where People Gather to Sit, Eat or Watch other People

The building's public entry and lobby will be placed along Walnut Street adjacent to the central courtyard. In this way the urban open space of the courtyard will be regularly frequented and activated by guests and tenants of the building. We imagine it will be a place to relax, eat, and observe pedestrian activity throughout the day. This area will also provide access to the outdoor patio behind the James Hotel building, so we believe the wide variety of activities within the space will make the courtyard a vibrant, and distinctive amenity throughout the day.

2.12 – Recognize the Special Character of the Area South of Canyon Blvd.

This project is not South of Canyon Blvd.

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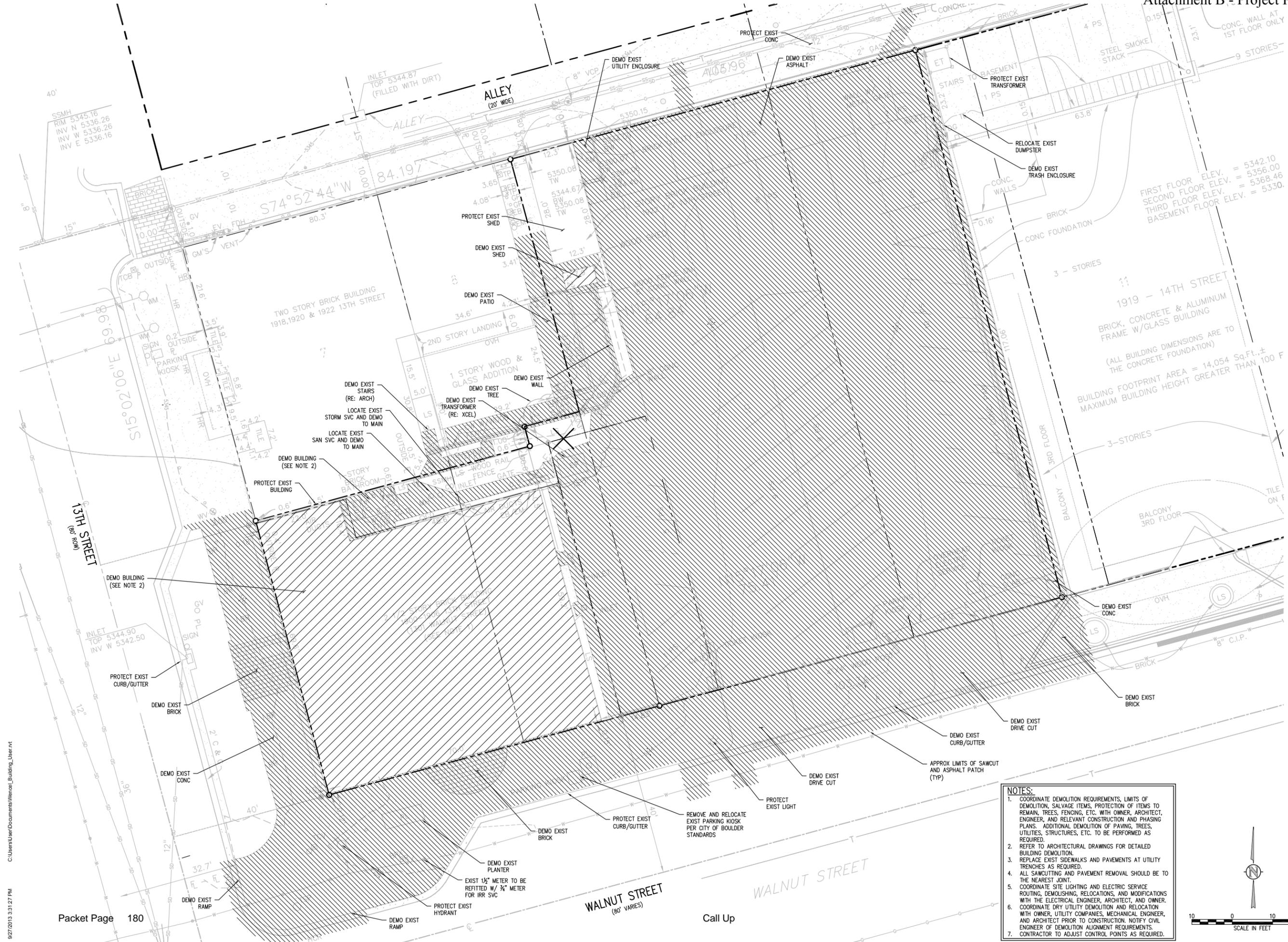
P.O. Box 17983
Boulder, Colorado 80308
phone 720.771.0516



JVA, Incorporated 1319 Spruce Street
Boulder, CO 80302 Phone: 303.444.1951
Fax: 303.444.1957 E-mail: info@jva.com

WENCEL BUILDING

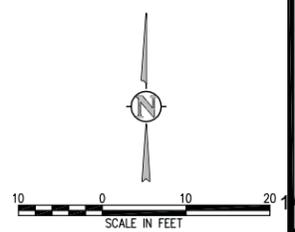
1301 WALNUT, BOULDER COLORADO



FIRST FLOOR ELEV. = 5342.10
SECOND FLOOR ELEV. = 5356.00
THIRD FLOOR ELEV. = 5368.46
BASEMENT FLOOR ELEV. = 5330.

BRICK, CONCRETE & ALUMINUM
FRAME W/GLASS BUILDING
(ALL BUILDING DIMENSIONS ARE TO
THE CONCRETE FOUNDATION)
BUILDING FOOTPRINT AREA = 14,054 Sq.Ft.±
MAXIMUM BUILDING HEIGHT GREATER THAN 100 FT

- NOTES:**
- COORDINATE DEMOLITION REQUIREMENTS, LIMITS OF DEMOLITION, SALVAGE ITEMS, PROTECTION OF ITEMS TO REMAIN, TREES, FENCING, ETC. WITH OWNER, ARCHITECT, ENGINEER, AND RELEVANT CONSTRUCTION AND PHASING PLANS. ADDITIONAL DEMOLITION OF PAVING, TREES, UTILITIES, STRUCTURES, ETC. TO BE PERFORMED AS REQUIRED.
 - REFER TO ARCHITECTURAL DRAWINGS FOR DETAILED BUILDING DEMOLITION.
 - REPLACE EXIST SIDEWALKS AND PAVEMENTS AT UTILITY TRENCHES AS REQUIRED.
 - ALL SAWCUTTING AND PAVEMENT REMOVAL SHOULD BE TO THE NEAREST JOINT.
 - COORDINATE SITE LIGHTING AND ELECTRIC SERVICE ROUTING, DEMOLISHING, RELOCATIONS, AND MODIFICATIONS WITH THE ELECTRICAL ENGINEER, ARCHITECT, AND OWNER.
 - COORDINATE DRY UTILITY DEMOLITION AND RELOCATION WITH OWNER, UTILITY COMPANIES, MECHANICAL ENGINEER, AND ARCHITECT PRIOR TO CONSTRUCTION. NOTIFY CIVIL ENGINEER OF DEMOLITION ALIGNMENT REQUIREMENTS. CONTRACTOR TO ADJUST CONTROL POINTS AS REQUIRED.



PROJ. NO. 2129c
DRAWN: DIB
CHECKED: DNS
APPROVED: CRH
DATE: 02/04/14

NO.	DESCRIPTION	DATE
1	Site Review Comments	02/04/14

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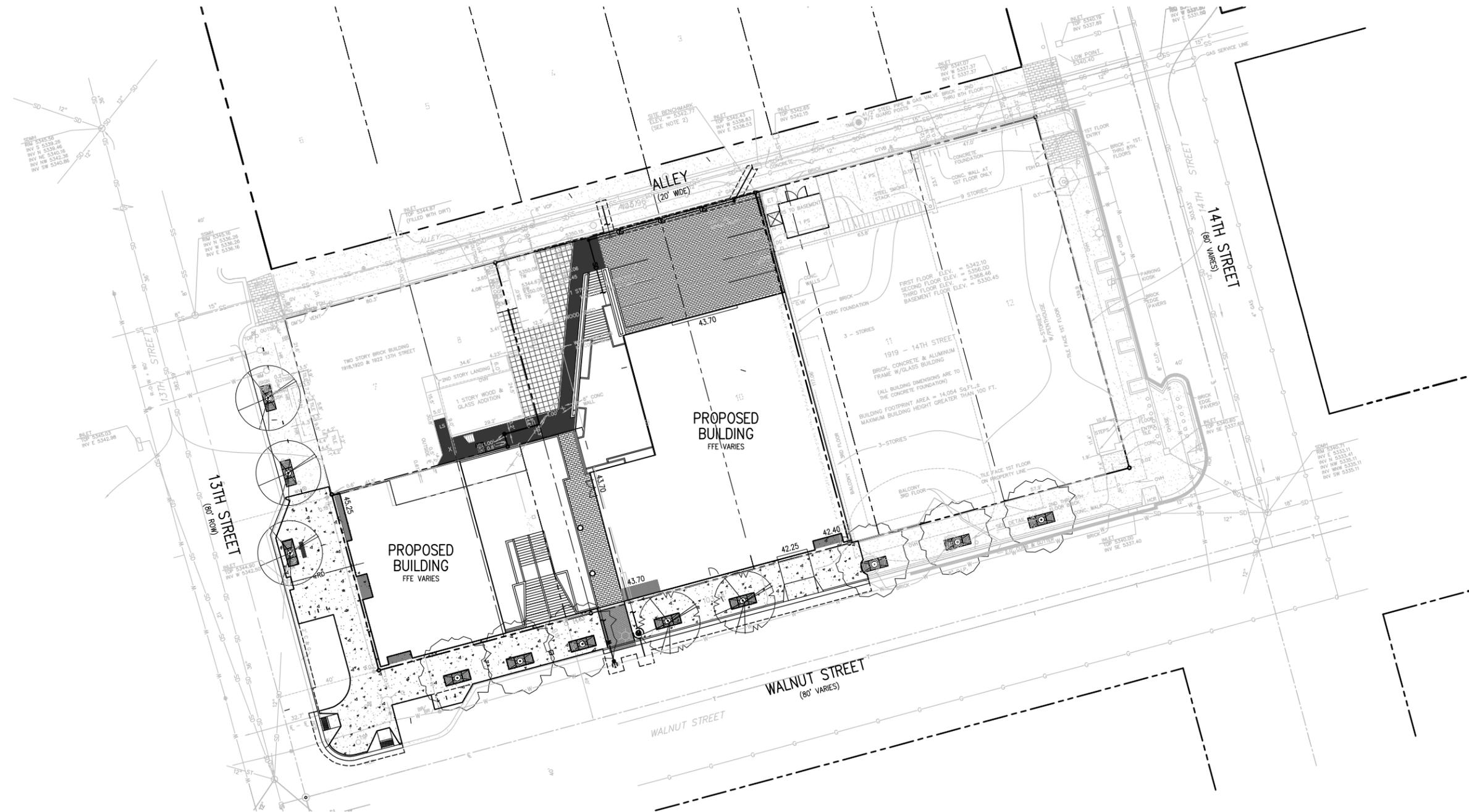
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ISSUED FOR:
SITE REVIEW
COMMENTS

SHEET TITLE:
PRELIMINARY
DEMOLITION PLAN

SCALE:
SHEET NUMBER

Page 32



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WENCEL BUILDING

1301 WALNUT, BOULDER COLORADO

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REVISIONS

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1	Site Review Comments	02/04/14

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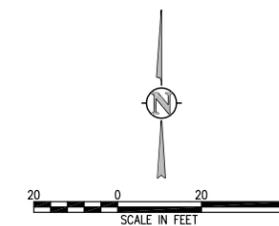
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ISSUED FOR:
SITE REVIEW
COMMENTS

SHEET TITLE:
OVERALL
SITE PLAN

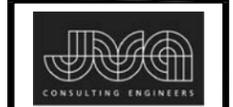
SCALE:
SHEET NUMBER

1A Page 37
0.3



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PROJ. NO. 2129c
DRAWN: DIB
CHECKED: DNS
APPROVED: CRH
DATE: 02/04/14

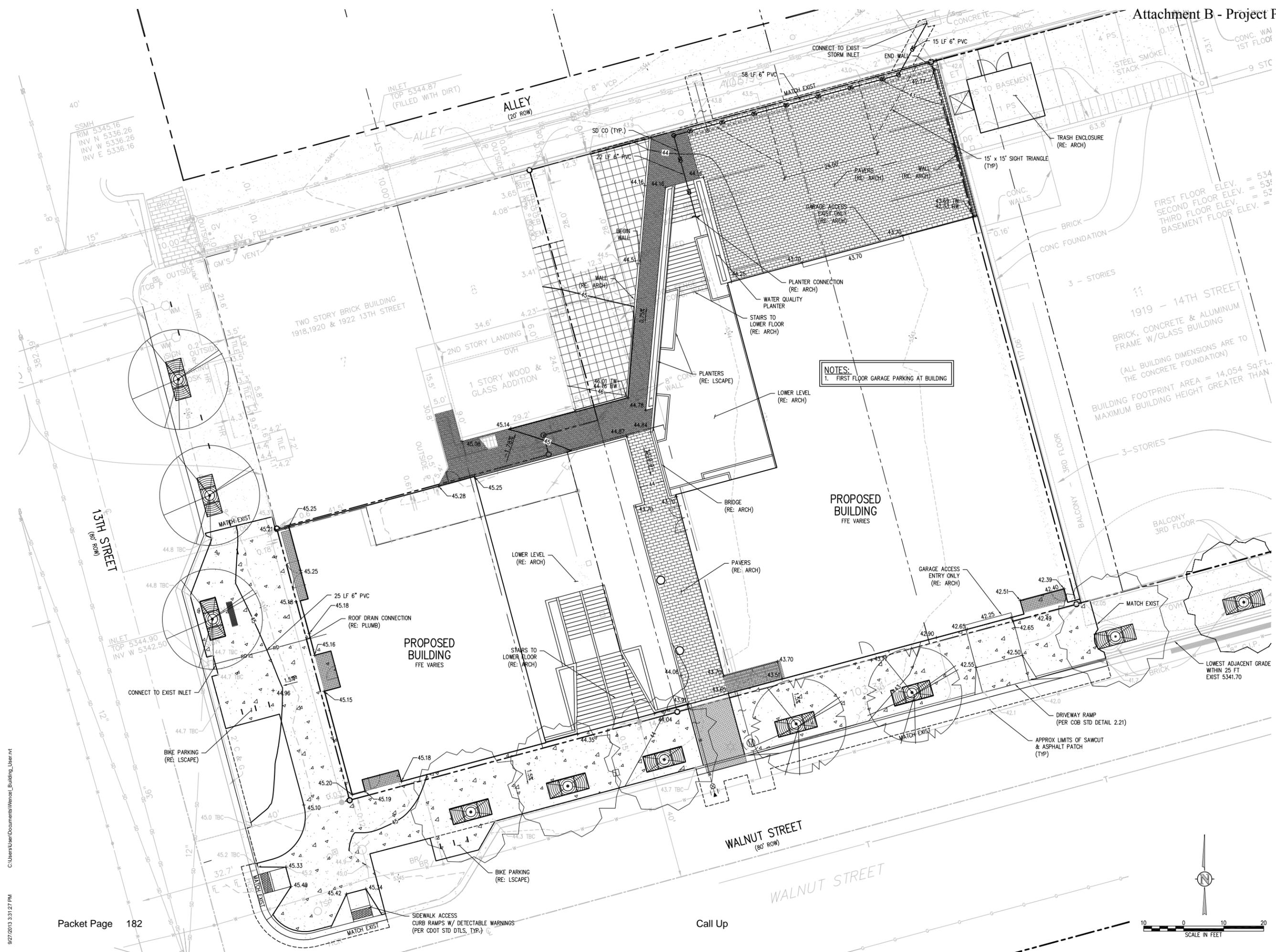
NO.	DESCRIPTION	DATE
1	Site Review Comments	02/04/14

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WENCEL BUILDING
ISSUED FOR:
SITE REVIEW
COMMENTS

SHEET TITLE:
PRELIMINARY
GRADING AND
DRAINAGE PLANS
SCALE:
SHEET NUMBER

C1.0



NOTES:
1. FIRST FLOOR GARAGE PARKING AT BUILDING

PROPOSED BUILDING
FFE VARIES

PROPOSED BUILDING
FFE VARIES

WALNUT STREET
(80' ROW)

13TH STREET
(60' ROW)

ALLEY
(20' ROW)

TWO STORY BRICK BUILDING
1918, 1920 & 1922 13TH STREET

1919 - 14TH STREET
BRICK, CONCRETE & ALUMINUM
FRAME W/GLASS BUILDING
(ALL BUILDING DIMENSIONS ARE TO
THE CONCRETE FOUNDATION)
BUILDING FOOTPRINT AREA = 14,054 Sq.Ft.
MAXIMUM BUILDING HEIGHT GREATER THAN

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WENCEL BUILDING

SITE AREA FOR LOTS : 7,8,9 21,037 SF

***NOTE LOT 10 IS NOT INCLUDED IN SITE AREA CALCULATION**

LEVEL 1	6,410 SF
LEVEL 2	14,003 SF
LEVEL 3	14,003 SF
LEVEL 4	12,285
EXISTING JAMES BUILDING	9,593 SF
EXISTING CARRIAGE HOUSE	340 SF
ABOVE GRADE SUBTOTAL	56,634 SF

BASEMENT AREA 15,583 SF
TOTAL PROJECT AREA 72,217 SF

FAR CALC: 56,634/21,037= 2.7 FAR

PARKING:
Project is in DT-5 zone so no parking is required.
17 spaces provided

COLORADO BUILDING

SITE AREA FOR LOTS : 10,11,12 21,026 SF

TOTAL ABOVE GRADE SF 88,301 SF

WENCEL BUILDING

1301 WALNUT, BOULDER COLORADO

PROJ. NO. 2100.1

DRAWN: Author

CHECKED: Checker

APPROVED: Approver

DATE: 02/03/14

REVISIONS

NO.	DESCRIPTION	DATE
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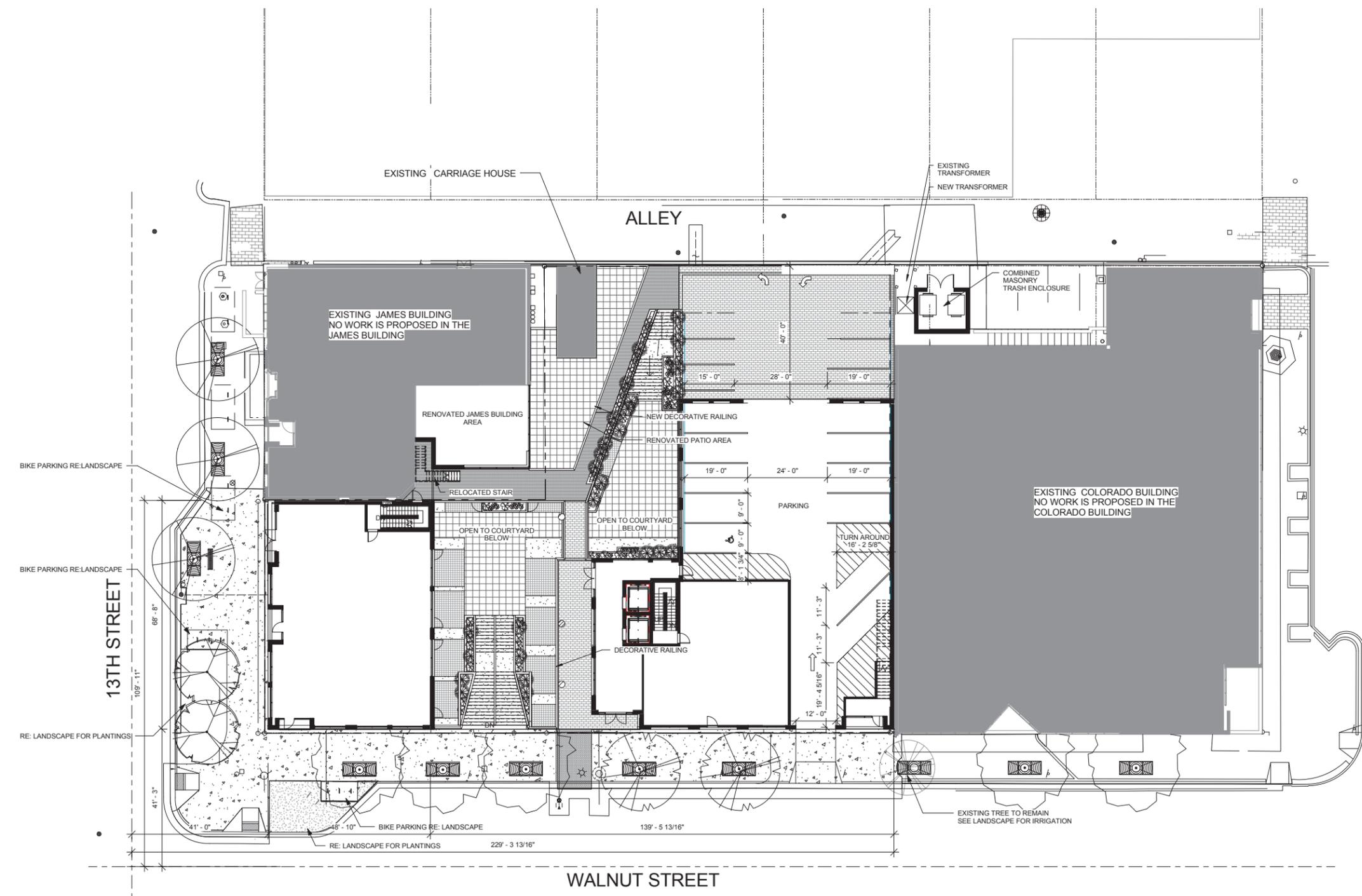
WENCEL BUILDING

ISSUED FOR:
SITE REVIEW COMMENTS

SHEET TITLE:
ARCHITECTURE SITE PLAN

SCALE: 1/16" = 1'-0"
SHEET NUMBER

A1.00



1 SITEPLAN
1/16" = 1'-0"



Call Up

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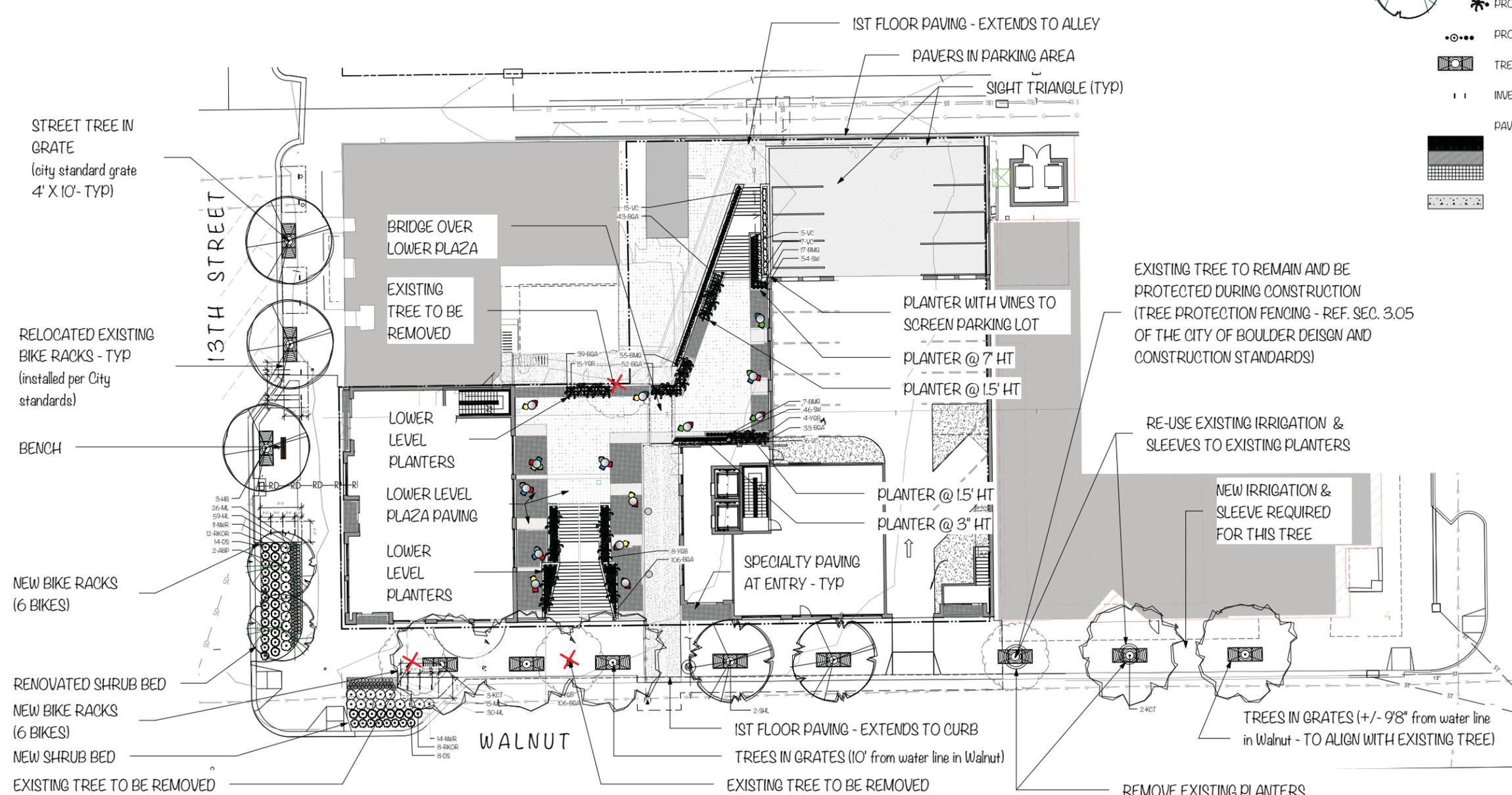
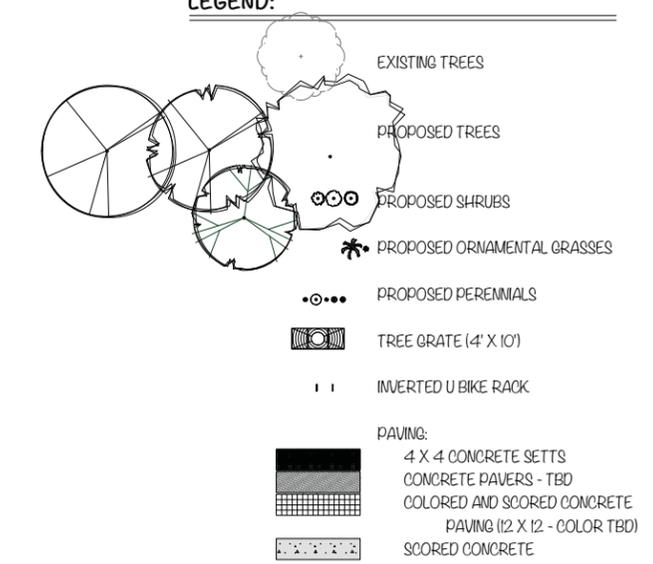
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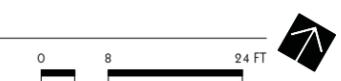
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1301 WALNUT, BOULDER COLORADO

LEGEND:



LANDSCAPE PLAN
1/16" = 1'-0"



PROJ. NO. 2100.1
DRAWN: sg
CHECKED: osla
APPROVED: osla
DATE: 02/03/14

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NO.	DESCRIPTION	DATE

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WENCEL BUILDING

ISSUED FOR:
SITE REVIEW COMMENTS

SHEET TITLE:
LANDSCAPE PLAN

SCALE: 1/16" = 1'-0"
SHEET NUMBER

L1.00

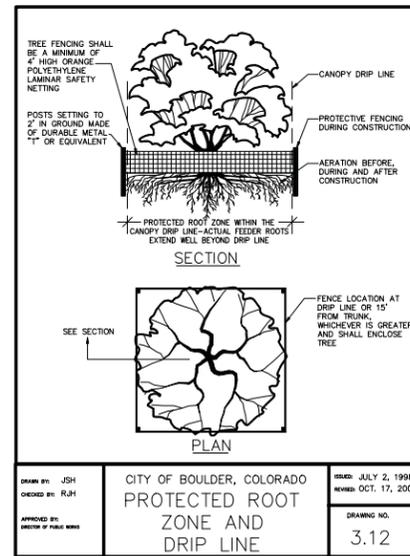
LANDSCAPE REQUIREMENTS: 02/03/14		
OVERALL SITE	REQUIRED	PROVIDED/COMMENTS
TOTAL LOT AREA	21,037 SF	
BUILDING AREA	11,140 SF	53%
TOTAL PARKING AREA (surface lot)	2,505 SF	12%
OPEN SPACE	7,392 SF	35%
TOTAL NUMBER OF PARKING STALLS	0 - WITHIN CAGID PARKING DISTRICT	16 provided in garage at 1st floor & surface lot
INTERIOR PARKING LOT LANDSCAPED	N/A	N/A
BIKEWAY PARKING	10% OF REQUIRED PARKING	2.4 provided
		Replace and add total of 12 parallel to 13th, 6 in cluster @ SE corner & 6 in cluster along Walnut
PARKING LOT SCREENING:		
FROM ADJACENT PROPERTIES		
Height & Opacity	Landscape Material 42' ht.	
Width	6' Buffer	N/A - only 6 spaces in surface lot
Trees	1 tree/25	N/A - only 6 spaces in surface lot
STREETSCAPE:		
	REQUIRED	PROVIDED/COMMENTS
Sidewalk - 13th Street	1 tree/30' - 140 LF = 5 trees	2 small trees in bed plus 3 additional trees in grates
Sidewalk - Walnut Street	1 tree/40' - 300 LF = 8 trees	7 large shade trees provided + 1 existing tree in front of Colorado Bldg.
MINIMUM PLANT SIZES:		
	1 tree & 5 shrubs/1500 sf = 5 trees and 2.5 shrubs	
Deciduous Trees	2' cal.	10 trees
Evergreen Trees	6' ht.	0
Ornamental Trees	15' cal.	3 trees
Shrubs	5 gallon container	67 + 119 1-gal ornamental grasses

