BOULDER CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, August 20, 2013
5 p.m.

AGENDA

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. (**Roll call vote required**)

   A. Consideration of a motion to approve the City Council Meeting **Minutes from July 16**, 2013

   B. Consideration of a motion to approve the City Council Meeting **Minutes from July 23**, 2013

   C. Consideration of a motion to approve the City Council Meeting **Minutes from July 24**, 2013

   D. **Third reading** and consideration of a motion to adopt the following ordinances:

      1. **Ordinance No. 7912** placing on the November 5, 2013 **ballot** a **measure extending and dedicating to open space, transportation and the general improvement services a 0.33 cent sales tax; and**

      2. **Ordinance No. 7913** placing on the November 5, 2013 **ballot** a **measure imposing a new 0.15 cent sales tax to be dedicated to transportation**; as adopted and amended at the August 5, 2013 council meeting and setting forth related details

   E. **Third reading** and consideration of a motion to adopt **Ordinance No. 7916 submitting** to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the issue of** whether City of Boulder taxes should be increased by **an excise tax of up to 10 percent of the average market value of unprocessed recreational marijuana** from a recreational marijuana cultivation facility **and a sales and use tax of up to 10 percent on recreational marijuana** and setting forth related details

   F. **Third reading** and consideration of a motion to adopt the following ordinances:

1. **Ordinance No. 7919** setting the ballot title and **submitting to** the **voters** at the November 5, 2013 election an **initiated amendment** to the City Charter **to require voter approval of the electric utility debt** limit **and total cost of debt repayment prior to issuance** of any debt, **prohibiting service outside of the city absent a vote by out-of-city residents in the service area, limiting debt elections to November in odd-numbered years**, **and limiting brokerage fees** on such indebtedness; and

2. **Ordinance No. 7920**, setting the ballot title and **submitting** to the voters at the November 5, 2013 election **the question of setting a debt limit for acquisition of electric utility assets; amending the City Charter to allow utility related questions to be considered at any election; allowing out-of-city service and non-resident customers to be represented on the utility advisory board; adding utility services standards and requirements for the electric utility board related to rates and rate making; setting standards against discrimination and the granting of privileges and advantages; adding new sections of the City Charter related to acquisition debt limits and customer choice for out of city utility customers**; and superseding any initiated ballot measure to the contrary, and setting forth related details

G. **Third reading** and consideration of a motion to adopt **Ordinance No. 7917 finding** that t**he conditions precedent to formation of an electric power and light utility** of Charter section 178(a) **have been satisfied,** and setting forth related details **and acceptance of the** summary of the **July 23, 2013 presentation by PowerServices, Inc.**

H. **Third reading** and consideration of a motion to adopt **Ordinance No. 7918 authorizing** the **acquisition of property interests owned by Public Service Company of Colorado d/b/a Xcel Energy by negotiation and purchase or through the power of eminent domain** and setting forth related details

I. **Second reading** and consideration **of** a motion to adopt the following ordinances**:**

1. **Ordinance No. 7910 regarding** amending Section 98, **Term of bonds-disposal of bonds**, of the Charter of the City of Boulder;

2. **Ordinance No. 7914 regarding** amendments to Charter Section 130 and other related Charter sections **changing the requirement from City electors to City residents to serve on City Boards**; and

3. **Ordinance No. 7915 regarding** extending Ordinance 7907, **the moratorium on fracking**, all as approved for adoption on consent at the August 5th council meeting and setting forth related details

J. Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance designating** the building and property at **3015 Kalmia Ave.**, **to be known**

as the Lundgren-Harper House, **as an individual landmark** under the city's Historic Preservation Ordinance

K. 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** to vacate a portion **of a twenty-foot emergency access and utility easement** in association with an approved use review request to locate 68 attached multi-family residential units in an industrial zoning district **at 6655 Lookout Road**

L. Introduction, **first reading** and consideration of a motion to order published by title only, an **ordinance** amending chapters 10-2, 10-5, 10-5.5, 10-6, 10-7, 10-7.5, 10-8, 10-9, 10-9.5 and 10-10, B.R.C. 1981, adding new chapter 10-8.5; **adopting by reference, with amendments, the 2012 International Property Maintenance, Building, Residential, Energy Conservation, Fire, Wildland-Urban Interface, Mechanical, Fuel Gas and Plumbing Codes, and the 2011 Electrical National Code**, **amending sections 4-20-47, "Zoning Adjustment Filing Fees", and 2-3-4 "Board of Building Appeals,"** B.R.C. 1981; and setting forth related details

M. Introduction, **first reading** and consideration of a motion to order published by title only, an **ordinance** amending floodplain regulations in order **to clarify existing regulations and to protect critical facilities and lodging facilities in the 100- and 500-year floodplains,** including Chapter 9-3 "Overlay Districts," Subsection 9-6-1(d) "Use Table," and Section 9-16-1 "Definitions: B.R.C. 1981

N. Consideration of a **motion to authorize** the **disposal of approximately 0.798 acres of** Open Space and Mountain Parks **land** described as a permanent easement **to Public Service Company of Colorado and CenturyLink** to place power poles on the East Rudd property for the purpose of **facilitating the construction of the planned Community Ditch Trail underpass** at State Highway 93. **This is a disposal of Open Space land** under City Charter Section 177

O. Consideration of a **motion to reschedule** the business **meeting on November 5, 2013 to November 12, 2013**

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**

A. **Second reading** and consideration of a motion to adopt **Emergency Ordinance No. 7922 extending** a **0.15 sales and use tax,** which is currently dedicated to open space and expires December 31, 2019, **to remove the expiration date and dedicate the funds to**

transportation until December 31, 2029 and thereafter dedicating the funds to general improvement needs as introduced and passed on first reading at the August 5, 2013 council meeting and setting forth related details

B. Consideration of a **motion to accept the Boulder Police Master Plan, approve the Boulder Valley Comprehensive Plan (BVCP) Police Master Plan Summary and amend the BVCP Urban Service Criteria and Standards for Urban Police Protection**

6. **MATTERS FROM THE CITY MANAGER**

A. Consideration of a **motion to adopt a resolution setting the ballot order** for the November 5, 2013 coordinated municipal election

B. **Update** on **Council Chambers audiovisual upgrades**

7. **MATTERS FROM THE CITY ATTORNEY**
None

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL**

A. Potential Call-Ups

1. **Vacation of Utility Easement in the High Mar Senior housing development** Information Packet Date: August 20 Last Opportunity: August 20

2. **Recommendation to rename Canyon Park to Emma Martinez Park** Information Packet Date: August 20 Last Opportunity: August 20

3. **Site Review on NE corner of Kalmia Ave. and 28th St.** Information Packet Date: August 8 Last Opportunity: August 20

B. Consideration of a motion regarding **2013 performance evaluations**, and performance based salary adjustments **for** the **City manager, City Attorney, and Municipal Judge**

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
July 16, 2013

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

Mayor Appelbaum called the regular July 16, 2013 City Council meeting to order at 6:00 PM in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Ageton, Becker, Cowles, Jones, Morzel, Plass and Wilson. Council Member Karakehian was absent.

A. NEW BOULDER WEBSITE LAUNCH

Information Technology Director Don Ingle presented an overview of the city's new website to be launched on July 17, 2013. He previewed the new Constituent Relationship Management (CRM) platform that has allowed the city to go from 12,000 pages to 4,000. He also acknowledged the tremendous staff efforts over a period of four years to make the project a success.

2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE –** 6:22 PM

1. Mike Dorsey – Spoke in opposition to municipalization as a utility customer that does not live within the city limits who would be impacted by municipalization.

2. Bob Doyle – Spoke as the Executive Director of the Colorado Tobacco Education/Prevention Alliance against commercialization of recreational marijuana.

3. Morgan McMillan – Spoke as a private citizen and as a staff member of the Community Foundation regarding community needs around homelessness and unemployment.

4. Tim Thomas – Commented that he felt Council should not meet in the kitchen for dinner prior to the meeting in a space not open to the public. He also spoke against forcing municipalization on utility customers outside the city limits and the use of the civic use pad by the St. Julien Hotel.

5. Gwen Dooley – Spoke about the ordinance changing requirements for citizens to serve on boards and commissions. She was in favor of allowing non-city citizens that would be rate payers of the new utility to serve on the Electric Utility Board. She wanted to see the other changes made to all boards and not relegate them only to the Human Relations Commission. She suggested that the two be separated.

6. Greg Harms – Spoke as the Executive Director of Boulder Shelter for the

Homeless regarding upcoming decisions on funding for nonprofits in Boulder.

7. Karey Christ-Janer – Spoke about ads in the Daily Camera for Shell Energy. She expressed concern that Shell Energy may try to enter into a partnership with the city of Boulder once municipalization was achieved.

8. Daniel Ellen – Spoke in opposition to allowing a Wal-Mart to be built in Boulder.

9. Meshama Abraham – Spoke in favor of the fracking moratorium ballot item and suggested corrections to the ordinance and agenda item.

Council Member Wilson explained that the door to the kitchen where Council ate dinner was for security reasons and mentioned that the City Attorney was present in order to avoid inappropriate discussions.

3. **CONSENT AGENDA -** 6:45 PM

A. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM JUNE 4, 2013**

This item was amended to correctly reflect the support of Tim Thomas to the charter amendment petition being circulated on limitation on debt.

B. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM JUNE 10, 2013**

This item was pulled with a request for additional capture of the council discussion leading up to a motion by Council Member Jones and then the conversation leading up to the vote on the final motion.

C. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM JUNE 11, 2013**

D. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7909 AUTHORIZING PARTICIPATION IN THE DENVER METRO MORTGAGE ASSISTANCE PLUS PROGRAM AND AUTHORIZING THE CITY MANAGER TO ENTER INTO THE DELEGATION AND PARTICIPATION AGREEMENT WITH THE CITY OF DENVER**

E. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, ORDINANCE NO. 7910 SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF AMENDING SECTION 98, "TERM OF BONDS – DISPOSAL OF BONDS" OF THE CHARTER OF THE CITY OF BOULDER TO AUTHORIZE NEGOTIATED OR PRIVATE SALES OF BONDS AND SETTING FORTH RELATED DETAILS**

This item was amended on the recommendation of the City Attorney contained in the gold handout.

F. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, ORDINANCE NO. 7914 SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF AMENDING CHARTER SECTION 130 AND OTHER RELATED CHARTER SECTIONS REMOVING THE REQUIREMENT THAT INDIVIDUALS BE CITY ELECTORS TO SERVE ON CITY BOARDS AND COMMISSIONS AND AMENDING CHARTER SECTION 185 TO ALLOW OUT OF CITY ELECTRICAL UTILITY CUSTOMERS TO SERVE ON THE ELECTRIC UTILITY BOARD AND SETTING FORTH RELATED DETAILS**

This item was amended to separate changes to Section 185 and include it in a potential municipalization ballot measure and keep the ballot measure for Section 130 as a standalone measure.

G. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, ORDINANCE NO.7915 SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF EXTENDING ORDINANCE NO. 7907, THE MORATORIUM ON ACCEPTING AND PROCESSING APPLICATIONS FOR DRILLING PERMITS ON CITY OF BOULDER OPEN SPACE PROPERTIES AND ON ANY CITY PERMITS OR USE REVIEW OF NEW MINING INDUSTRY USES INVOLVING OIL AND GAS EXTRACTION AND SETTING FORTH RELATED DETAILS**

This item was amended to replace a super majority with a 2/3 majority of council members present.

H. **CONSIDERATION OF A MOTION CALLING A SPECIAL MEETING ON JULY 23, 2013 TO CERTIFY AN INITIATIVE PETITION REGARDING LIMITATIONS ON DEBT AND FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, A QUESTION REGARDING DEBT LIMITATION**

I. **CONSIDERATION OF A MOTION CALLING A SPECIAL MEETING ON JULY 24, 2013 FOR THE CONDEMNATION ORDINANCE AND THE ORDINANCE FOR THE FINAL DETERMINATION THAT THE CONDITIONS PRECEDENT OF CHARTER SECTION 178(A) HAVE BEEN MET AND ALTERNATIVE BALLOT MEASURES RELATED TO MUNICIPALIZATION**

J. **CONSIDERATION OF A MOTION CALLING A SPECIAL MEETING ON AUGUST 5, 2013 FOR BALLOT ITEMS**

Council Member Cowles moved, seconded by Council Member Plass, to approve Consent Agenda items 3A through 3J with the following amendments:

1. 3A amended
2. 3B pulled and requested to bring back with additional information
3. 3E amended as recommended by the City Attorney using the gold handout
4. 3F amended to separate the charter changes in Section 130 and 185 with 185 coming back as part of the potential municipalization ballot measure on July 24; and
5. 3G amended to replace super majority with a 2/3 vote of council members present.

The motion carried 8:0 with Council Member Karakehian absent. Vote taken at 7:24PM.

4. **POTENTIAL CALL- UP CHECK IN –** 7:25 PM

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

ORDER OF BUSINESS

5. **PUBLIC HEARINGS** - 7:25 PM

A. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, THREE ORDINANCES SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTIONS OF WHETHER BOULDER SHOULD 1) EXTEND AND DEDICATE TO OPEN SPACE A 0.15 CENT SALES TAX; 2) EXTEND AND DEDICATE TO OPEN SPACE, TRANSPORTATION AND GENERAL GOVERNMENT SERVICES A 0.33 CENT SALES TAX; AND 3) THE ISSUE OF WHETHER TO IMPOSE AN INTERIM NEW 0.25 CENT SALES TAX TO BE DEDICATED TO TRANSPORTATION AND TO FUNDING THE ACQUISITION OF A PROPERTY INTEREST IN AN APPROXIMATELY 25-ACRE PROPERTY KNOWN AS LONG'S GARDENS AND SETTING FORTH RELATED DETAILS**

Deputy City Manager Paul Fetherston, City Attorney Tom Carr and Chief Financial Officer Bob Eichem presented on this item.

Mr. Carr noted that all TABOR (Tax Payer Bill of Rights) related ballot items are listed before ballot question on the ballot.