PLANT LIST: 02/03/14					
KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE	SPACING
TREES:					
ABD	3	Autumn Blaze Pear	<i>Pyrus calleryana</i> 'Autumn Blaze'	15' CAL	30' o.c.
HB	3	Celtis occidentalis	Hackberry	2' CAL	30' o.c.
KOT	5	Gymnocladus dioica	Kentucky Coffeetree	2' CAL	30' o.c.
SHL	2	Gleditsia triacanthos var. inermis 'Shade'	Shademaster Honeylocust	2' CAL	30' o.c.
TOTAL:	13				
DECIDUOUS SHRUBS:					
DS	22	Daphne Spirea	<i>Spiraea japonica</i> 'Alpina'	5 gallon	3.5' o.c.
MWR	25	Nearly Wild Rose (Floribunda)	<i>Rosa x</i> 'Nearly Wild'	5 gallon	3' o.c.
RKOR	20	Rainbow Knock Out Rose	<i>Rosa x</i> 'Radco'	5 gallon	3' o.c.
TOTAL:	67				
ORNAMENTAL GRASSES:					
EMG	79	Black Mondo Grass	<i>Ophiopogon planiscapus</i> 'Niger'	1 gallon	15' o.c.
YGB	40	Yellow Groove Bamboo	<i>Phyllostachya aureosulcata</i>	1 gallon	as shown
TOTAL:	119				
GROUNDCOVERS/PERENNIALS/VINES:					
BGA	379	Burgandy Glow Ajuga	<i>Ajuga reptans</i> 'Burgandy Glow'	4" pots	8' o.c.
HL	89	Hidcote Lavender	<i>Lavandula angustifolia</i> 'Hidcote'	1 gallon	22' o.c.
ML	41	English Lavender	<i>Lavandula angustifolia</i> 'Munstead'	1 gallon	22' o.c.
SW	100	Sweet Woodruff	<i>Galium odoratum</i>	4" pots	8' o.c.
VC	33	Virginia Creeper	<i>Parthenocissis tricuspidata</i>	1 gallon	4' o.c.
TOTAL:	642				

PLANT NOTES:

- All plant material shall meet specifications of the American Association of Nurserymen (AAN) for number one grade. All trees shall be balled and burlapped or equivalent. All plant materials shall have all wire, twine or other containment materials, except for burlap, removed from trunk and root ball of the plant prior to planting.
- Trees shall not be planted closer 10 feet to any sewer or water line. Tree planting shall be coordinated with Public Service Company. Locations of all utilities shall be verified in the field prior to planting.
- All shrubs shall be planted no less than 3' from any sidewalk or curb.
- Grades shall be set to allow for proper drainage away from structures. Grades shall maintain smooth profiles and be free of surface debris, bumps, and depressions.
- Developers shall ensure that the landscape plan is coordinated with the plans done by other consultants so that the proposed grading, storm drainage, or other constructions does not conflict nor preclude installation and maintenance of landscape elements on this plan.
- All shrub bed areas shall be mulched with a 4" layer of wood bark mulch. Perennials and groundcover areas shall be mulched with a 4" layer of shredded bark mulch. NO FABRIC TO BE INSTALLED BELOW ORNAMENTAL GRASSES, PERENNIALS OR GROUNDCOVERS.
- Prior to installation of plant materials, areas that have been compacted or disturbed by construction activity shall be thoroughly loosened; organic soil amendments shall be incorporated at the rate of at least three (3) cubic yards per 1000 square feet of landscape area.
- All landscape areas will be irrigated with an automatic system. Shrubs and trees in grates will have a drip zone and perennials/groundcovers (part of the drip zone) will have micro-jet sprays. Plants with like water requirements are shown together in order to have an efficient use of water. Irrigation plans will be submitted during TEO Doc that meet the City's requirements.
- Contractor shall verify all material quantities prior to installation. Actual number of plant symbols shall have priority over the quantity designated.
- Refer to the City of Boulder Design and Construction Streetscaping Standards for all work within public areas, including tree protection standards. The developer will make every effort possible to protect trees within the site using the same standards. Contractor to provide adequate tree protection, prune roots when adjacent new curbs and sidewalks, and water trees frequently during construction.
- Refer to the Civil Engineer Drawings for Grading and Utility information.

12. This plan meets or exceeds City of Boulder landscape code requirements.
 Packet Page 185

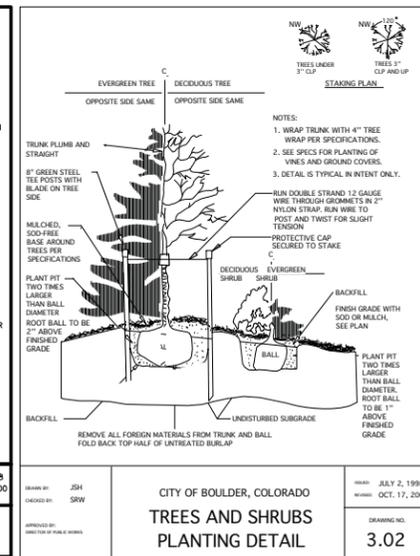


DRAWN BY: JSH
 CHECKED BY: R.J.H.
 APPROVED BY: DIRECTOR OF PUBLIC WORKS

CITY OF BOULDER, COLORADO
PROTECTED ROOT ZONE AND DRIP LINE

REVISION: JULY 2, 1998
 REVISION: OCT. 17, 2000

DRAWING NO. 3.12

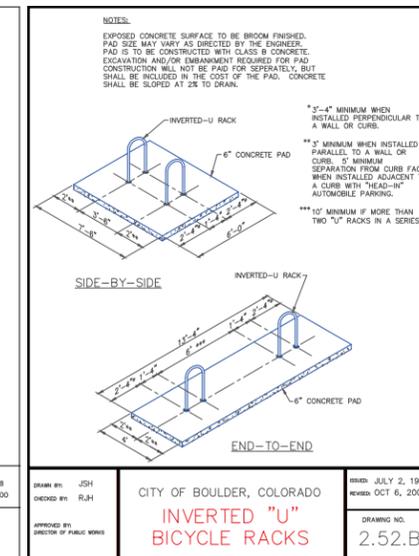


DRAWN BY: JSH
 CHECKED BY: S.W.
 APPROVED BY: DIRECTOR OF PUBLIC WORKS

CITY OF BOULDER, COLORADO
TREES AND SHRUBS PLANTING DETAIL

REVISION: JULY 2, 1998
 REVISION: OCT. 17, 2000

DRAWING NO. 3.02

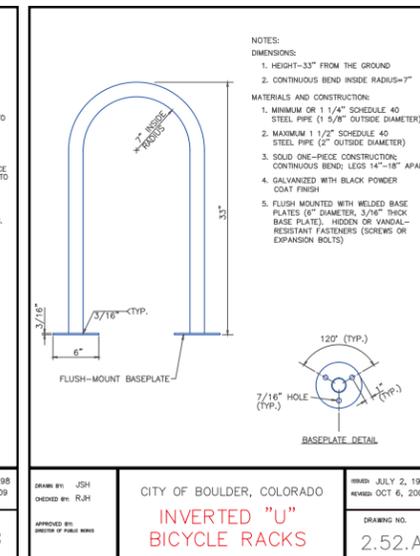


DRAWN BY: JSH
 CHECKED BY: R.J.H.
 APPROVED BY: DIRECTOR OF PUBLIC WORKS

CITY OF BOULDER, COLORADO
INVERTED "U" BICYCLE RACKS

REVISION: JULY 2, 1998
 REVISION: OCT. 6, 2009

DRAWING NO. 2.52.B

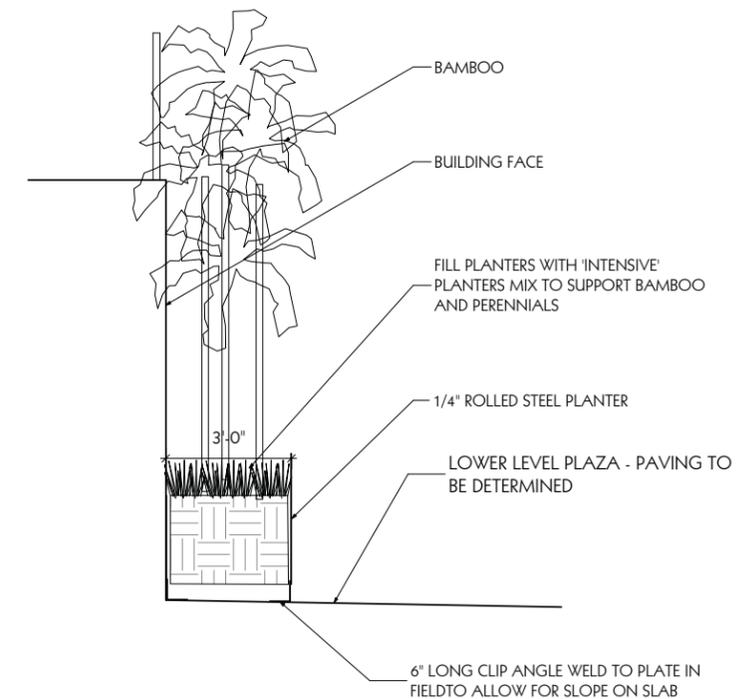


DRAWN BY: JSH
 CHECKED BY: R.J.H.
 APPROVED BY: DIRECTOR OF PUBLIC WORKS

CITY OF BOULDER, COLORADO
INVERTED "U" BICYCLE RACKS

REVISION: JULY 2, 1998
 REVISION: OCT. 6, 2009

DRAWING NO. 2.52.A



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outside la
 landscape architecture + urban design + planning
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 303.517.9936 / 970.871.9626
 info@studio.com

WENCEL BUILDING
 1301 WALNUT, BOULDER COLORADO

PROJ. NO. 2100.1
 DRAWN: sg
 CHECKED: osla
 APPROVED: osla
 DATE: 02/03/14

NO.	DESCRIPTION	DATE

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 SITE REVIEW COMMENTS

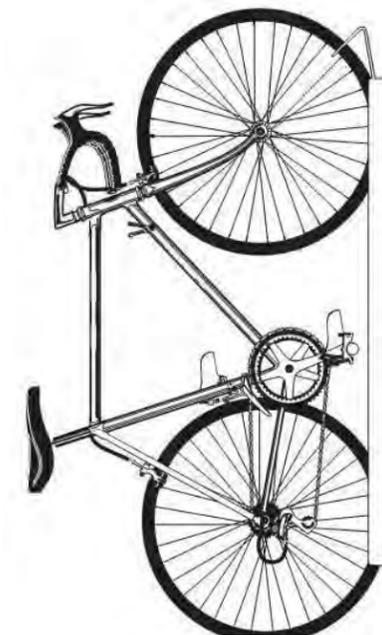
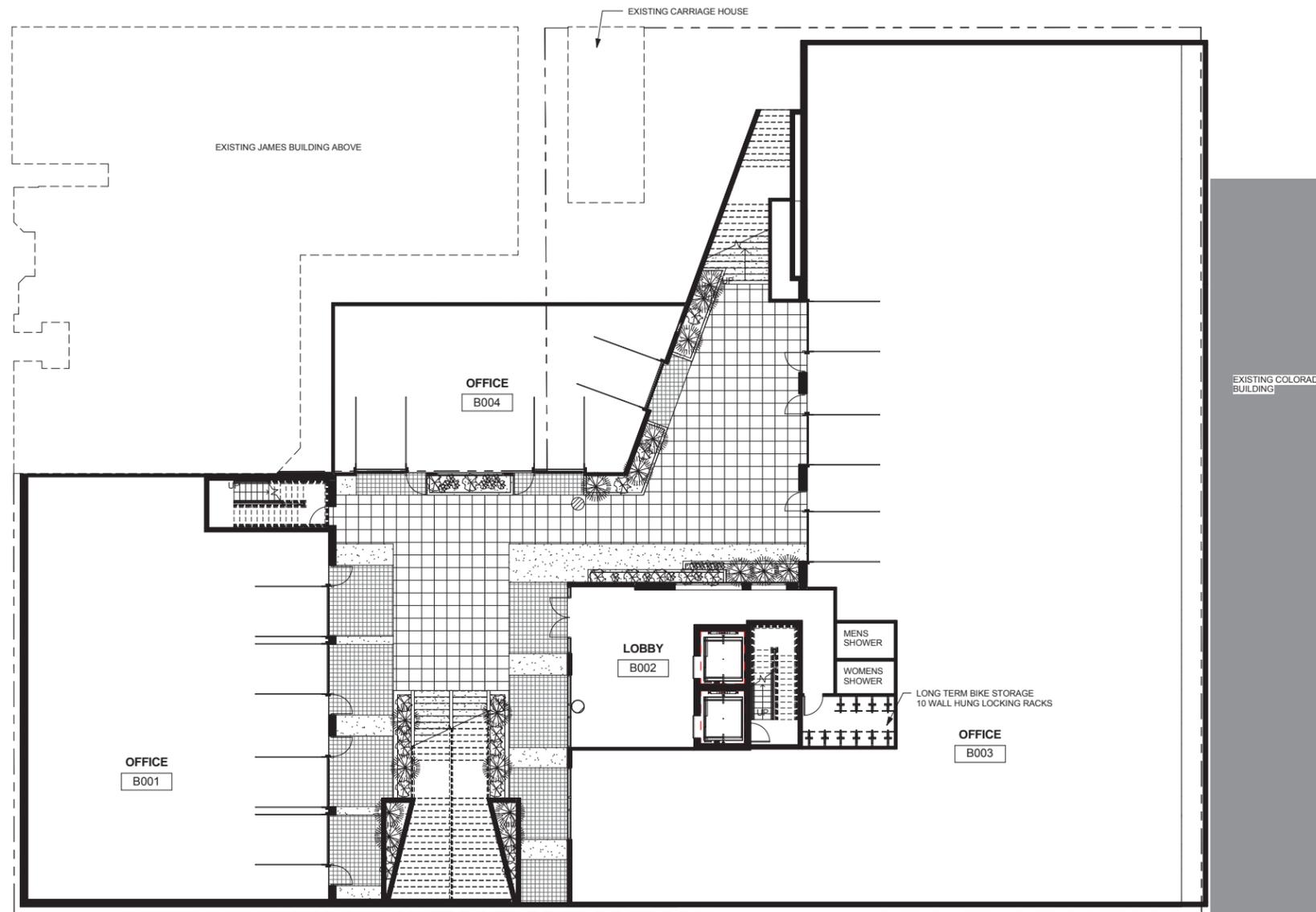
SHEET TITLE:
 LANDSCAPE DETAILS

SCALE: N/A
 SHEET NUMBER

L2.00

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phone 720.771.0516



① BASEMENT
3/32" = 1'-0"

② LONG TERM BIKE STORAGE RACK
1/4" = 1'-0"



WENCEL BUILDING

1301 WALNUT, BOULDER COLORADO

PROJ. NO. 2100.1
DRAWN: Author
CHECKED: Checker
APPROVED: Approver
DATE: 02/03/14

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SHEET TITLE:
BELOW GRADE FLOOR
PLAN

SCALE: As indicated
SHEET NUMBER

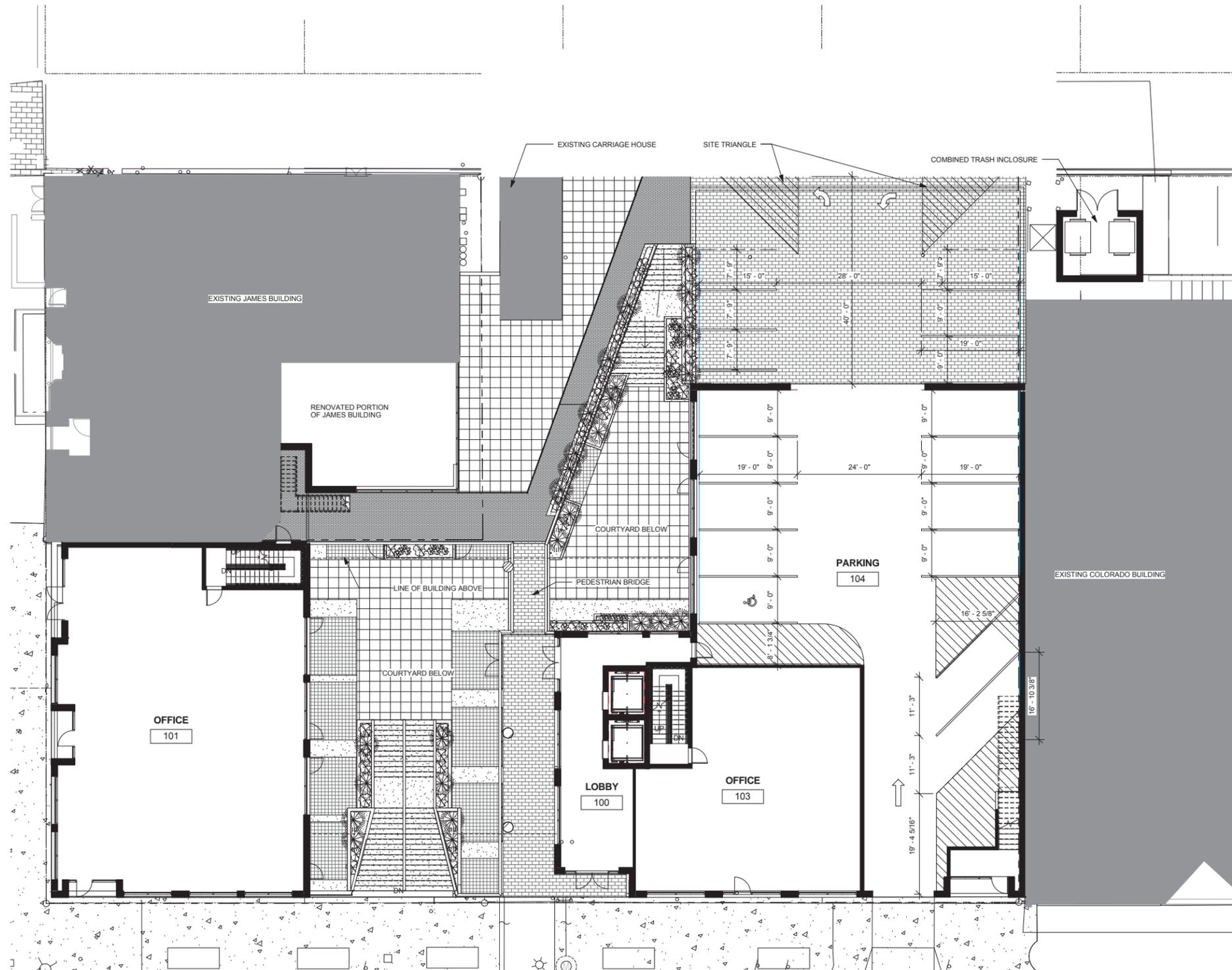
A1.01

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WENCEL BUILDING

1301 WALNUT, BOULDER COLORADO



① LEVEL 1
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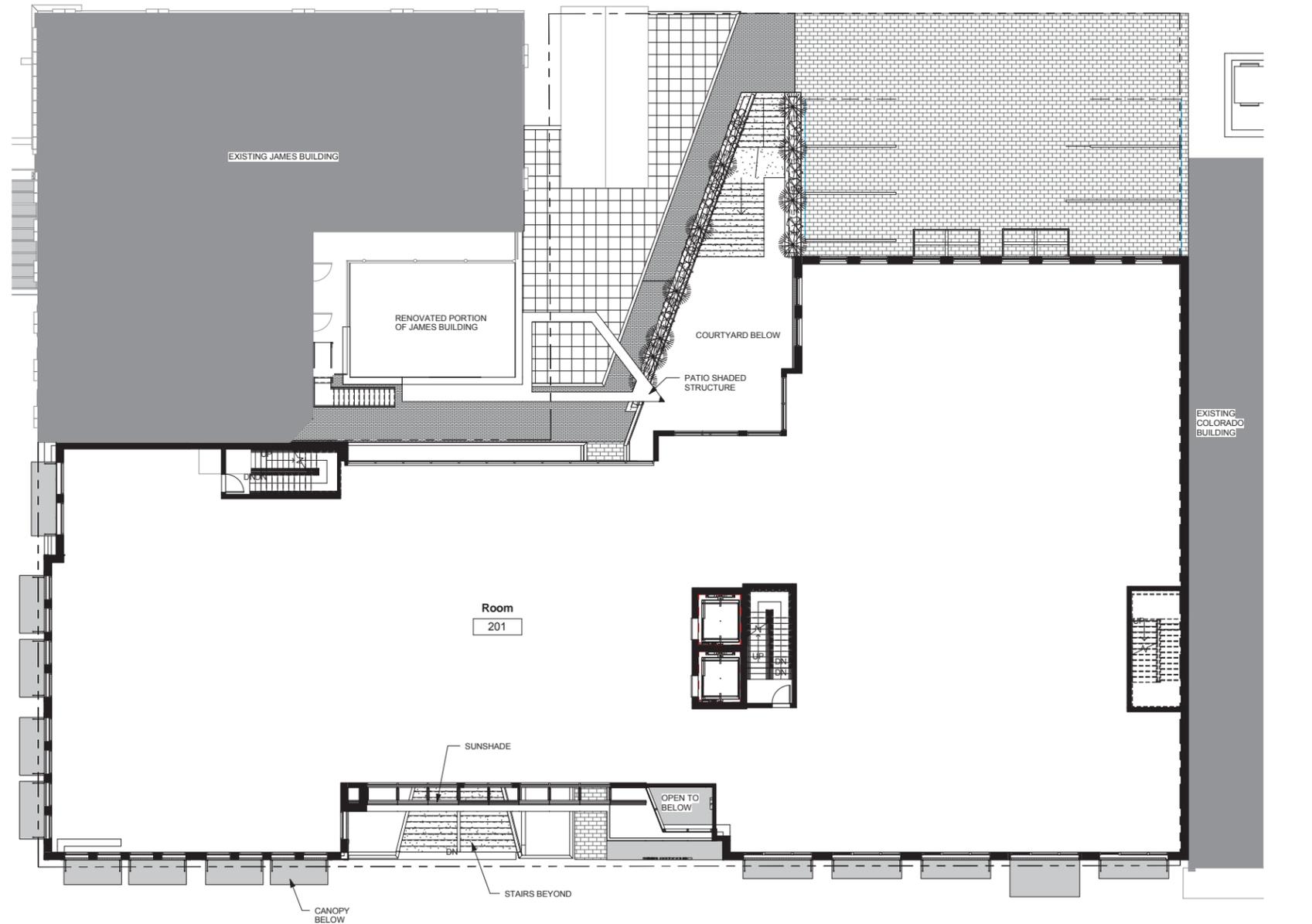
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① LEVEL 2
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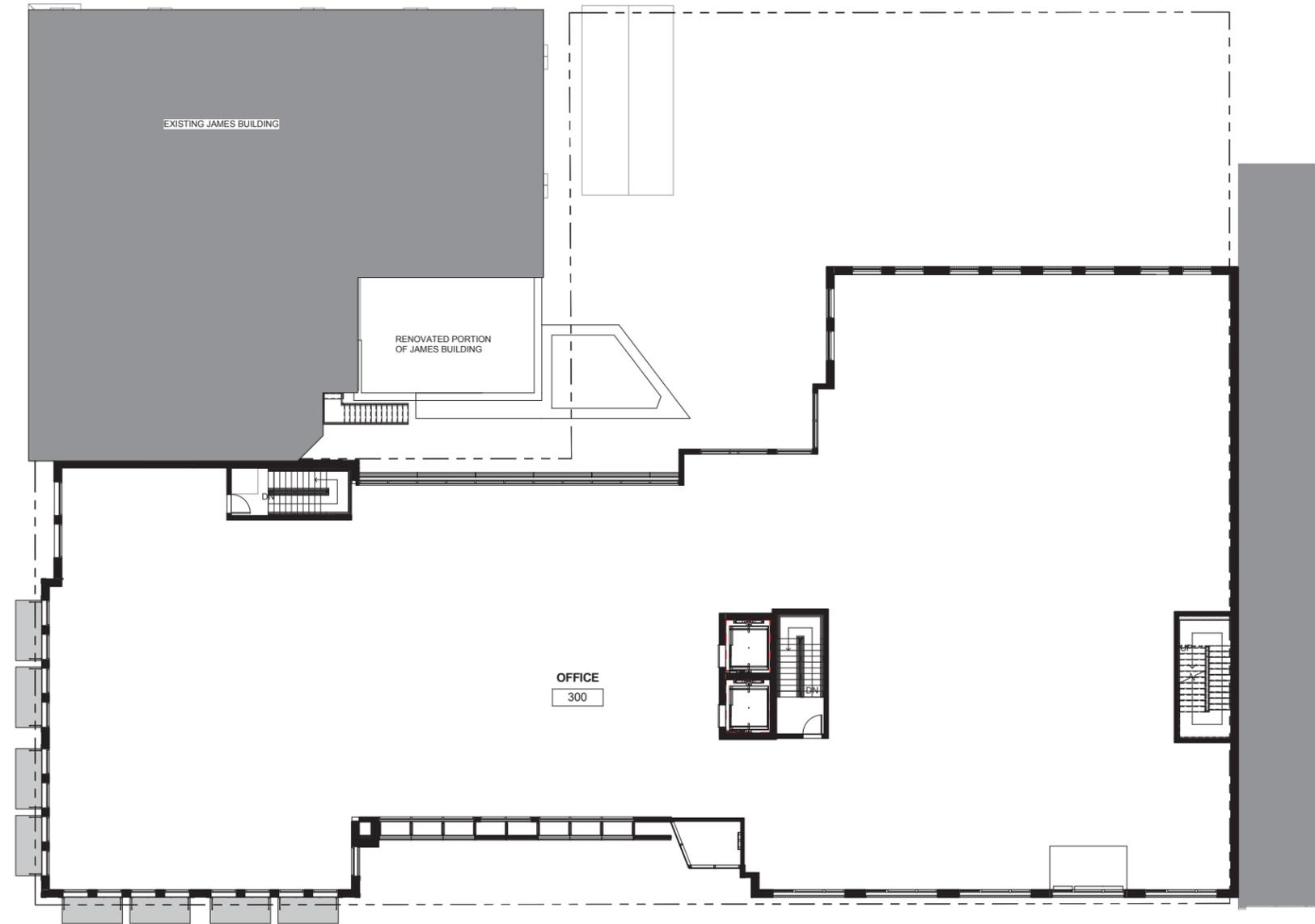
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① LEVEL 3
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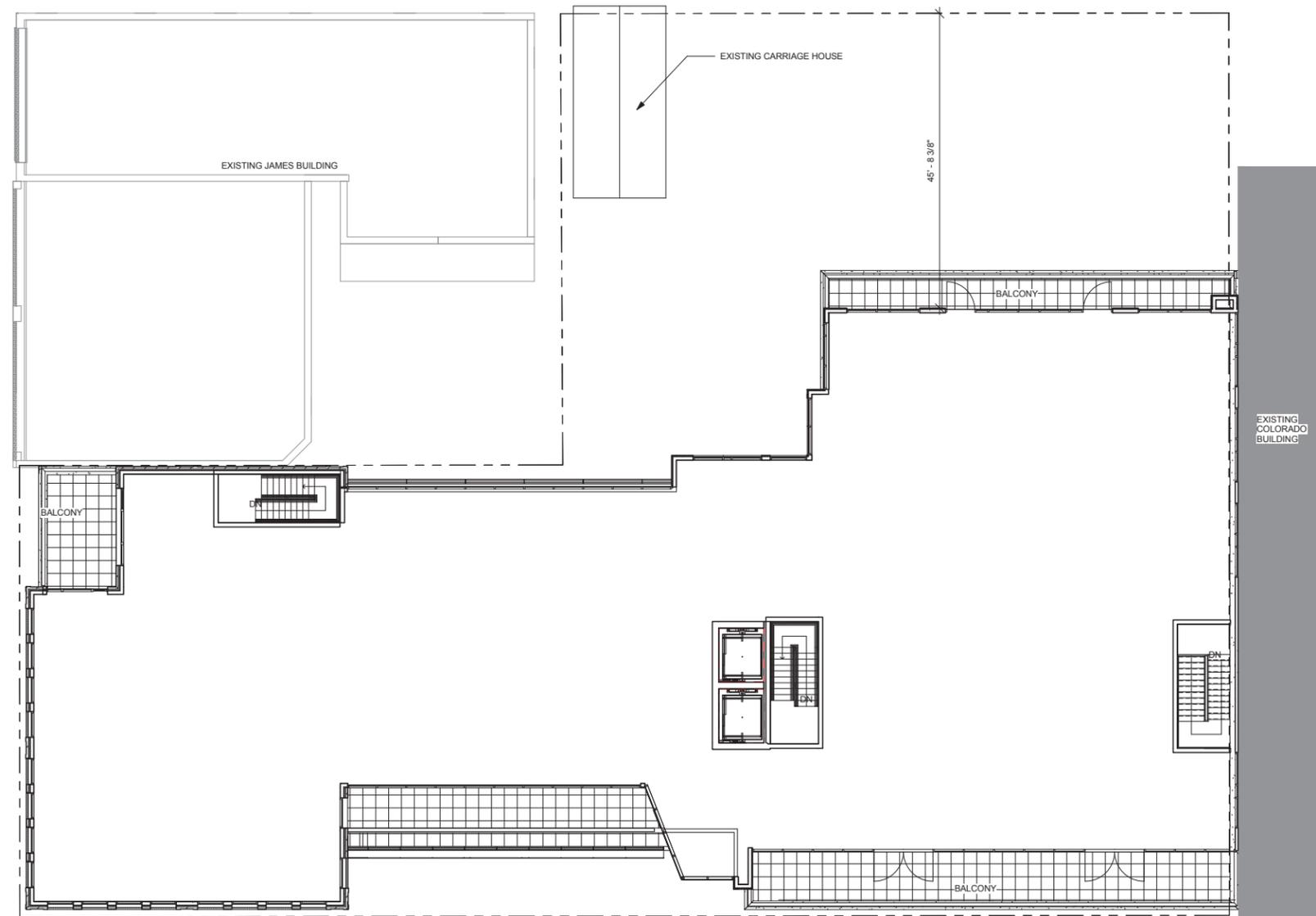
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 phone 720.771.0516