Council Member Cowles suggested minimizing the discussion and addressing the item by discussing what Council wanted in the final version of the ordinances. Specifically, he wanted to discuss whether Council wanted to have three tax items on the ballot or two.

Council Member Morzel asked what the differences in assumptions were from the meeting on June 16 related to the Open Space financial analysis.

Mr. Eichem stated that the debt purchases were removed from the financial models as requested by Council.

Council Member Becker asked if BMPA (Boulder Municipal Property Association) notes required the same reserve requirements that bond issuances required.

Mr. Eichem noted that the reserve requirement varied by bond types and BMPA notes did not have the same requirements as municipal bonds. Generally, the reserve requirement is one year of principal and interest for traditional bonds.

Council Member Ageton asked if there was a portion of the 0.33 tax dedicated specifically to transportation.

Council Member Jones clarified that there was an option to dedicate a portion of it to transportation, but the decision to do so could be made by a Council in the future under the option being proposed.

Council Member Plass commented that he would like to find alternative means to fund transportation outside of a sales tax.

Council Member Becker noted that reasons for not putting the 0.15 tax on the ballot included having too many tax related items on the ballot and to explore other funding options for transportation. She wondered what had changed since the Transportation Advisory Board (TAB) suggested a Vehicle Miles Traveled (VMT) Tax.

Council Member Jones expressed hope that a communitywide EcoPass was being explored alongside the new Transportation Master Plan (TMP).

Council Member Becker commented that she thought the new TMP would identify new items as well as keeping those that were not yet complete. She thought there was a separate study that TAB and the Transportation Department did on funding options.

Senior Transportation Manager Chris Hagelin explained that a VMT tax would have to be implemented on a larger scale than just the city of Boulder, the technology wasn’t quite up to par at this time for such a project and there were legal implications around tracking people and vehicle use. He mentioned that state and federal governments were also looking at VMT options.

Council Member Plass noted that he mentioned it because he wanted to look at alternative funding options and that wasn’t to mean that he supported it as the only answer.

Council Member Becker supported passing a temporary sales tax to deal with pavement issues and other small items.

Ms. Hagelin clarified that through the update to the TMP the transportation needs that had been identified may grow.

Council Member Morzel asked how long Boulder would continue with the TMP given it has always had a huge funding issue. She suggested Council consider discussing the TMP at the next retreat.

Mayor Appelbaum recalled that general operations and maintenance in transportation were not able to continue to be funded under the current revenue streams. He asked if open space would be able to make purchases in the near future with current revenue projections and revenue streams.

Director of Open Space and Mountain Parks Mike Patton explained that if Council requested purchases from Open Space in the next five or six years that totaled in the twenty million dollar range, it was likely that the fund could make those purchases.

Mayor Appelbaum asked if those purchases could be made using BMPA notes.

Chief Financial Officer Bob Eichem explained that they could so long as the city could prove that it would be able to make the payments.

Council Member Becker reviewed the ending fund balances and asked why the reserves were not taken out before the ending fund balance since they were required.

Chief Financial Officer Eichem responded that he prepared the financial analysis based on best practices. He explained that the reserves included emergency funds and obligations such as sick and vacation time payable.

Council Member Becker noted that some of those reserves were required while others were not and suggested breaking them out because the entirety of the reserve was not available for acquisition.

Mr. Eichem commented that emergency funds spent in one year would have to be replenished, which is why the funds are not split out.

Council Member Jones reminded Council that the revenue strategy being proposed would cover all fund expenditures for the next twenty years and without those funds, the acquisition plan would not be able to be completed.

Mr. Eichem agreed with Council Member Jones comments.

Council Member Ageton struggled with approving a tax that was supposed to cover “everything” when there were master plans being worked on in the present.

Council Member Morzel asked if there would be additional staffing needs that were not shown in the fund statements.

Mr. Patton responded that current staffing levels were used in the projections.

Council Member Morzel commented that she would like to see a 0.25 tax dedicated to Open Space in order to fully fund the vision plan that was approved by Council.

Mayor Appelbaum wondered if there were partners that the city would be able to cost share with to fulfill the vision plan.

Mr. Patton commented that in some cases there might be potential partnerships for regional trails, but staff had not had much success with other government entities to date.

Council Member Becker asked about mineral and water right acquisitions and whether there were ongoing obligations that had to be paid related to historical acquisitions. She noted that she would like to see a budget line item for those costs as part of the financial statement.

The public hearing was opened at 8:17 PM.

1. Gwen Dooley – Requested that Council present the ballot issues related to taxes as separate issues so that voters could distinguish between them and make clear decisions.

2. Matthew Mosely – Spoke as a representative of TAB to support the 0.20 dedication of the 0.33 tax for transportation.

3. Sue Prant – Spoke on behalf of Community Cycles in support of the TAB recommendations related to dedicated transportation taxes. She referenced a letter she had emailed to Council regarding the priorities for transportation.

4. Kirk Cunningham – Spoke on behalf of the Indian Peaks Section of the Sierra Club in support of the 0.33 tax and extension of the dedicated 0.15 open space tax. He noted that the Sierra Club was interested in preserving mineral rights on open space.

5. Dick Harris – Thanked Mr. Eichem for giving him access to the Excel spreadsheets that he presented to Council. He commented that he thought the assumptions were incorrect and handed out a spreadsheet he had updated with new assumptions showing the open space fund with a deficit.

6. Ruth Wright – Recommended that Council take no action on extension of the 0.15 dedicated open space tax. Instead she recommended extension of the .33 tax with a breakout of .25 for Open Space and .08 for other purposes (general fund). She also asked that Council not include Long's Garden in with the dedicated transportation tax.

7. Tim Rohrer – Spoke in favor of the 0.33 tax and dedicating a portion of it to the general fund. He commented that in his years he has seen a decline in governmental services and hoped to see reinstatement of a level of service citizens had become accustomed to, specifically he referenced tree trimming.

8. Isabel McDevitt – Spoke as the Executive Director of Bridge House in favor of balancing general fund needs with those of open space and transportation. She encouraged Council to consider dedicating a portion of the 0.33 tax to the general fund.

9. DeAnne Butterfield – Spoke in favor of dedicating a portion of the 0.33 tax to the general fund.

There being no further speakers, the public hearing was closed at 8:43 PM.

Council Member Cowles commented that he would like to fully fund the open space vision plan and provide additional funds to transportation. His preference was to offer two ballot initiatives including 0.15 for transportation for five years and an extension of the 0.33 tax for five years dedicating 0.25 to open space and .08 to the general fund.

Council Member Ageton asked if the transfer from the general fund to open space would continue after the expiration of the tax.

Mayor Appelbaum responded that the transfer would end in 2019.

Mayor Appelbaum made a motion, seconded by Council Member Morzel, to approve the ballot question regarding the proposed 0.15 transportation tax and the 0.33 sales tax, dedicating 0.22 to open space and 0.11 to the general fund with both expiring after a five-year term.

Council Member Ageton stated that she was not completely happy about the proposal, she urged Council to seriously consider taking a hard look at the master plans and working toward a longer term solution between this election and the expiration of the tax.

Council Member Cowles asked that Council members interested in having some kind of vested interest in Long's Garden to express that sentiment. He was concerned that staff may take Council's decision to remove it from the ballot language as disinterest. He thought that 0.20 would be sufficient for open space with 0.13 of the 0.33 tax dedicated to the general fund after hearing Council Member Becker's overview of funding needs within the various city departments.

Council Member Jones commented that Council did not have sufficient information to understand if 0.22 of the 0.33 tax would be sufficient for open space. She also noted that she was interested in a conservation easement for Long's Garden.

Council Member Plass stated that he supported a conservation easement for Long's Garden. He did not believe that it should be mixed in with the transportation tax.

Council Member Morzel asked staff to run a model for open space showing the tax dropping to 0.10 in 2030. She noted that she would support the motion.

Council Member Becker thought the motion was a good compromise. She supported the idea of Council taking a hard look at the master plans and chipping away at them to fund them and make them successful.

Council Member Ageton commented that she supported Long's Garden, but was not sure if open space would be responsible for funding a conservation easement. She noted that she thought 0.20 for open space was high. She was concerned that once funding was given to a program it was more difficult to take it away and would prefer to err on the side of caution in regard to open space revenue.

Council Member Wilson stated that he would support the motion.

Mayor Appelbaum restated an amended motion, seconded by Council Member Morzel, to introduce and order published by title only Ordinance No. 7912 approving a ballot question to renew the 0.33 cent open space tax; Allocating 0.22 cent to open space and remainder to general government expenses. The 0.22 cent tax would be reduced to 0.10 cent in 2030; and, to introduce an order published by title only Ordinance No. 7913 approving a ballot question to impose a 0.15 cent sales tax for five years, dedicated to transportation funding. The motion carried 8:0 with Council Member Karakehian absent. Vote taken at 10:01 PM.

Council Member Morzel commented that she was in favor of a 0.25 sales tax for open space, but was not interested in extending the 0.15 tax. She was concerned about having too many taxes on the ballot. She would like to see a short term transportation tax without dedicating any of it to Long's Garden. She reminded Council that Long's Garden was not for sale and the only opportunity regarding the property was a conservation easement. She expressed concern about funding all of the transportation needs that were in the master plan and hoped to reconsider those items in the future. She suggested a head tax related to transportation to tax heavy road utilization. She also noted that she would prefer separate ballot items dedicating specific taxes so that voters would have better clarity about how their money would be spent.

Mayor Appelbaum conducted an agenda check at 10:01 PM.

B. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE ISSUE OF WHETHER CITY OF BOULDER TAXES SHOULD BE INCREASED BY AN EXCISE TAX OF UP TO 15 PERCENT OF THE AVERAGE MARKET VALUE OF UNPROCESSED RECREATIONAL MARIJUANA FROM A RECREATIONAL MARIJUANA CULTIVATION FACILITY AND A SALES AND USE TAX OF UP TO 10 PERCENT ON RECREATIONAL MARIJUANA AND SETTING FORTH RELATED DETAILS – 10:20PM**

City Attorney Tom Carr presented on this item.

Council Member Morzel asked how staff and Council would be able to determine the correct level of taxation. She also asked if there was information from other municipalities regarding taxation on recreational marijuana. She noted that she was hearing rumors that there would be a five percent excise tax.

Chief Financial Officer Bob Eichem commented that he did not have any further information related to other communities yet.

Mayor Appelbaum commented that Denver was considering five percent up to ten percent as sales and use tax, but were not considering an excise tax yet.

Council Member Morzel noted that it would be important for cities to have similar tax rates so that consumers would not be driven to other communities to make purchases.

Council Member Cowles asked what the difference was between revenues that would be dedicated to the general fund versus restricted funds.

Mr. Eichem responded that the restricted funds referred to dedicated funds that were set to expire.

Council Member Morzel wondered what the comprehensive abuse program costs presented in the packet would cover.

Council Member Becker pointed out that Council had received an email from Boulder County Public Health.

Mayor Appelbaum moved, seconded by Council Member Morzel, to suspend the rules and continue the meeting. The motion carried 6:0, with Council Members Ageton, Karakehian and Wilson absent. Vote taken at 10:17 PM.

Mayor Appelbaum opened the public hearing at 10:17 PM.

1. Kevin Cheney – Vice President of the class of 2014 at University of Colorado Law School and president of Students for Sensible Drug Policy, against the proposed marijuana taxes. He stated that the taxes would drive up the cost above street market value and therefore encourage users to purchase marijuana illegally.

2. T.J. Lauritson – Spoke on behalf of United Food Workers Union against the proposed marijuana taxes.

3. Diane Czarkowski – Spoke as a Boulder resident and mother of three kids ages 18 and up, against the proposed marijuana taxes. She commented that there were currently education and prevention programs in the community that worked very well. She was concerned about the ability for people to grow marijuana at their residence and urged Council to keep the cost competitive rather than drive business underground or to home operations.

4. Shawn Coleman – Spoke as a marijuana user against the proposed marijuana taxes.

5. Jeffrey Gard – Spoke as an attorney on behalf of Options Medical Center against the proposed marijuana taxes. He encouraged Council to work toward a thriving and regulated industry for recreational marijuana.

6. Teri Robnett – Spoke as a new board member of the National Organization for the Reform of Marijuana Laws (NORML) against the proposed taxes on recreational marijuana. She mentioned that Boulder had been known for alternative treatment methods and she managed her own pain issues exclusively with cannabis.

7. Ronn Nixon – Spoke as an advocate and consumer of cannabis opposed to additional taxes on recreational marijuana.

8. Travis Howard – Spoke as a parent and owner of Green Dream in Gunbarrell commenting that while there are businesses that may take their business elsewhere if additional taxes are placed on recreational marijuana, those businesses that remain will be able to serve the market.

9. Jonathan Singer – Spoke as a state representative and social worker giving an explanation regarding House Bill 1318 regarding taxation of recreational marijuana at the state level.

10. Samantha Walsh – Spoke as a cannabis and industrial hemp political consultant and strategist opposed to further taxation of recreational marijuana at the local level.

11. Carole Mandryk – Spoke as a mother and former Dean at Harvard University opposed to additional taxation of recreational marijuana. She also noted that there were fully funded education and prevention programs currently in place. She encouraged Council to focus on prevention programs and not to model them after the current tobacco programs.

12. Heath Harmon – Spoke as a representative of Boulder County Public Health, He reiterated many of the points related to education and prevention options from a public health perspective.

13. Gregory Duran – Spoke about the ease of access in relation to information on marijuana in the digital age. He asked Council to consider programs that would provide information to children and help parents learn how to have appropriate conversations with children. He also spoke in opposition to additional taxation of recreational marijuana.

There being no further speakers, the public hearing was closed at 11:20 PM.

Council Member Cowles stated that the proposed taxes were much higher than necessary and he would only agree to up to five percent tax in each category and did not want to see any specific designation before all needs were known.

Council Member Morzel agreed with Council Member Cowles comments and added that she wasn't sure if it made sense to have both an excise and a sales tax. She thought the excise tax had better rationale.