WENCEL BUILDING

1301 WALNUT, BOULDER COLORADO



① LEVEL 4
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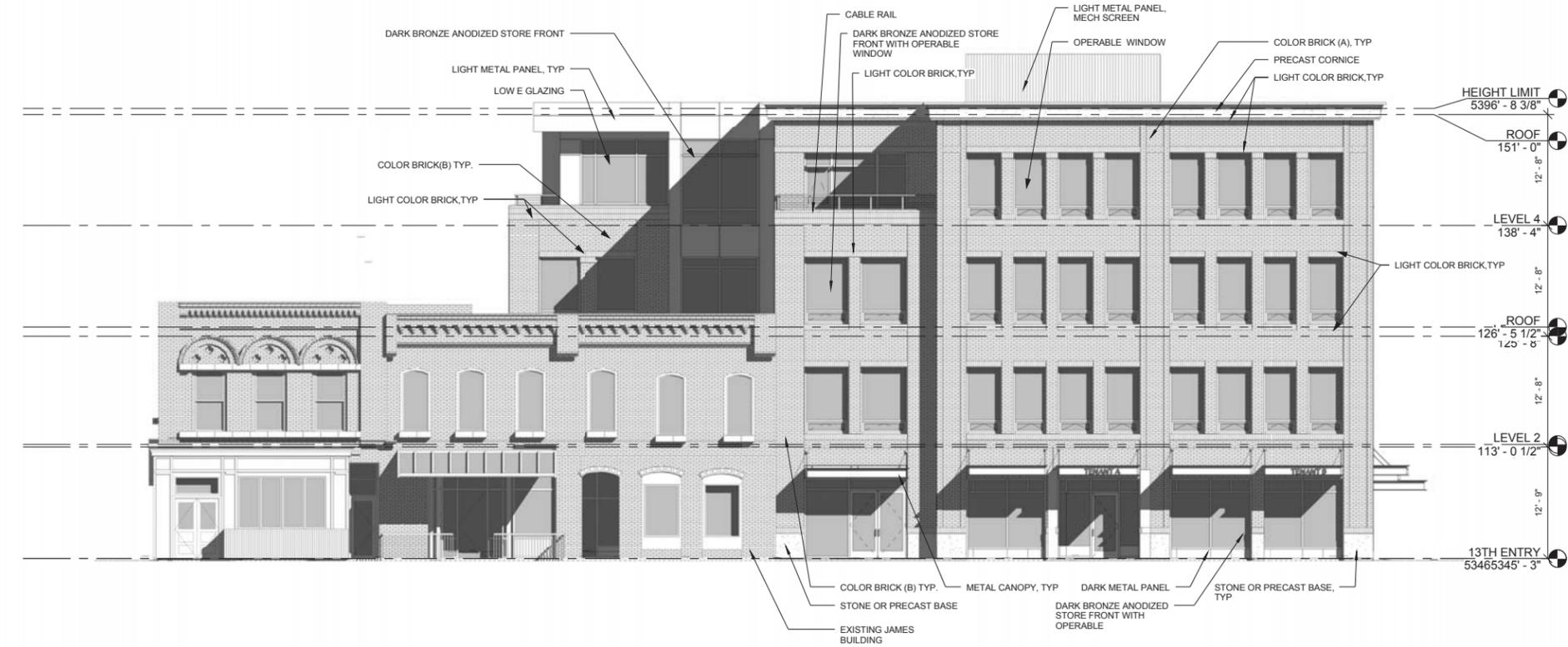
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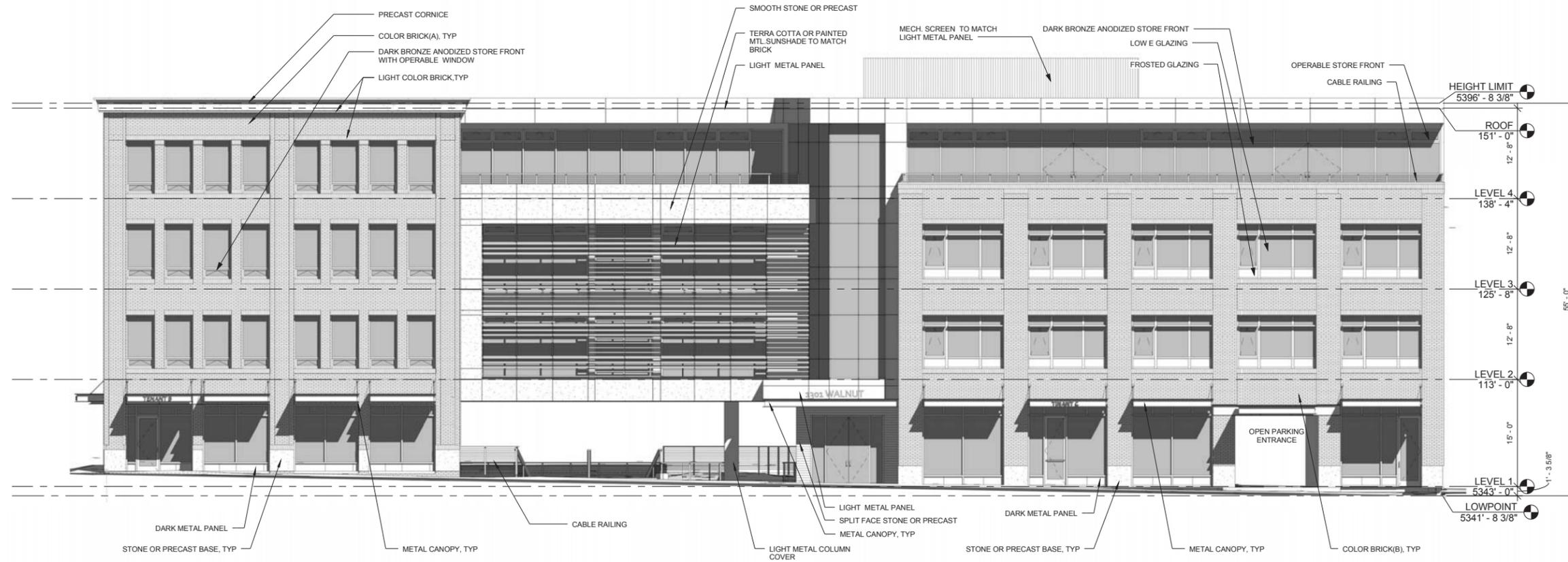
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WENCEL BUILDING

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① WEST BUILDING ELEVATION
1/8" = 1'-0"



② SOUTH BUILDING ELEVATION
1/8" = 1'-0"

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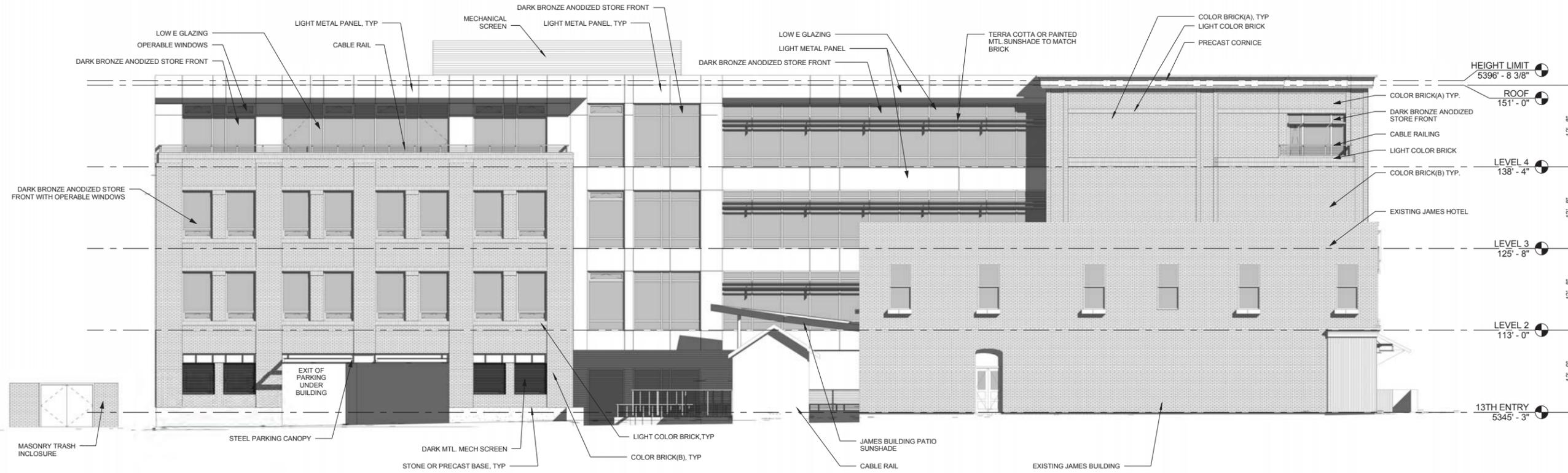
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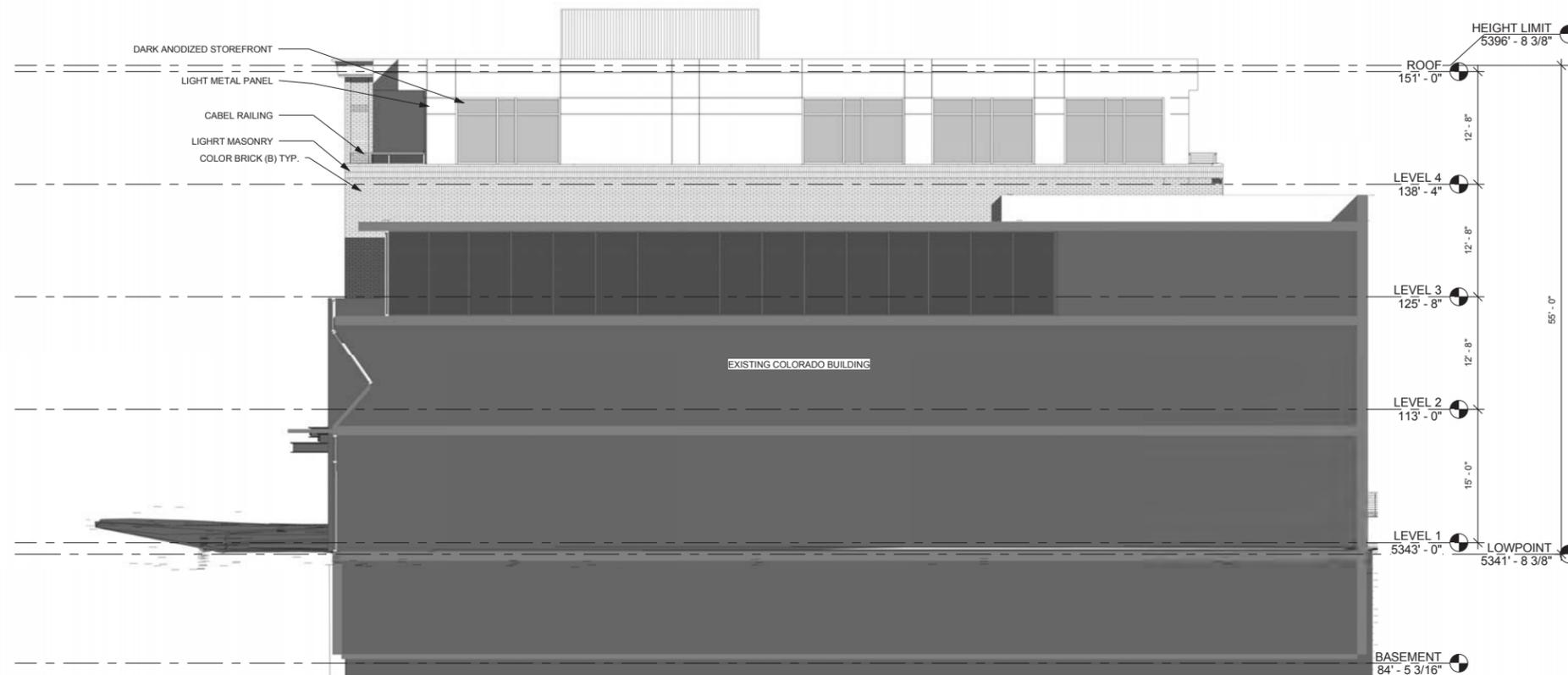
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Boulder, Colorado 80308
phone 720.771.0516



WENCEL BUILDING

1301 WALNUT, BOULDER COLORADO

① NORTH BUILDING ELEVATION
1/8" = 1'-0"



② EAST BUILDING ELEVATION
1/8" = 1'-0"

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BUILDING ELEVATIONS

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INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Maureen Rait, Executive Director of Public Works
Susan Richstone, Deputy Director of Community Planning and Sustainability
Jeff Arthur, Director of Public Works for Utilities
David Gehr, Deputy City Attorney
Bob Harberg, Principal Engineer - Utilities
Jeff Yegian, Division of Housing Manager
Chris Meschuk, Planner
Bev Johnson, Annexation Project Manager

Date: March 10, 2014

Subject: Information Item: Annexation Package for Flood Impacted Area II Residents

Purpose

The purpose of this item is to provide an update to City Council on the package of incentives to be offered to Area II residents impacted by the September 2013 floods to encourage voluntary annexation. This package will be offered over the next couple of months to single family residential households located in Area II enclaves (including Githens Acres) as well as to residents in the Old Tale and Cherryvale roads neighborhood. Depending on the number of interested landowners, staff anticipates bringing an annexation ordinance to Planning Board and City Council in late 2014.

Background

After the September flood, the City of Boulder was contacted by a number of Area II property owners outside the city limits with concerns about their wells and on-site wastewater systems (OWS) and interest in connecting to the city water and wastewater systems. As part of the December 3, 2013 City Council briefing on the flood, staff presented options for helping impacted residents by facilitating annexation and connection to city utilities. More specifically, the options presented to council outlined potential approaches to addressing the financial disincentives to annexation. The three options presented to council were as follows:

1. The city upfronts construction costs with assurance of a minimum participation rate.
2. The city upfronts and offers financing of utility construction costs with assurance of a minimum participation rate (Gapter Road model).
3. Local Improvement Districts.

City Council expressed support for helping flood-impacted property owners by creating incentives for annexation but expressed the need for landowners to pay their share and did not want annexation expenses to result in deferment of other needed city projects.

Annexation Package

Staff further weighed the costs of the above options with the potential to encourage voluntary annexations and developed a package similar to the Gapter Road model but with added financing incentives. The new package includes the same fee and tax waivers, and a financing plan for the utility infrastructure as that given to the Gapter Road neighborhood, plus the added incentive of financing for plant investment fees (PIFs). This package was assembled with the goal of creating as much incentive without impacting the actual city costs of providing utility services. Staff is proposing to move forward by offering the following annexation package to 167 properties located in county enclaves (including Githens Acres) and to the Old Tale Road and Cherryvale Road neighborhoods (see map in Attachment A and full description of the package in Attachment B).

1. The city will waive the annexation application and public hearing fees totaling \$6580 for individual applications. (same as Gapter Road)
2. The city will waive all Development Excise Taxes (cost varies depending on age of home, can be up to \$3,286 for a new home) and Housing Excise Taxes (\$0.23 per house square foot). (same as Gapter Road)
3. The city will offer a 10-year financing plan for all water, wastewater and stormwater PIFs. (new)
4. Property owners along creeks will be required to dedicate a flood maintenance easement of 60 feet along either side of the centerline of a major drainageway. (same as Gapter Road)
5. Property owners will be required to connect to water and wastewater systems within a few months of annexation or completion of any necessary public improvements and begin reimbursement to the city for their individual share of the costs of those public improvements as well as permit fees, tap fees, inspection fees and PIFs. (same as Gapter)
6. Community benefit requirements would be applied to properties with additional development potential, which includes the ability to subdivide the property and/or build at least one additional unit on the property. A community benefit requirement in the form of two times the cash in-lieu contribution as set forth in the inclusionary housing ordinance to the Affordable Housing Fund would be required at the time of subdivision building permit for the additional unit. (not applicable to Gapter Road)

The city will not enter into individual negotiations with landowners under this offer due to the added staff resources involved in individual negotiations. If a property owner wishes to negotiate items not outlined in the standard package, they would pay all standard annexation fees and go through the regular annexation application review process without the ability to finance

utility connection costs through the city. For example, any requests for change to the community benefit requirement outlined above would need to be reviewed through the regular development review process.

Three neighborhoods within the study area (Githens, Cherryvale and Old Tale roads) are currently without the utility infrastructure needed to connect individual properties to both city water and wastewater services. Individual property owners in these neighborhoods will not be able to annex and connect to utilities unless the infrastructure is installed. The city has estimated the infrastructure installation and road resurfacing costs to be approximately \$1.1 million for Githens Acres, \$842,000 for Cherryvale Road and \$730,000 for Old Tale Road.

This situation is similar to that encountered in the Gapter Road annexation in 2010. In that case, the city upfronted the cost of the utility installation and road resurfacing under the condition that 75 percent of the properties annex and begin repayment of their individual share of the costs. (In the case of the Gapter Road annexation, 64 percent agreed to annex and Boulder County upfronted the difference in participation). The city would offer Githens Acres, Cherrryvale Road and Old Tale Road landowners a similar package as that given to the Gapter Road neighborhood, but with the added incentive of financing for PIFs (Gapter Road landowners were only able to finance the utility infrastructure costs through the city). Similar to the Gapter Road annexation, the city would agree to retain the current rural street sections and conditions (no curb, gutter or streetlights) in these neighborhoods.

Scope

Staff will reach out to residential landowners with properties located in county enclaves and in the Githens Acres, Old Tale Road and Cherryvale Road neighborhoods (See map in Attachment A). These Area II neighborhoods are the areas with a majority of homes still on wells and OWS. The project area includes 167 properties with the following current water and sewer conditions:

- 86 have no city water or sewer services;
- 51 properties have out-of-city wastewater services;
- 4 properties have out-of-city water services; and
- 26 properties have both city water and wastewater services through an out-of-city agreement.

Benefits and Drawbacks

The benefit of the annexation package outlined above is that it will hopefully encourage a fair number of voluntary annexations and result in removing some households from well and OWS. Other potential benefits of annexation include resolving some of the urban service problems associated with the checkerboard city boundary and acquiring additional flood easements along major drainageways in the city. Once in the city, residents would also begin paying city property tax. However, the difference in property taxes for homeowners in the city and the county is minimal.

A financial benefit of annexing for many county residents may be that they would no longer be subject to a road maintenance assessment fee and no longer need to maintain their well and septic systems. However, annexation costs will still be significant for many property owners, particularly those along roads with no utility infrastructure (see outline of costs in Attachment B)

and likely discourage many from annexing. Although the city is offering incentives through some fee and tax waivers and financing for nearly all the utility costs, the ultimate cost for some households could range as high as \$100,000 in areas such as Githens Acres with large lots and no utility infrastructure. For flood-impacted homeowners, the financial and emotional strain of the flood has been a huge impact, so even with city financing, the costs of annexing and connecting to utilities may be overwhelming.

In terms of the city's costs, it will require dedicated staff time from Community Planning and Sustainability, Public Works and the City Attorney's Office to administer the annexations. Providing a set of standard annexation provisions will substantially reduce staff time typically involved in an annexation. Staff is also planning to take the annexations to Planning Board and City Council bundled as single or at least reduced number of ordinances in order to reduce board and council administrative costs.

The city's Utilities Division will upfront public infrastructure construction costs, with a maximum estimated cost of \$6 million if all 167 properties annexed. The expenses will be paid using utility fund reserves and, based on previous annexations where financing was offered, paid back by the property owners over a ten year period. Staff will sequence the group annexations based on neighborhood interest and participation rates, so funds will not be used all at the same time. The budget and potential rate impacts of this approach will be considered as part of the 2015 budget process and 2014 budget supplemental process. In the long term, this approach should have financial benefits for the Utilities Division since all money will be paid back with interest and monthly utility bill revenues will be collected from new customers.

Costs to the city's Transportation Division for road upgrades or future maintenance will be minimal as the majority of the properties front on roads that are currently within the city. If Old Tale Road or Githens Acres properties are annexed, those roads will be reconstructed as part of the utility installation and paid for by the residents along those roads. The current offer does not extend east across Cherryvale Road, therefore that area would remain under county jurisdiction.

Federal and state disaster relief funds

The city is applying for, participating in and tracking several grant funding opportunities which could result in some funding toward the public infrastructure costs or to assist income qualified residents to pay for fees and connection costs. All of these grant programs are competitive, and it is unknown how well the city will score in the application process.

Community Development Block Grant – Disaster Relief (CDBG-DR)

Disaster relief funding has been allocated by the federal government (Housing and Urban Development) to the State of Colorado. The initial round of \$63 million that has been awarded must be allocated through a state action plan, with funding directed to three major categories including housing, economic development, and infrastructure. The city is collaborating with other municipalities and Boulder County to coordinate funding priorities, including support to homeowners for the costs of connecting to city services. The grant funds are expected to be available this summer; however, they will be dispersed through a competitive application process. In addition, use of funds must meet Housing and Urban Development guidelines, including the provision that 51 percent of the funding benefit low-income households.

State of Colorado Water Quality Improvement Fund

The Colorado General Assembly is considering legislation (HB14-1002) to provide \$12 million of disaster assistance to local governments for repair and replacement of water/wastewater infrastructure impacted by the September 2013 floods and located in a county for which the governor has declared a disaster emergency. This grant program would be for the construction, rehabilitation and repair of domestic wastewater treatment works, public drinking water systems, and OWS. The city and Boulder County have been tracking this bill, and the associated rulemaking on the application guidelines with the hope that funding for construction of the needed utility infrastructure in county enclaves under consideration for annexation be eligible. The process will be competitive and, if approved by the General Assembly, funds are anticipated to be available this summer.

Next Steps

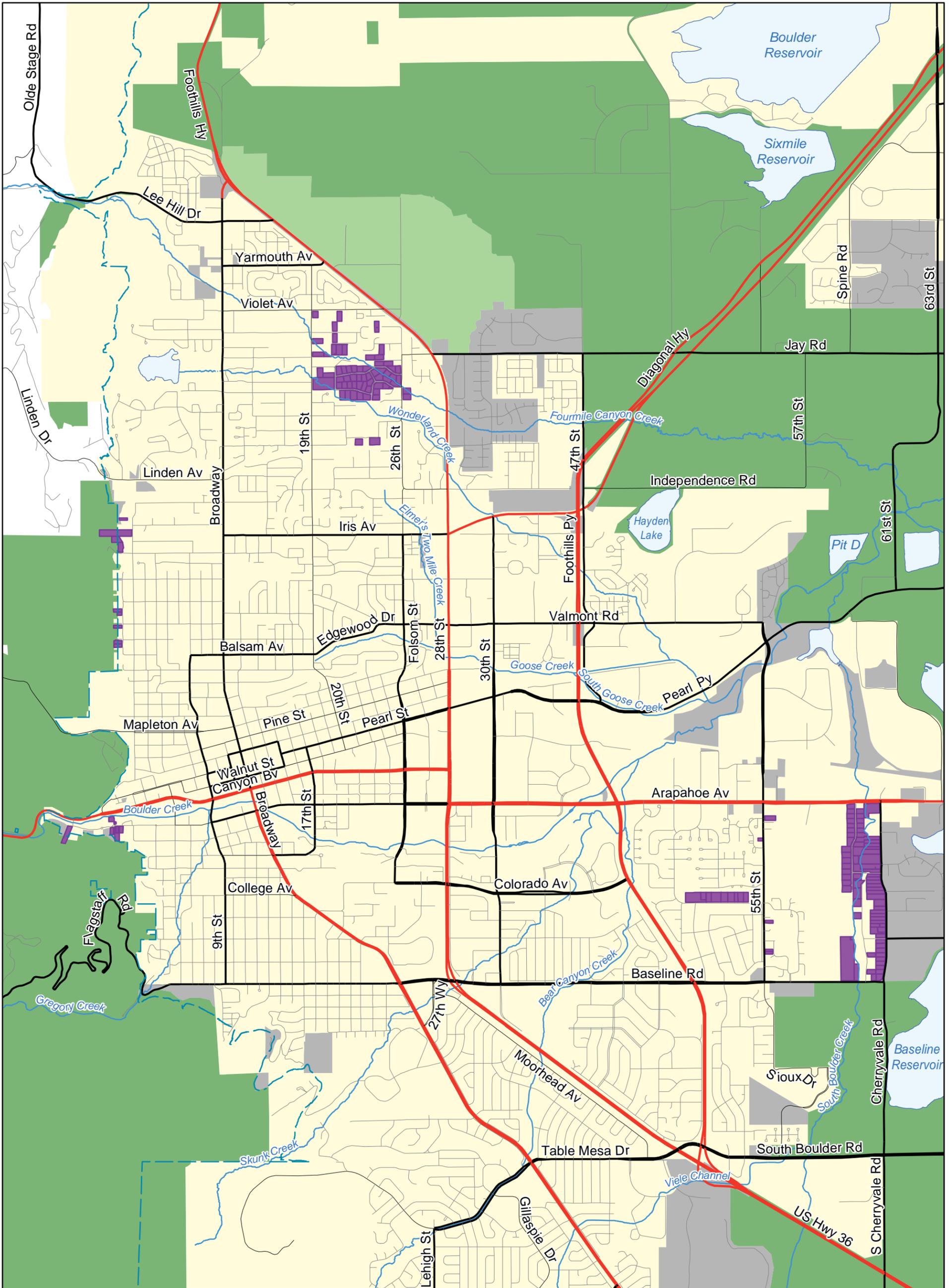
Letters will be sent to all landowners in the project area by the end of March and will include the annexation package offer, a detailed outline of the costs, and the process and timeline for the annexation ordinance. Landowners will be given approximately one month to respond by requesting an estimate of their individual costs to annex. After receiving an estimate of the costs from staff, landowners will then be given a deadline of approximately two months to decide whether or not to proceed. If interested in moving forward with annexation, a landowner would provide the city with earnest money for the development of their annexation map and survey (if needed). Once annexation documents are prepared, staff will bring all individual annexations to council in a single ordinance in late Fall or Winter 2014.

For the neighborhoods needing a minimum participation rate (Githens Acres, Old Tale Road and Cherryvale Road) an initial letter will be sent with an estimate of the individual property annexation costs. The letter will also survey each landowner to gauge interest in annexation. If a neighborhood shows enough interest in annexing, a meeting will be held with property owners to respond to questions and further gauge interest in proceeding with a group annexation. City staff will move forward with the first neighborhood that meets the 75 percent participation threshold. Group annexations will move forward on separate time frames than individual annexations.