Council Member Morzel moved, seconded by Council Member Cowles, to introduce and order published by title only an Ordinance setting the ballot question regarding an excise tax up to five-percent with no specific dedication of the revenues.

Council Member Becker agreed that the proposed taxes were too high and that the rationale for an excise tax was more prevalent. She noted that an excise tax up to ten percent would be more in line with what the city of Denver was considering. She noted that the percentage of wholesale worth that would be taxed was still unknown and therefore it was difficult to forecast potential revenues. She did not want to remove the opportunity for the city to increase the tax if necessary to cover costs that were yet unknown. Her preference was to request an excise tax of five percent up to ten percent. She disagreed with comments that any portion of the revenues should not be dedicated. She was specifically concerned that by not dedicating funds up front, Council may not be able to find a way to do so in the future. She noted that she would like to see up to fifteen-percent dedicated to education and prevention programs.

Council Member Becker offered a substitute motion:

Council Member Becker moved, seconded by Council Member Ageton, to introduce and order published by title only an ordinance submitting the question to the voters of whether an excise tax should be placed on wholesale unprocessed recreational marijuana up to ten percent with up to fifteen percent dedicated to education and prevention programs.

Council Member Plass commented that he would not support either motion. He wanted to leave both a sales tax and an excise tax as presented. He did not want to be left without options if there were unknown needs that came to light and the tax was not bringing in sufficient revenue. He was not in favor of dedicating a portion of the tax.

Council Member Ageton commented that she was in favor of dedicating a portion of the revenues for comprehensive substance abuse programs. She thought the percentage slated to be dedicated was too much, but she also stated that there were too many unknowns in regard to the revenue projections to slate fifty percent for any particular use.

Mayor Appelbaum agreed with Council Member Plass's comments.

Council Member Becker expressed concern about placing a recreational marijuana tax on the ballot at the same time as the state.

Council Member Jones commented that she would rather start small in regard to the amount of any taxes on recreational marijuana. She stated that she would support five percent for an excise tax. She commented that she would agree with adding language that any dedicated funds were meant for comprehensive substance abuse programs. She noted that Denver was planning a sales tax and she wanted to follow their lead.

Mayor Appelbaum commented that Council would have to vote to replace the original motion with the substitute motion.

Vote was taken on replacing the main motion from Council Member Morzel with the substitute motion from Council Member Becker. The vote was 5:2, with Council Member Cowles and Morzel opposed and Council Members Wilson and Karakehian absent.

Council Member Ageton offered a friendly amendment to include a sales tax of five percent up to ten percent and clarifying that the excise tax would begin at five percent and could go up to ten percent. Council Member Becker accepted the friendly amendment.

Vote was taken on the substitute motion by Council Member Becker, seconded by Council Member Ageton, to introduce and order published by title only Ordinance No. 7916 as amended submitting the question to the voters of whether an excise tax should be placed on wholesale unprocessed recreational marijuana of five percent up to ten percent with up to fifteen percent dedicated to education and prevention programs and a sales tax of five percent up to ten-percent on recreational marijuana point of sale purchases. The motion carried 5:2, with Council Members Cowles and Morzel opposed and Council Members Karakehian and Wilson absent. Vote taken at 11:53 PM.

6. **MATTERS FROM THE CITY MANAGER**
   None

7. **MATTERS FROM THE CITY ATTORNEY**
   None

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL** – 11:54 PM

A. **POTENTIAL CALL-UPS:**

1. **VACATION OF EXISTING UTILITY EASEMENT AT 1661 ELDER AVENUE IP DATE: JULY 16 LAST OPPORTUNITY: JULY 16**

No action was taken on this item.

2. **COMMUNITY AND ENVIRONMENTAL ASSESSMENT PROCESS (CEAP) FOR THE 28TH STREET (IRIS-YARMOUTH) BICYCLE AND PEDESTRIAN IMPROVEMENTS PROJECT, IP DATE: JULY 16 LAST OPPORTUNITY: JULY 16**

No action was taken on this item.

B. **CONSIDERATION OF A MOTION TO CREATE AND APPOINT A COUNCIL COMMITTEE ON BOARDS & COMMISSIONS**

Council Members Ageton and Plass presented on this item.

Council Member Ageton moved, seconded by Council Member Plass, to create and appoint a permanent Council Committee on Boards and Commissions and to appoint Council Members Ageton and Plass to that committee.

Mayor Appelbaum offered a friendly amendment to Council Member Ageton's motion. Council Member Ageton accepted the friendly amendment.

Council Member Ageton moved, seconded by Council Member Plass, to create and appoint a Council Committee on Boards and Commissions and to appoint Council Members Ageton and Plass to that committee with the understanding that continuation of the committee would be reviewed after one year.

9. **PUBLIC COMMENT ON MATTERS**
None

10. **FINAL DECISIONS ON MATTERS** – 12:00 AM

Vote was taken on the motion to create and appoint a Council Committee on Boards and Commissions and to appoint Council Members Ageton and Plass to that committee with the understanding that continuation of the committee would be reviewed after one year. The motion carried 5:2, with Council Members Morzel and Cowles opposed and Council Members Karakehian and Wilson absent. Vote taken at 12:03 AM.

11. **DEBRIEF**
None

12. **ADJOURNMENT** – 12:05 AM

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on July 17, 2013 at 12:05 AM.

Approved this ___ day of _____, 2013.

APPROVED BY:

ATTEST:

_____
Matthew Appelbaum
Mayor

_____
Alisa D. Lewis
City Clerk

CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
July 23, 2013

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the regular July 23, 2013 City Council meeting to order at 10:52 PM in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Ageton, Becker, Cowles, Jones, Karakehian, Morzel, Plass and Wilson.

2. CONSENT AGENDA

City Clerk Alisa Lewis presented on item 3A.

A. **CITY CLERK CERTIFICATION OF THE INITIATIVE PETITION REGARDING LIMITATION ON DEBT**

B. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE SETTING THE BALLOT TITLE FOR AN INITIATED AMENDMENT TO THE BOULDER CHARTER, AND SETTING FORTH RELATED DETAILS**

Item 3 B was continued to July 24, 2013.

Council Member Morzel moved, seconded by Mayor Appelbaum, to approve the consent agenda item 3A and continue item 3B to the July 24, 2013 meeting. The motion carried 9:0. Vote taken at 10:58 PM.

3. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on July 23, 2013 at 10:58 PM.

Approved this ___ day of _____, 2013.

APPROVED BY:

_____
Matthew Appelbaum
Mayor

ATTEST:

_____
Alisa D. Lewis
City Clerk

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CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
July 24, 2013

1. **CALL TO ORDER AND ROLL CALL** – 6:08 PM

Mayor Appelbaum called the special July 24, 2013 City Council meeting to order at 6:05 PM in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Ageton, Becker, Cowles, Jones, Karakehian, Morzel, Plass and Wilson.

2. **OPEN COMMENT AND COUNCIL/STAFF RESPONSE** – 6:10 PM

1. Susan Osborne – Spoke against the initiative petition and those gathering signatures. She thought the information being provided to signers was incorrect. She noted that initially the group stated they would use volunteers to gather signatures, but in the end paid petitioners were utilized for the most part.

2. Kathryn Ramirez-Aguilar – Also spoke against the tactics utilized by petitioners gathering signatures on the debt limitation petition.

3. Donna Rush – Spoke against the debt limitations petition and in favor of municipalization.

4. Youval Yadlin – A summer fellow at New Era Colorado in favor of municipalization and against the process used to gather signatures for the debt limitations initiative petition.

5. Sky Canyon – Echoed the comments of those who spoke before him.

6. Daniel O'Kelly – A fellow of New Era Colorado concerned about the information spread by petitioners gathering signatures. He was also in favor of municipalization.

7. Ruth Blackmore – Spoke against the petition for limitations on debt. She was concerned that if the initiative passed, municipalization would become an impossible goal. She noted that bonding would become difficult under the provisions being proposed.

8. Jeff Hohensee – Spoke in favor of municipalization and the benefit the project would have for local businesses. He complimented staff on their work and stated his support for condemnation.

9. Steve Pomerance – Urged Council to do whatever they needed to do to get the ballot language from the initiative petition in front of a judge before putting it

on the ballot. He was concerned that the language was unclear and should be interpreted by the court in advance of putting debt limitations in front of voters.

10. Rebecca Dickson – Spoke as a member of the Sierra Club. She congratulated the work Council was doing on municipalization. She commented that she was very happy with the third party evaluator's report from July 23, 2013.

11. Manohar Croke – Spoke as an out-of-city resident that would be impacted by municipalization and in favor of municipalization.

12. Leslie Glustrom – Also spoke against the work of petitioners gathering signatures related to debt limitations. She noted that Xcel had attempted to show how they would reduce carbon emissions, but it still wasn't good enough.

13. Bob Morehouse – Presented humorous titles for the ballot initiative on debt limitations.

14. John Spitzer – Urged Council to begin the purchase of Xcel assets in the city of Boulder. He was concerned about rates and noted that he thought a municipal utility would be able to provide customers with lower rates than a for-profit corporation.

15. Karey Christ-Janer – Spoke about the the Xcel working group's recommendations and commented that they were truly innovative. She urged Council to work toward a coordination of resources business model. She suggested working with Fort Collins and Colorado Springs.

16. Angelique Espinoza – Spoke as the Public Affairs Manager for the Boulder Chamber of Commerce. She commented on the governance working group and their contributions to the municipalization project. She encouraged Council to reach out to voters to ease the anxieties around municipalization.

17. John Russell – Spoke in favor of municipalization and urged voters to defeat the ballot measure on debt limitations.

18. Micah Parkin – Spoke on behalf of 350 Boulder in favor of municipalization and against the initiative on debt limitation.

19. Steven Haynes – Spoke as a 39-year resident of Boulder opposed to municipalization. He commented on the increasing costs of municipalization discussed as part of the financial modeling. He was concerned about general funds being used toward municipalization.

20. Eric Gorsegner – Complimented staff on their work on municipalization,

commenting on the sophisticated and complicated nature of electrical utilities.

3. **CONSENT AGENDA** – 6:55 PM

City Manager Jane Brautigam, Deputy City Attorney David Gehr and Senior Assistant City Attorney Kathy Haddock presented on consent agenda items.

A. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE FOLLOWING UP ON ORDINANCE NO. 7898 MAKING FINDINGS REGARDING THE CONDITIONS PRECEDENT OF CHARTER SECTION 178(A) "LIGHT AND POWER UTILITY," AND SETTING FORTH RELATED DETAILS**

Council Member Plass moved, seconded by Council Member Morzel, to introduce on first reading and order published by title only Ordinance No. 7917 following up on Ordinance No. 7898 making findings regarding the conditions precedent of Charter Section 178(a) "Light and Power Utility."

Council Member Cowles praised the work of the third party and staff. He expressed concern about how the ordinance was written and requested clarifying language around the findings of the third party evaluator. He then offered a friendly amendment.

Council Member Cowles offered a friendly amendment to change the wording in section G by adding the word "apparently" prior to "exercised" and prior to "performed" and reference to the report instead of findings.

Council Member Ageton expressed interest in receiving a written report from the third party evaluator. Other Council Members agreed that they would prefer to have a written report.

Council Member Plass accepted the friendly amendment.

Council Member Wilson commented that he was concerned about deferring debt payments in order to pursue municipalization. He noted that this was not a common practice in either the public or private sectors. Debt deferral was intended for large capital infrastructure construction.

It was noted that a written report would be brought to Council by August 6 or shortly thereafter.

Mayor Appelbaum commented that there would be a public hearing on this item on August 6, 2013.

Council Member Plass moved, seconded by Council Member Morzel, to introduce on first reading and order published by title only Ordinance No. 7917 following up on Ordinance No. 7898 making findings regarding the conditions precedent of Charter Section 178(a) "Light and Power Utility," as amended by friendly amendment to change the wording in section G by adding the word "apparently" prior to "exercised" and prior to "performed" and reference to the report instead of findings. The motion

carried: 6:3, with Council Members Ageton , Karakehian and Wilson opposed. Vote was taken at 8:05 PM.

B. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE AUTHORIZING THE ACQUISITION OF PROPERTY INTERESTS OWNED BY XCEL ENERGY, INC D/B/A PUBLIC SERVICE COMPANY OF COLORADO BY NEGOTIATION AND PURCHASE OR THROUGH THE POWER OF EMINENT DOMAIN AND SETTING FORTH RELATED DETAILS**

Council Member Karakehian asked how long the city would have to fund municipalization after all court proceedings end assuming the courts found in favor of the city.

Ms. Haddock noted that there was little case law on this topic, but that ten days was the norm. She commented that there have been times when the court had given sixty days in order for a city to issue bonds and she intended to ask for a longer period than ten days.

Mayor Appelbaum asked if the funds should be readily available while trial was ongoing.

Ms. Haddock responded that the city would not have to have the funds readily available at the time of verdict.

Council Member Cowles moved, seconded by Council Member Plass, to introduce and order published by title only Ordinance No. 7918 authorizing the acquisition of property interests owned by Xcel Energy, Inc. d/b/a Public Service Company of Colorado, by negotiations and purchase or through eminent domain as presented on the green handout by the City Attorney's Office.

Council Member Cowles reviewed the reasons that he thought were most important in moving forward with either negotiations or condemnation.

Council Member Plass agreed.

Council Member Wilson made a substitute motion, seconded by Council Member Karakehian, to delay condemnation proceedings for up to six months to allow for direct negotiations with Xcel Energy, Inc. d/b/a Public Service Company of Colorado, to explore options that would meet the City's Clean Energy Goals.

Council Member Wilson commented that the working groups were excited about options for alternative energy sources presented by Xcel Energy. He thought it would be prudent to wait for those ideas to be flushed out and receive further information before moving forward with condemnation and municipalization. He also noted that he would like to see Boulder take more of a leadership role in exploring energy alternatives as a partner with Xcel Energy. He was concerned that municipalization may be rushed.