ATTACHMENTS:

- A Map of Properties
- B Annexation Package and Overview of Landowners Costs

Attachment A - Properties considered for flood related annexation



Option 1 Properties



Boulder Valley Comprehensive Plan Areas

City Limits (Area I, III Annex)

Area II

Area III

Area III Planning Reserve

Blueline - approximate location

Major Lakes

Creek

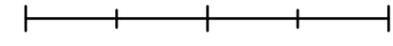
Highway

Major Road

Minor Road

Local Street

0 0.25 0.5 1 Miles



Basic Annexation Package and Approximate Landowner Costs

A. Provisions of Annexation:

- 1) Waive application fee and excise taxes.
- 2) Allow continuation of rural road section (no streetlights or curb and gutter) where it currently exists.
- 3) Property owners along a major drainageway will dedicate flood easements (60 feet from either side of centerline) to the City for the purposes of conveying flood waters and storm runoff, preserving an open creek corridor, and maintaining conveyance capacity. The City would have the right, but not the obligation, to perform maintenance.
- 4) Landowners must connect to water and wastewater systems within a given time period (to be determined) after annexation or completion of utility infrastructure improvements.
- 5) Landowner reimburses the City for their individual share of the costs of public improvements, permit fees, inspection fees, tap fees and plant investment fees, or begins repayment of a City loan at time of connection.
- 6) Once homeowners are connected to the city's water system, the City will not prohibit homeowners from using existing wells for irrigation purposes, however, cross-connections are prohibited.
- 7) Zoning according to BVCP land use designation.
- 8) All properties will be subject to the Boulder Revised Code upon annexation.
- 9) All property owners file an application and pay the applicable fees for inclusion of the property in the Boulder Municipal Subdistrict and the Northern Colorado Water Conservancy District.
- 10) Community benefit requirements will be applied to properties with additional development potential, which includes the ability to subdivide the property and/or build at least one additional unit on the property. A community benefit requirement in the form of two times the cash in-lieu contribution as set forth in the city's inclusionary zoning ordinance to the Affordable Housing Fund would be required from property owners.

B. Additional Provisions for Githens Acres, Old Tale Road and Cherryvale Road Neighborhoods.

- 1) The City will upfront the cost of utility infrastructure installation and road resurfacing, and finances water, wastewater and stormwater PIFs under the following condition:
 - a. 75 percent of households along the road (or the neighborhood in the case of Githens Acres) must annex, connect to utilities and begin payment w/in a certain time period (to be determined) after completion of public improvements under one of the following payment plans:
 - i. Option A: Payment in Full. The property owner would pay, in full, the costs and fees of the public improvements and plant investment fees prior to connection.
 - ii. Option B: Payment Plan. The city will provide the property owner with a payment option for his or her share of the utility improvements, and water,

wastewater and stormwater plant investment fees. Costs of individual water and sewer service lines will not be financed by the city.

- iii. Option C: Annex now but connect in the future. The property owner will connect to city water services at a later time than that specified in Options A and B, but no later than when the property owner's property is sold or redeveloped, whichever occurs first. At the time of connection, the property owner will pay the following:
 1. Individual share of the public improvement costs, paid in full, plus interest accrued from the time of and no more than 10 years following the date of annexation.
 2. Fees and charges, at the then applicable rate, associated with a service line connection to a water and sewer main, including plant investment fees, right-of-way, water, and wastewater fees, for permits, inspection fees, installation fees and tap fees.

Approximate Landowner Costs
(for a detached single family residential home)

A. Annexation/Initial Zoning Fees	
Application fee	Waived (\$6580)
DET, HET	Waived (DET =\$3286.33) (HET =\$0.23/sq. ft. of home)
B. Public Improvements (pay at time of individual connection)	
Proportionate share of public improvements in road	\$0 - \$30,000 per household (Varies based on property front footage and age of existing infrastructure)
C. Water Service to House	
Permit fee	\$127
Meter charge	\$583.13
Water Tap fee	\$216.62
Water Plant Investment Fee	\$16,166.00 (assuming 2,000 sq. ft. outdoor irrigable area)
Inspection fee	\$169
SUBTOTAL	\$17,261.75
D. Sewer Service to House	
Permit fee	\$127
Inspection fee	\$169
Tap fee	\$136.87
Wastewater Plant Investment Fee	\$4,301
SUBTOTAL	\$4,733.87
E. Stormwater and Flood Management	
Stormwater and Flood Control Plant Investment Fee	\$500 - \$30,000 per household (Varies based on size of property and amount of impermeable surface area)
F. Costs Paid to Others	
Water and sewer line construction costs (typical costs based on 2013 estimates), payable to contractor	\$4,000 – \$8,000 (depending on site conditions)
Northern Colorado Water Conservancy District	Varies from \$700 - \$2,500



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Bob Eichen, Chief Financial Officer
Liz Hanson, Economic Vitality Coordinator
Anna Gerstle, Economic Vitality Assistant
Lexi Winer, Economic Vitality Intern

Date: March 18, 2014

Subject: Information Item: Report on Business Incentive Programs - Flexible Rebate and Microloan Programs

EXECUTIVE SUMMARY

This memorandum provides a report on the City of Boulder's business incentive programs, including a return on investment analysis on the 2012 flexible rebate program and an update on the Boulder Microloan Program.

The flexible rebate program authorizes the City Manager to approve a rebate of building permit fees and taxes, and sales and use tax paid on fixed assets for Boulder primary employers, provided certain sustainability guidelines are met. Companies must submit receipts to the city showing that the eligible taxes and fees have already been paid in order to be reimbursed, and must pay the taxes and fees in a three-year period (2012-2014). In 2012, \$395,000 in flexible rebates was approved for nine companies. A return on investment analysis completed by the Boulder Economic Council (BEC) indicates that the city will receive a net return of \$1.3 million over the three-year rebate period 2012-2014, or \$3.61 for every \$1.00 dollar rebated.

The Boulder Microloan Program is a public-private partnership between the City of Boulder, several local banks, and the Colorado Enterprise Fund (CEF). The program supplies general working capital to eligible small businesses and non-profit organizations in the Boulder market

that may not be able to obtain financing through traditional sources. Since the program's inception in 2009, a total of 39 loans have been distributed to businesses, including restaurants, service companies, childcare centers, and hair salons.

FISCAL IMPACT

This memorandum further analyzes the fiscal impact of both the 2012 flexible rebate program and the Boulder Microloan Program. The approved budget for the 2012 flexible rebate program was \$350,000. In addition, \$45,000 in carryover rebate funds that were unused in previous years were used to meet the increased demand for the rebates in 2012. In total, the City Manager approved \$395,000 for rebates in the 2012 program.

Since the inception of the microloan fund in 2009, the city has invested a total of \$200,000 in the fund. The approved 2014 city budget includes \$50,000 for the city's contribution to the microloan program's next round of funding.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

Economic: Business incentives encourage the retention of existing primary employers that are investing in facilities and equipment. In some cases, business incentives have been used to encourage new primary employers to locate in Boulder. These businesses produce city revenues such as sales, use, and property taxes, permitting fees from remodeling and construction projects, as well as "spin-off" city revenues from hotel, restaurant, retail, and catering expenses.

Environmental: Encouraging primary employers to remain and expand in Boulder rather than move to other cities allows these companies to take advantage of the waste reduction, water conservation, and energy efficiency programs and resources available to Boulder businesses. Often, the flexible rebate program informs businesses about resources they may not have been aware of previously. In addition, retaining these employers keeps them closer to Boulder's transit service and bicycle routes.

To be eligible for the 2012 flexible rebate program, companies were required to meet community sustainability guidelines, including those related to:

- energy efficiency;
- recycling and composting; and
- alternative transportation and commute trip reduction programs.

Social: Boulder's social services are funded through tax revenues and supported by a healthy and diverse economy. Business incentives encourage businesses to invest in Boulder and support a strong economy. To be eligible for the 2012 flexible rebate program, companies were required to meet social sustainability guidelines, including:

- a minimum average wage;
- health insurance;
- support for non-profit agencies; and
- health and wellness benefits.

BACKGROUND

Flexible Rebate Program

The city Economic Vitality (EV) Program is a public-private collaboration that aims to build the long-term sustainability of the Boulder community. The program includes efforts in business assistance, business retention and expansion, partnerships and sponsorships, and business incentive programs. The flexible rebate program is primarily a business incentive and retention tool, used to invest in Boulder's high impact primary employers as they grow and expand in Boulder. Under the program, the City Manager is authorized to consider approval of rebates of building permit taxes and fees, as well as sales and use taxes paid on fixed assets, provided that the companies meet the eligibility requirements and sustainability guidelines on the program application.

As part of its contract for consulting services with the city, the BEC has conducted return on investment analyses on the 2007 through 2012 flexible rebate programs. City Council is now receiving the return on investment (ROI) analysis of the 2012 program; this timing allows the BEC to discuss the impacts of the program with the companies as well as analyze the ROI.

For the most recent year's program in 2013, the city received ten applications; nine have been approved for rebates ranging from \$10,000 to \$60,000 and staff is completing the review of one application. All of the companies are expanding their presence in Boulder and represent a variety of industries, including organic food production, textiles, software, computer storage, and advertising.

Microloan Program

The Boulder Microloan Program is a public-private partnership between the city of Boulder, the BEC, the CEF, and several local banks. Launched in 2009 with \$325,000 in loan capital, the mission of this fund is to provide access to capital for small businesses that would like to remain in Boulder. This program serves small businesses that cannot obtain financing through traditional sources, but who are capable of sustaining a business and repaying debt. Recipients have included Boulder Homemade Ice Cream, Café Aion, Dash Cycles, Boulder Vision Associates, and Pure Hair Studio.

The economic vitality funding for the microloan program is used by CEF for loan capital. In addition, funds from the Division of Housing's Community Development Block Grant (CDBG) help support CEF in covering costs associated with economic development, specifically outreach efforts to market available forms of assistance, including the Boulder Microloan Program. The 2014 CDBG grant allocation totals \$50,000.

ANALYSIS

2012 Flexible Rebate Program

Eleven applications were received for the 2012 flexible rebate program; two applications were withdrawn and nine were approved for rebates ranging from \$25,000 to \$80,000. The applicants covered a wide range of industries, including software, beverage manufacturing, medical devices and outdoor recreation. Six of the nine companies were considering locations outside of the city and the rebates they received influenced their decisions to move to, or remain in Boulder. The following companies met the required sustainability guidelines and eligibility requirements:

- **American Rec Products:** An outdoor company that includes a collection of ten brands of outdoor equipment and apparel, including Kelty, Sierra Designs, Royal Robbins, and Slumberjack. The \$25,000 flexible rebate helped the company expand and remodel its offices to accommodate additional employees and provide a welcoming environment for clients visiting from outside of Boulder.
- **Gnip:** The world's largest provider of social data that helped to create a new industry through partnerships with leading social media publishers. The \$45,000 rebate helped support the company's expansion into a new space downtown and purchase of hardware, software, and other equipment for new employees.
- **HEAD USA:** A leading global manufacturer and marketer of premium sports equipment and apparel. The \$50,000 rebate contributed to HEAD USA's decision to choose Boulder over other cities for its U.S. headquarters and helped the company offset renovation and relocation costs.
- **MBio Diagnostics:** A medical devices company that focuses on research and development of devices that rapidly diagnose infectious diseases with global impact, such as HIV and hepatitis. The \$30,000 rebate helped offset the costs associated with renovating the company's space in Boulder, to provide more space for research and manufacturing.
- **RealD:** A leading global licensor of 3D and other visual technologies for movies, consumer electronics, and visualization tools. The \$80,000 rebate helped the company offset the costs of an expansion of its Boulder operations at a new, remodeled, and expanded location, to accommodate more visitors, grow its workforce, and expand manufacturing capacity. The rebate also influenced the company's decision to remain in Boulder.
- **Tensentric:** An engineering firm that specializes in designing and developing medical devices for clients ranging from startups to top medical device manufacturers. The \$40,000 helped the company offset the costs of purchasing and renovating an existing building in Boulder.
- **Twisted Pine Brewing Company:** A craft brewery founded in Boulder in 1995, driven by innovation in brewing and strong community involvement. The \$45,000 rebate helped the company offset expansion and equipment costs.
- **Upslope Brewing Company:** Founded in 2008, the company has since grown from two to 27 employees and from 80 to 12,000 barrels of beer. The \$50,000 rebate incentivized Upslope to stay in Boulder, amidst receiving incentive offers from other cities. The rebate also helped offset the costs of hiring additional employees and renovating an existing building in East Boulder for a second manufacturing facility and second tap room.
- **Zia Consulting:** A content management company whose systems aim to convert paper-based files into cloud-based searchable documents. The \$30,000 rebate helped the company offset the costs of purchasing furniture and equipment for new, expanded, and remodeled office space.

Financial Return- All 2012 Rebate Recipients

An ROI analysis for each rebate application was performed by city staff to ensure that the projected revenue generated by the company supports the cost of the rebate to the city. The analysis also considered the spending generated by local employees and uses a flat jobs multiplier of 1.5. **ATTACHMENT A** is the BEC report, which analyzes the broader economic impact that a company has on the Boulder community, and uses a 2012 IMPLAN jobs multiplier based on specific industry's NAICS codes.

Based upon these conservative assumptions, on a net present value basis, the city will recoup a net \$1,312,377 over a three-year period. Three years is the minimum period of time that the companies agree to remain in Boulder in exchange for the rebate. Each company signs a rebate agreement stating that the company will return the rebate if the company ends its business presence in Boulder within three years. The return shows that for every one dollar invested in 2012 rebate incentives, the city will recoup a net \$3.61 on a net present value basis. The mix of types and sizes of businesses that receive a rebate helps the overall financial return to the city and also meets the city's goals of helping smaller companies grow while having larger companies remain and expand in Boulder.

The 2012 return of \$3.61 for every \$1.00 invested is up from a return of \$2.96 in 2011. This is due to the increased size of the companies, their projects, and the dollar amount of the rebates approved.

Financial Return – Business Retention

Of the nine companies that were approved to receive a rebate from the city, six reported to the BEC that the program encouraged them to expand and helped offset costs associated with their growth in Boulder. Five were considering moving their business to a location outside of Boulder, and one relocated to Boulder from another state, having considered relocating to other cities. The report separates out these six retained rebate recipients: American Rec Products, Gnip, RealD, Tensentric, and Upslope Brewing Company. The return on investment analysis indicates that the city will recoup a net return of \$938,012 over the three-year period, or \$3.51 on every \$1.00 invested in these six businesses.

Social and Environmental Sustainability

The flexible rebate program supports the city's commitment to environmental sustainability and the social well being of the community and its employees. To be eligible for the program, rebate recipients must commit to complying with a minimum number of sustainability guidelines. The program offers a range of available guidelines, allowing large and small companies to choose the guidelines that best fit their company. For example, companies have engaged in waste reduction efforts at their offices, accommodated and encouraged their employees to use alternative transportation, and supported local non-profits. Highlights of sustainability guideline compliance can be found in the BEC report.

“Intangible” Benefits

When speaking to local primary employers, city staff often refers to the flexible rebate program as a way of “investing in the companies that are investing in Boulder”. Employer feedback indicates that the program has a positive influence on business attitudes toward the city. With a relatively modest budget compared to some neighboring and “competing” communities, the program has been an effective tool for business retention and attraction, often serving as the

“tipping point” for companies’ decisions to move to or stay in Boulder. The program continues to demonstrate a positive financial return.

Microloan Program

The mission of the Boulder Microloan Fund is to provide access to capital for small businesses in Boulder. Since the Boulder Microloan Program’s inception in 2009, the city has invested a total of \$200,000. As of December 2013, the fund totaled \$1,075,000. The 2014 approved budget includes a \$50,000 city contribution to the microloan program. Additional program details can be found in the CEF report in **ATTACHMENT B**.

Loan Activity

The following small businesses received microloans for calendar year 2013:

- **Boulder Landscape and Design**, landscape planner/builder of ecologically sensitive environments
- **Boulder Vision Associates**, Gunbarrel eye care provider
- **Cool Spirit Nature**, organic hemp clothing and accessories
- **Kettle and Stone**, Gunbarrel craft brewer
- **Living Design Studios, Inc.**, custom metalwork for residential and commercial applications
- **Makeena, LLC**, mobile app facilitating healthy/sustainable choices and cost savings at the grocery store
- **SolBites**, healthy snacks manufacturing with a mission to address childhood obesity
- **The Tasterie**, mobile café & bakery specializing in local, seasonal ingredients

Of the eight loans that have been closed:

- Amounts range from \$8,000 to \$100,000;
- Terms range from 36 to 72 months; and
- Interest rates range from 9% to 10.75%.

Program Results

Of the eight loans closed in 2013:

- 50% of the businesses are women-owned
- 13% of the businesses’ owners self-identify as an ethnic or racial minority
- 25% of the businesses are comprised of low income wage earners
- 149 jobs were created or maintained in businesses receiving loans

The decrease in loan production volume in the City of Boulder this year was due to CEF restaffing a position responsible for some Boulder marketing and redirecting some resources to flood response for existing borrowers.

NEXT STEPS

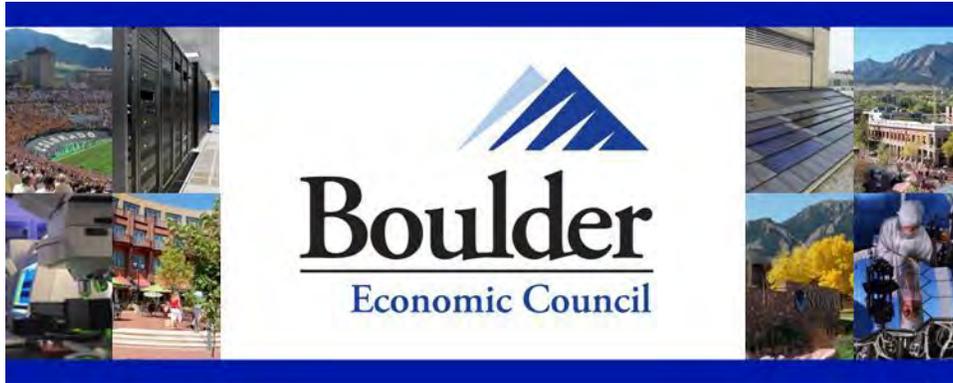
Through business outreach meetings and business assistance requests, economic vitality staff is continuing to discuss the details and benefits of the flexible rebate program with potential applicants for the 2014 program. The 2014 program has an approved budget of \$350,000 and an application deadline of December 5, 2014. City staff will continue reviewing submitted receipts and distributing the rebates approved by the city manager in the 2012 and 2013 rebate programs.

Staff from both CEF and the city will coordinate on the next round of funding for the microloan program and work with small businesses to assess their need and fit with the program.

ATTACHMENTS

Attachment A: Return on Investment Analysis on the 2012 Flexible Rebate Program
- Report to the City of Boulder by the Boulder Economic Council

Attachment B: Overview of Boulder Microloan Program



ROI Analysis

City of Boulder Flexible Rebate Program

December 2013

Boulder Economic Council | 2440 Pearl Street, Boulder, CO 80302
303.938.2081 | www.BoulderEconomicCouncil.org

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Executive Summary

The City of Boulder’s Flexible Rebate Program continues to be a useful and cost-effective tool for retaining businesses, based on a return on investment (ROI) analysis conducted by the Boulder Economic Council (BEC).

In 2012, rebates were approved for nine Boulder primary employers that contribute to the economic, environmental, and social sustainability of the community and agreed to stay in Boulder for at least three years. The companies planned to use the funds to help offset costs associated with their growth and expansion and make their operations more sustainable.

The rebates approved by City Manager Jane Brautigam in 2012 ranged from \$25,000 to \$80,000 for a total of \$395,000. Based on an analysis of projected employment and wages provided by rebate recipients for the three year period (2012-2014) covered by the rebate, the city will receive an estimated net return of \$1.3 million or \$3.61 for every \$1 invested, through:

- Sales taxes paid on business sales in Boulder
- Taxes on business capital expenditures and facility improvements in Boulder
- Building permit fees paid to the city, and
- Sales taxes paid on purchases by direct and indirect employees and visitors.

In addition, the rebate recipients will create new jobs and are committed to supporting the Boulder community through programs that align with the city’s goals for environmental and social sustainability including paying higher than average wages, supporting local charities and non-profit organizations, and participating in programs to reduce their energy consumption, waste and employee commuter trips.

Program participants included companies in a range of industries including software, beverage manufacturing, medical devices and outdoor recreation. Six of the companies were considering locations outside the city and the rebates they received influenced their decisions to move to or remain in Boulder. When the companies submitted their applications in 2012, they ranged in size from 10 to 100 employees for a total of 368 workers. By 2014 they expect to employ a total of 543 workers for an increase of 48%.

2012 Flexible Rebate Recipient	Industry	2012 Employees	2014 Employees	Rebate Awarded	Net Return on \$1
American Rec Products	Outdoor	100	107	\$25,000	\$5.61
Gnip	Software	50	100	\$45,000	\$4.21
HEAD USA	Outdoor	10	20	\$50,000	(\$0.14)
MBio Diagnostics	Bioscience	32	49	\$30,000	\$5.57
RealD	Technology	67	81	\$80,000	\$1.98
Tensentric	Bioscience	35	45	\$40,000	\$2.82
Twisted Pine Brewing	Manufacturing	19	29	\$45,000	\$2.82
Upslope Brewing	Manufacturing	20	36	\$50,000	\$8.43
Zia Consulting	Software	35	76	\$30,000	\$3.76
Total		368	543	\$395,000	\$3.61

Detailed Summary of Results

Background

Since 2007, the City of Boulder has offered business incentives through its Flexible Rebate Program to help eligible businesses expand in Boulder. The program is part of the City's ongoing effort to support the economic vitality of the city through outreach, assistance, and recognition of local businesses.

To be eligible for the program, businesses are required to be primary employers, defined as generating more than half of company revenue from sales outside Boulder County. They are also required to reflect the values and goals of Boulder, demonstrated by commitment to environmental and social sustainability of the community, and to agree to remain in Boulder for at least three years. Funds are reimbursed only as companies submit receipts to showing that qualifying taxes and fees have been paid to the City of Boulder.

The Boulder Economic Council (BEC) has been commissioned by the City of Boulder to provide an objective evaluation of the effectiveness of the Flexible Rebate Program, including a return on investment (ROI) analysis.

(See Appendix C for more information including program history.)

Methodology

At the time each company applied for a rebate, the City of Boulder Finance Department performed an analysis to ensure that the sales tax on business sales in Boulder, any taxes on business expenditures in Boulder and building permit fees combined would cover the cost of the incentive. They also considered the sales taxes generated by anticipated spending by local employees and used a flat jobs multiplier of 1.5.

The BEC analysis builds on the city's analysis and includes the broader economic impacts that businesses have on the community. Key refinements to the analysis include consideration of:

- Industry specific 2011 IMPLAN job multipliers for each rebate recipient
- 2012 Bureau of Labor Statistics consumer spending data by employee wage group
- Spending for non-resident employees, conservatively estimated at \$25/week
- Spending for overnight business visitors based on the most recent data available from the Boulder Convention and Visitor's Bureau

(See Appendix B for more information on data sources, assumptions, and methodology.)

2012 Program Highlights

The City of Boulder approved \$395,000 in tax/fee rebates for nine primary employers in 2012. All of the companies were at transition points in their operations and planned to use funds from the Flexible Rebate Program to help offset costs associated with growth and expansion and make their operations more sustainable. The availability of an incentive through the rebate program was a factor for six of the companies who considered other locations but decided to remain in Boulder and for the company who chose to move their headquarters to the city.

The companies that were approved for an incentive through the City of Boulder Flexible Rebate Program in 2012 included different industries and sizes of businesses, reflecting the City's goal of assisting a variety of businesses with the program. Comments made by rebate recipients indicate the program is helping the city build goodwill in the Boulder business community and helping to demonstrate its support of business growth and expansion in Boulder.

The following companies were approved for a Flexible Rebate Program incentive in 2012 (*See Appendix A for a detailed overview of recipients*):



American Rec Products, an outdoor company that develops, tests and produces a collection of ten popular brands of outdoor equipment and apparel including Kelty, Sierra Designs, Royal Robbins and Slumberjack. The company relocated its headquarters to Boulder in 2010 to capitalize on the city's outdoor lifestyle branding. The company was approved for a rebate up to \$25,000 to help expand and remodel its offices to accommodate additional employees and provide a welcoming environment for clients visiting from outside Boulder.



Having the additional financial support from the City of Boulder enabled us to keep our current location and continue to support Boulder and the initiatives the city and our company promote on a daily basis.



Gnip, the world's largest provider of social data in the world that has helped create a new industry through partnerships with leading social media publishers. The company has grown rapidly since it was founded in Boulder in 2008, increasing to 50 employees in four years. The company chose to remain in downtown Boulder where it provides an attractive work environment for employees. Gnip received approval for a rebate up to \$45,000 to support its growth and the purchase of hardware, software and other equipment for new employees.



This rebate will assist Gnip in its growth strategies by enabling the company to provide hardware, software and other equipment for new employees. As Gnip's staff size grows, so will its economic footprint and ability to support local vendors, the entrepreneurial community and non-profits.



HEAD USA, a leading global manufacturer and marketer of premium sports equipment and apparel. The company's winter sports division relocated to

Boulder in 2012 and renovated existing space to create an office and showroom with environmentally friendly materials. HEAD was approved for a rebate up to \$50,000 to help offset renovation and relocation costs. The Flexible Rebate incentive demonstrated Boulder's interest in the company and helped convince HEAD officials to choose Boulder over other cities for its US headquarters.



Other states and municipalities made more aggressive financial offers, but Boulder is a great fit for the company and the company is a great fit for Boulder. We have grand plans to grow our business and number of employees. This rebate will help facilitate that growth.



MBio Diagnostics, a company spun off from Boulder-based Precision Photonics in 2009 to focus on research and development of medical devices

that rapidly diagnose infectious diseases with global impact such as HIV and hepatitis. MBio was approved for a rebate up to \$30,000 to help offset the costs associated with renovating an existing 17,000 square foot building in Boulder to provide more space for research and manufacturing and expanding the research team and equipment necessary to support continued growth.



We intend to use proceeds from this program to offset costs associated with the expansion of our physical resources and team, as well as acquisition of necessary equipment to continue our company's growth.



RealD, a leading global licensor of 3D and other visual technologies for movies, consumer electronics, and visualization tools. Boulder is home to research and

development, manufacturing and customer support operations for the company. RealD received approval for a rebate of up to \$80,000 to help offset the costs of an extensive expansion of its Boulder operations to accommodate more visitors, grow its workforce and expand manufacturing capacity. The Flexible Rebate Program helped influence the company's decision to remain in Boulder.



Receiving a rebate has given us the ability to host more visitors and allowed RealD to further invest in our employees ... happy and satisfied employees directly benefits the company.



Tensentric, a Boulder-based engineering firm that specializes in designing and developing medical devices for clients ranging from start ups to top medical device manufacturers. The company was founded in 2009 and grew to 35 employees with more than a dozen full-time contractors by 2012 – creating over 50 high-paying jobs. As a result, Tensentric



needed to find a larger space. Tensentric was approved for a rebate of up to \$40,000 to help offset the costs of purchasing and renovating an existing building in Boulder.

Our growth has enabled us to create 50 high paying jobs in Boulder. The Flexible Rebate Program helped us purchase and remodel an existing building in Boulder – representing an investment of more than \$4 million.



Twisted Pine Brewing Company, a craft brewery founded in Boulder in 1995 that is driven by innovation in brewing and strong community involvement. Twisted Pine uses local ingredients for its award winning beer whenever possible. The company’s manufacturing facility features a tap room that serves as a popular gather place for Boulder locals and people visiting the area to participate in brewery tours. Twisted Pine received approval for a rebate of up to \$45,000 to help offset the costs of an extensive expansion.



We have been supporting Boulder and receiving support from Boulder for the past 17 years. After completing an expensive expansion, we have no intention of ever leaving the city that helped us grow.



Upslope Brewing Company, a microbrewery founded in 2008 in a small space in North Boulder. Since then the company has grown dramatically, from two to 27 employees and from 80 to 12,000 barrels. Upslope was



approved for a rebate up to \$50,000 to help offset the costs of hiring additional employees and renovating an existing building for manufacturing and a tap room. The company received incentive offers from other cities; the Flexible Rebate Program helped make staying in Boulder a competitive option for Upslope.

The rebate created a competitive bid for staying in Boulder. It has allowed us to expand in Boulder and hire more employees.



Zia Consulting, a company that provides Enterprise Content Management design and solutions that help companies address environmental, communication and efficiency issues by converting paper files into cloud-based searchable documents and project management integration. Zia was approved for a rebate of up to \$30,000 to help offset the costs of purchasing furniture and equipment for expanded office space it created by renovating an existing building and to upgrade employee computers and software.



The Flexible Rebate Program enabled Zia to maintain a business presence in Boulder, employ more Boulder residents and continue our philanthropic endeavors and environmental sustainability program.

2012 rebate recipients included companies in the beverage manufacturing, bioscience, entertainment, outdoor recreation and software industries.

2012 Flexible Rebate Recipient	Industry Sector
American Rec Products	Outdoor Equipment and Apparel
Gnip	Software as Service
HEAD USA	Outdoor Equipment and Apparel
MBio Diagnostics	Bioscience – Medical devices
RealD	Technology and Entertainment
Tensentric	Bioscience – Medical devices
Twisted Pine Brewing Company	Manufacturing – Beverage
Upslope Brewing Company	Manufacturing – Beverage
Zia Consulting	Software and Consulting

Recipients ranged in size from 10 to 100 employees in 2012 for an overall total of 368 employees. The companies that received a rebate anticipated adding a total of 175 additional employees over the three years covered by the program (2012 to 2014) with projected employment growth ranging from 7% to 117% or overall growth of 48%.