Council Member Karakehian stated that he did not believe the task force options were given fair consideration. He did not believe it was fair for Council to discount those options without receiving a formal presentation from the groups. He was also concerned that the city was rushing forward with municipalization and waned to slow things down and give more thought to the decisions being made.

Mayor Appelbaum expressed doubt that Xcel would work toward a partnership with the city of Boulder. He also noted that the way the ordinance was written allowed time for any partnership to be formed rather than move forward with condemnation. He thought that if there were positive indications that a partnership could be formed, court proceedings would be put on hold. He did not want to remove the ability of the city to continue moving forward.

Council Member Becker agreed that it was doubtful a partnership could be formed. She did not believe delaying the decision to move forward would have any impact on partnership possibilities. She noted that she wanted a partnership and thought it would bring about the best outcome related to environmental impacts and had full faith that staff would not end efforts to work toward that end.

Council Member Morzel agreed that good faith efforts had been made on the part of the city and it was time to take the next step. She recounted the history of municipalization and the lack of cooperation on the part of Xcel. Her desire was to honor the vote of the people and they voted to spend $1.9 million a year to explore municipalization to find out if it were feasible.

Council Member Ageton expressed a desire to avoid the expenses of litigation. She believed that the door was still open to form a partnership, but as soon as the Council passed the ordinance allowing for condemnation, that door would be closed and the city of Boulder and Xcel would become adversaries.

Council Member Jones commented that there should be pressure on Xcel to work toward a partnership and avoid litigation, but she was comfortable with the ordinance as written. Xcel would have another six months to work with the city of Boulder before any litigation would begin.

Vote was then taken on whether to allow the substitute motion in place of the original motion. The motion failed 3:6, with Council Members Ageton Karakehian and Wilson in favor. Vote was taken at 8:56 PM.

Vote was then taken on the original motion to introduce and order published by title only Ordinance No. 7918 authorizing the acquisition of property interests owned by Xcel Energy, Inc. d/b/a Public Service Company of Colorado, by negotiations and purchase or through eminent domain as presented on the green handout by the City Attorney's Office. The motion carried 6:3, with Council Members Ageton, Karakehian and Wilson opposed. Vote was taken at 9:01 PM.

Council Member Jones suggested a study session with working group members to discuss the options that they had proposed.

Ms. Brautigam noted that the calendar was quite full and something like this would have to be scheduled on a night other than Tuesday. She also clarified that staff would not be required to attend.

Council Member Becker expressed concern that no members from the working groups were present.

Ms. Brautigam responded that working group members had been waiting for a response from Xcel on their recommendations. No response was received, but Xcel sent their own list of products and services they were able to offer instead. She noted that staff worked closely with the groups and task force to move forward in speaking with Council once they had input from Xcel, which never occurred. There was very little time once all of the information came in and therefore their report was in progress at the same time staff was preparing their memos for the meeting. She assured Council that the task force and working groups were not ignored.

Council Member Becker reiterated Council her desire to meet with working group and task force members.

Council Member Morzel praised the efforts of staff in trying to work with.

Council Member Wilson suggested the task force and/or working groups meet with Xcel Energy, Inc. to discuss their ideas before returning to Council.

C. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE SETTING THE BALLOT TITLE FOR AN INITIATED AMENDMENT TO THE BOULDER CHARTER, AND SETTING FORTH RELATED DETAILS**

This item was continued from the July 23, 2013 meeting.

Council Member Wilson asked if Tax Increment Financing (TIF) would be an option for municipalization.

Ms. Haddock responded that it would not because TIF required formation of a special district and the city only had jurisdiction within city limits for formation of such districts.

Mr. Gehr clarified that the city would have to be capable of implementation and there would be a lot of difficulties associated with including utility customers outside city limits in a special district.

Council Member Cowles commented that putting two competing ballot titles to the people may cause confusion when voters are choosing whether to support or oppose a specific measure. He preferred to title the initiative item “Constraints on a new electric utility.” He commented that all items listed in the ballot language were related to constraining specific abilities of a new electric utility and did not necessarily relate

only to debt. He commented that the city's ballot item should be titled "authorizing the issuance of debt in the amount of $XX to form a new electric utility." He noted that the exact figure could be determined at the August 6 meeting.

Council Member Becker wondered how the city would go about conducting an election that included citizens in a service area and not just within city limits. She was not clear as to how the city would go about conducting such an election.

Mr. Gehr noted that the decision would be made by a future Council.

Ms. Haddock added that it may require clarification from a court as to whether or not the city was capable of conducting such an election.

Council Member Jones agreed with the suggestions of Council Member Cowles. She then clarified that the language proposed by the initiative stated that the city would not be able to serve customers that were unable to vote on the topic of municipalization. She noted that she read it as though the service area would be constrained only to city of Boulder electors.

Council Member Ageton wondered whether Council was able to change the title of a citizen lead initiative and whether or not it was the right thing to do since they were not able to remain objective on the topic. She commented that she thought Council had limited ability in changing language on a citizen lead initiative such as this. She was also concerned about the connotations involved with adding the language suggested by Council Member Cowles.

Ms. Haddock clarified that the committee did not submit a proposed ballot title and had only provided the ballot language. Historically, Council set the shorthand ballot title.

Council Member Jones clarified that council did not have a choice in regard to moving this item forward, voting was a mere formality.

Mayor Appelbaum moved, seconded by Council Member Plass, to introduce and order published by title only Ordinance No. 7919 setting the ballot title of an initiated amendment to the Boulder Charter. The motion carried 9:0 at 9:37 PM.

D. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, A POTENTIAL ALTERNATIVE ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY NOVEMBER 5, 2013, THE QUESTION OF WHETHER TO AMEND THE CITY CHARTER TO ADDRESS ISSUES PRESENTED BY THE PROPOSED INITIATED CHARTER AMENDMENT TO SECTION 188**

Council Member Ageton wondered if those serving on an Electric Utility Board would advise on rates. If so, she asked staff to bring back information on any boards that also advise on rates.

Mayor Appelbaum noted that the Water Resources Advisory Board (WRAB) and the Parks and Recreation Advisory Board (PRAB) had previously advised on rates.

Council Member Wilson agreed and added that Council did not always follow the board recommendations, but they were able to make one.

Mayor Appelbaum clarified that he wasn't aware of that duty being listed in the Charter.

Council Member Jones moved, seconded by Council Member Morzel, to introduce and order published by title only Ordinance No. 7920 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the question of whether to amend the City Charter to address issues presented by the proposed initiated Charter amendment to section 188 as amended. The motion carried 9:0. Vote taken at 10:04 PM.

E. **DEBRIEF**

City Clerk Alisa Lewis announced that the study session on July 30, 2013 would need to begin early at 5:00 PM because the two items on the agenda would take at least two hours each.

Mayor Appelbaum did a straw poll and Council agreed to begin the July 30, 2013 study session at 5:00 PM. There was a preference stated by several Council Members that the meeting then end no later than 9:00 PM.

F. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on July 24, 2013 at 10:07 PM.

Approved this ___ day of _____, 2013.

APPROVED BY:

_____
Matthew Appelbaum
Mayor

ATTEST:

_____
Alisa D. Lewis
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE: Third reading and consideration of motions to adopt the following ordinances:

Ordinance No. 7912 placing on the November 5, 2013 ballot a measure extending and dedicating to open space, transportation and the general government services a 0.33 cent sales tax and

Ordinance No. 7913 placing on the November 5, 2013 ballot a measure imposing a new 0.15 cent sales tax to be dedicated to transportation; as adopted and amended at the August 5, 2013 council meeting and setting forth related details.

PRESENTER:
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Robert Eichem, Chief Financial Officer

EXECUTIVE SUMMARY

On August 5, 2013, City Council took the following actions:

- Passed on second reading as amended **Ordinance No. 7912** placing on the November 5, 2013 ballot a measure extending and dedicating to open space, transportation and the general government services a 0.33 cent sales tax;

- Passed on second reading as amended **Ordinance No. 7913** placing on the November 5, 2013 ballot a measure imposing a new 0.15 cent sales tax to be dedicated to transportation.

Detailed information regarding these ordinances may be obtained from the first and second reading agenda memoranda relating to Ordinances Nos. 7912 and 7913, which are attached.

STAFF RECOMMENDATION

Staff recommends that the council adopt these ordinances by motion with the following suggested motion language:

Suggested Motion Language:

Motion to adopt Ordinance No. 7912 placing on the November 5, 2013 ballot a measure extending a 0.33 cent sales tax and dedicating that tax to open space, transportation and general government services.

Motion to adopt Ordinance No. 7913 placing on the November 5, 2013 ballot a measure imposing a new 0.15 cent sales tax to fund transportation construction and services such as maintenance of pavement, construction of transportation infrastructure, transit service and other transportation purposes for the period between January 1, 2014 and December 31, 2019.

Background:

Ordinance No. 7912

Ordinance No. 7912 would place on the November 5, 2013 ballot a measure extending a 0.33 cent sales tax originally approved by the voters through passage of Ordinance No. 5222. This tax is set to expire on December 31, 2018. The original tax dedicated all of the tax revenue to open space. At the August 5, 2013 special council meeting council approved several amendments to proposed Ordinance No. 7912. The substantive amendments were to the allocation and expiration of the funding. The effect of these amendments would be as follows:

- The tax would not sunset.
- Between January 1, 2014 and December 31, 2034, 0.22 cent of the tax would be dedicated to the acquisition and preservation of open space land.
- Between January 1, 2014 and December 31, 2034, 0.11 cent of the tax would be dedicated to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes.
- Beginning January 1, 2035, 0.23 cent of the tax would be dedicated to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes.
- Beginning January 1, 2035, 0.10 cent of the tax would be dedicated to the acquisition and preservation of open space land.

At the Council Agenda Committee, the mayor raised a question about the meaning of the language allocating the tax revenues. The mayor questioned whether ".022 cent of every dollar of revenue raised" was accurate. Accordingly, staff has revised the language

in Ordinance No. 7912 to refer to cents of every dollar taxed. This is more accurate and most likely be more clear to voters.

Ordinance No. 7913

Ordinance No. 7913 would place on the November 5, 2103 ballot a measure imposing a new 0.15 cent sales tax. This would be a tax increase and therefore the measure is drafted to comply with Article X of the Colorado Constitution, also known as the Taxpayer's Bill of Rights. At the August 5, 2013, special council meeting council approved an amendment extending the term of this tax. The second reading ordinance proposed having this tax expire on December 31, 2018. In adopting on first reading Ordinance No. 7922, council decided to propose an extension of an existing 0.15 tax to provide additional funding for transportation. Currently this tax is dedicated to the acquisition and maintenance of open space land. It expires on December 31, 2019. The new tax imposed through Ordinance No. 7913 would provide transportation funding until funds provided by the tax extended through Ordinance No. 7922 becomes available.

ATTACHMENTS:

Attachment A – Ordinance 7912
Attachment B – Ordinance 7913
Attachment C – First and Second Reading Agenda Memoranda.

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EMERGENCY ORDINANCE No. 7912

AN EMERGENCY ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF, WITHOUT RAISING ADDITIONAL TAXES, EXTENDING THE EXISTING 0 .33 CENT CITY SALES AND USE TAX ~~APPROVED BY THE VOTERS BY ORDINANCE NO. 7673~~, BEYOND THE CURRENT EXPIRATION DATE OF DECEMBER 31, 2018; AND BEGINNING JANUARY 1, 2019, 0.22 CENT OF EVERY DOLLAR TAXED~~OF THE REVENUES COLLECTED~~ TO FUND THE ACQUISITION AND PRESERVATION OF OPEN SPACE, AND 0.11 CENT OF EVERY DOLLAR TAXED~~OF THE REVENUES COLLECTED~~ TO GENERAL FUND SERVICES SUCH AS FIRE, POLICE, LIBRARIES, PARKS, RECREATION, HUMAN SERVICES AND OTHER GENERAL FUND PURPOSES; AND BEGINNING JANUARY 1, 2035 0.10 CENT OF EVERY DOLLAR TAXED ~~OF THE REVENUES COLLECTED~~ TO FUND THE ACQUISITION AND PRESERVATION OF OPEN SPACE, AND 0.23 CENT OF EVERY DOLLAR TAXED~~OF THE REVENUES COLLECTED~~ TO FUND SERVICES SUCH AS FIRE, POLICE, LIBRARIES, PARKS, RECREATION, HUMAN SERVICES AND OTHER GENERAL FUND PURPOSES AS A VOTER APPROVED REVENUE CHANGE; AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The voters of the City have earmarked sales and use taxes for the acquisition of interests in real property for open space purposes by approval of a sales and use tax in the amount of 0.33 cents on each dollar sales, which tax expires at the end of 2018.

B. The electorate should consider authorizing the City Council to continue the collection of a 0.33 cents on each dollar sales and use tax from its present expiration date of December 31, 2018 and beginning January 1, 2019 designate the revenue generated to fund open space purposes and other general funds purposes;

C. It is appropriate for voters to approve of the continued collection, retention and expenditure of the full tax proceeds and any related earnings from this portion of the sales and use tax; and

D. The purposes that will be served by the continued collection of the tax are critical for the continued provision of essential general fund city services.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of authorizing the City Council, by duly passed ordinance, to amend that portion of section 3-2-5, "Rate of Tax," B.R.C. 1981, that pertains to the open space tax that is currently set to expire at midnight on December 31, 2018 by extending the tax beyond its current sunset date in perpetuity.

The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure: (*see following page)*

BALLOT QUESTION NO. _____

SALES AND USE TAX EXTENSION

Without raising additional taxes, shall the existing 0.33 cent City sales and use tax for the acquisition and preservation of open space land, approved by the voters by Ordinance No. 7673, be extended beyond the current expiration date of December 31, 2018; and beginning January 1, 2019 designating 0.22 cent of every dollar taxed~~of the revenues collected~~ to fund the acquisition and preservation of open space land; 0.11 cent of every dollar taxed~~of the revenues collected~~ to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes; and beginning January 1, 2035 designating 0.10 cent of every dollar taxed~~of the revenues collected~~ to fund the acquisition and preservation of open space land; and 0.23 cent of every dollar taxed~~of the revenues collected~~ to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes as a voter approved revenue change?