2012 Recipient	Employees 2012	Employees 2013	Employees 2014	Employees added 2012-14	% Growth
American Rec	100	105	107	7	7%
Gnip	50	80	100	50	100%
HEAD USA	10	13	20	10	100%
MBio Diagnostics	32	32	49	17	53%
RealD	67	77	81	14	21%
Tensentric	35	39	45	10	29%
Twisted Pine	19	22	29	10	53%
Upslope	20	27	36	16	80%
Zia Consulting	35	62	76	41	117%
Total	368	457	543	175	48%

Based on employment multipliers for different industries, rebate recipients will also generate an estimated 763 indirect jobs between 2012 and 2014.

2012 Recipient	Indirect Jobs 2012	Indirect Jobs 2013	Indirect Jobs 2014	Total Indirect Jobs Created
American Rec	32	32	35	99
Gnip	28	44	53	125
HEAD USA	8	5	10	23
MBio Diagnostics	36	39	82	157
RealD	12	13	14	39
Tensentric	7	8	9	24
Twisted Pine	28	26	39	93
Upslope	28	39	48	115
Zia Consulting	15	26	47	88
Total	194	232	337	763

Forty-three percent of the individuals employed by rebate recipients in 2012 resided in Boulder, compared to an estimated citywide average of 34%.

2012 Recipient	Total Employees 2012	Resident Employees 2012	% of Employees living in Boulder
American Rec	100	38	38%
Gnip	50	34	68%
HEAD USA	10	8	80%
MBio Diagnostics	32	14	44%
RealD	67	14	21%
Tensentric	35	8	23%
Twisted Pine	19	13	68%
Upslope Brewing	20	14	70%
Zia Consulting	35	17	49%
Total	368	160	43%

Financial Return on Investment – All Rebate Recipients

An analysis by the Boulder Economic Council indicates that for every dollar invested in rebate incentives for 2012 Flexible Rebate Program recipients, the city is expected to gain over three dollars in revenue. Based on the information provided by the companies that received rebates and assumptions made in the financial analysis, it is estimated that the City of Boulder will recoup an estimated net return of \$1,312,377 (net present value) over the three-year period the companies agreed to remain in Boulder.

The following table summarizes the rebates approved and financial return on investment for 2012 Flexible Rebate Program participants. The net return on each \$1 authorized for rebates is estimated to range from -\$0.14 to \$8.43 for an overall net return of \$3.61.

Return on Investment – 2012 Flexible Rebate Recipients (2012 – 2014)					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
American Rec Products	\$25,000	\$23,140	\$152,929	\$129,789	\$5.61
Gnip	\$45,000	\$41,518	\$216,290	\$174,771	\$4.21
HEAD USA	\$50,000	\$46,280	\$39,976	(\$6,304)	(\$0.14)
MBio Diagnostics	\$30,000	\$27,902	\$183,254	\$155,352	\$5.57
RealD	\$80,000	\$73,513	\$219,362	\$145,849	\$1.98
Tensentric	\$40,000	\$36,757	\$140,355	\$103,598	\$2.82
Twisted Pine	\$45,000	\$40,758	\$155,784	\$115,026	\$2.82
Upslope	\$50,000	\$46,280	\$436,589	\$386,480	\$8.43
Zia Consulting	\$30,000	\$27,634	\$131,621	\$103,987	\$3.76
Total	\$395,000	\$363,782	\$1,676,160	\$1,312,377	\$3.61

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

Financial Return on Investment – New and Retained Businesses

Of the nine companies that were approved in 2012 to receive incentives through the Flexible Rebate Program, five were considering moving their business to a location outside the city and one relocated to Boulder from another state and had considering relocating to another city. These companies indicated the rebate played a role in their decisions to move to or remain in Boulder. A return on investment analysis of businesses attracted or retained through the program indicates the City will recoup an estimated net return of \$938,012 (net present value) over the three-year period the companies agreed to remain in Boulder or \$3.51 on each \$1 authorized for rebates.

Return on Investment – 2012 Flexible Rebate Recipients (2012 – 2014): New and Retained Businesses					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
American Rec Products	\$25,000	\$23,140	\$152,929	\$129,789	\$5.61
Gnip	\$45,000	\$41,518	\$216,290	\$174,771	\$4.21
HEAD USA	\$50,000	\$46,280	\$39,976	(\$6,304)	(\$.14)
RealD	\$80,000	\$73,513	\$219,362	\$145,849	\$1.98
Tensentric	\$40,000	\$36,757	\$140,355	\$103,598	\$2.82
Upslope	\$50,000	\$46,280	\$432,760	\$386,480	\$8.35
Total	\$290,000	\$267,488	\$1,205,501	\$938,012	\$3.51

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

Since the program was introduced in 2007, a total of 44 companies have been approved for rebates totaling \$2,028,480. The total net return to the city is projected to be \$19,655,941 or \$10.72 for every \$1 invested. The ROI has varied from year to year depending on the mix of companies participating in the program and economic conditions.

Flexible Rebate Funding and Returns: All Rebate Recipients 2007 - 2012						
Program Year	Program Funding	Total Approved Rebates	Total Recipients	Approve Rebate PV	Net Return PV	Net Return on \$1
2007	\$500,000	\$500,000	7	\$454,661	\$6,096,276	\$14.41
2008	\$350,000	\$322,135	8	\$284,752	\$2,498,800	\$8.78
2009	\$350,000	\$209,979	7	\$193,216	\$5,582,354	\$28.89
2010	\$350,000	\$320,366	7	\$291,147	\$3,437,388	\$11.81
2011	\$350,000	\$281,000	6	\$246,410	\$728,746	\$2.96
2012	\$395,000*	\$395,000	9	\$363,782	\$1,312,377	\$3.61
Total	\$2,295,000	\$2,028,480	44	1,833,968	\$19,655,941	\$10.72

**includes \$350,000 budgeted amount and \$45,000 in carryover funds from previous unused funds.*

During that same time, a total of 25 companies were retained in or attracted to Boulder as a result of the program. Those companies were approved for rebates totaling \$1.1 million. The net return to the city is estimated to be \$5.3 million or \$4.74 for every \$1 invested.

Flexible Rebate Funding and Returns: New and Retained Businesses 2007 - 2012					
Program Year	Total Approved Rebates	Total Recipients	Approve Rebate PV	Net Return PV	Net Return on \$1
2007	\$250,422	4	\$228,018	\$2,119,331	\$18.11
2008	\$150,000	3	\$130,040	\$418,709	\$2.22
2009	\$119,963	3	\$111,077	\$488,819	\$4.40
2010	\$150,000	3	\$136,053	\$613,162	\$4.51
2011	\$281,000	6	\$246,410	\$728,746	\$2.96
2012	\$290,000	6	\$267,488	\$938,012	\$3.51
Total	\$1,241,385	25	\$1,119,086	\$5,306,779	\$4.74

ROI figures were calculated based on the amount of approved rebates rather than the rebates that had been issued to companies. Not all companies have submitted receipts to collect the full amount of their approved rebate, as shown in the table below. As a result, net returns may actually be higher than the analysis shows.

Flexible Rebate Funding and Actual Rebates Paid: Rebate Recipients 2007 - 2012					
Program Year	Program Funding	Rebates Approved	Total Recipients	Rebates issued as of November 2013	Unclaimed rebates
2007	\$500,000	\$500,000	7	\$458,998	\$41,002
2008	\$350,000	\$322,135	8	\$245,017	\$77,118
2009	\$350,000	\$209,979	7	\$195,588	\$14,391
2010	\$350,000	\$320,366	7	\$277,108	\$68,258
2011	\$350,000	\$281,000	6	\$178,638	\$102,362
2012	\$395,000	\$395,000	9	\$228,270	\$166,730
Total	\$2,295,000	\$20,028,480	44	\$1,583,619	\$469,861

Note: 2011 and 2012 rebate recipients are still submitting receipts

Social, Environmental and Community Sustainability

While the City of Boulder's Flexible Rebate Program is based on the belief that growing, retaining, and attracting businesses to Boulder is vital to the city's economic sustainability, the program also reflects the City's commitment to environmental and social sustainability.

The companies that were awarded incentives in 2012 are actively participating in programs that help meet City of Boulder goals of reducing waste and energy consumption, increasing the use of alternative transportation by workers and supporting the social well being of the community.



American Rec Products donates extra outdoor equipment and apparel to Boulder-based non-profits including the local homeless shelter. The company supports industry initiatives including trail clean-up and sustainable programs and provides employees with three paid days off each year for volunteering efforts. American Rec purchases many goods and services from local businesses including catering, hotel rooms and conference space for company meetings and visiting buyers.



Gnip has been named a Best Place to Work by the Denver Business Journal. The company covers the total cost of City of Boulder Parks and Rec annual passes for employees and their families, as well as employee Eco passes and Boulder B-cycle memberships. The company occupies a LEED Gold certified building. The company's annual Big Boulder conference brings 200 customers and partners to Boulder where Gnip hosts dinners and parties to support local hotels, restaurants and other businesses. "Gnip Gives Back" focuses the company's philanthropic efforts and facilitates employee community service.



HEAD USA provides full-time employees and their families with comprehensive medical and dental coverage and pays 80% of the premiums. The company encourages employees to ride bikes to work by providing shower facilities, bike storage and \$240 toward the cost of a bicycle. HEAD has a LEED-AP on staff and used environmentally friendly materials in its new showroom including LED lighting and beetle-kill pine purchased locally from Boulder Lumber.



MBio Diagnostics pays higher than average salaries and provides competitive benefits to employees. The company plans to implement a zero waste program; it currently provides single stream recycling and uses CHARM to recycle other materials such as Styrofoam. MBio encourages employees to bike to work and the company uses local vendors when possible.



RealD pays 96% of health insurance premiums for all full-time employees and their dependents. The company has an Environmental Purchasing Policy and its new facility is targeted for a LEED Silver certification. The company hosts a number of vendors, prospects and industry partners in Boulder who support local hotels and restaurants.



Tensentric has a diverse and highly skilled workforce, pays average wages significantly higher than average and covers 100% of employee health insurance premiums. The company equips employees with computer workstations at their homes and office to facilitate telecommuting. All office supplies, catering and the company's new facility were purchased locally and Boulder-based consultants are used when available.



Twisted Pine employs Imagine!, a local non-profit that supports individuals with cognitive and physical disabilities, for box building, mixed 12-pack filling and janitorial services. The company has a zero waste rating from Western Disposal and its Ale House is 100% compostable. Twisted Pine uses local ingredients in brewing its beer when possible. It purchases goods and services from Boulder businesses and used a local contractor for its recent expansion and renovation project.



Upslope Brewing contributed more than \$300 per employee to non profit organizations in 2012. The company reconditions wooden pallets to extend their use in the brewery and sends used malt bags to Green Guru where they are up-cycled into bags and totes that are sold in Upslope's tap room. The company purchases many of its goods and services from Boulder companies including Anthem Branding and Wild Goose Engineering.



Zia Consulting pays 100% of employee health insurance premiums on select plans, hosts a Zia Wellness Day, provides free CPR/First Aid training and pays 50% of employee parks and rec passes or gym memberships. The company offsets 100% of its energy consumption through renewable wind energy credits purchased through Xcel Energy. The Zia Incubator of Giving enables employees to develop and host creative philanthropic programs and events.

The following table provides an overview of 2012 recipients' current or planned participation in programs that support social, energy and community sustainability. It is important to note the following:

- The table below is based on information provided on Flexible Rebate applications and may not reflect the full range of companies' participation in activities or programs that support sustainability
- Some companies provided only the information related to "points" earned toward demonstrating compliance with sustainability guidelines
- Only those programs or activities that earned "points" are listed in the table, and companies may have included other programs and activities on their Flexible Rebate applications

2012 Flexible Rebate Recipients: Social, Energy and Community Sustainability	American Rec	Gnip	HEAD USA	MBio Diagnostics	RealID	Tensentric	Twisted Pine	Upslope	Zia Consulting
Above average wages	Green	Blue	Grey	Pink	Blue	Grey			Grey
Provides health insurance benefits	Green	Blue	Grey	Pink	Blue	Grey	Blue	Red	Grey
Workplace diversity program							Blue		
Supports non-profits	Green	Blue			Blue	Grey	Blue	Red	Grey
Dependent care									
Housing assistance									
Wellness and health		Blue	Grey	Pink		Grey		Red	Grey
Requested energy assessment	Green		Grey	Pink		Grey	Blue	Red	
10 for Change Challenge participant				Pink		Grey	Blue	Red	
EnergySmart Participation	Green		Grey	Pink		Grey		Red	Grey
Purchased renewable energy credits					Blue				Grey
On-site renewable energy									
Single stream recycling program	Green	Blue		Pink	Blue	Grey			Grey
Environmental Purchasing Policy	Green		Grey	Pink	Blue	Grey	Blue		Grey
Zero Waste program			Grey				Blue	Red	
PACE certified facility							Blue		
LEED certified facility		Blue			Blue				
Commute Trip Reduction program	Green					Grey		Red	Grey
Alternative work schedules; telecommuting	Green					Grey		Red	Grey
Showers and changing facilities	Green		Grey	Pink		Grey		Red	Grey
Secure and covered bicycle parking	Green		Grey	Pink		Grey		Red	Grey
Preferential parking for carpools/vanpools	Green					Grey	Blue		
Increased costs for drive alone commuters									
CTR Financial Incentives			Grey	Pink					
Eco-Pass Program participant		Blue							
Business practices support sustainability	Green						Blue		Grey
Buys from Boulder businesses*	Green	Blue				Grey		Red	

Conclusion

The City of Boulder's Flexible Rebate Program has continued to provide the Boulder City Manager with an important and effective tool to help retain, grow, and attract businesses that align with Boulder's values and goals and generate a positive return on investment.

In addition to providing a positive return on the dollars invested in incentives, the program provides:

- Strong demonstration of the City's interest in and support of the local business community and an opportunity to make companies feel appreciated.
- Opportunity for the City staff members to strengthen relationships with individual businesses.
- Ability to help mitigate some of the extra costs associated with remaining or expanding in Boulder that were incurred by program participants.
- Careful selection process, including a preliminary ROI calculation, wage and employment projections, and projected expenditures in the community.
- Publicity for growing companies through press releases announcing program awards.

Appendix A

Overview of 2012 Flexible Rebate Recipients

The following summaries highlight information provided by each of the companies that were awarded business incentives through the City of Boulder's Flexible Rebate program in 2012.

- American Rec Products
- Gnip
- HEAD USA
- MBio Diagnostics
- RealD
- Tensentric
- Twisted Pine
- Upslope Brewing
- Zia Consulting

American Rec Products

Established in St. Louis, Missouri in 1988, American Rec Products relocated its headquarters to Boulder in 2010 to capitalize on the city’s outdoor lifestyle branding. The company draws upon decades of experience and a love of the outdoors to develop, test and produce some of the finest camping, backpacking, outdoor equipment and apparel available. American Rec offers a wide variety of gear to complement virtually any outdoor pursuit through mass retailers, sporting goods stores and outdoor specialty outfitters as well as mail order and online. Its collection includes ten of the best-known and best-loved brands in the outdoor industry: Kelty, Sierra Designs, Slumberjack, Wenzel, Rokk, Insta-Bed, Mountain Trails, Ultimate Direction and ISIS.



From its base in Boulder, American Rec pools both physical and intellectual assets, ensuring the continued growth and success of each individual brand in a highly competitive outdoor marketplace. The company grew from 35 to 60 employees when it moved from St. Louis to Boulder in 2010. By moving an additional business to Boulder and changing its business model to bring more responsibilities in-house American Rec grew to 100 employees by 2012, an increase of 35% in two years. While the company does not expect to maintain that same growth rate, it plans to add staff as it grows.



American Rec’s business practices support the livability, health and vitality of Boulder. The company pays above-average wages and offers health insurance benefits to all full-time employees and their dependents. It supports community volunteer efforts, provides paid time off for employees who volunteer and donates its products to local non-profits including the homeless shelter. It purchases a minimum of 25% of its total goods and services from Boulder companies, and supports environmental sustainability through energy efficiency, waste reduction and commute trip reduction programs.

Having the additional financial support from the City of Boulder enabled us to keep our current location and continue to support Boulder and the initiatives the city and our company promote on a daily basis.

When American Rec applied for a Flexible Rebate incentive in 2012, its offices had become inadequate. Significant improvements were needed to support continued growth and to provide suitable working conditions for employees and a welcoming environment for buyers visiting from outside Boulder. While the company felt that being in Boulder made a strong statement about its commitment to supporting a healthy, outdoor lifestyle, the need to upgrade its space raised questions about the feasibility of remaining in the city. The additional financial support received from the City of Boulder’s Flexible Rebate Program helped make it possible for American Rec to secure the funding it needed for expanding and remodeling its space and keep the company’s headquarters in Boulder.

American Rec Products	
Industry Sector	Wholesale – Recreation Products
Rebate approved	\$25,000

Return on Analysis on the 2012 Flexible Rebate Program

Employment	2012	2013	2014
Total Employees: Full/Part Time	100	105	107
Resident Employees – Full & Part Time	38	38	41
Multiplier Effect - Jobs Created	32	32	35

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$25,000	\$23,140	\$152,929	\$129,789	\$6.61	\$5.61

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> • Pays above average wages* • Health insurance benefits to all full-time employees and dependents* • Supports non-profits* <ul style="list-style-type: none"> ○ Donates excess product (sleeping bags and other outdoor equipment) to local non-profits including Boulder homeless shelter ○ Provides employees with 3 paid days off each year for volunteering
Community Sustainability	<ul style="list-style-type: none"> • Business practices support sustainability* • Volunteer program support for industry initiatives including trail clean-up and sustainability programs • Hosts yoga and fitness training on-site for employees with Boulder-based instructors • Purchases a minimum of 25% of total goods and services (catering, hotels for visitors, conference space for meetings, furniture and equipment, staffing agencies, web design, etc.) from Boulder companies*
Environmental Sustainability	<ul style="list-style-type: none"> • Requested energy assessment* <ul style="list-style-type: none"> ○ Energy assessment after construction and remodeling completed • EnergySmart participation* <ul style="list-style-type: none"> ○ Energy Smart training after construction and remodeling completed • Participates in single stream recycling and composting* • Plan to implement an environmental purchasing policy* • Preferential parking for carpools/vanpools* • Commute trip reduction programs for employees including alternative work schedules, showers and changing rooms and areas for securing bicycles* • Hired contractor that participates in energy efficient processes • Applied for a generator license to ensure all electronics and toxic material are recycled to meet city requirements

*Earned points on application

Gnip

Gnip is the largest provider of social data in the world and has created official partnerships with leading social media publishers such as Twitter, Tumblr, Foursquare WordPress, Stock Twits and Disqus. The company has helped create an industry that did not exist at the time of Gnip’s founding in 2008. Its leadership in the social data industry helps to solidify Boulder’s reputation for technological innovation and leadership, and this reputation has created a fertile seedbed for cultural diversity and economic vitality.



Gnip’s co-founder Jud Valeski has lived in Boulder nearly all of his life and believes strongly in supporting the community and providing a strong work environment for Gnip employees. The choice to remain in downtown Boulder during its recent expansion demonstrates the company’s commitment to the community. Gnip consciously chooses local vendors; Dish Gourmet, Colt Printing, Amante, Ozo and the St. Julien are among the nearly 150 Boulder-based small businesses that Gnip patronizes.

Gnip has been named a best place to work by the Boulder Chamber and Denver Business Journal. The company provides many employee benefits including free catered breakfasts, snacks, gym memberships, office ski passes, stock options, 401k options, parking, health insurance and flexible vacation policy. Over two-thirds of Gnip’s full-time employees live in Boulder and with average salaries greater than 180% of the county average, they are able to contribute in a meaningful way to the city’s economy. Gnip employees are active in the community, volunteering for non-profits, organizing professional gatherings in Boulder and enjoying the city both individually and collectively. Gnip Gives Back focuses on the company’s philanthropic efforts and makes it easier for employees to engage in community service.



Gnip supports Boulder’s tourism industry and local businesses. In June 2012, Gnip hosted over 200 customers and partners at its inaugural Big Boulder conference, held at the St. Julien hotel. The company hosted dinners and parties at downtown restaurants, provided free coffee at Amante Coffee’s Walnut Street location and contracted with 32 Boulder-based vendors for goods and services related to the conference. Gnip’s headquarters are located in a LEED Gold-level certified building, engages in single stream recycling of its waste and offers Eco Passes and B-cycle memberships to employees.

This rebate will assist Gnip in its growth strategies by enabling the company to provide hardware, software and other equipment for new employees. As Gnip’s staff size grows, so will its economic footprint and ability to support local vendors, the entrepreneurial community and non-profits.

The company applied for a Flexible Rebate incentive in 2012 to support growth plans by providing funds to purchase hardware, software and other equipment for new employees. By attracting and retaining competitive applicants, Gnip is able to help generate tax revenue for Boulder through employee purchase of homes, durable goods and everyday consumables.

Gnip	
Industry Sector	Software as a service
Rebate approved	\$45,000

Employment	2012	2013	2014
Total Employees: Full/Part Time	50	80	100
Resident Employees – Full & Part Time	34	54	68
Multiplier Effect - Jobs Created	28	44	53

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$45,000	\$41,518	\$216,290	\$174,771	\$5.21	\$4.21

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> Pays above average wages* Fixed contribution to help cover cost of health insurance premiums* Wellness and health program for employees* Equal Opportunity Employer and member of the National Center for Women & Information Technology's Entrepreneurial Alliance Donates approx. \$70/employee annually to Boulder-based charities and non-profits; flexible time off policy enables employees to participate in community service*
Community Sustainability	<ul style="list-style-type: none"> Competitive wage enables employees to buy or rent homes in the city, participate in cultural events, dine out and engage in community events Purchases approximately 25% of its goods and services within Boulder* Supports Boulder businesses including coffee for employees at two local coffee shops Gnip Gives Back program that organizes group service opportunities Hosted Big Boulder, world's largest conference on social data, bringing more than 200 people to Boulder including some of the world's thought leaders in social media for two days
Environmental Sustainability	<ul style="list-style-type: none"> Single stream recycling of office and kitchen waste* LEED Gold certified building* Purchases environmentally friendly products Eco Passes and B-cycle memberships for employees*

*Earned points on application

HEAD USA, Inc.

HEAD is a leading global manufacturer and marketer of premium sports equipment and apparel. The company is organized into five divisions: Winter Sports, Racquet Sports, Diving, Sportswear and Licensing. The Winter Sports division relocated from Norwalk, Connecticut to Boulder in 2012.



The company was founded in 1950 by Howard Head, a Harvard-educated aerospace engineer who developed the first laminated metal ski. In the late 1960s, the company moved to Boulder where it operated for many years until moving back to Maryland in the 1990s. When the company recently decided to relocate its US headquarters, it received a number of incentive offers from other states and municipalities, including other cities in Colorado. The financial incentive offered by the city through its Flexible Rebate Program helped convince HEAD USA officials of the city's interest in having the company in Boulder.



Today, HEAD Wintersports is proud to once again call Boulder home and has found that having a location in the #1 state for skiing is already proving to be hugely beneficial. Boulder is a great fit for the company and the company is a great fit for the city. The company employs local residents and contributes to the local tax base. As a nationally recognized brand, HEAD will help bring additional attention to Boulder as a great place to do business for outdoor companies. The company has already been focusing on its new home during marketing and sales presentations and is interested in pursuing co-marketing opportunities between Boulder and HEAD.

HEAD believes in sustainable business practices and tries to practice what it preaches. The company is part of a collective that has protected over 100,000 acres of rainforest. It has a LEED® AP (Accredited Professional) on staff and is constantly striving to improve its environmental practices and operations. In remodeling, HEAD used low-VOC paints and adhesives, purchased locally as much as possible and focused on creating a pleasant working environment by adding a large skylight to provide daylight for those without a window. The company's showroom was fitted with formaldehyde-free plywood coated with locally sourced beetle kill pine and LED product lighting to minimize energy use. HEAD is also committed to reducing commutes and encourages employees to ride bikes to work.

Other states and municipalities made more aggressive financial offers, but Boulder is a great fit for the company and the company is a great fit for Boulder.

The Flexible Rebate incentive will help the company offset the major investment made in its Boulder offices and employees relocating to Boulder. The company has added hired several area residents and plans to continue to add staff to its Boulder headquarters. The rebate will help facilitate that growth.

We have grand plans to grow our business and number of employees. This rebate will help facilitate that growth.

HEAD USA	
Industry Sector	Sporting Goods Distribution
Rebate approved	\$50,000

Employment	2012	2013	2014
Total Employees: Full/Part Time	10	13	20
Resident Employees – Full & Part Time	8	6	10
Multiplier Effect - Jobs Created	8	5	10

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$50,000	\$46,280	\$39,976	(\$6,304)	\$.86	(\$.14)

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> Pays above average wages* Comprehensive medical, dental and vision coverage for employees; company pays 80% of premiums for full-time employees* Health and wellness program for employees* Plans to support local non-profits including arts organizations
Community Sustainability	<ul style="list-style-type: none"> Committed to furthering city policies and initiatives related to economic vitality, environmental sustainability and health and wellness Provides a healthy, employee-friendly workplace Provides employees with an opportunity to succeed financially Purchases a high percentage of goods and services locally
Environmental Sustainability	<ul style="list-style-type: none"> Requested energy assessment* EnergySmart participation* Used environmentally friendly materials in office remodeling including low-VOC paints, locally sourced beetle kill pine and LEC lighting Single stream recycling with recycle bins at desks, in kitchen and at workstations Purchase products that are environmentally friendly* Waste composting and other programs to reduce waste* Encourages employees to ride bikes to work by helping with purchase of a bicycle, providing bike racks and shower facilities, and allowing employees to store bikes indoors* Commute Trip Reduction financial incentives* Working with City of Boulder LEAD staff to further develop energy efficiency and waste reduction programs

*Earned points on application

MBio Diagnostics, Inc.

MBio Diagnostics, Inc. was established in 2009 through a spin off from Boulder-based Precision Photonics to focus on research and development efforts for medical devices designed to provide rapid diagnosis of infectious diseases with a high global impact such as HIV and hepatitis. “MBio” is a Swahili word meaning quick or fast.



The company anticipates market introduction of their first product in late 2014 which will lead to the creation of dozens of new manufacturing, R&D and administrative jobs in Boulder in coming years.

In October 2012, MBio renovated a 17,000 square foot building in Boulder to accommodate their need for additional space. Financial support provided by the City’s Flexible Rebate Program will help offset the costs associated with the expansion of Bio’s development and manufacturing space, research team and equipment necessary to continue the company’s growth.

MBio employees include PhD-level research and development scientists, laboratory, manufacturing, marketing and administrative personnel. The company’s employees are active in the Boulder community and provide an economic benefit by spending their disposable income, from shopping and dining to the purchase of real estate. The company encourages its employees to maintain a work life balance, and many enjoy their leisure, entertainment and exercise in Boulder. Employees are also encouraged to use alternate modes of transportation and the company provides shower facilities and indoor bike parking. The majority of employees bike to work.



While the nature of the company’s highly specialized research and development activities limit its ability to purchase goods and services locally, MBio uses Boulder businesses whenever possible for catering, office supplies and entertainment.

We intend to use proceeds from this program to offset costs associated with the expansion of both the physical resources and the team, as well as acquisition of necessary equipment to continue our company’s growth.

On an ongoing basis, MBio entertains visits by customers, investors, recruits and partners. Each visit generates local economic activity and tax revenue through hotel stays, meals and entertainment, etc.

As MBio grows to meet its commercialization goals it will be necessary to recruit experts in the medical device industry, many of whom are expected to be from outside the local area. These recruits will be a valuable addition to the Boulder workforce and help to enhance the attractiveness of Boulder to other biotechnology companies.

MBio Diagnostics	
Industry Sector	Bioscience – Medical Devices
Rebate approved	\$30,000

Employment	2012	2013	2014
Total Employees: Full/Part Time	32	32	49
Resident Employees – Full & Part Time	14	15	32
Multiplier Effect - Jobs Created	36	39	82

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$30,000	\$27,902	\$183,254	\$155,352	\$6.57	\$5.57

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> Pays above average salary* Competitive benefits including short and long term disability and health and dental insurance for employees and their dependents* Plan to institute a Health and Wellness program with subsidized City of Boulder Parks and Recreation annual passes for employees*
Community Sustainability	<ul style="list-style-type: none"> Business practices demonstrate company and employee concern with social and environmental impact on community Uses local vendors where feasible Plans to recruit additional experts in the medical devices industry to Boulder market, enhancing attractiveness to other biotechnology companies
Environmental Sustainability	<ul style="list-style-type: none"> Encourages employee use of alternative transportation; provides showers and indoor bicycle parking* Provides single stream recycling bins throughout the facility* Recycles non-single stream items, i.e., Styrofoam at CHARM Purchases Energy Star equipment when possible and uses recycled paper products when available Commuter Trip Reduction financial incentives* Plans to implement an environmental purchasing policy* Plans to participate in 10 for Change Challenge and request an energy efficiency assessment by the Energy Smart team*

*Earned points on application

RealD Inc.

RealD is a leading global licensor of visual technologies. RealD’s extensive intellectual property portfolio is used in applications that enable a premium 2D or 3D viewing experience in the movie theater, the home and elsewhere. The company pioneered today’s digital 3D and is currently the world’s most widely used 3D cinema projection technology.



Founded in 2003, RealD purchased Boulder-based Colorlink after the company played an instrumental role in collaborating with RealD to develop RealD’s first 3D cinema projection system. Although the company is headquartered in Beverly Hills, its Boulder location plays a major role in company operations including research and development, manufacturing and customer support.

The company pays above average wages, covers 96% of the cost of health insurance premiums for all full-time employees and their dependents, donates at least \$25/year per full-time employee to local non-profits and is committed to supporting local businesses. In 2012, the company donated 800 pounds of food to the local food bank and contributed funds to the Blue Sky Bridge foundation.

RealD has committed to offsetting the equivalent of 100% of the facility energy for the next two years, participates in single stream recycling and has a sustainable purchasing policy.

Receiving a rebate has given us the ability to host more visitors and allowed RealD to further invest in its employees. Having happy and satisfied employees directly benefits the company.



RealD hosts a number of visitors including celebrity filmmakers, entertainment industry executives, vendors, industry partners, clients and prospective clients. The company also has a policy requiring numerous employees from the Beverly Hills office to visit the Boulder facility on a weekly basis. Those visitors support the local economy by staying in local hotels and visiting local eateries. As the popularity of 3D and other visual technologies developed by RealD has grown, visits to the company’s offices in Boulder have increased.

RealD needed to expand its Boulder facility to accommodate visitors, grow its workforce and expand its capacity to manufacture 3D cinema systems. Receiving a Flexible Rebate incentive had a positive influence on the company’s decision to remain in Boulder. RealD now has two facilities in the city that provide the ability to host visitors and demonstrate RealD’s technology, and house the company’s R&D, engineering, cinema field support, purchasing and manufacturing teams.

RealD	
Industry Sector	Technology and Entertainment
Rebate approved	\$80,000

Return on Analysis on the 2012 Flexible Rebate Program

Employment	2012	2013	2014
Total Employees: Full/Part Time	67	77	81
Resident Employees – Full & Part Time	14	15	16
Multiplier Effect - Jobs Created	12	13	14

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$80,000	\$73,513	\$219,362	\$145,849	\$2.98	\$1.98

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> • Pays above average wages* • Pays 96% of health insurance premiums for all full-time employees including medical coverage for full-time employees and their dependents* • Supports non-profits* <ul style="list-style-type: none"> ○ Donates at least \$25/year per full-time employee to local non-profits ○ In 2012, RealD donated 800 pounds of food to the local food bank and contributed funds to the Blue Sky Bridge foundation
Community Sustainability	<ul style="list-style-type: none"> • Hosts approximately 12 guests per week, supporting local hotels, restaurants and retail stores • At least 50% of company employees eat lunch at local restaurants • Future hires are expected to come from out of state, contributing to increased home sales and rental activity
Environmental Sustainability	<ul style="list-style-type: none"> • Purchased green-e certified renewable energy credits; committed to offsetting the equivalent of 100% of the facility energy use for the next two years* • Participates in single stream recycling* • Has a sustainable purchasing policy to encourage the purchase and use of materials and products that meet identified sustainability measurements* • Registered new building with the GBCI and targeted LEED for Commercial Interiors Silver certification*

*Earned points on application

Tensentric

Boulder-based Tensentric is a rapidly growing engineering firm focused on designing and developing medical devices. Tensentric provides clients with all engineering disciplines (software, electrical, mechanical, optical, quality and reliability, etc.) to help clients take their products from concept through complete design and transition to manufacturing. Tensentric serves many top 10 medical device OEMs (original equipment manufacturers) as well as medical and life science startups. Company engineers hold more than 75 patents and Tensentric has participated in over 30 major projects and designed more than 200 medical devices. Most Tensentric clients are located outside Colorado and the company brings significant revenue into the state and local economy.



The company was founded in 2009 and grew from two to 35 full-time employees and more than a dozen full-time contractors in three years – creating over 50 high-paying jobs in Boulder. As a result of the company’s growth, Tensentric needed to find a larger space and invested over \$4 million to purchase and remodel a facility in Boulder.

Tensentric has a diverse (over 30% are women or minorities) and highly skilled workforce with an average wage that is significantly higher than average. The company supports the health and wellness of employees. It offers six health plans and covers 100% of employee health insurance premiums, on-site fitness equipment and discounts on gym memberships. The company has programs in place to reduce commute trips, offering alternative work schedules, telecommuting and flexible hours. To facilitate telecommuting, Tensentric equips employees with computing workstations at their homes as well as the office. Employees are encouraged to bike to work or carpool. The company’s new facility is located next to a city bike path, has showers and changing facilities and provides both indoor and outdoor secure bike storage. Premium parking spaces are reserved for employees who carpool.



Our growth has been remarkable and enabled us to create 50 high-paying jobs in Boulder.

The Flexible Rebate Program helped us purchase and remodel an existing building in Boulder – representing an investment of more than \$4 million.

Tensentric is committed to energy sustainability and plans to participate in 10 for Change, and request an on-site energy use and energy efficiency opportunities assessments. The company also has a recycling program and environmental purchasing policy that includes paper, office, kitchen and cleaning supplies and encourages employees, suppliers and customers to be environmentally conscious. The company’s Partners in Caring Program supports non-profit organizations including Global Hope, Boulder AIDS Project, Engineering World Health and Health Trust AIDS Services. The company also provides matching donations for employee contributions to eligible charities. Tensentric is also committed to supporting the local economy and purchases goods and services locally whenever possible.

Tensentric	
Industry Sector	Bioscience – Medical Devices
Rebate approved	\$40,000

Employment	2012	2013	2014
Total Employees: Full/Part Time	35	39	45
Resident Employees – Full & Part Time	8	9	10
Multiplier Effect - Jobs Created	7	8	9

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$40,000	\$36,757	\$140,355	\$103,598	\$3.82	\$2.82

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> • Pays above average wages* • Health insurance for employees; company pays 100% of employee premiums; insurance available for all employee dependents* • Supports diversity; over 30% of employees are women or minorities • Supports non-profits* <ul style="list-style-type: none"> ○ Tensentric’s Partners in Caring Program made charitable donations of more than \$50,000 in 2012 ○ Matches employee contributions to eligible charities • Wellness and health* <ul style="list-style-type: none"> ○ Pays a portion of employee gym memberships ○ Provides on-site showers, changing facilities and fitness equipment
Community Sustainability	<ul style="list-style-type: none"> • Purchases goods and services in Boulder when possible, including office supplies and catering* • Purchased and remodeling building in Boulder • Uses local consultants when available • Visitors to the company represent an estimated 100 room nights/year
Environmental Sustainability	<ul style="list-style-type: none"> • Participates in 10 for Change* • Plans to request energy assessment and participate in Energy Smart* • Single-stream recycling program* • Environmental purchasing program that encourages employees, suppliers and customers to be environmentally conscious* • Commuted trip reduction program including alternative work schedules, telecommuting and flexible hours.* • Encourages carpooling with carpool parking close to doors* • Encourages biking to work with shower and changing facilities, secure bike parking inside and outdoors*

*Earned points on application

Twisted Pine Brewing Company

Twisted Pine Brewing Company’s first batches were brewed in 1995 by craft beer industry legend Gordon Knight in a small facility on Valmont Road in Boulder. Gordon initially offered American Amber, Honey Brown and Raspberry Wheat, and all three remain Twisted Pine staples to this day. In late 2006, Gordon sold the business to a friend and current owner, Bob Baile, founder of Peak to Peak Brewing Company in Rollinsville, Colorado. The breweries merged and Bob’s recipes were added to Twisted Pine’s lineup. In 2003, Twisted Pine moved into a much larger facility, allowing the company to expand capacity and open an ale house which has become a popular gathering place for Boulder locals and visitors alike.



Over the years, the brewery has earned a wall full of awards including four Great American Beer Festival medals and two World Beer Cups. Today, Twisted Pine is driven by innovation in brewing and strong community involvement. The City of Boulder’s Flexible Rebate Program helped support Twisted Pine’s decision to expand and remain in Boulder.

Many people visit Boulder to take brewery tours and Twisted Pine offers them a unique experience and friendly environment. The company’s Ale House provides a meeting place for friends and acts as an incubator for community organizations such as BioBeers.

Recognizing that its loyal customers allow Twisted Pine to pursue its passion for beer, the company strives to give back as much and as often as possible. The company holds monthly benefits to support the community, raising over \$10,000 in 2011 for local non-profits and collecting over 100 pounds of food for Emergency Family Assistance Association. Twisted Pine employs Imagine!, a local non-profit that supports individuals with physical and cognitive disabilities, for box building, mixed twelve-pack filling and janitorial services.

The company buys local ingredients when possible, including espresso products from the Unseen Bean for its award-winning Espresso Stout. It also used a local contractor, Pine Construction, to complete its expansion and renovation program. Twisted Pine has received a zero-waste rating by Western Disposal. The company recycles glass, cans and cardboard and its Ale House is 100% compostable. It has also installed a water tank to ensure no reusable water goes down the drain. Most of Twisted Pine employees rent or own houses and spend their income in Boulder. The company encourages the use of alternative modes of transportation and most of its employees get to work by walking, riding their bikes, riding the bus or carpooling.

We have been supporting Boulder and receiving support from Boulder for the past 17 years. After completing an expensive expansion, we have no intention of ever leaving the city that helped us grow.

Twisted Pine Brewing Company	
Industry Sector	Manufacturing – Beverage
Rebate approved	\$45,000

Employment	2012	2013	2014
Total Employees: Full/Part Time	19	22	29
Resident Employees – Full & Part Time	13	20	23
Multiplier Effect - Jobs Created	28	26	39

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$45,000	\$40,758	\$155,784	\$115,026	\$3.82	\$2.82

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> Provides health insurance benefits for employees* Holds monthly benefits to support local non-profits* Encourages workforce diversity* Employs Imagine! for box building, product filling and janitorial services
Community Sustainability	<ul style="list-style-type: none"> Buys local ingredients whenever possible Used a local contractor to complete expansion and renovation Supports local restaurants and businesses Provides a meet-up place for friends and acts as an incubator for organizations such as BioBeers
Environmental Sustainability	<ul style="list-style-type: none"> Ale House is zero waste; uses only compostable products* Recycles glass, cans and cardboard Working toward a PACE certification* Participates in 10 for Change program* Requested energy assessment* Energy audit to identify opportunities to improve energy efficiency Preferential parking for carpools/vanpools* Most employees use alternative modes of transportation to work Purchased a water storage tank to recycle water used in brewing Has an Environmental Purchasing Policy* Business practices support sustainability*

*Earned points on application

Upslope Brewing Company

Upslope Brewing Company was founded in 2008 by Matt Cutter, based on a dream and love of homebrewing beer. The brewery started with two employees – Matt, who kept his day job and spent mornings, evenings and weekends building the company, and his business partner who worked full time -- in a small space in North Boulder. The company has grown dramatically; increasing capacity from 80 barrels in 2008 to approximately 12,000 barrels in 2012, and staff from 2 to 27 employees.



Upslope sells its beer exclusively in Colorado and half its sales are in Boulder County. The company envisions further expansion in the state and possibly in other states. To accommodate planned growth and expansion, Upslope recently opened an additional facility in Boulder. During the planning process for the new location, the company received incentive offers from other cities. Receiving a Flexible Rebate incentive helped make staying in Boulder a competitive option for the company. The rebate has also enabled Upslope to hire more employees and continue to expand in Boulder.

The company has strived for sustainable growth and business development while maintaining a high standard for product quality. Upslope supports workforce diversity, pays competitive wages and offers health insurance benefits to employees. The company supports commute trip reduction through encouraging employees to carpool or bike to work. Recycling is a part of the company culture and aluminum, glass, office paper and cardboard are recycled. Upslope is also working toward becoming a zero waste facility. Used plastic wrap is taken to Eco-cycle to be compacted and responsibly recycled. Wooden pallets that are broken or unusable are refurbished for continued use in the brewery. Super sacks, 1-ton malt bags, are up-cycled to Boulder’s Green Guru and made into bags, totes and other products that are sold in our tap room. Food waste from events and the company’s tap room are composted.



Whenever possible the company purchases goods and services locally; suppliers include Anthem Branding, Wild Goose Engineering, Savory Spice Shop, Dragonfly Coffee Roasters, Bookcliff Winery, Cured Cheese Shop, McGuckins Hardware, Munson Farms, Green Guru, Tundra and many more. Upslope’s Flatiron Park tap room supports Boulder tourism and provides an important amenity and meeting place for area businesses. Upslope supports many local charities and non-profits including the Colorado Music Festival, There with Care, Invest in Kids, Crestview Elementary, Colorado Trout Unlimited, Brewers Association and many more. The company donates 1% of all proceeds from Craft Lager sales to Colorado Trout Unlimited to help protect the state’s watersheds. In 2012, Upslope contributed over \$300 per employee to non-profits in goods, services and monetary donations.

The rebate created a competitive bid for staying in Boulder. It has allowed us to expand in Boulder and hire more employees.

Upslope Brewing Company	
Industry Sector	Manufacturing – Beverage
Rebate approved	\$50,000

Employment	2012	2013	2014
Total Employees: Full/Part Time	20	27	36
Resident Employees – Full & Part Time	14	21	27
Multiplier Effect - Jobs Created	28	39	48

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$50,000	\$46,280	\$436,589	\$390,309	\$9.43	\$8.43

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> Competitive salaries – on par with Brewers Association standards for production breweries Health insurance benefits for employees* Supports local non-profits including Colorado Music Festival, There with Care, Crestview Elementary, Invest in Kids, Brewers Association, Colorado Trout Unlimited and many more* Wellness and health program*
Community Sustainability	<ul style="list-style-type: none"> Purchases goods and services locally whenever possible* Supports Boulder tourism Provides amenity for nearby businesses
Environmental Sustainability	<ul style="list-style-type: none"> Requested energy assessment* Will upgrade Lee Hill facility to increase energy efficiency Worked with Energy Smart program to improve sustainability and efficiency during renovations at Flatiron park facility* Participates in 10 for Change* Working with Xcel Energy to assess on-site energy use at Flatiron facility Worked with Sustainable Ideas to improve practices at Lee Hill facility Recycles aluminum, glass, office paper and cardboard and provided employee education on recycling including hard-to-recycle items Recycles plastic wrap through Eco-Cycle; Reconditions unusable wooden pallets to extend their use and keep them out of the landfill Works with Green Guru to turn large malt bags into bags, totes and other items and sells them in tap room Composts food waste, paper towels and other compostable items* Reduces commute trips by encouraging employees to bike to work or carpool and telecommuting for non-production employees*

*Earned points on application

Zia Consulting

Zia Consulting was created based on the recognition that businesses need to address environmental, communication and efficiency shortfalls and that Enterprise Content Management could solve these issues by converting paper files into cloud-based searchable documents and project management integration. Zia founders were also committed to creating a company in which employees feel happy and cared for and work in an environment that promotes personal and professional growth.



The company pays its employees above-average salaries, covers up to 100% of the premiums for health insurance, and has a wellness and health program that includes Zia Wellness Day, free CPR/First Aid training, and subsidized gym memberships. It also provides secure bike storage and shower facilities.



Zia is committed to environmental sustainability and developed a “Paper to Mobile” campaign to reduce paper waste and increase workplace efficiency and productivity. The company also offers flexible work schedules and encourages telecommuting to help employees save money on gas while decreasing fossil fuel consumption and the number of cars on the road. The company used energy efficient equipment and environmentally friendly products in its office renovation, offsets its energy consumption through the purchase of renewable wind energy, has an

environmental purchasing policy, has a recycling program to reduce waste and has taken steps to identify opportunities to further increase energy efficiency.

The company has created the Zia Incubator of Giving (ZIG) to encourage employees to create philanthropic programs that serve the Boulder community. Through ZIG, employees have developed several programs including one that matches tech-savvy companies willing to donate their time and expertise with local non-profits who need help in identifying and finding solutions to software needs.

Zia has been growing at a rapid pace and had reached a point where it needed to expand from a 4,000 to 13,000 square foot office space. The company was able to find office space in Flatiron Park, but needed to make costly renovations to make the space suitable to meet its clients and employee needs. Money from the Flexible Rebate Program helped the company purchase furniture and equipment for its new offices and upgrade employee computers and software.

Zia is dedicated to its employees, the environment, and helping those in need.

Money from the Flexible Rebate Program has enabled Zia to maintain a business presence in Boulder, employ more Boulder residents and allow us to continue our philanthropic endeavors and environmental sustainability program.

Zia Consulting	
Industry Sector	Technology, software
Rebate approved	\$30,000

Employment	2012	2013	2014
Total Employees: Full/Part Time	35	62	76
Resident Employees – Full & Part Time	17	31	55
Multiplier Effect - Jobs Created	15	26	47

Return on Investment					
Rebate Approved	Rebate Present Value (outflow)	Taxes Present Value (inflow)	Net Present Value	Gross Return on \$1 invested	Net Return on \$1 invested
\$30,000	\$27,634	\$132,873	\$105,239	\$4.76	\$3.76

Social, Community and Environmental Sustainability Support	
Social Sustainability	<ul style="list-style-type: none"> Pays above average wages* Encourages personal growth of employees Pays up to 100% of employee health insurance premiums* Subsidizes cost of employee gym memberships* Provides free CPR/First Aid training for employees*
Community Sustainability	<ul style="list-style-type: none"> Business practices support sustainability* Supports philanthropy through programs developed by internal think tank (Zia Incubator of Giving)* Projects include hat and glove drive , food drive, and program that matches non-profits with tech consultants who provide free assistance with software needs assessments and purchase decisions Purchases goods and services locally whenever possible
Environmental Sustainability	<ul style="list-style-type: none"> Used energy efficient fixtures in office renovation Purchases renewable energy credits* Participates in Energy Smart program* Single stream recycling* Environmental purchasing policy* Commute Trip Reduction program* Offers flexible work schedules and encourages telecommuting* Provides showers and safe bike storage for employees*

*Earned points on application

Appendix B

Financial Analysis Assumptions and Data Sources; Objective and Methodology

The following summary outlines the format, assumptions and data sources used to analyze each company which received a rebate incentive from the City of Boulder in 2012.

The ROI Analysis of the 2012 City of Boulder Flexible Rebate Program uses a model specifically developed to provide a reasonable and conservative estimate of the value of the investment to the local economy. Inputs include total employment, number of workers who reside in Boulder, wages, and local expenditures. The model utilizes 2011 job multipliers created by Minnesota IMPLAN Group for the city of Boulder. Utilizing the job multiplier specific to the industry of each recipient, we can more reliably demonstrate the impact each company has on inducing additional job creation in the local area.

Multiplier factors are developed by economists by industry. For instance, the multiplier factor for aerospace is higher than one for professional services. This is based upon data which shows differences in supplier/services utilization and other factors by industry. For example, if a company is in Food Product (NAICS 311), the job multiplier is 2.464 (1.00 direct job and 1.464 indirect induced jobs). If a company in this category has 20 direct employees, research shows that those jobs will induce 29.28 (1.464 * 20) indirect jobs (consultants, suppliers, retail, etc.) in the community. This analysis applied the IMPLAN job multiplier only to the number of employees who are also Boulder residents.

The analysis also estimates the benefit (sales tax) generated by expenditures of employees who live in Boulder. Those consumer expenditures were derived from the Bureau of Labor Statistics, 2012 Consumer Expenditures Survey for the U.S. population. Only those expenditures that would be subject to city sales tax and most likely to occur locally are included. The data is based upon income levels before tax, so a person earning over \$70,000 a year is shown to spend more than someone earning between \$20,000 and \$29,900 per year. Non-resident employees were assumed to spend an average of \$25/week for 50 weeks per year.

The analysis covers 2012-2014, the three-year period of the agreement each recipient has with the city. The discounted cash flows provide the current value of future income and expenses. The benefits shown by the analysis are derived *solely from city taxes and fees* paid directly by:

- The companies when spending on construction projects, capital goods (furniture and equipment) and general local purchases,
- The companies on any local sales of products and services subject to local tax,
- Visitors to the company spending in Boulder,
- Their direct employees when purchasing in Boulder, and,
- The indirect employees, those jobs induced at other companies by the company being here, when purchasing in Boulder

The costs reflect the payout of the rebate incentive to the company at the time it is anticipated the company will provide proof of taxes/fees paid and will actually receive the reimbursement.

To provide as accurate an analysis as possible, the BEC provided each Flexible Rebate recipient with a draft of the analysis for their company and a summary of the information used in the analysis from the company's application including number of employees, number of resident employees, average salaries, and expenditures in the city. The companies were asked to provide updates and additional information. Those changes were reflected in the final analysis and report.

Other notes about the 2012 analysis:

- The model discounts the future cash flow into current dollars using a rate of 5%, the historical cost of capital identified by the City of Boulder’s Finance Department.
- 2012-2014 data was used in the analysis to remain consistent with the city’s original timing and the requirement that the companies agree to remain in Boulder for three years.
- Data provided by the companies in their original applications was updated based on subsequent information provided by companies on actual or updated projections of employee and salary figures, final construction costs, etc.
- The 2012 ROI analysis used the same model as previous years and included the impact of company expenditures and estimated spending by direct and indirect employees for a more comprehensive look at the impact on the community.
- Part time employees were included if applicable.
 - Employee spending estimates were based on Bureau of Labor Statistics Consumer Expenditures Survey from 2012, the most recent data available. To estimate employee spending, average US consumer expenditure data was used. Data for wage levels that matched each company’s average salary was used to estimate spending for direct employees and the average wage for City of Boulder residents was used to estimate indirect employee spending. Based on the demographic characteristics and spending habits of Boulder residents, the use of spending data based on national averages is likely to provide a conservative estimate. Spending categories (Table 1202 National figures by income) included:
 - Food, Apparel and services, Vehicle maintenance and repairs
 - Housing – maintenance, repairs, insurance, other (50%), Housekeeping supplies, Household furnishings and equipment
 - Entertainment
- To estimate the multiplier effect of jobs supporting additional jobs, Minnesota IMPLAN Group, Inc. 2011 employment multiplier data by NAICS (North American Industry Classification System) code for Boulder was used. Multipliers are generally available at the two-digit or three-digit NAICS code level which is at a broad-grouping level of industry segments. Type SAM multipliers for the following NAICS codes were used in the analysis:
 - 312 Beverage Manufacturing: Twisted Pine, Upslope Brewing (3.186843)
 - 334 Computers and Other Electronic Product Manufacturing: MBio Diagnostics (3.574056)
 - 42 Wholesale Trade: American Rec, HEAD USA (2.009522)
 - 541 Professional, Scientific, and Technical Services: Gnip, RealD, Tensentric, Zia Consulting (1.853741)
- The average compensation used for indirect or induced jobs is \$58,331, the average wages for the City of Boulder (*Bureau of Labor Statistics, 2012*). Induced jobs include software programmers, engineers, construction, retail, personal service and many others.
- For non-residential employees, spending was estimated at an average of \$25.00 per week for 50 weeks. This is well below the average spending for daytime visitors to Boulder of \$81 per day based on 2010 data from the Boulder Convention and Visitors Bureau.

Appendix C

Return on Investment– All Rebate Recipients: 2007 – 2012

Since the Flexible Rebate Program was introduced in 2007, a total of 44 companies have been approved for rebates through the program totaling \$2,053,480. The total net return to the City of Boulder is projected to be \$19.6 million in taxes and fees associated with capital expenditures and facility improvements, local sales, overnight visitors and direct and indirect employee spending or \$10.58 for every \$1 invested. The ROI has varied from year to year depending on the mix of companies participating in the program and economic conditions.

Flexible Rebate Funding and Returns: All Rebate Recipients 2007 - 2012						
Program Year	Program Funding	Total Approved Rebates	Total Recipients	Approve Rebate PV	Net Return PV	Net Return on \$1
2007	\$500,000	\$500,000	7	\$454,661	\$6,096,276	\$14.41
2008	\$350,000	\$322,135	8	\$284,752	\$2,498,800	\$8.78
2009	\$350,000	\$209,979	7	\$193,216	\$5,582,354	\$28.89
2010	\$350,000	\$320,366	7	\$291,147	\$3,437,388	\$11.81
2011	\$350,000	\$281,000	6	\$246,410	\$728,746	\$2.96
2012	\$395,000*	\$395,000	9	\$363,782	\$1,312,377	\$3.61
Total	\$2,295,000	\$2,028,480	44	1,833,968	\$19,655,941	\$10.72

*includes \$350,000 budgeted amount and \$45,000 in carryover funds from previous unused funds.

2007 Return on Investment – All Recipients

Conclusion from 2007 analysis report: The companies all provide broad benefits to the community, not only economically, but socially and environmentally as well. The full benefits analysis provides a conservative assessment of their economic impact at a \$6.1 million return over three years on the investment made by the city in the form of incentives. However, even when taking a very limited incremental view of the benefits derived from the rebates by only including projects we might not have won and businesses that might otherwise have moved out of Boulder, the city management can feel confident that a strong, net return of \$1.9 million is still being earned on this investment.

Return on Investment – 2007 Flexible Rebate Recipients (2007 – 2009)					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
Ball Aerospace	\$100,000	\$90,703	\$2,219,704	\$2,219,001	\$24.47
Crispin Porter + Bogusky	\$100,000	\$90,971	\$1,109,089	\$1,018,117	\$12.19
IBM*	\$100,000	\$90,703	\$2,511,545	\$2,420,842	\$27.69
LeftHand Networks	\$80,698	\$74,073	\$144,840	\$70,769	\$1.96
Mountain Sports Media	\$44,917	\$40,741	\$224,678	\$183,937	\$5.51
OZ Architecture	\$49,578	\$44,969	\$234,202	\$189,234	\$5.21
Solekai Systems	\$24,807	\$22,501	\$106,876	\$84,376	\$4.75
2007 Total	\$500,000	\$454,661	\$6,550,935	\$6,096,276	\$14.41

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

*Only includes taxes and fees generated by the new data center that the incentive helped win for Boulder

2008 Return on Investment – All Recipients

Conclusion from 2008 analysis report: The companies all provide broad benefits to the community, not only economically, but socially and environmentally as well. The full benefits analysis provides a conservative assessment of their economic impact at a \$4.5 Million return over three years on the investment made by the city in the form of incentives. However, even when taking a very limited incremental view of the benefits derived from the rebates by only including projects we might not have won and businesses that might otherwise have moved out of Boulder, the city management can feel confident that positive net return of \$288,699 is still being earned on this investment.

Return on Investment – 2008 Flexible Rebate Recipients (2008 – 2010)					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
Advanced Thin Films	\$50,000	\$47,619	\$152,748	\$105,129	\$2.21
Chocolove	\$24,535	\$21,849	\$53,089	\$31,240	\$1.43
Eco-Products	\$29,000	\$26,304	\$389,311	\$363,007	\$13.80
Namaste Solar	\$29,086	\$26,382	\$697,129	\$670,747	\$25.42
Rally Software	\$50,000	\$44,833	\$232,406	\$187,573	\$4.18
Seth Ellis Chocolatier	\$39,514	\$34,826	\$61,893	\$27,067	\$0.78
Siemens Wind Power	\$50,000	\$37,588	\$33,555	(\$4,033)	(\$0.11)
Wall Street on Demand	\$50,000	\$45,351	\$1,163,070	\$1,118,070	\$24.65
2008 Total	\$322,135	\$284,752	\$2,783,552	\$2,498,800	\$8.78

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

2009 Return on Investment – All Recipients

Conclusion from 2009 analysis report: The companies greatly benefit the community, both economically and socially, and are important to Boulder's image. The conservative estimate of a \$5.6 million net return on investment suggests the program is still a very strong investment for the city. Even when looking at only the incremental returns, the \$488,819 net return on investment (which does not include Celestial Seasonings, another incremental gain) represents positive economic gains that are clearly advantageous.

Return on Investment – 2009 Flexible Rebate Recipients (2009 – 2011)					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
Celestial Seasonings	\$56,441	\$51,194	\$973,871	\$922,677	\$18.02
eTown	\$50,000	\$47,619	\$205,253	\$157,634	\$3.31
IBM	\$35,000	\$31,746	\$4,293,702	\$4,261,956	\$134.25
Sea to Summit	\$10,820	\$10,305	\$67,164	\$56,859	\$5.52
Stratom, Inc.	\$12,525	\$11,361	\$22,361	\$11,000	\$0.97
Tundra Specialties	\$34,963	\$31,712	\$181,789	\$150,077	\$4.73
Visionlink	\$10,230	\$9,279	\$31,430	\$22,151	\$2.39
2009 Total	\$209,979	\$193,216	\$5,775,570	\$5,582,354	\$28.89

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

2010 Return on Investment – All Recipients

Conclusion from 2010 analysis report: The companies benefit the community, both economically and socially, and are important to Boulder's image. The estimate of a \$11.81 net return on each \$1 invested indicates the program is still a solid investment for the city, particularly since it assists different sizes and types of companies.