FOR THE MEASURE ____ AGAINST THE MEASURE ____

Section 3. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed, and the City Council authorized to make amendments to the Boulder Revised Code, 1981, to implement this measure.

Section 4. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance.

Section 5. The officers of the City are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the City.

Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining

provisions of this ordinance. The tax established by this measure is intended to be authorized under any lawful means of taxation, including license taxation pursuant to city of Boulder Charter Section 122.

Section 7. 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 8. 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.

Section 9. The City Council finds that this ordinance is necessary for the preservation of the public peace, health, or property. The City Council amended the ordinance on second reading. This ordinance includes a ballot measure. Emergency passage is necessary to allow time for this matter to be placed on the November 5, 2013 ballot.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 16th day of JULY 2013.

Mayor

Attest:

City Clerk

READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY TITLE ONLY THIS 5th day of AUGUST, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, PASSED, ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August 2013.

_____
Mayor

Attest:

_____
City Clerk

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ORDINANCE NO. 7913

(new 0.15 cent sales and use tax for transportation purposes for five years)

AN EMERGENCY ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF, SHALL CITY OF BOULDER TAXES BE INCREASED BY $4,482,200 EACH YEAR FOR THE PERIOD OF JANUARY 1, 2014 UNTIL DECEMBER 31, 2019 WITH 100 PERCENT OF THE REVENUES COLLECTED TO FUND TRANSPORTATION CONSTRUCTION AND SERVICES WITHOUT LIMITATION, SUCH AS MAINTENANCE OF PAVEMENT, CONSTRUCTION OF TRANSPORTATION INFRA- STRUCTURE, TRANSIT SERVICE AND OTHER TRANSPORTATION PURPOSES, AS A VOTER APPROVED REVENUE CHANGE; AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The funding challenges faced by the Transportation Department have been examined by two Blue Ribbon Commissions, the Transportation Advisory Board, and two community task forces. Additional funding is needed to maintain our transportation infrastructure and provide capital projects to meet the objectives of the community's Transportation Master Plan (TMP).

B. In 2012, operation and maintenance costs accounted for 84 percent of transportation funding and it is estimated that operation and maintenance costs will consume all of transportation funding by 2020, leaving little capacity to do capital projects due to increased costs. The decision to continue funding capital project in the face of rising construction costs, has in a sense forced the city to defer maintenance of pavement, transportation infrastructure, and transit service. Without additional funding, routine maintenance of sidewalks, bicycle paths, medians, signage, striping, etc. will continue to be deferred at greater costs in the long term.

C. The electorate should consider authorizing the City Council to increase the amount of tax levied on each dollar by 0.15 cents for the next **six**~~**five**~~ years with the revenue of

that tax increase to fund transportation services such as maintenance of pavement, construction of transportation infrastructure, transit service and other transportation purposes.

D. The purposes that will be served by the collection of the tax are critical for the continued provision of essential transportation services to the residents and visitors to the city of Boulder.

E. It is appropriate for voters to approve collection, retention, and expenditure of the full amount collected from the tax proposed by the ballot issue described below.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote, the question of authorizing the City Council, by duly passed ordinance, to amend that portion of Section 3-2-5, "Rate of Tax," B.R.C. 1981, that pertains to the 3.41 cents per dollar tax to increase the amount of tax levied to 3.56 cents per dollar of the purchase price of tangible personal property or taxable services sold or purchased at retail for the period of January 1, 2014 until December 31, 2019.

The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

BALLOT ISSUE NO. _____

SALES AND USE TAX

SHALL CITY OF BOULDER TAXES BE INCREASED ($4,482,200 first full fiscal year dollar increase annually) BY INCREASING THE SALES AND USE TAX BY 0.15 CENTS FOR THE PERIOD OF JANUARY 1, 2014 TO DECEMBER 31, 2019 WITH ALL OF THE REVENUES COLLECTED USED TO FUND TRANSPORTATION CONSTRUCTION AND SERVICES SUCH AS MAINTENANCE OF PAVEMENT, CONSTRUCTION OF TRANSPORTATION

INFRASTRUCTURE, TRANSIT SERVICE AND OTHER TRANSPORTATION PURPOSES?

AND IN CONNECTION THEREWITH,

SHALL THE FULL PROCEEDS OF SUCH TAX AT SUCH RATE AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF BOULDER UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

FOR THE MEASURE ___ AGAINST THE MEASURE ___

Section 3. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed, and the City Council authorized to make amendments to the Boulder Revised Code, 1981, to implement the measure.

Section 4. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance.

Section 5. The officers of the City are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the City.

Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance. The tax established by this measure is intended to be authorized under any lawful means of taxation, including license taxation pursuant to city of Boulder Charter Section 122.

Section 7. 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 8. 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.

Section 9. The City Council finds that this ordinance is necessary for the preservation of the public peace, health, or property. The City Council amended the ordinance on second reading. This ordinance includes a ballot measure. Emergency passage is necessary to allow time for this matter to be placed on the November 5, 2013 ballot.

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY this 16th day of JULY 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 5th day of AUGUST, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, PASSED, ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August 2013.

_____
Mayor

Attest:

_____
City Clerk

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: JULY 16, 2013

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only, three ordinances submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the questions of whether the City of Boulder should : 1) extend and dedicate to open space a 0.15 cent sales tax; 2) extend and dedicate to open space, transportation and general government services a 0.33 cent sales tax; and 3) the issue of whether to impose an interim new 0.25 cent sales tax to be dedicated to transportation and to funding the acquisition of a property interest in an approximately 25-acre property known as Long's Gardens and setting forth related details.

PRESENTERS
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Bob Eichem, Chief Financial Officer

EXECUTIVE SUMMARY

At the June 18, 2013 City Council meeting, council members discussed various approaches to addressing the need to fund the Open Space and Mountain Parks and Transportation Departments as well as funding general government operations. Although there was no clear consensus among council members, council discussed the following themes:

- Not to ask voters to approve a transportation fee;
- To ask voters to renew the .15 cent and .33 cent sales taxes, which are currently dedicated to open space, while considering alternatives to dedication to open space;

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- To consider dedicating a portion of the revenue from those taxes to transportation funding; and
- To consider asking voters to approve an interim tax dedicated to transportation funding.

Staff members have reviewed and developed the attached ordinances pursuant to council's direction. They are submitted here for approval on first reading. As discussed further in this memorandum, staff has recommended that the City Council consider using a portion of the interim tax to pay for the acquisition of a property interest in the Long's Gardens property. In the absence of a clear consensus on these issues, staff members have developed a staff recommendation for the various allocations of this tax revenue. It should be clear that this is the product of staff work and not representative of a consensus of council members' views.

STAFF RECOMMENDATION

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

Motion to introduce and order published by title only, three ordinances submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the questions of whether the City of Boulder should : 1) extend and dedicate to open space a 0.15 cent sales tax; 2) extend and dedicate to open space, transportation and general government services a 0.33 cent sales tax; and 3) the issue of whether to impose an interim new 0.25 cent sales tax to be dedicated to transportation and to funding the acquisition of a property interest in an approximately 25-acre property known as Long's Gardens.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The renewal of the .33 cent and .15 cent sales taxes will not create any incremental economic impact on any businesses or individuals since the programs the tax currently supports are already absorbed within the macro economy of the City. These taxes do not expire until 2018 and 2019, respectively. If they are not renewed by that time, there would be a reduction in open space acquisitions and operations that could have a negative effect on the local economy since open space is one of the iconic attributes of our community. Imposition of the temporary .25 cent sales tax could have some detrimental effect on the economy. However, job creation and efficiencies derived from additional funding for transportation improvements, maintenance and support of transit should significantly offset any detrimental effect.

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- Environmental – The existing tax funds open space acquisition, maintenance and operations. Renewal of a portion of these taxes for open space will support land management activities such as weed and wildlife management and environmental education. Investing in transportation infrastructure and supporting transit will reduce congestion and support alternative transportation modes.

- Social – The sales taxes fund the maintenance of mountain parks and natural lands that are accessible to all members of the community, foster a sense of place and provide opportunities for recreation. Transportation improvements support the social fabric of the community.

OTHER IMPACTS

- Fiscal – The fiscal impact to the City is covered in the analysis section of this agenda item.
- Staff time – The staff time needed to complete the background work for the ballot item is included within the departmental work plans.

BOARD AND COMMISSION FEEDBACK

The Open Space Board of Trustees supported a renewal of both the .15 cent and the .33 cent open space taxes. The Transportation Advisory Board supported a transportation maintenance fee.

ANALYSIS

1. Open Space

The proposed ordinances would ask voters to renew both the .15 cent and the .33 cent sales taxes that currently are dedicated to open space. The .15 cent would remain dedicated as it is today. Staff recommends that only .05 cent of the .33 cent sales tax be dedicated to open space. This would result in a total of .20 cent dedicated to open space, which would be projected to produce approximately $5.6 million[1] each year to fund open space operations, maintenance and acquisitions. The additional .05 cent would be more than sufficient to replace the current $1 million per year subsidy which is provided annually by the general fund to the open space fund. Attachment D provides an analysis of funding available to OSMP based on different tax allocations. At the Council Agenda Committee, Council Member Morzel asked that staff provide an analysis of the cost of a

[1] To provide council with context, staff has estimated the potential revenue accruing from the various proposed tax measures. Staff originally used an estimate of $2.5 million in revenue per .10 cent of tax. Currently, the city's taxes actually raise approximately $2.8 million per .10 cent of tax. At the request of the mayor, staff has recalculated the estimated income based on actual current revenue rather than a more conservative estimate to account for economic fluctuations over the life of the tax. Council members should use caution in relying on any estimate. These projections are provided only for council members' guidance in a general way. There is no way to accurately predict tax revenue over the life of a tax.

regional trails network. It is not possible to estimate the cost of such a network at this time. A regional trails network will involve a combination of fee purchases, easement acquisitions, licenses and partnerships with other governments and private landowners. OSMP has not yet done the analysis necessary to estimate the cost.

2. Transportation

The proposed ordinance would dedicate .20 cent of the .33 cent tax renewal to transportation maintenance, expansion and mass transit.[2] This would be expected to produce approximately $5.6 million each year. These dedicated funds would not be available until 2019. Accordingly, the proposed ordinance includes a proposed interim tax with .20 cent dedicated to transportation. This tax would sunset in 2019 when the funds from the .33 cent tax become available.

3. General Government Operations

There remains a need to fund general government operations. The funding gap persists and is projected to increase over time. Accordingly, staff recommends that .08 cent of the .33 cent sales tax be left undedicated so that it can be used for general government operations. As undedicated funds, future councils would be able to allocate this money through the annual budget process, including to open space if necessary. In addition, staff recommends that council express its intent to end the annual $1 million transfer from the general fund to the open space fund. The .05 cent of the .33 cent will generate sufficient funds (estimated to be at least $1.4 million in 2013 dollars) to replace the amount of the transfer. These two changes will increase undedicated funding annually to approximately $3 million.

4. Long's Gardens

At the June 18, 2013 City Council meeting, council directed staff to acquire a property interest in the 25.34-acre property known as "Long's Gardens." It does not appear that the entire property fits appropriately as an open space project. Some portions of the property, such as the Growing Gardens project, would seem to be more appropriately managed by the Parks and Recreation Department. Existing budget priorities, as established by council, do not allow for the funds necessary to make a purchase of this magnitude. Staff recommends that council consider adding .05 cent to the interim sales tax that would expire in 2019 to pay for the acquisition of a property interest in Long's Gardens. Such a tax should produce approximately $7 million over five years. Staff expects that this should be sufficient to purchase an appropriate property interest to preserve the uses that the community values at Long's Gardens. Staff recommends that council authorize but not impose the tax until the purchase price is

[2] Information regarding the need for additional funding for transportation can be found at http://www.bouldercolorado.gov/index.php?option=com_content&id=18115&Itemid=5479. The April 9, 2013 Study Session Memorandum can be found at http://www.bouldercolorado.gov/files/City%20Council/Study%20Sessions/2013SS/04.09.13/040913_TMF_Item.pdf.

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settled. This will allow council to impose only an amount sufficient to pay the purchase price.

The following chart sets out the options in the staff proposal:

Amount	Distribution	Term	Action	Result
.15 cent Open Space	Remain dedicated to Open Space	Expires Dec 2019	Renew to 2039	$4.2 million per year to OSMP
.33 cent Open Space	.05 cent Open Space	Expires Dec 2018	Extend to 2038	$1.4 million per year to OSMP
	TOTAL TO OPEN SPACE .20 cent			$5.6 million per year to OSMP
	.20 cent Transportation	Expires Dec 2018	Extend to 2038	$5.6 million per year to Transportation
	.08 cent Undedicated			$2 million per year to general fund
.25 cent New Tax	.20 cent Transportation .	Interim: 2014 to sunset in 2019		$5.6 million per year to Transportation
1	.05 cent Long's Gardens			$1.4 million per year available for Long's Gardens over five years for a total of $7 million available

Attachments:

Attachment A 0.15 Tax Extension

Attachment B 0 .33 Tax Extension

Attachment C 0.25 New Tax

Attachment D Open Space Funding Analysis

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: AUGUST 5, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt the following:

Ordinance No. 7912 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the question of whether the City of Boulder should extend and dedicate to open space, transportation and general government services a 0.33 cent sales tax;
and

Ordinance No. 7913 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the issue of whether the City of Boulder should impose a new 0.15 cent sales tax to be dedicated to transportation; and setting forth related details.

PRESENTERS
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Bob Eichem, Chief Financial Officer

EXECUTIVE SUMMARY

At the July 16, 2013 City Council meeting, council members considered on first reading three proposed ordinances. The staff proposal was to renew both the 0.33 cent and 0.15 cent open space taxes and to impose a new 0.25 cent tax to fund transportation and acquisition of a property interest in Long's Gardens. At the conclusion of council's discussion, council approved a motion as follows:

- To amend and approve on first reading ordinance number 7912 to renew the 0.33 cent open space tax; allocating 0.22 cent to open space and the remainder to general government expenses. The 0.22 cent would be reduced to 0.10 cent in 2030.