Return on Investment – 2010 Flexible Rebate Recipients (2010 – 2012)					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
Rally Software	\$50,000	\$45,351	\$385,152	\$339,801	\$7.49
Microsoft	\$50,000	\$45,351	\$151,209	\$105,858	\$2.33
Mountainside Medical	\$50,000	\$45,351	\$462,656	\$417,305	\$9.20
Covidien	\$75,000	\$68,027	\$1,018,741	\$950,714	\$13.98
Precision Wind	\$25,000	\$23,243	\$138,015	\$114,773	\$4.94
Spectra Logic	\$65,000	\$58,957	\$1,447,940	\$1,388,983	\$23.56
Trada	\$5,366	\$4,867	\$124,821	\$119,954	\$24.65
2010 Total	\$320,366	\$312,536	\$3,728,534	\$3,437,388	\$11.81

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

2011 Return on Investment – All Recipients

Conclusion from 2011 analysis report: The City of Boulder's Flexible Rebate Incentive Program continues to generate a positive return on investment, while providing the City Manager with an important and effective tool to help retain, grow, and attract businesses that align with the city's values and goals.

Return on Investment – 2011 Flexible Rebate Recipients (2011 – 2013)					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
Tendril Networks	\$85,000	\$77,098	\$315,320	\$238,223	\$3.09
LogRhythm	\$85,000	\$73,426	\$471,564	\$398,138	\$5.42
Biodesix	\$60,000	\$51,830	\$61,652	\$9,822	\$.19
juwi Wind	\$15,000	\$12,958	\$44,644	\$31,687	\$2.45
Eetrex	\$26,000	\$22,460	\$49,790	\$27,330	\$1.22
Salewa	\$10,000	\$8,638	\$32,185	\$23,546	\$2.73
2011 Total	\$281,000	\$246,410	\$975,155	\$728,746	\$2.96

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

2012 Return on Investment – All Recipients

Conclusion from 2012 analysis report: The City of Boulder’s Flexible Rebate Program has continued to provide the Boulder City Manager with an important and effective tool to help retain, grow, and attract businesses that align with Boulder’s values and goals and generate a positive return on investment.

Return on Investment – 2012 Flexible Rebate Recipients (2012 – 2014)					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
American Rec Products	\$25,000	\$23,140	\$152,929	\$129,789	\$5.61
Gnip	\$45,000	\$41,518	\$216,290	\$174,771	\$4.21
HEAD USA	\$50,000	\$46,280	\$39,976	(\$6,304)	(\$.14)
MBio Diagnostics	\$30,000	\$27,902	\$183,254	\$155,352	\$5.57
RealD	\$80,000	\$73,513	\$219,362	\$145,849	\$1.98
Tensentric	\$40,000	\$36,757	\$140,355	\$103,598	\$2.82
Twisted Pine	\$45,000	\$40,758	\$155,784	\$115,026	\$2.82
Upslope	\$50,000	\$46,280	\$436,589	\$390,309	\$8.43
Zia Consulting	\$30,000	\$27,634	\$131,621	\$103,987	\$3.76
Total	\$395,000	\$363,782	\$1,676,160	\$1,312,377	\$3.61

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

Return on Investment– New and Retained Business Recipients: 2007 – 2012

From 2007 and 2012, a total of 25 companies were attracted to or retained in Boulder as a result of the Flexible Rebate Program and approved for rebates totaling \$1.2 million. The overall net return to the city is projected to be \$5.3 million or \$4.74 for every \$1 invested.

Flexible Rebate Funding and Returns: New and Retained Businesses 2007 - 2012					
Program Year	Total Approved Rebates	Total Recipients	Approve Rebate PV	Net Return PV	Net Return on \$1
2007	\$250,422	4	\$228,018	\$2,119,331	\$18.11
2008	\$150,000	3	\$130,040	\$418,709	\$2.22
2009	\$119,963	3	\$111,077	\$488,819	\$4.40
2010	\$150,000	3	\$136,053	\$613,162	\$4.51
2011	\$281,000	6	\$246,410	\$728,746	\$2.96
2012	\$290,000	6	\$267,488	\$938,012	\$3.51
Total	\$1,241,385	25	\$1,119,086	\$5,306,779	\$4.74

2007 Return on Investment – New or Retained Businesses

In 2007, the Flexible Rebate Program provided incentives that influenced IBM's decision to locate its green data center in Boulder and the decisions of LeftHand Networks, Mountain Sports Media and Solekai Systems to remain and expand in Boulder.

Return on Investment – 2007 Flexible Rebate Recipients (2007 – 2009) – New or Retained Businesses					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
IBM*	\$100,000	\$90,703	\$2,511,545	\$2,420,842	\$27.69
LeftHand Networks	\$80,698	\$74,073	\$144,840	\$70,769	\$1.96
Mountain Sports Media	\$44,917	\$40,741	\$224,678	\$183,937	\$5.51
Solekai Systems	\$24,807	\$22,501	\$106,876	\$84,376	\$4.75
Total	\$250,422	\$228,018	\$2,119,331	\$1,891,313	\$9.29

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

*Only includes taxes and fees generated by the new data center that the incentive helped win for Boulder

2008 Return on Investment – New or Retained Businesses

In 2008, incentives provided through the Flexible Rebate Program influenced the decisions of Advanced Thin Films and Siemens to move to Boulder and Rally's decision to remain and expand in Boulder.

Return on Investment – 2008 Flexible Rebate Recipients (2008 – 2010) – New or Retained Businesses					
Retained Businesses	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
Advanced Thin Films	\$50,000	\$47,619	\$152,748	\$105,129	\$2.21
Rally Software	\$50,000	\$44,833	\$232,406	\$187,573	\$4.18
Siemens Wind Power	\$50,000	\$37,588	\$33,555	(\$4,033)	(\$0.11)
2008 Total	\$150,000	\$130,040	\$418,709	\$288,669	\$2.22

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

2009 Return on Investment – New or Retained Businesses

In 2009, the Flexible Rebate Program provided incentives that influenced the decisions of eTown, IBM and Tundra Specialties decision to expand in Boulder.

Return on Investment – 2009 Flexible Rebate Recipients (2009 – 2011) – New or Retained Businesses					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
eTown	\$50,000	\$47,619	\$205,253	\$157,634	\$3.31
IBM*	\$35,000	\$31,746	\$4,293,702	\$4,261,956	\$134.25
Tundra Specialties	\$34,963	\$31,712	\$181,789	\$150,077	\$4.73
2009 Total	\$119,963	\$111,077	\$599,896	\$488,819	\$4.40

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

*Includes only those taxes and fees generated by IBM's new division

2010 Return on Investment – New or Retained Businesses

In 2010, incentives provided through the Flexible Rebate Program influenced the decisions of Rally Software, Microsoft and Mountainside Medical to remain and expand in Boulder.

Return on Investment – 2010 Flexible Rebate Recipients (2010 – 2012) – New or Retained Businesses					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
Rally Software	\$50,000	\$45,351	\$385,152	\$339,801	\$7.49
Microsoft	\$50,000	\$45,351	\$151,209	\$105,858	\$2.33
Mountainside Medical	\$50,000	\$45,351	\$462,656	\$417,305	\$9.20
2010 Total	\$150,000	\$136,053	\$749,215	\$613,162	\$4.51

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

2011 Return on Investment – New or Retained Businesses

In 2011, the Flexible Rebate Program provided incentives that influenced Biodesix's decision to move to Boulder and the decisions of Tendril Networks, LogRhythm, juwi Wind, Eetrex and Salewa to remain and expand in Boulder.

Return on Investment – 2011 Flexible Rebate Recipients (2011 – 2013) – New or Retained Businesses					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
Tendril Networks	\$85,000	\$77,098	\$315,320	\$238,223	\$3.09
LogRhythm	\$85,000	\$73,426	\$471,564	\$398,138	\$5.42
Biodesix	\$60,000	\$51,830	\$61,652	\$9,822	\$.19
juwi Wind	\$15,000	\$12,958	\$44,644	\$31,687	\$2.45
Eetrex	\$26,000	\$22,460	\$49,790	\$27,330	\$1.22
Salewa	\$10,000	\$8,638	\$32,185	\$23,546	\$2.73
2011 Total	\$281,000	\$246,410	\$975,155	\$728,746	\$2.96

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

2012 Return on Investment – New or Retained Businesses

In 2012, incentives provided through the Flexible Rebate Program influenced the decision of HEAD USA to relocate to Boulder and the decisions of American Rec, Gnip, RealD, Tensentric and Upslope to remain and expand in Boulder.

Return on Investment – 2012 Flexible Rebate Recipients (2012 – 2014) – New and Retained Businesses					
	Rebate Approved	Rebate PV	Tax Revenue PV	Net Return PV	Net Return on \$1 invested
American Rec Products	\$25,000	\$23,140	\$152,929	\$129,789	\$5.61
Gnip	\$45,000	\$41,518	\$216,290	\$174,771	\$4.21
HEAD USA	\$50,000	\$46,280	\$39,976	(\$6,304)	(\$.14)
RealD	\$80,000	\$73,513	\$219,362	\$145,849	\$1.98
Tensentric	\$40,000	\$36,757	\$140,355	\$103,598	\$2.82
Upslope	\$50,000	\$46,280	\$436,589	\$390,309	\$8.43
Total	\$290,000	\$267,488	\$1,205,501	\$938,012	\$3.51

PV = Present Value; Net return represents the current value of income to the City of Boulder (estimated tax revenue) over the three years of the program less the current value of the expenditures (approved rebate).

History of Boulder's Economic Vitality and Flexible Rebate Programs: 2002-2012

Since 2002, the city of Boulder has proactively worked to establish and support an economic vitality program that provides consistent outreach, assistance and recognition of business in the community. As part of an overall economic vitality plan, a pilot Business Incentive Program was developed and implemented in 2007, including a pilot Flexible Rebate Program with funding of \$500,000 from the city targeted at retaining and expanding primary employers in Boulder.

Primary employers are defined as those that "export" the majority of their goods and services outside the community, infusing external funds into the local economy and producing a substantial impact on local output, employment and wages. From the time of implementation of the pilot through 2008, the city defined primary employers as businesses (excluding hotel, retail and food services) that generate at least 75% of their revenues from outside Boulder County. This is a higher threshold than many communities use and the definition was lowered to "exceeds 50%" in 2009.

The 2007 Flexible Rebate Program pilot was judged to be a success and has been continued by the city each year since then as a formal program. The city has commissioned the Boulder Economic Council (BEC) to provide an objective evaluation of the effectiveness of the program each year based on its value in retaining or attracting businesses and providing a return on the city's investment.

Some program criteria have changed to ensure that grant recipients support the city's goals for social and environmental sustainability. The maximum rebates granted, as well as the funding provided in each year's city budget, has also changed to address funding constraints in the city's budget. Changes made to the program since 2007 include:

- Expanded options for demonstrating commitment to environmental sustainability including energy and waste reduction, energy certifications, encouraging alternative transportation, general sustainable business practices and buying locally
- Primary Employer was redefined as one consisting of any number of employees
- The amount of revenue required to be derived from the sale of goods and/or services outside of Boulder county was lowered from 75% to 50% to be consistent with the common definition of a primary employer within the state
- The application form was adjusted so that it could be filled in online and arrangement of the information and requirements on the city's website were improved to facilitate ease of use based upon feedback from users.

City of Boulder Economic Vitality and Flexible Rebate program highlights:

2002

- As part of the 2003 budget (in 2002), city EV efforts were funded by using a portion of the resources currently available from \$2.9 million Boulder Urban Renewal Authority (BURA) bond reserve fund that came back to the city when the BURA bonds were paid off.
- A base budget of \$250,000 per year for five years was set for the EV account (with carryover of unused funds each year) beginning in 2003 and *continuing through 2007*. The urban redevelopment portion of the account began in 2004 and *continued through 2008*.
- Prior to 2003, the City Council economic goal group had a series of discussions about economic initiatives and concluded that a more focused effort to formulate an economic policy was required.

2003

- City Manager Frank Bruno convened the Economic Vitality Action Group (EVAG) in February, 2003—his first few weeks on the job. The charge to the EVAG was to prepare appropriate options, tools and other strategies that will assist the city's efforts to enhance business opportunities and sales tax revenues. EVAG formulated a draft EV policy in August 2003.
- City Council adopted the EV policy in October 2003 (see policy in Attachment H).
- Initial EV staffing took place in late 2003 to mid-2004. Brad Power, who served as Executive Director of BURA since 1997 was hired as the fixed-term redevelopment director in December 2003.

2004

- Michael Stumpf served as the city's first EV coordinator from summer 2004 to spring 2005.
- The Economic Vitality Advisory Board (EVAB) was named by Frank Bruno in August 2004 as advisory to the city manager.

2005

- EVAB has provided advice and input to the city manager, individually and in periodic meetings since 2005.
- In April 2005, an EV work plan was adopted.
- After Stumpf's departure, Boulder Economic Council (BEC) Executive Director Sean Maher served as interim economic development coordinator from May 2005 to September 2006.
- An independent assessment of Boulder businesses' views of doing business in Boulder was conducted by business consultant, Ray Wilson in fall 2005.

2006

- Liz Hanson, a 20-year veteran of the Planning Department, was hired as the city's business liaison in January 2006 for a two-year fixed term.
- An updated EV work plan was reviewed by City Council at a study session in March 2006.
- A 2007 Business Incentives Pilot Program was adopted by City Council in September 2006.
- Frances Draper was hired as the new executive director of the BEC in September 2006.

2007

- The city and BEC enter into a 2007 agreement for specific services related to implementation of the pilot incentive program, business outreach, and business retention.
- EV staff implements the approved 2007 Business Incentives Pilot Program: Developing application and administrative review processes; creating and implementing a communication plan, including direct marketing and public presentations; and obtaining owner-occupied loan pool commitments and agreements.
- As of August 1, eight flexible rebate and two employee training applications are received from Boulder primary employers.
- The City Council authorized the Business Incentive Rebate Program for 2008.

2008

- The Boulder Economic Council contracts with the city to complete an analysis of the 2007 Pilot Business Incentive Rebate Program.
- The City Manager grants Business Incentive Rebates to eight companies.
- The analysis is completed and presented to City Council on April 22, 2008 showing a return of \$14.41 on every \$1.00 invested in incentive rebates.

2009

- City Council reauthorizes the City Manager to approve Business Incentive Rebates with some additional sustainability guidelines for companies to meet, to continue each year if funding is made available each year in the city's budget.
- A 2009 budget of \$350,000 is approved for the Flexible Rebate Incentive Program and \$50,000 for the city's contribution to a MicroLoan Fund.
- The City Manager grants Business Incentive Rebates to seven companies.
- The Boulder Economic Council provided an analysis of the 2008 program showing a return of \$8.78 on every \$1.00 invested in incentive rebates.

2010

- A 2010 budget of \$350,000 is provided for the Flexible Rebate Incentive Program and \$100,000 for the MicroLoan Fund.
- On September 30, the Ash Center for Democratic Governance and Innovation at the John F. Kennedy School of Government, Harvard University, announced that the City's Flexible Rebate Program was one of 173 government programs selected for its newly-created Bright Ideas program. In its inaugural year, the Bright Ideas honor is designed to recognize and share creative government initiatives around the country with interested public sector, nonprofit, and academic communities.
- Seven companies are granted Business Incentive Rebates totaling \$345,366
- The Boulder Economic Council provided an analysis of the 2009 program showing a return of \$28.89 on every \$1.00 invested in incentive rebates.

2011

- A budget of \$350,000 was provided for the 2011 Flexible Rebate Incentive Program, all of which was incorporated into the city budget rather than relying on one-time funding.

2012

- A budget of \$350,000 was provided for the 2012 Flexible Rebate Incentive Program with an additional \$45,000 in carryover funds.

Boulder Microloan Fund: 2013 Program Review

Program History

During the creation of the City of Boulder's Economic Vitality Program it was proposed that a specialized loan pool to attract and retain small businesses would make them more likely to remain in Boulder over the long term. With the economic downturn that began in late 2008, the Boulder Economic Council joined with the City of Boulder, Colorado Enterprise Fund and several banks to create a Microloan Fund. The mission of this Fund is to provide access to capital for Boulder businesses that cannot obtain financing through traditional sources, but who are capable of sustaining a business and repaying debt. The Boulder Microloan Fund (BMF) was launched in 2009, with \$325,000 in loan capital, funded by the City, three banks, and Colorado Enterprise Fund.

Market Need:

Through research from the Boulder Small Business Development Center and other input, the group determined that there was a demand for working capital and other loans that was not currently being met in the community for a variety of reasons. In the economic environment of 2009 and with banks being capital-constrained, this was particularly true. Small businesses form the majority of the city's economic base and the group felt an effort to provide a modest lending program for those who cannot access bank debt, but can repay a loan, would have positive effects on the city's economy for some time to come.

The program also addresses the needs of the participating banks to reach smaller businesses more effectively. This program meets that need by ensuring at least 60% of the lending is to businesses with \$1 million or less in annual revenue. This allows the banks to count their loan or contribution to the program for their Community Reinvestment Act requirements.

Operational Details:

- 1) Business Eligibility Criteria
 - a. Location: At least 80% of businesses must have their primary office/headquarters or operations in the City of Boulder, CO. All must be within Boulder County. Note: the participating banks serve the broader Boulder market and wanted to ensure at least a few of the applicants from outside the city boundary could be considered.
 - b. Size and Income:
 - i. **Businesses**: Businesses may not exceed \$2 Million per year in gross revenue for the year immediately preceding the date of the loan and 60% or more of the Fund's loan must be made to businesses with less than \$1 Million per year in gross revenue
 - ii. **Non- Profits**: Non-profit organizations must show that at least 51% of the individuals served fall at or below 80% of the US Department of Housing and Urban Development's median income levels.
- 2) Loan Purposes:

Loans may be used for most business purposes including, but not limited to the following:

 - a. Inventory purchase
 - b. Start-up expenses
 - c. Equipment purchase
 - d. Operations
 - e. Tenant finish and property improvements

- f. Purchase of a business
- 3) Loan Size:
Loans may range up to a maximum of \$50,000.00.
- 4) Loan Term:
Loan terms may range up to a maximum of 6 years with any re-write of the loans able to extend the original term by up to two years.
- 5) Underwriting:
Underwriting decisions are made according to Colorado Enterprise Fund's ongoing underwriting standards and guidelines.
- 6) Technical Assistance:
All borrowers have access to CEF's Business Acceleration Services.

Funding Summary of Microloan Fund Investors (all amounts are loans, unless identified):

First Round of Funding (2009 – 2010):

City of Boulder	\$ 50,000 (grant)
First National Bank of Colorado	\$ 50,000
Wells Fargo Bank	\$100,000
US Bank	\$ 25,000 (grant)
Colorado Enterprise Fund	<u>\$100,000</u>
Total First Round Funding:	\$325,000

Second Round of Funding (2010 – 2011):

FirstBank	\$ 75,000
City of Boulder	\$100,000 (grant)
Colorado Enterprise Fund	<u>\$ 75,000</u>
Total Second Round Funding:	\$250,000

2012 Funding :

First National Bank	\$125,000
Colorado Enterprise Fund	\$150,000

2013 Funding:

City of Boulder	\$50,000 (grant)
First Citizen's Bank & Trust	\$25,000
Colorado Enterprise Fund	\$100,000

Total Fund:	\$1,025,000
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Continued...

Deployment Summary from 4/1/2009 (inception) to 12/31/13:

Number of Loans: 39 business loans

Dollar volume of deployment as follows:

BMP Funds deployed:	\$ 841,910
Additional Colorado Enterprise Funds deployed:	\$ 410,792
Total funds deployed:	\$ 1,252,702
BMP Funds loan balances outstanding:	\$ 365,106
Addl. CEF Funds loan balances outstanding:	\$ 208,615
BMP Funds available to lend:	\$ 234,894
Addl. CEF Funds available to lend:	As needed
As a result of relending on repaid loan principal, and the leveraging effect of CEF's other funds, the direct impact on access to loan capital in the Boulder business community has been 25% greater than the investment made by the funding partners.	

Summary of loan activity from Program inception through December 2012

Detailed descriptions of the following borrowers and how they used borrowed funds can be found in previously filed reports.

- Of the following borrowers, 50% are women-owned businesses. 15% of these businesses owners self-identify as ethnic or racial minority.
- Places for 41 children were created in child-care facilities.
- 273 jobs were created or maintained in businesses receiving loans.

The 31 loans to these borrowers:

- Represent \$933,210 in financed capital
- Range between \$6,000 and \$130,000 in loan size
- Have a repayment term of between 36 and 72 months
- Carry interest rates of 9% to 11.5%

Amanda Johnson Consulting*	Strategic planning and development for non-profit orgs
ANCO Engineers*	Specialty manufacturer of earthquake testing equipment
Boulder Homemade Ice Cream*	Producer and distributor of high quality natural ice cream
Boulder Insurance Solutions	Small to mid-sized business insurance brokerage
Boulder Vision Associates*	Gunbarrel eye care provider
Café Aion, LLC	Full-service, innovative fresh cuisine on "The Hill"
D.O.G. Enterprises, LLC	Premium doggy day care, overnight camps and in-home care
Dash Cycles, LLC	High-tech composites design and manufacturing
David Lupberger	Design, planning & construction services
Dragonfly Coffee Roasters, LLC	Coffee roasters supplying wholesale and retail markets
Impact Services, Inc.	Tax and accounting services provider
Joycare Infant & Toddler Ctr.	A not-for-profit childcare provider operating out of Gunbarrel

Lotus Blossom Learning Center	Childcare provider
MicroChem	Advanced laboratory services for the food & beverage industry
Move Sport, Inc.	Manufacturer of sporting goods for running and biking
NAP, Inc.	Manufacturer of Boba and Sleepy Wrap brands of baby carriers
Natural Body Shop	Natural remedies
Natural Design Solutions, Inc.	Landscape architecture and land use planning consultant
Paradigm Publishers	Educational books publisher
Photocrati Media, LLC	Web marketing services
Pure Hair Studio	North boulder beauty salon
Rhymer Retail, Inc.	Operating as a 7-11 Convenience Store in Boulder
RollinGreens	Mobile salad & healthy food catering operation
The White List, LLC	A wedding planning services company
Thermal Clean, LLP	A bedbug remediation company
University Parent Magazines*	Parent-targeted campus magazines for universities nationwide
Wish Gardens	Herbs and herbal products exporter

**Repeat borrower*

Program loan activity for calendar year 2013

- Of the following eight borrowers: 50% are women-owned businesses; 13% of these businesses owners self-identify as an ethnic or racial minority; 25% are low income wage earners.
- 149 jobs were created or maintained in businesses receiving loans.
- As of the filing of this report, 3 loans for \$100,000 dollars are in the pipeline.
- We experienced a slight drop in production volume in the City of Boulder this year compared to previous years as we re-staffed a position responsible for some Boulder marketing, and redirected some resources to flood response for existing borrowers.

The loans to the following eight borrowers:

- Represent \$320,000 in financed capital
- Range between \$8,000 and \$100,000 in loan size
- Have a repayment term of between 36 and 72 months
- Carry interest rates of 9% to 10.75%

Boulder Landscape and Design	Landscape planner/builder of ecologically sensitive environments
Boulder Vision Associates*	Gunbarrel eye care provider
Cool Spirit Nature	Organic hemp clothing and accessories
Kettle and Stone	Gunbarrel craft brewer
Living Design Studios, Inc.	Custom metalwork for residential and commercial applications
Makeena, LLC.	Mobile app facilitating healthy/sustainable choices and cost savings at the grocery store
SolBites	Healthy snacks manufacturing with a mission to address childhood obesity
The Tasterie	Mobile café & bakery specializing in local, seasonal ingredients

**Repeat borrower*

In early 2013, Colorado Enterprise Fund completed a project to get to know some of our borrowers better. In-depth interviews have been completed on about 25 of the borrowers in our current portfolio of loans, with two of those being a part of the Boulder Microloan Program. The resulting profiles on ANCO Engineers and University Parent Magazines have been attached below.

Preparing for the Unimaginable:

ANCO Engineers, Inc.

1965 33rd St # A

Boulder, CO 80301

(303) 443-7580

www.ancoengineers.com



Business Description

For Paul Ibanez, current President of ANCO Engineers, Inc., his global business began on a Los Angeles bus ride in 1966. As a Nuclear Engineering PhD student at UCLA, Ibanez met a Structural Engineering professor who inspired him to study the effects of earthquakes on structures, specifically on nuclear power plants. As a result of this interest, in 1971, Ibanez and four friends founded ANCO, which provides strength and vibration test systems and services for critical material, equipment, products and structures. ANCO's products simulate an earthquake's forceful vibrations in a controlled environment, thus indicating whether the infrastructure of "critical industries" (nuclear facilities and hospitals) would endure a natural disaster. Due to the high cost of living in LA, ANCO relocated to Boulder in 1994 to strengthen its ability to hire and retain employees. Now ANCO employs between 13-25 people depending on workload. "Boulder is an amazing place to live and work," Ibanez says. "Though it's a small town, there's a high concentration of creative people with a broad world views and international business goals."

Colorado Enterprise Fund Involvement



To fund its growth, ANCO received Small Business Administration (SBA) funding through local banks until credit became tight. When banks were no longer able to meet ANCO's project financing needs, SBA employees referred ANCO to CEF, which made several loans to ANCO between 2005 and 2010. Ibanez says "Colorado Enterprise Fund was instrumental during those slim times." CEF's loans helped ANCO expand its business and were a significant factor in ANCO's winning the SBA Small Business Exporter of the Year Award in 2009. Today, nearly half of all seismic testing labs in the United States use ANCO

products. Furthermore, ANCO sells to test labs and product manufacturers in 30 countries and operates testing tables remotely from around the world.

Business Outlook

The future is bright for ANCO as demand for testing equipment and services continue to increase. The following factors are fueling this growth: nuclear energy is becoming a more popular alternative energy source; the catastrophic earthquakes in Chile and Haiti illustrated the human devastation from inadequate infrastructure; and California regulations require all hospital infrastructure and nuclear reactors to be seismically-tested. "ANCO's products have the power to save lives by helping to minimize damage when disaster strikes," says Ceyl Prinster, President and CEO of Colorado Enterprise Fund (CEF).

Keeping parents informed from afar:
University Parent
2995 Wilderness Place Suite 205
Boulder, CO 80301
(866)721-1357
www.universityparent.com



Business Description



Sarah Schupp attended University of Colorado (CU) in Boulder, where she and three classmates won the 2004 Business Plan competition in *the Deming Center for Entrepreneurship at CU-Boulder's Leeds School of Business*. During her years as a university student, Sarah observed a gap in the information available to her parents, who wanted to visit her from out-of-state.

In May, 2004, Schupp and her team launched "University Parent," a comprehensive resource guide for parents of college students at 200 universities and colleges in 34 states in the US. One million people visited the University Parent website in 2012 and University Parent prints 500,000 copies for each partner campus. "From a parent's perspective, it's important to have a trusted resource about where your child is living and studying so you can be supportive from a distance," says Schupp. "From a student's perspective, this concept reduces the burden of having to search for all the information your parents ask for."

The comprehensive online and print editions offer free institution-specific information about the school and surrounding community. For instance, parents can access academic calendars, maps, important phone numbers, career resources, and tourist information including entertainment, restaurants, and shopping venues.

University Parent participates in several higher education associations, which keeps the company aware of common issues facing universities as well as parent communication trends. University Parent maintains an excellent reputation among university administrators as well as local businesses. Administrators view University Parent as a cost-effective partner that provides a useful product and service. Likewise, local businesses readily advertise with University Parent in order to bring in more business.

Colorado Enterprise Fund Involvement

Initially, Compass Bank provided start-up capital to University Parent. In search of additional capital, University Parent was referred to Colorado Enterprise Fund (CEF) by a banker at Wells Fargo. In 2009 and again in 2012, CEF provided growth capital to University Parent which helped it add new employees.

Since 2006, University Parent has grown from four employees to 18, all of whom are based in Boulder. Schupp anticipates hiring three to five new employees in 2013. The staff at University Parent is passionate about solving real problems for schools, parents, and advertising partners. "To run a successful business, you need excellent people to execute the idea," says Schupp.

Business Outlook

Schupp aims for a 20% increase in revenue each year. University Parent plans to achieve this goal by establishing new partnerships with additional universities/colleges, maintaining relationships with local businesses who advertise in printed editions, and ramping up the eCommerce options on the website, such as care packages and floral delivery services. The future seems bright for University Parent. "We have so much potential because there is still so much to do," says Schupp.

**CITY OF BOULDER
LANDMARKS BOARD
January 8, 2014
900 Baseline Road, Chautauqua – Grand Assembly Hall
6 p.m.**

The following are the action minutes of the January 8, 2014, City of Boulder Landmarks Board meeting. Due to technical difficulties, this meeting was not recorded. Written minutes are retained in Central Records (telephone: 303-441-3043).

BOARD MEMBERS:

Mark Gerwing, Chair

Liz Payton

Kirsten Snobeck

Nick Fiore

Kate Remley

*Crystal Gray **Planning Board representative without a vote*

STAFF MEMBERS:

Debra Kalish, Senior Assistant City Attorney

James Hewat, Senior Historic Preservation Planner

Marcy Cameron, Historic Preservation Planner

1. CALL TO ORDER

The roll having been called, Chair **M. Gerwing** declared a quorum at 6:04 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **M. Gerwing**, seconded by **K. Snobeck**, the Landmarks Board approved (5-0) the minutes of the December 4, 2013 board meeting.

3. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA

- **Abby Daniels**, Historic Boulder, Inc., 1123 Spruce St., updated the board on a meeting with the owners of 1045 Linden Ave. to discuss alternatives, and indicated that Historic Boulder had not taken an official position on the case.
- **Beverley Potter**, 3201 11th St., addressed concern over correspondence that was forwarded by Historic Boulder to Landmarks Board members about 1045 Linden Ave., without her permission.