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- To amend and approve on first reading ordinance number 7913 to impose a 0.15 cent sales tax for five years, dedicated to transportation funding.

Further, council members have asked questions about the city's ability to finance open space property purchases. Traditionally, that has been done through two approaches: municipal bonds or lease-purchase arrangements.

Municipal Bonds

Municipal bonds are debt obligations; promises to pay holders specified amounts and on their face are general obligations of the municipality. 15 *McQuillin Mun. Corp.* § 43:1 Definitions (3d ed.) The Colorado Constitution and Revised Statutes and the Boulder Charter require voter approval for general obligation debt

In 1994, the voters authorized the issuance of approximately $50 million dollars of revenue bonds payable from the open space sales and use tax. Pursuant to Ordinance No. 7673, in 2009, the voters approved changing this bonding authority from revenue bonds to general obligation bonds. Of this bonding authority, the city still has approximately $33 million in bonding authority. Given the higher costs of issuing bonds, they tend to be issued in larger amounts and the final maturity is often 20 to 30 years. Eighty-five per cent of the proceeds of the bond sale need to be spent within three years of issuance (to meet Internal Revenue Service (IRS) guidelines for tax exempt debt). In order to issue bonds, there has to be an available revenue sources for the period of payback, and with general obligation bonds, a pledge to use available revenues and increase property taxes, if necessary to make payments as required by the bonds.

Lease-Purchase Arrangements.

Lease purchase arrangements provide some additional flexibility for the city. They are done on a property-by-property basis. Since the transaction is based on a lease purchase arrangement, where the city gets value from each year of the lease, it is not subject to the voter approval requirements of the Taxpayer Bill of Rights (TABOR), because it does not constitute debt.

In an effort to implement lease-purchase arrangements as an alternative to bonded debt, the Boulder Municipal Property Authority, a Colorado non-profit corporation ("BMPA") was created in 1988 (See Ordinance No 5103). In a typical BMPA lease-purchase transaction, BMPA purchases property, paying some or the entire purchase price by giving the seller a promissory note, secured by a deed of trust on the property. BMPA then leases the property to the city for a term of years. Bond counsel has opined that to meet IRS requirements, the lease should be for no less than ten years. BMPA makes note payments to the seller equal in amount and limited to revenue from the city's annual lease payments. Lease purchases are usually ten years in length though they may be longer. Leases are often used when landowners do not want to receive lump sum payments for their properties. For tax purposes some sellers prefer to receive the payments over a longer period of time.

Because the city has no legal obligation to make lease payments beyond a given year's annual City Council appropriation, lease purchase agreements do not constitute debt of the city. After making the final lease payment, the city exercises its option, under the lease, to purchase the property by paying the nominal "amount … necessary to discharge the Note."

When the city approves BMPA lease purchase transactions or the issuance of bonds, the financial analysis is fundamentally the same. The city identifies potential revenue capacity that will be, in future years, appropriated for the purpose of paying the obligation. In the case of bonds, the city is making a pledge by way of an ordinance which is irrepealable until the entire debt obligation is paid. See City Charter § 97. With respect to lease purchase arrangements, each annual lease payment is subject to a prior appropriation by the City Council through the annual budget process.

The interest paid to bond holders or those receiving lease payments are tax exempt from both federal and state income tax if they meet all requirements and are properly executed. Usually the rule of thumb is that the shorter the final payoff the lower the interest rate that will be paid. However, since lease-purchase arrangements have a non-appropriation clause they can require a higher interest rate. Therefore, each situation has to be individually analyzed to determine if it would be better to use bonds or a lease purchase.

When issuing additional bonds there is a requirement that no new bonds can take a position in front of bonds currently outstanding. They may have the same status so they are known as parity bonds. This means that there is a parity test, also known as an additional bonds test, that must be met before additional bonds can be issued. At this time it means that there must be a debt coverage ration of at least 135 percent before additional bonds can be issued. This same test does not apply to lease-purchase payments.

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. 7912 regarding the question of whether the City of Boulder should extend and dedicate to open space, transportation and general government services a 0.33 cent sales tax
and
Motion to adopt Ordinance No. 7913 regarding the issue of whether the City of Boulder should impose a new 0.15 cent sales tax to be dedicated to transportation

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COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The renewal of the 0.33 cent sales taxes will not create any incremental economic impact on any businesses or individuals since the programs the tax currently supports are already absorbed within the macro economy of the city. This tax does not expire until 2018. Imposition of the temporary 0.15 cent sales tax could have some detrimental effect on the economy. However, job creation and efficiencies derived from additional funding for transportation improvements, maintenance and support of transit should significantly offset any detrimental effect.
- Environmental – The existing tax funds open space acquisition, maintenance and operations. Renewal of a portion of these taxes for open space will support land management activities such as weed and wildlife management and environmental education. Investing in transportation infrastructure and supporting transit will reduce congestion and support alternative transportation modes.
- Social – The sales taxes fund the maintenance of mountain parks and natural lands that are accessible to all members of the community, foster a sense of place and provide opportunities for recreation. Transportation improvements support the social fabric of the community.

OTHER IMPACTS

- Fiscal – The fiscal impact to the city was covered in the analysis section of the first reading agenda item.
- Staff time – The staff time needed to complete the background work for the ballot item is included within the departmental work plans.

BOARD AND COMMISSION FEEDBACK

The Transportation Advisory Board supported a transportation maintenance fee.

During its June 12, 2013 meeting the Open Space Board of Trustees voted unanimously to extend one of the two sunsetting Opens Space and Mountain Parks sales taxes. During its deliberation the board discussed the prospect for a new tax of at least 0.20 cent and was generally supportive. However, they eventually decided the extension of an existing tax would be easier to understand by voters and decided to focus on one of the two existing taxes.

The board subsequently split its vote in support of continuation of one of the taxes; two members each supporting the 0.15 cent and 0.33cent. One member was not in attendance but submitted a letter endorsing the 0.33cent for extension.

The motion from the Open Space Board of Trustees is included below.

Motion
Tom Isaacson moved the Open Space Board of Trustees recommend that City Council place on the November 2013 ballot a vote for a dedicated 20-year tax extension for the Open Space and Mountain Parks Department. Shelley Dunbar seconded. This motion passed unanimously.

Tom Isaacson moved the Open Space Board of Trustees inform City Council that two members present support extension of the 0.33 cent tax; two members present support extension of the 0.15 cent tax; and one member who was absent supports the 0.33 pcent tax extension. Shelley Dunbar seconded. This motion passed unanimously. Frances Hartogh was not present.

ANALYSIS

1. Transportation

Ordinance No. 7913 would dedicate all of a 0.15 cent sales tax to transportation. The proposed 0.15 cent tax would expire in 2018. Council intends to explore more appropriate means of funding transportation maintenance, expansion and mass transit to replace the interim tax.[1]

2. Open Space

Ordinance No. 7912 would ask voters to renew the 0.33 cent sales taxes that currently are dedicated to open space: 0.22 cent would remain dedicated as it is today, until 2030. Council reasoned that the bulk of the remaining acquisitions should be completed by 2030. The 0.10 cent tax after 2030 would be dedicated to upkeep and maintenance of the more mature system at that time.

3. General Government Operations

There remains a need to fund general government operations. The funding gap persists and is projected to increase over time. Accordingly, council would allocate 0.11cent of the 0.33 cent sales tax to general government operations. This would increase to 0.23 cent in 2030.

0.33 Cent	2019	2030
Open Space	0.22	0.10
General Fund	0.11	0.23
TOTAL	0.33	0.33

[1] Information regarding the need for additional funding for transportation can be found at bouldercolorado.gov/transportation/transportation-maintenance-fee-faq
The April 9, 2013 Study Session Memorandum can be found at https://documents.bouldercolorado.gov/WebLink8/DocView.aspx?id=121327&dbid=0

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4. Long's Gardens

Council decided not to place any matter relating to Long's Gardens on the ballot.

ADDITIONAL POSSIBLE ORDINANCES

At the Council Agenda Committee meeting on July 22, 2013, Council Member Morzel asked staff to prepare proposed ordinances dividing the 0.33 cent tax measure into two separate ballot measures. This would allow voters to consider the open space measure separately from the funding for police, fire and other general fund services. Draft proposed ordinances are attached as attachments C and D to this memorandum.

Suggested Motion Language:
If council wishes to consider this option, the following motion would be appropriate:

Motion to adopt two ordinances submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday November 5, 2013, the questions of whether the City of Boulder should: 1) extend and dedicate to open space 0.22 cent of the 0.33 cent sales tax; and 2) extend and dedicate to general government services 0.11 cent of the existing 0.33 cent sales tax.

Attachments:
Attachment A Ordinance 7912
Attachment B Ordinance 7913
Attachment C Suggested Ordinance as proposed by Councilmember Morzel (0.22)
Attachment D Suggested Ordinance as proposed by Councilmember Morzel (0.11)

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE: Third reading and consideration of a motion to adopt Ordinance No.7916 submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, the issue of whether City of Boulder taxes should be increased by an excise tax of up to 10 percent of the average market value of unprocessed recreational marijuana from a recreational marijuana cultivation facility and a sales and use tax of up to 10 percent on recreational marijuana and setting forth related details.

PRESENTERS
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul Fetherston, Deputy City Manager
Bob Eichem, Chief Financial Officer
Karen Rahn, Human Services Director
Kathy Haddock, Senior Assistant City Attorney
Mishawn Cook, Tax and Licensing Manager

EXECUTIVE SUMMARY

At the June 18, 2013, City Council meeting, council members discussed various approaches to addressing the need to fund the impacts of the use of recreational marijuana and operation of recreational marijuana businesses within the city. Council requested that the city attorney prepare an ordinance that approved an excise tax of up to 10 percent and a sales and use tax of up to 10 percent, with the actual levy being at 5 percent for the first year. At the August 5, 2013, City Council meeting, the council asked that the levy of 5 percent for 2014 be added to the ballot question that is submitted to the voters. The proposed ordinance includes that change to the ballot question.

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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. 7916 submitting to the registered electors the issue of whether City of Boulder taxes should be increased by an excise tax of up to 10 percent of the average market value of unprocessed recreational marijuana from a recreational marijuana cultivation facility and a sales and use tax of up to 10 percent on recreational marijuana, with the actual levy being 5 percent in 2014.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

See July 16, 2013 packet
https://documents.bouldercolorado.gov/WebLink8/0/doc/121298/Electronic.aspx

BACKGROUND AND ANALYSIS

See agenda memo for July 16, 2013
https://documents.bouldercolorado.gov/WebLink8/0/doc/121290/Electronic.aspx

Agenda memo for August 5, 2013
https://documents.bouldercolorado.gov/weblink8/0/doc/123267/Electronic.aspx

ATTACHMENTS

A - Ordinance No. 7916

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ORDINANCE NO.7916

(Recreational Marijuana Excise and Sales Tax)

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE ISSUE OF WHETHER THE CITY OF BOULDER TAXES SHOULD BE INCREASED BY AN EXCISE TAX OF UP TO 10 PERCENT AND A SALESAND USE TAX ON RECREATIONAL MARIJUANA OF UP TO 10 PERCENT AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. Section 16 of Article XVIII of the Colorado Constitution authorizes a system of state and local licensing for businesses engaged in the cultivation, testing, manufacturing and retail sale of marijuana.

B. City Council has determined to allow recreational marijuana businesses within the city.

C. There are indirect costs to the city of the use of marijuana that are not covered by the license and application fees paid by the marijuana businesses. Many of those costs are related to the fact that marijuana is illegal at the federal level and the state has not been able to fully fund enforcement of laws adopted at the state level, leaving enforcement of marijuana laws to the city. Further, there are not comprehensive substance abuse programs related to the legal use of marijuana.

D. Imposing the tax contemplated by the constitutional amendment legalizing recreational marijuana would provide the resources necessary for the city to be able to pay the indirect costs, including education and programs, related to the use of marijuana.

E. It is appropriate for voters to approve collection, retention, and expenditure of the full amount collected from the tax proposed by the ballot issue described below.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013, between the hours of 7 a.m. and 7 p.m.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the issue of an excise and a sales tax on recreational marijuana.

Section 3. The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the issue:

BALLOT ISSUE NO. ___

RECREATIONAL MARIJUANA TAX

SHALL CITY OF BOULDER TAXES BE INCREASED BY ($3,360,000 first full fiscal year dollar increase) ANNUALLY AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN EXCISE TAX OF 5 PERCENT IN 2014 AND UP TO 10 PERCENT THEREAFTER ON THE CULTIVATION FACILITY AT THE AVERAGE MARKET RATE AT THE POINT OF TRANSFER FROM THE CULTIVATION FACILITY AND AN ADDITIONAL SALES AND USE TAX OF 5% IN 2014 AND UP TO 10 PERCENT THEREAFTER ON RECREATIONAL MARIJUANA AS PROVIDED IN ORDINANCE NO. 7916 COMMENCING JANUARY 1, 2014 **WITH SUFFICIENT REVENUES FROM THE EXCISE AND SALES AND USE TAX TO BE USED FOR PUBLIC SAFETY, ENFORCEMENT AND ADMINISTRATIVE PURPOSES AND FOR COMPREHENSIVE SUBSTANCE ABUSE PROGRAMS INCLUDING WITHOUT LIMITATION PREVENTION, TREATMENT, EDUCATION, RESPONSIBLE USE, INTERVENTION, AND MONITORING, WITH AN EMPHASIS ON YOUTH, AND WITH THE REMAINDER USED BY THE GENERAL FUND**;

AND IN CONNECTION THEREWITH,

SHALL THE FULL PROCEEDS OF SUCH TAXES AT SUCH RATES AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF BOULDER UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

FOR THE MEASURE ____ AGAINST THE MEASURE ____

Section 4. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed, and the City Council authorized to make amendments to the Boulder Revised Code as provided below, effective January 1, 2014, and City Council may adopt amendments to these provisions and adopt other amendments to the Boulder Revised Code to implement these excise and sales and use taxes as may be necessary to implement the intent and purpose of this ordinance.

Section 5. If approved by the voters, effective January 1, 2014, the Boulder Revised Code is amended as follows:

Chapter 3-14 Recreational Marijuana Taxes

3-14-1 Legislative Intent.

The City Council intends that an additional excise tax be imposed on the first sale or transfer of recreational marijuana by a retail cultivation facility within the city and an additional sales tax imposed on every retail sale of recreational marijuana or recreational marijuana-infused product. The purpose of this tax is to increase the revenue base for the city to provide municipal improvements and services related to the introduction of a new marijuana industry to the city. Revenues from the tax shall be deposited in the general fund and shall be available to pay for the general expenses of government. However, although the City Council recognizes that it cannot bind future City Councils, it nonetheless declares its intention that sufficient revenues generated by this tax be appropriated by future City Councils for public safety, enforcement and administrative purposes and for comprehensive substance abuse programs including without limitation prevention, treatment, education, responsible use, intervention and monitoring, with an emphasis on youth with the remainder used to fund other governmental expenses

including police, fire, libraries transportation and general government. Each council shall decide what constitutes sufficient funds. As used here, "sufficient" shall mean an amount determined by council to balance the revenue received with the established need in the community for programs to address the subjects identified above.

3-14-2 Imposition and Rate of Tax.

(a) Excise Tax. There is levied and shall be paid and collected an excise tax of five percent on the average market rate of unprocessed recreational marijuana that is sold or transferred from a recreational marijuana cultivation facility.

(b) Sales and Use Tax. There is hereby levied and there shall be collected and paid a sales and use tax, in addition to the sales and use tax levied in Chapter 3-2, "Sales and Use Tax," B.R.C. 1981, of five percent on the full purchase price paid or charged for tangible personal property and taxable services purchased or sold at retail by every recreational marijuana business exercising a taxable privilege in the city by the sale or use of such property or services. The sales tax is levied on all sales of tangible personal property or taxable services, except those specifically exempted and is collected by the vendor and remitted to the city. The use tax is levied upon the privilege of using in the city, personally or as part of rendering a service, tangible personal property or taxable services upon which a municipal sales and use tax has not been paid and is paid by either the recreational marijuana business in the city or the consumer.

3-14-3 Vendor Liable for Tax.

(a) Excise Tax. Each recreational marijuana cultivation facility shall pay the tax imposed in Section 3-14-2(a) on every sale or transfer of recreational marijuana from the cultivation facility.

(b) Sales and Use Tax. Each recreational marijuana center shall pay the tax imposed in Section 3-14-2(b) on every sale or transfer of recreational marijuana or a recreational marijuana product from the recreational marijuana center.

(c) The burden of proving that any transaction is not subject to the tax imposed by this Chapter is upon the person upon whom the duty to collect the tax is imposed.

3-14-4 Taxes Collected are Held in Trust.

All sums of money paid by a person as the additional excise or sales and use tax on recreational marijuana tax imposed by this Chapter are public monies that are the property of the city. The person required to collect and remit the additional recreational marijuana excise or sales and use tax shall hold such monies in trust for the sole use and benefit of the city until paying them to the city manager.

3-14-5 Definition.

As used in this Chapter, "average market rate" means the amount determined by the State of Colorado pursuant to § 39-28.8-101(1) C.R.S. or such alternate amount as may be determined by the city manager as the average price of unprocessed recreational marijuana that is sold or transferred from a cultivation facility to a retail marijuana center or manufacturer.

3-14-6 Licensing and Reporting Procedure.

(a) Every person with a duty to collect the excise or the sales and use tax imposed by this Chapter shall obtain the license required by Section 3-2-11, “Sales and Use Tax License,” B.R.C., 1981 to collect the tax and shall report such taxes collected on forms prescribed by the city manager and remit such taxes to the city on or before the twentieth day of the month for the preceding month or months under report.

(b) Each recreational business is required to obtain a license pursuant to Section 3-2-11 “Sales and Use Tax License,” B.R.C., 1981. Such license is valid so long as:

(1) the business remains in continuous operation, and

(2) the sales and use tax license is not canceled by the licensee or revoked by the city, and

(3) so long as the business holds a valid recreational marijuana business license from the city.

(c) Whenever a business entity that is required to be licensed under this Chapter is sold, purchased, or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new sales tax license.

(d) The sales tax license may be revoked as provided in Section 3-2-13, "Revocation of License," B.R.C. 1981.

3-14-7 Maintenance and Preservation of Tax Returns, Reports, and Records.

(a) The city manager may require any person to make such return, render such statement, or keep and furnish such records as the manager may deem sufficient and reasonable to demonstrate whether or not the person is liable under this Chapter for payment or collection of the tax imposed hereby.

(b) Any person required to make a return or file a report under this Chapter shall preserve those reports as provided in Section 3-2-18, "Taxpayer Duty to Keep Records, Provide Information and File Returns," B.R.C. 1981.

(c) The city manager shall maintain all reports and returns of taxes required under the Chapter as provided in Section 3-2-20, "Preservation of Tax Returns and Reports," B.R.C. 1981.

3-14-8 Interest and Penalties for Failure to File Tax Return or Pay Tax.

(a) Penalties for failure of a person to collect the additional recreational marijuana excise or sales and use tax or to make a return and remit the correct amount of tax required by this Chapter and procedures for enforcing such penalties are as prescribed in Section 3-2-22, "Penalties for Failure to File Tax Return or Pay Tax (Applies to Entire Title)," B.R.C. 1981.

(b) Interest on overpayments and refunds is as prescribed in Section 3-2-24, "No Interest on Overpayments and Refunds (Applies to Entire Title)," B.R.C. 1981.

3-14-9 Refunds.

Refunds of taxes paid under this Chapter are as prescribed in Section 3-2-23, "Refunds (Applies to Entire Title)," B.R.C. 1981.

3-14-10 Enforcement of Tax Liability.

(a) The additional recreational marijuana excise and sales and use tax imposed by this Chapter, together with all interest and penalties pertaining thereto, is a first and prior lien on tangible personal property in which the person responsible to collect and remit the tax has an ownership interest, subject only to valid mortgages or other liens of record at the time of and prior to the recording of a notice of lien, as provided in Subsection 3-2-27(c), "Tax Constitutes Lien," B.R.C. 1981.

(b) The provisions of Sections 3-2-27, "Tax Constitutes Lien,"3-2-29, "Sale of Business Subject to Lien," 3-2-30, "Certificate of Discharge of Lien," 3-2-31, "Jeopardy Assessment," 3-2-32, "Enforcing the Collection of Taxes Due (Applies to Entire Title)," 3-2-33, "Recovery of Unpaid Tax by Action at Law," 3-2-34, "City May be a Party Defendant," 3-2-35, "Injunctive Relief," 3-2-36, "Obligations of Fiduciaries and Others," 3-2-37, "Violations of Tax Chapter," and 3-2-38, "Limitations," B.R.C. 1981, govern the authority of the city manager to collect the taxes, penalties and interest imposed by this Chapter.

3-14-11 Duties and Powers of City Manager.

The city manager is authorized to administer the provisions of this Chapter and has all other duties and powers prescribed in Section 3-2-17, "Duties and Powers of City Manager," B.R.C. 1981.

3-14-12 City Employee Conflicts of Interest Prohibited.

No deputy, agent, clerk or other officer or employee of the city engaged in any activity governed by this Chapter shall engage in the business or profession of tax accounting or accept employment with or without compensation from any person holding a sales tax license from the city for the purpose, directly or indirectly, of preparing tax returns or reports required by the city, the State of Colorado, its

political subdivisions, any other state or the United States, or accept any employment for the purpose of advising, preparing materials or data or auditing books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the city, the State of Colorado, its political subdivisions, any other state, its political subdivisions or the United States.

3-14-13 Prohibited Acts.

It is unlawful for any recreational marijuana business to sell or transfer retail marijuana without the sales tax license required by Section 3-2-11, "Sales and Use Tax License," B.R.C. 1981, and the recreational marijuana business license required by Chapter 6-14, "Medical Marijuana," B.R.C. 1981, and any other license required by law, or to willfully make any false or fraudulent return or false statement on any return, or to willfully evade the payment of the tax, or any part thereof, as imposed by this Chapter.

Section 6. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the State of Colorado are hereby superseded.

Section 7. The officers of the City are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the City.

Section 8. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance. The tax established by this measure is intended to be authorized under any lawful means of taxation, including license taxation pursuant to city of Boulder Charter Section 122.

Section 9. 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 10. 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 16th day of July 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 5th day of August 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August, 2013.

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_____
Mayor

Attest:

_____
City Clerk

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CITY OF BOULDER
CITY COUNCIL AGENDA

MEETING DATE: August 20, 2013

AGENDA TITLE: Third reading and consideration of a motion to adopt the following ordinances:

Ordinance No. 7919, setting the ballot title and submitting to the voters at the November 5, 2013 election an initiated amendment to the City Charter to require voter approval of the electric utility debt limit and total cost of debt repayment prior to issuance of any debt, prohibiting service outside of the city absent a vote by out-of-city residents in the service area, limiting debt elections to November in odd-numbered years, and limiting brokerage fees on such indebtedness; and

Ordinance No. 7920, setting the ballot title and submitting to the voters at the November 5, 2013 election the question of setting a debt limit for acquisition of electric utility assets; amending the City Charter to allow utility-related questions to be considered at any election; allowing out-of-city service and non-resident customers to be represented on the utility advisory board; adding utility services standards and requirements for the electric utility board related to rates and rate making; setting standards against discrimination and the granting of privileges and advantages; adding new sections of the City Charter related to acquisition debt limits and customer choice for out-of-city utility customers; and superseding any initiated ballot measure to the contrary, and setting forth related details.

PRESENTERS:
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul Fetherston, Deputy City Manager
David J. Gehr, Deputy City Attorney
Heather Bailey, Executive Director, Energy Strategy and Electric Utility Development
Robert Eichem, Chief Financial Officer
Kathleen E. Haddock, Senior Assistant City Attorney
Debra S. Kalish, Senior Assistant City Attorney

EXECUTIVE SUMMARY

The council is asked to pass two ordinances on third reading related to municipalization ballot measures. The initiated ballot measure, as amended, is included as Attachment A. The council alternative, as amended by the council, is included as Attachment B. Staff is proposing amendments to that alternative measure in Attachment C, based on the review and recommendation of our bond counsel, Kutak Rock, LLP. If the council adopts the staff recommendation, the alternative measure will need to be adopted as an emergency measure under the provision of City Charter Section 17. This is necessary in order to provide the county clerk with the time necessary for setting the ballot title.

STAFF RECOMMENDATION

Suggested Motion Language:

Motion to adopt Ordinance No. 7919 as presented in Attachment A regarding an initiated ballo measure which establishes voting requirements of light and power utility debt, permitting elections every other year, and limiting brokerage fees.

Motion to adopt Ordinance No. 7920 as presented in Attachment C regarding amendments to City Charter Article XIII, "Light and Power Utility," as amended, as an emergency ordinance.

BACKGROUND

Second reading materials can be found at: (shift/click)
August 6 Council meeting
July 24 Special Council meeting

On August 6, 2013, City Council took the following actions:

Ordinance No. 7919 was amended to remove the short title for the ballot measure. A representative for the committee of the petitions asserted that the short title proposed in the staff measure was not an accurate. Staff recommended that the short title be removed from this ballot measure to alleviate this concern. As was mentioned in the meeting, a short title on ballot measures is not required by law. The ordinance, as amended, is attached as Attachment A

Ordinance No. 7920 was amended from what was passed at first reading to:

1. City Charter Section 180 - Remove the annexation requirement for voting in utility elections.

2. City Charter Section 182(d). A provision was added to provide the utility advisory board an explicit advisory role in the setting of rates and rate making, as recommended by the governance working group.

3. City Charter Sections 182(j) & 185. Provisions were added to clarify that the prohibitions against the granting of preferences or advantages apply to both in-city and out-of-city customers. A provision was also added to make it clear that each member of the utility advisory board is required to represent the entire customer base without discrimination related to customer class or location.

4. City Charter Section 188. A City Charter section was added to create a debt limit for the initial acquisition of $214,000,000. A finding was also added that any debt limit or bonding amount that is described in the ordinance is not intended to be used for the purpose of determining the value, just compensation, or fair market value of any part of the utility system.

5. City Charter Section 189. A provision was added to create a process for implementing customer choice options for out-of-city customers.

6. Ballot title:
    a. A new short title was created;
    b. A debt limit of $214,000,000 was added to the title;
    c. Changes related to the customer choice were referred to; and
    d. A clause was added that if this measure gets more votes than other initiatives and passes, then it shall prevail.

ANALYSIS

Description of the ballot measure.

The ballot measure alternative ordinance accomplishes a number of items that are intended to address concerns raised by the initiated ballot measure in Ordinance No. 7919. There are two guiding principles that the council and staff used in developing this ballot measure: first, it addresses the four issues raised in the initiated ballot measure; and second, it addresses a number of issues that were raised by the governance working group. Below is a description of the ballot measure.

1. Debt limit. The ballot title and an amendment to the City Charter adds Section 188, which sets debt limit for the acquisition of electric assets at $214,000,000.