**4. DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION
APPLICATIONS ISSUED AND PENDING**

- **Statistical Report**
- **Discussion and decision whether to hold an initiation hearing for 1045 Linden Ave. at February 5, 2014 Landmarks Board meeting.** The board decided to discuss the application under Matters.

5. STRUCTURE OF MERIT INFORMATIONAL SESSION

Staff Presentation

J. Hewat gave a PowerPoint presentation of the Structures of Merit program.

M. Gerwing presented the 2014 Structure of Merit nominations.

Public Participation

Mel Shapiro, Willard House, 125 Bellevue Ave., stated that he would be supportive of landmark designation for his property, depending on the resolution of pending negotiations between neighbor and city.

Louise Padden, Sirotkin House, 575 Euclid Ave., asked if Structure of Merit program is voluntary.

Diana Kahn, Kahn House, 760 Flagstaff, asked about the possibility of Structures of Merit being subsequently designated as landmarks and that she was not in favor of this.

Barbara Brenton, Brenton House, 3752 Wonderland, stated she would be delighted to receive Structure of Merit recognition but did not want her house to be designated an individual landmark..

Mel Shapiro, thanked the board for its consideration of the Willard House for Structure of Merit recognition. He noted that three lots remain undeveloped near his house, and that world renowned architect Peter Bollan has been commissioned to design a house on one of the lots.

Otis Taylor, Jesser House, 595 Euclid Ave., asked for clarification on a comment **M. Gerwing** made regarding the challenges of living in these unique houses.

Louise Padden, requested a list of trades people who are experienced work with these types of houses.

Deborah Hamilton, Caldwell House, 415 Drake St., stated they are very enthusiastic about the Structure of Merit recognition and prefer it to landmark designation.

Mel Shapiro, suggested that the Landmarks Board aggressively incentivize protection, since the owners are offered millions for their lot.

Otis Taylor, Jesser House, 595 Euclid Ave., noted that he previously owned 1434 Baseline Rd., and pursued listing on the National Register, and also acknowledged the extra effort and money needed to maintain these extraordinary houses.

6. DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION APPLICATIONS ISSUED AND PENDING (CONTINUED)

- **Discussion and decision whether to hold an initiation hearing for 1045 Linden Ave. at February 5, 2014 Landmarks Board meeting.**

M. Cameron gave an update on the case, which included a meeting held on December 20, 2013 between the owners and the Historic Boulder, Inc. The board discussed zoning and the allowable sq ft for Owner Accessory Units (OAUs). **C. Gray** suggested the board write a letter to City Council and encourage historic houses be incentivized by OAUs. **K. Remley** spoke in support of holding an initiation hearing to consider landmark designation of 1045 Linden Ave. **L. Payton** spoke in support of holding an initiation hearing to consider landmark designation of 1045 Linden Ave.

M. Gerwing made a motion, seconded by **K. Remley**, to hold an initiation hearing for 1045 Linden Ave. (3-2, **M. Gerwing** and **K. Snobeck** opposed) on Feb. 5, 2014.

L. Payton stated she was concerned about the lack of publicity for this demolition. **N. Fiore** stated that he wished there was more creativity and will on behalf of city staff to find solutions when there are code-based impediments to preservation.

7. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

- A. Update Memo
- B. Subcommittee Update
 - 1) Demolition Ordinance
 - 2) Outreach
 - 3) Potential Historic Districts and Landmarks
 - 4) Design Guidelines
- C. A Brief History on the Boulder-Colorado Sanitarium

8. DEBRIEF MEETING/CALENDAR CHECK

9. ADJOURNMENT

The meeting adjourned at 8:55 p.m.

Approved on _____, 2014

Respectfully submitted,

Chairperson

**CITY OF BOULDER
LANDMARKS BOARD
February 5, 2014
1777 Broadway, Council Chambers Room
6 p.m.**

The following are the action minutes of the February 5, 2014 City of Boulder Landmarks Board meeting. A digital recording and a permanent set of these minutes (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). You may also listen to the recording on-line at: www.boulderplandevlop.net.

BOARD MEMBERS:

Mark Gerwing, Chair

Liz Payton

Kirsten Snobeck

Nick Fiore

Kate Remley

*Crystal Gray **Planning Board representative without a vote*

STAFF MEMBERS:

Debra Kalish, Senior Assistant City Attorney

James Hewat, Senior Historic Preservation Planner

Marcy Cameron, Historic Preservation Planner

1. CALL TO ORDER

The roll having been called, Chair **M. Gerwing** declared a quorum at 6:04 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **M. Gerwing**, seconded by **L. Payton**, the Landmarks Board approved (5-0) the minutes as amended of the January 8, 2014 board meeting.

3. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA

**4. DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION
APPLICATIONS ISSUED AND PENDING**

- **Statistical Report**

5. ACTION ITEMS

- A. Public hearing and consideration of whether to initiate individual landmark designation for the property located at 1045 Linden Ave., per Section 9-11-3 of the Boulder Revised Code, 1981 (HIS2013-00182). Owner: John and Kathy Steinbaugh.

Staff Presentation

M. Cameron made a presentation to the board.

Owner's Presentation

David Eisenstein, 225 Canyon Blvd., lawyer representing the owners, spoke in opposition to landmark initiation and spoke of efforts the owners have taken during the stay-of-demolition, and noted that the owners would be willing to place plaques at the site and at the Ted Allen horseshoes pits at 28th and Mapleton Ave. and document the property following Historic American Building Standards.

L. Payton asked the owners' representative what variances it would take for the owners to be interested in preserving the building in place.

D. Eisenstein stated that leaving the structure on that parcel of land diminishes any financial viability, decreases the value of the land. Keeping house on that lot would entail spending money to make it functional. In addition, the owners are not interested in becoming developers.

M. Cameron said that the owner has expressed that he is not interested in pursuing any variances and does not want the lot to be cluttered with multiple buildings.

Public Hearing

Joyce Davies, 350 Ponca Pl., #462, spoke of Historic Boulder's role in the history of historic preservation in Boulder and spoke in support of preserving small houses, including this one, despite its poor condition.

Bev Potter, 3201 11th St., spoke in support of initiating landmark designation based upon the social history associated with Ted Allen and that restoration costs should be further analyzed to seek a feasible way to preserve the house.

Abby Daniels, 1123 Spruce St., in support of initiating landmark designation, noting that Historic Boulder's Preservation Committee voted unanimously to do so in that it considers the property to be potentially eligible for individual listing in the National Register of Historic Places.

Karl Anuta, 4840 Thunderbird, in support of landmark initiation.

Kathryn Barth, 2940 20th St., spoke of her experience on the Landmarks Board and expressed her support of landmark initiation.

Motion

On a motion by **L. Payton**, seconded by **K. Remley**, the Landmarks Board adopt a resolution (2-3, **M. Gerwing**, **N. Fiore**, and **K. Snobeck** opposed) to initiate the landmark designation for the property at 1045 Linden Ave. as an individual landmark whereas on January 8, 2014 the Landmarks Board voted to schedule an initiation hearing for 1045 Linden now therefore be it resolved by the Landmarks Board of the City of Boulder, Colorado and will schedule an designation hearing in accordance with the Historic Preservation Ordinance no fewer than 60 days and no greater than 120 days from the date of this resolution.

The motion failed.

L. Payton was heartened to see members of the public involved with early preservation efforts in Boulder at the hearing.

K. Snobeck stated that while she voted against holding this hearing, she was glad to have this hearing, but she will not be voting in favor of landmark initiation.

N. Fiore stated that the purpose of these meetings was to explore possible options to preserve the building. He is against landmarking over the owner's objection.

B. Public hearing and consideration of a Landmark Alteration Certificate for the on-site relocation of a contributing accessory building to the northwest corner of the lot at 2003 Pine St. per Section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00013). Owner: Andrew and Kristin MacDonald.

Board members were asked to reveal any ex-parte contacts they may have had on this item.

N. Fiore made a site visit

L. Payton made a site visit

K. Snobeck made site visits and reviewed the accessory building at the Landmarks design review committee meeting

K. Remley made a site visit

C. Gray made a site visit with a former Landmarks Board member

Staff Presentation

J. Hewat made a presentation to the board.

Applicant's Presentation

Phil McEvoy, 1928 Pearl St., architect and representative of the applicant, spoke in support of approving the Landmark Alteration Certificate application.

Public Hearing

Abby Daniels, 1123 Spruce St., Boulder, CO spoke in support of the Landmark Alteration Certificate application.

Motion

On a motion by **M. Gerwing**, seconded by **L. Payton**, the Landmarks Board adopted (5-0) the staff memorandum dated February 5, 2014 in matter 5B (HIS2014-00013) as the findings of the board and approves relocation of the existing contributing accessory building to the northwest corner of the lot at 2003 Pine St., and supports the requested setback variance, finding that the relocation generally meets the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

- 1) The applicant shall be responsible for ensuring that the development shall be constructed in compliance with approved plans dated 01.22.2014 on file in the City of Boulder Community Planning and Sustainability Department.

- 2) Prior to submitting building permit and issuance of a landmark alteration certificate, Historic Preservation Staff shall review and approve methodology for relocation of the accessory building.

This recommendation is based upon staff's opinion that, provided the condition listed above is met, the proposed construction will be generally consistent with the standards for issuance of a Landmark Alteration Certificate as specified in Section 9-11-18, B.R.C. 1981, and the *General Design Guidelines*.

- C. Public hearing and consideration of a Landmark Alteration Certificate to demolish an existing accessory building and in its place construct a one-story, 487 sq. ft. garage and attached one-car carport, at 611 Concord Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2013-00281). Applicant: Jim Walker. Owner: William Hogrewe and Joy Barrett.

Board members were asked to reveal any ex-parte contacts they may have had on this item.

M. Gerwing recused himself.

All Landmarks Board members received letters.

K. Snobeck made a site visit.

Staff Presentation

J. Hewat made a presentation to the board.

Applicant's Presentation

Jim Walker, 1440 Lee Hill Dr., architect and representative of the applicant, spoke in support of the Landmark Alteration Certificate application, as submitted.

Public Hearing

Abby Daniels, 1123 Spruce St., spoke in support of the Landmark Alteration Certificate application.

Ken Foelske, 553 Concord, spoke in support of the Landmarks Alteration Certificate application.

Joy Barrett, 611 Concord Ave., spoke in support of the Landmarks Alteration Certificate application.

Motion

On a motion by **K. Snobeck**, seconded by **K. Remley**, the Landmarks Board approved (4-0, **M. Gerwing** recused) the demolition of the non-contributing accessory building and the construction of the proposed 487 sq. ft. garage and attached carport at 611 Concord Ave. as shown on plans dated 01.10.2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Section 9-11-18, B.R.C. 1981, subject to the conditions below, and adopts the staff memorandum dated February 5th, 2014 as findings of the board with the following conditions:

- The applicant shall be responsible for ensuring that the development will be constructed in compliance with approved plans dated 01.10.2014 on file in the City of Boulder Community Planning and Sustainability Department, except as modified by these conditions of approval.
- Prior to building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit revised plans for proposed carport addition to the Landmarks design review committee showing a detail of a less integrated or permanent attachment of the carport to the historic accessory building, consistent with the *General Design Guidelines and Mapleton Hill Design Guidelines*.
- Prior to applying for a building permit, and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: final details showing roofing, siding, windows and pedestrian and garage door details. These design details shall be reviewed and approved by the Landmarks design review committee, prior to the issuance of a building permit. The applicant shall demonstrate that the design details are in compliance with the intent of this approval and the *General Design Guidelines* and the *Mapleton Hill Historic District Design Guidelines*.

6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

- A. Update Memo
- B. Subcommittee Update
 - 1) Demolition Ordinance
 - 2) Outreach
 - 3) Potential Historic Districts and Landmarks
 - 4) Design Guidelines

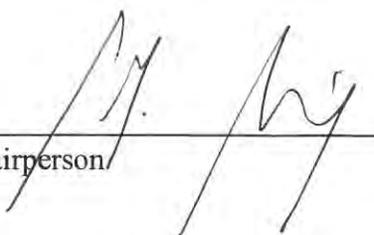
7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The meeting adjourned at 9:33 p.m.

Approved on _____, 2014

Respectfully submitted,



 Chairperson

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Council Working Agreements

Council Process:

- The council will work on general discipline in being prepared to ask questions and make comments.
- The council asks the mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.
- During a council meeting, any form of electronic messages, including emails and texts, that relate to matters being considered and which arrived at any time during that meeting shall not be read by council members, nor shall any messages on matters under consideration be sent by council members.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously separate between members of boards and members of council, avoid expressing ideas to board members on things coming before the board, and carefully disclose or recuse themselves when there is involvement with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, through hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The council will find ways to support majority council decisions and adequately inform the public, through responsive letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

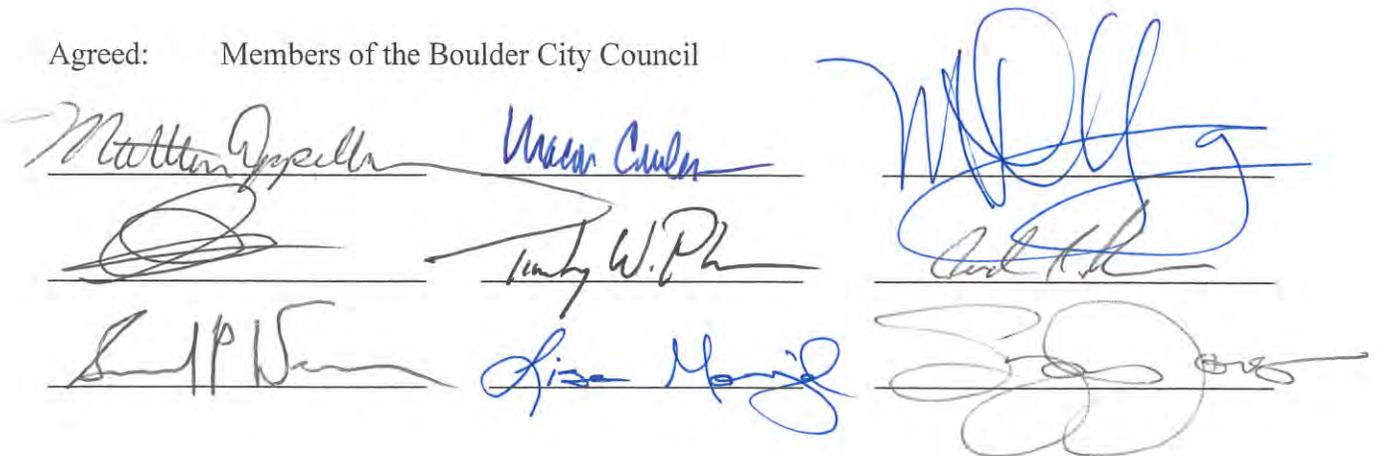
Council Committees:

- Council committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

Selection of Mayor and Mayor Pro Tem:

- Council members will make a good faith effort to select the mayor and mayor pro tem in an open and transparent process.
- After the council election, members seeking election as mayor or mayor pro tem should:
 - make their interest in the positions known to their fellow members as soon as possible;
 - focus their communication with other council members on the positive attributes the member brings to the positions; and
 - refrain from any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals' presentations may include, but need not be limited to the following:
 - the skills and attributes the member would bring to the mayoral position;
 - the member's ability to efficiently run council meetings, respect the views of the minority while allowing the majority to rule, and perform other mayoral duties;
 - how the member would represent the city and city council and mayor position at gatherings outside of city council meetings
 - how the member would serve on and appoint other council members to regional and national boards and commissions; and
 - how the member would promote trust of the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

Agreed: Members of the Boulder City Council



The image shows nine handwritten signatures in blue ink, arranged in three rows and three columns. Each signature is written over a horizontal line. The signatures are: Row 1: Matthew Appella, Warren Cauden, [unclear]; Row 2: [unclear], Andy W. Ph..., [unclear]; Row 3: [unclear], Lisa M..., [unclear].

City Council Goals – 2013

Top Priorities:

1. Boulder's Energy Future

The top priority for the City in 2013 is the development of a framework for planning the energy future for the city of Boulder. This framework will focus on the idea of localization, the overarching goal of which is:

To ensure that Boulder residents, businesses and institutions have access to energy that is increasingly clean, reliable and competitively priced.

2. Climate Action Plan

Outline the next generation of climate action efforts in Boulder

Consider extension of CAP tax

3. Affordable Housing

Receive report of the Task force created in 2010 to evaluate goals and the approach to affordable housing and Based on Council review and discussion of these recommendations, develop an action plan to improve the availability of affordable housing in the city

Consider policies regarding inclusionary housing for rental units

4. Civic Center Master Plan

Study and develop a master plan for the area between 15th and 9th Streets, with a focus on Farmer's Market and area between Broadway and 15th Street.

Next Tier Priorities:

1. University Hill Revitalization

Continue work of Ownership Group to develop comprehensive revitalization strategy

Investigate formation of a general improvement district, including the commercial area and part of the residential area to control trash and other problems

Change boundaries of BMS land use to coincide with UHGID through BVCP process

Support private development and investment in Hill area

Partner with CU to consider opportunities for properties in the Hill area

Provide an opportunity to explore big ideas

2. Homelessness

Participate in Ten Year Plan to Address Homelessness

Balance long term and short term approaches to address needs

Invest new resources in Housing First model

Work with partners, such as BOHO, to address approaches to immediate needs

3. Boulder Junction Implementation

Work with RTD and selected developer of site to maximize mixed use urban center

Invest in planned infrastructure

Achieve goals of plan while ensuring flexibility in working with developers

Prioritize city actions to facilitate private investment

Focus additional planning work on reconsidering use for Pollard site



**City Council
2013 Work Plan by Council Goal**

TOP PRIORITIES

GOAL: Boulder's Energy Future			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Recommended strategies to achieve community's energy goals - Study Session and Public Hearing 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – based on the strategies approved by Council in 1st Quarter, ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Municipalization Exploration Project Work Plan Phase 2 – Study Session 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session

GOAL: Climate Action Plan			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Boulder Canyon Hydroelectric Project ▪ Climate Commitment – RFQ for consulting assistance for targets and goal setting, development of new GHG inventory, and tracking and reporting tools ▪ Energy Efficiency: <ul style="list-style-type: none"> ○ Launch of 2013 program priorities ○ Upgrades in City Buildings – employee education and outreach project (IP) ▪ Disposable Bag Fee – implementation plan and revised budget (IP) ▪ Transportation Master Plan (TMP) – 	<ul style="list-style-type: none"> ▪ Commercial Energy Efficiency Strategy (CEES) - feedback on options (Study Session) ▪ Climate Commitment – Study Session to review program annual targets, short/ long term goals, tracking and reporting systems ▪ Electric/ Hybrid vehicles – project closeout ▪ Energy Efficiency – finalize Market Innovations approach (Study Session) ▪ Solar/ Wind Generation Facility Code Changes ▪ SmartRegs – code changes 	<ul style="list-style-type: none"> ▪ CEES – adopt Energy Rating and Reporting Ordinance ▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency – launch Market Innovations competition ▪ Zero Waste Master Plan (ZWMP) – draft 	<ul style="list-style-type: none"> ▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency <ul style="list-style-type: none"> ○ Upgrades in City Buildings – results of employee education and outreach (IP) ▪ SmartRegs – options for quality control of rental housing inspections



initial results of Transportation Funding Task Force (Study Session)			
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GOAL: Affordable Housing

1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
<ul style="list-style-type: none"> ▪ ADU/ OAU – study results (IP) ▪ Comprehensive Housing Strategy issues - stakeholder engagement process ▪ Density and Distribution of affordable and special needs housing - report ▪ Inclusionary Housing Rental Policy – consideration of ordinance changes following stakeholder engagement process ▪ Mobile Homes Parks – legislative agenda 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy <ul style="list-style-type: none"> ○ Stakeholder engagement process ○ Study Session 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy issues - stakeholder engagement process 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy issues - stakeholder engagement process

GOAL: Civic Area Plan

1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
<ul style="list-style-type: none"> ▪ Board and community input ▪ Council participation in Ideas Competition 	<ul style="list-style-type: none"> ▪ Council direction on preferred option(s) and strategies ▪ Draft plan <ul style="list-style-type: none"> ○ Development ○ Community input ○ Study Session ▪ Municipal Space Study Final Report 	<ul style="list-style-type: none"> ▪ Boulder Civic Area vision and plan <ul style="list-style-type: none"> ○ Study session ○ Public hearings on adoption 	



NEXT TIER PRIORITIES

GOAL: University Hill Revitalization			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ 2013 action priorities confirmed by Council at January retreat ▪ Hill Residential Service District – update ▪ Innovation District - update 	<ul style="list-style-type: none"> ▪ Action on other priorities ▪ Hill Residential Service District – 1st reading of petition 	<ul style="list-style-type: none"> ▪ Capital infrastructure improvements for the residential and commercial areas – consider during CIP process 	

GOAL: Addressing Homelessness			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ City and Community Efforts – Denver sleeping ordinance (IP) ▪ Housing First (1175 Lee Hill Road) – Statement of Operations (IP) ▪ Work plan check in and priority – Council retreat 	<ul style="list-style-type: none"> ▪ Analysis of funding for homeless services and alignment with the Ten Year Plan and unmet needs ▪ Ten Year Plan to Address Homelessness – progress update (IP) 	<ul style="list-style-type: none"> ▪ Analysis and recommendations regarding banning panhandling on street corners 	<ul style="list-style-type: none"> ▪ Ten Year Plan to Address Homelessness – progress update (IP)

GOAL: Boulder Junction Implementation			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Depot Square implementation – update ▪ MU-4 zone change - consideration ▪ TDM District Implementation Update (IP) ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) 	<ul style="list-style-type: none"> ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) 	<ul style="list-style-type: none"> ▪ Boulder Junction Access District Parking – update ▪ TDM Access District implementation - IP 	



OTHER

GOAL: Other City Goals and Work Plan Items			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ 13th Street Plaza - IP ▪ 28th Street Multi-use Path and Bikeable Shoulders Iris to Yarmouth CEAP – potential call up ▪ Acquisition Plan Update - OSMP ▪ Alcohol/ Land Use Code Changes – options and recommendations ▪ Boating on Barker Reservoir ▪ Burke Park/ Thunderbird Lake – recommendations on lake water levels and enhancing park facilities ▪ BVCP Area III Planning Reserve Amendments (if approved by County) ▪ Chautauqua Guiding Principles, Next Steps –update on progress ▪ Civic Use Task Force – update from Council members ▪ Cultural Master Plan ▪ Design and Construction Standards Update – consideration of minor updates ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Hogan Pancost – annexation and site review ○ Wonderland Creek Townhouses – potential call up ○ 28th and Canyon (Eads/ Golden Buff) – potential call up ○ Landmark Lofts II (970 28th Street) – potential call up ▪ East Arapahoe Study – potential action on limited zoning changes ▪ Economic Sustainable Strategies – 	<ul style="list-style-type: none"> ▪ Access and Parking Management Strategies – study session ▪ Alcohol Land Use Code Changes - action ▪ Baseline Underpass East of Broadway CEAP – Call up ▪ Bike Parking Ordinance Updates ▪ Capital Improvement Bond Projects status update - IP ▪ Capital Projects – carry over and first supplemental ▪ Critical Facilities Ordinance – public hearing and motion ▪ Education Excise Tax – consideration of City Manager funding recommendations ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Human Rights Ordinance – proposed changes regarding age discrimination ▪ Integrated Pest Management Program Changes - IP ▪ International Building and Energy Codes – public hearing ▪ North Boulder Subcommunity Plan - IP ▪ Old Hire Fire and Police Pension Plans – Study Session 	<ul style="list-style-type: none"> ▪ 2014 Budget Process ▪ Access and Parking Management strategies (update) ▪ Boulder Reservoir Site Management Plan – status of planning efforts and outcomes of community engagement (IP) ▪ Capital Improvement Program – study session ▪ Carter Lake Pipeline – thru CIP process ▪ Contractor Licensing – proposed changes (IP) ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Blue Spruce Auto (4403 Broadway) – potential call up ○ Boulder Outlook Hotel Redevelopment (800 28th Street) – potential call up ○ Colorado Building Parking Lot (1301 Walnut) - ordinances ○ 1000 Alpine – potential call up ○ 3085 Bluff – potential call up ○ 3390 Valmont (Former Sutherlands Site) – potential call up ▪ Eco Pass- report on results of Joint Study with Boulder County on community-wide Eco Pass Feasibility ▪ FAM Master Plan – study session ▪ Harbeck-Bergheim House – Future Use Options (IP) ▪ North Trail Study Area – study 	<ul style="list-style-type: none"> ▪ Access and Parking Management Strategies – update ▪ Agriculture Plan (OSMP) – public hearing ▪ Capital Improvement Program – adoption of CIP; 2nd budget supplemental ▪ Contractor Licensing – consideration of proposed changes ▪ Design and Construction Standards Update – consideration of additional changes ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Village Shopping Center Hotel (26th and Canyon) – potential call up ▪ East Arapahoe Study – check in on project scope and work plan (3/4Q) ▪ Energy Efficiency Upgrades in City Buildings – results of employee education and outreach project (IP) ▪ FAM Master Plan – consideration of acceptance ▪ Fourmile Canyon Creek Violet Avenue to Broadway CEAP – potential call up ▪ Human Relations Commission Work Plan update - IP ▪ Human Services Fund allocations - IP ▪ Light Response Vehicle Pilot Program - IP ▪ OSMP Natural Resources Overarching Issues – Study session



<p>study session</p> <ul style="list-style-type: none"> ▪ Education Excise Tax Allocation of Funds – refine RFP criteria ▪ Energy Efficiency Upgrades in City Buildings – employee education and outreach project (IP) ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Hazardous Materials Management IGA ▪ Hydroelectric operations and opportunities - IP ▪ Keep It Clean IGA ▪ Mobile Food Vending – options for ordinance changes ▪ Multi-hazard mitigation plan – possible consent item ▪ Nuisance Mosquito Control Pilot Project Evaluation - IP ▪ OSMP Overarching Issues – discussion and possible action on Voice and Sight Tag Program, Commercial Use Program, Pilot Parking Permit Program; IP on timeline and process for evaluation of remaining topics ▪ Police Department Master Plan – Study Session ▪ State of the Court Presentation ▪ Sustainable Streets & Centers – update on proposed scope options, next steps and integration with TMP, East Arapahoe Area Plan and proposed Economic Sustainability Strategy ▪ Transportation Funding (SS) ▪ TMP Update – additional direction 	<ul style="list-style-type: none"> ▪ OSMP natural resources – overarching policy issues <ul style="list-style-type: none"> ○ Temporal Regulations ○ Penalties for violations ○ Multi-modal access and parking opportunities ○ Analysis of trail network and distribution of activities ▪ Parks and Recreation Master Plan ▪ Pearl Street Mall Code Changes ▪ Police Department Master Plan ▪ Randolph Center Condominium Declaration ▪ Recirculation of wastewater – CU Williams Village North (IP if necessary) ▪ Skunk Creek, Bluebell Creek and King’s Gulch Flood Mapping Update – public hearing and motion ▪ Smoking Ban on Pearl Street Mall - IP ▪ Snow and Ice Control Evaluation – study session ▪ Transportation Funding – study session ▪ TMP Update – additional direction ▪ Twomile and Upper Goose Creek Flood Mapping Update – public hearing and motion ▪ Water budgets – commercial, industrial and institutional – Council direction ▪ Water supply status – IP 	<p>session or dinner discussion</p> <ul style="list-style-type: none"> ▪ Old Hire Fire and Police Pension Plans – possible discussion during budget process ▪ Parks and Recreation Master Plan ▪ Regional Trail Connections (OSMP) – IP ▪ South Boulder Creek Flood Mitigation Study – public hearing and motion ▪ Transportation Demand Management Toolkit - IP ▪ Valmont Butte Future Use Discussions – study session ▪ Water Conservation Futures Study ▪ Youth Opportunities Funding allocations - IP 	<p>on remaining topics</p> <ul style="list-style-type: none"> ▪ Urban Wildlife – Consideration of Wildlife Protection Ordinance ▪ Water budgets – commercial, industrial and institutional – consideration of changes
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<ul style="list-style-type: none"> ▪ US36 Bikeway Maintenance – Enhancements IGA (tentative based on if extra community investments are desired) ▪ Urban Wildlife – Black Bear Education and Enforcement pilot program update ▪ Woodland Creek Diagonal to Winding Trail CEAP – potential call up ▪ Zero Waste Master Plan Update 			
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KEY

ADU	Accessory Dwelling Units
BVCP	Boulder Valley Comprehensive Plan
CEAP	Community and Environmental Assessment Process
CIP	Capital Improvement Program
CU	University of Colorado
DUHMD/PS	Downtown and University Hill Management District/ Parking Services (City Division)
FAM	Facility and Asset Management
ICC	International Code Council
IGA	Intergovernmental Agreement
IP	Information Packet
OAU	Owner Accessory Units
OSMP	Open Space/Mountain Parks Department
RFQ	Request for Qualifications
RFP	Request for Proposals
TDM	Transportation Demand Management
TMP	Transportation Master Plan
ZWMP	Zero Waste Master Plan