2. Out-of-city service limitations. The initiated measure requires that if the city is to serve outside the city limits, it needs to give those customers the right to vote in any

election related to the debt limit provisions. The concern identified is that the utility needs to provide for adequate input for its out-of-city customers. A number of provisions have been added to the city charter to address this issue.

a. At the recommendation of the governance working group, as well as to address concerns about ensuring out-of-city customer input in utility operations, a provision was added that any customer of the utility would be eligible to serve on the utility advisory board. See proposed amendment to City Charter Section 185(b).

b. There is a limitation that the service area of the utility may only include customers outside of the city limits to the extent that such a service area will assist with the provision of a safe and reliable system for service utilities customers. This is intended to limit the utilities service area to the extent of the existing system. Staff has reported that the existing system was built without regard to governmental boundaries. As such, in order to ensure that the city has a reliable system, it may need to acquire utility infrastructure outside the city limits. See proposed amendment to City Charter Section 180(k).

c. Portions of the City Charter are clarified to ensure that city customers would be treated the same as out-o- city customers. The general prohibition against the granting of preferences or advantages to customers was strengthened by adding a clause that it includes customers inside or outside the city limits. See proposed amendments to City Charter Sections 182(j) and (k).

d. An affirmative duty is created for each member of the utility advisory board to represent the entire utility customer base without discrimination between customer class or location and without regard to the location or class of the customer or the member. See proposed amendments to City Charter Section 185.

3. Elections. An amendment is proposed to provide that utility matters can be voted on at any city election. See proposed City Charter Section 180 (j).

4. Brokerage fees. A limitation related to brokerage fees was added to limit such fees and costs to commercially reasonable amounts paid by similarly situated utilities. See proposed City Charter Section 188(b).

5. Utility advisory board role in ratemaking. A provision was added, at the recommendation of the governance working group, to explicitly provide for the review and recommendation of the utility advisory board on all utility rates and ratemaking that may be accomplished by the utility. See proposed amendments to City Charter Section 182.

6. Customer choice. A provision which provides for potential customer choice for out-of-city customers to select their utility provider. In Colorado, customers are typically served by regulated monopoly investor-owned utilities, municipal utilities, or rural

electric cooperatives. Generally, only one service provider is permitted in a service area. The proposed City Charter amendment provides direction to future city councils to determine customer preferences for out-of-city neighborhoods, on an area by area basis, and then attempt to give such areas an opportunity to be served by either the city or Xcel. The city is directed to give affect to these choices through legislation, participation in the Colorado Public Utilities Commission, or other practical means.

7. Alternative and conflicting measure. The measure is crafted to operate as an alternative measure, as provided for under § 31–2–215, C.R.S. It will be voted on separately from the initiated ballot measure presented to the voters by Ordinance No.7919. The ballot measure is also intended to conflict with the provisions of Ordnance No. 7919. Under the provisions of City Charter Section 53, and § 31–2–215, C.R.S., if this measure receives the highest number of affirmative prevailing votes, this measure is intended to, and by its terms, prevail over Ordinance No. 7919.

Description of amendments suggested by bond counsel.

The city's bond counsel, Kutak Rock, LLP, suggested some minor changes to the ballot language and City Charter Section 188. For the most part, the changes are clarifications and are intended to reflect commonly used terminology used within the financial markets. The changes include suggestions around the drafting of the debt limit; reorganizing like parts of the measures together in the ballot title; and adding additional language to the ballot title that is further descriptive of the corresponding City Charter amendment.

Also, we have been informed by the Boulder County clerk that the short title is limited to fewer than 100 characters because of the software that it uses for formatting the ballots. Despite our best efforts, the short title needs to be shortened even more. The title below, including spaces and punctuation includes 99 characters.

The ballot question is set forth below. A redline and strike out version against what was passed at second reading can be found in Attachment C.

Ballot Question No. ____

Electric Utility Amendments, $214 million acquisition debt limit,
and superseding other initiatives

Shall the Boulder Home Rule Charter be amended pursuant to Ordinance No. 7920, to limit the issuance of bonds or other obligations for the purpose of purchasing or otherwise acquiring the existing assets of the electric system to an aggregated principal amount not-to-exceed $214 million, which amount may be increased annually by the Denver-Boulder-Greeley Consumer Price Index, and without limiting the authority of the utility to issue bonds or other obligations in any amount for all other lawful purposes in compliance with the charter and other applicable laws; and limiting the underlying fees and other costs of issuance of the bones to amounts paid by other similarly situated utilities; limiting the utility's service area to an area supporting safe and reliable service to its customers; providing for elections at special or general elections; requiring the utility advisory board to advise the council on rate making; providing for customer choice for out of city customers; for out of city customers to be represented on the utility advisory board; and to provide that, if this ballot question receives more votes than all other initiatives which pertain to debt limitations or the adoption of a new section 188 of the city charter, then this measure shall become law and such other initiatives shall not be implemented?

For the Measure____ Against the Measure____

The charter debt limit amendment is set forth below. A redline and strike out version against what was passed at second reading can be found in Attachment C.

Sec. 188. Limitations on Debt

(a) Bonds or other obligations issued by the utility for the purpose of purchasing or otherwise acquiring the existing assets of the electric system shall be limited to an aggregate principal amount not-to-exceed $214,000,000, which not-to-exceed amount may be increased annually by the Denver-Boulder-Greeley Consumer Price Index. This limitation on debt for acquisition shall not limit the authority of the utility to issue bonds or other obligations in any amount for all other lawful purposes in compliance with the charter and other applicable laws

(b) Underwriting fees and other costs of issuance of bonds or other obligations shall be limited to no more than commercially reasonable amounts paid by similarly situated utilities.

If the council chooses to adopt these changes, it will need to adopt the ordinance as an emergency measure and make an emergency finding in the proposed ordinance. Staff proposes the following section be added to the ordinance:

Section 17. The City Council finds that this ordinance is necessary for the preservation of the public peace, health, or property. The City Council amended the ordinance on second reading. This ordinance includes a ballot measure. Emergency passage is necessary to allow time for this matter to be placed on the November 5, 2013 ballot.

Council member questions.

1. Question: Please explain the assumptions that the staff has used related to modeling associated with the $214 million amount that was used by the council in the ballot title for Ordinance No. 7920.

Response. Council chose a debt limit for the value of the existing Xcel system. There are many costs associated with the creation of an electric utility. Many of the costs are capable of being known in a relatively straight forward manner. For example, the city's modeling includes inputs for things such as power supply, debt service, capital reserves, capital interest, creation of an inventory, crews and equipment.

One of the big unknowns and potentially the subject of negotiation and litigation is the area of the cost to acquire Xcel's distribution system and any potential stranded cost that could result from Boulder's creation of a municipal utility. As council has been advised in the past, it is not prudent, from a negotiation or litigation strategy to reveal the amount of money that a party thinks an asset is worth at the onset of the acquisition process.

As a baseline for the modeling, the numbers that staff used for the two unknowns, the acquisition price and the stranded costs, are amounts provided by Xcel Energy. The acquisition amount of $150 was taken from the Utilipoint presentation from Bob Bellimar developed and used through the 2011 election season. In the summer of 2011, the city also engaged in an exchange of letters, as anticipated by 18 C.F.R. §35.26, where the city requested a stranded cost estimate. The city used Xcel's stranded cost estimate as the basis for the $255 million dollar amount in the modeling. It is based on a utility operation start date in the year 2017.

Given that stranded costs can be mitigated through power purchase agreements, staff made modeling assumptions that are based on stranded costs that are 0 percent, 25 percent, 50 percent 75 percent and 100 percent. These amounts are illustrated in the table below.

Percentage of stranded costs	0% SCO	25% SCO	50% SCO	75% SCO	100% SCO
Acquisition cost	150 million	150 million	150 million	150 million	150 million
Stranded costs	0	63.75 million	127.5 million	191.25 million	255 million
Total	150 million	213.75 million	277.5 million	341.25 million	405 million

Acquisition and stranded costs based on
Information provided by Xcel Energy

2. **Question:** It appears that the text of the Federal Energy Regulatory Commission (FERC) order denies Boulder's petition for a declaratory judgment in the case. The order is presented as a denial, not a confirmation, that stranded costs can be avoided. The city has maintained for over two years that it would owe no stranded costs to Xcel. Xcel has maintained that stranded costs would apply, though Xcel never said that some of the stranded costs could not be mitigated if the city purchases power from Xcel. Doesn't the FERC decision refute the city's claim that no stranded costs will be owed?

Response: The order did not refute the city's position that it potentially will not have stranded costs exposure. In the declaratory action, the city requested that the FERC make a detailed request related to stranded costs. The FERC stated that it did not have enough information in front of them to answer the specific question. Therefore, they denied the order without prejudice. That means that once the city has more facts, it has the opportunity to seek more clarification from the FERC and to file additional information.

While the FERC did not answer the City's specific question, it provides a clarification of the South Daytona case, where the FERC noted in paragraph 33:

> However, we clarify that *a retail-turned-wholesale customer need not purchase all of its power supply from its formal retail supplier, as in City of South Daytona, in order to mitigate its stranded cost obligation*. Instead, a departing customer's stranded cost obligation is determined by the application of the formula set forth in the Commission's regulations. Therefore, if Boulder forms a municipal utility that becomes a wholesale partial requirements customer of PSCo, its stranded cost obligation *might be reduced based on, among other things, the amount of power it continues to take from PSCo*. However, the extent of Boulder's stranded cost obligation would be a fact-specific determination that could only be made when the terms of a future partial requirements contract with PSCo are known.
>
> [Emphasis added, footnotes omitted] This provides clarification that the principles of South Daytona may be applied to partial power purchase arrangements as well. With that guidance, council now knows that it has the ability to mitigate stranded costs, allowing it to move forward with acquisition if it so chooses.

Background for Question 3. The FERC seems to be saying that the city could mitigate some of the stranded costs if it purchases power from Xcel for a period of time. In the South Daytona, Florida case, which the city was using as the basis for its petition, Florida Power and Light (FPL) filed a case with the FERC to recover ten years of stranded costs from South Daytona (which wanted to municipalize). In its response, South Daytona said they would enter into a full services contract with FPL for ten years, effectively agreeing to buy all their power for ten years from FPL. The

FERC then said that if that agreement held between the parties there would be no stranded costs.

Boulder was asking for a much broader ruling that essentially asked for stranded costs to be waived if any amount of power was purchased for any time period. The FERC order, denying Boulder's petition, says that the FERC cannot make a determination about stranded costs until a contract for power purchase is put before it between Boulder and Xcel.

3. **Question:** How much power is the city asking to purchase from Xcel (what percent) and for how long? If we are asking to purchase 100 percent from Xcel for 20 years - which would no doubt mitigate all stranded costs - what would be the point of municipalizing? Our energy mix would be the same as Xcel's energy mix. If we are not asking for 100 percent for 20 years, what are we asking for?

Response: These questions cannot be fully answered until the city starts the stranded cost process that is set forth in the FERC rules. However, by 2017 the city will likely purchase some amount of renewable power from a third party independent producer and may firm that renewable energy with natural gas. The city has proposed to the PUC that it work with the Commission and Xcel to gradually reduce the amount of energy it takes from Xcel as Xcel's other customers require additional generation. In this way, we could not only decrease our reliance on coal-fired generation, but also help prevent additional energy acquisitions for which other Xcel customers would be responsible. Xcel has explained in its 2011 Electric Resource Plan that it will not need additional generation until 2017.

Background for Question 4. It would seem that the FERC decision on stranded costs would be after the condemnation proceeding in state court. The City could go to Xcel before the condemnation proceeding concluded, but if I was Xcel I would not consider the City a wholesale power purchaser until the condemnation proceeding is concluded, not before.

4. **Question:** The timelines for municipalization that we have talked about during council meetings seem to show a parallel process at the FERC and in Condemnation Court. Does the FERC decision alter the city's ability to proceed on parallel tracks on both acquisition and stranded costs?

It is clear that FERC wants to see a proposed contract between Xcel and the city for purchase of power before it makes a stranded cost ruling. How can the city legitimately ask for such a contract before the city is a wholesale power purchaser?

Response: The FERC decision does not affect the city's ability to proceed on parallel tracks in (i) pursuing acquisition of Xcel's facilities in Colorado state court; and (ii) resolving before FERC any "stranded cost" claims that might arise in connection with a municipalization. The reason that the city requested the declaratory order on stranded cost eligibility was to make sure the rules of engagement are as clear as

possible. It was not intended to be a specific order on stranded costs. The FERC noted that it did not have enough facts before it to rule on specific situations or factual assumptions. The nature of the process involved in determining whether and, if so, to what extent the act of transitioning from retail to wholesale electric and transmission service gives rise to "stranded costs" means that the specific facts on which decisions will be based will come later. Determining those facts in light of concrete facts about the relationship between utility loads and resources at the time of municipalization is critical to avoiding the inappropriate shifting of costs in either direction – whether from municipalizing customer to other retail customers or from utility shareholders to municipalizing retail custom. This, in turn, makes proceeding on parallel tracks not only possible, but inevitable.

FERC Order No. 888 was created to bring market principles into an area of a traditionally vertically integrated regulated monopoly. The purpose of the order is to promote wholesale generation competition through open access non-discriminatory transmission service by public utilities. The transition to this new competitive era is to provide for a potential stranded cost recovery for the public utility when a customer uses its non-discriminatory transmission tariff to get to other power generators.

Order 888 explicitly contemplates that the city can continue to move forward on parallel tracks with regard to both condemnation and stranded costs. The city can request transmission service from Xcel (and it is that request that creates the possibility of a stranded cost claim by Xcel) at any time, so long as the city will own facilities for the retail sale of electricity as of the date that the requested transmission service is due to start. There is nothing in the decision from the FERC that prevents the FERC process from happening in parallel with the condemnation process. Order 888 anticipates that the stranded costs issues will be negotiated. If they cannot be negotiated, they can be mediated or litigated under the rules. Part of the stranded cost discussion with Xcel will have to include assumptions and arrangements concerning power supply options, just as those conversations did in the prior exchange with Xcel in 2011.

There are essentially four paths to determine a stranded cost claim.

A. Negotiation between the municipalizing customer and the former incumbent utility;

B. The formal stranded cost declaratory litigation procedure established under § 18 CFR 35.26. That is applying the stranded cost formula in a litigation context;

C. Rate Case - Xcel would request a surcharge on transmission to recover its stranded costs. The payment of stranded costs would be done over time through a surcharge on transmission rates. The amount of stranded costs could be litigated in the rate case, or negotiated before the rate case is filed before the FERC; and

D. The marketing/brokering option established by the FERC in Order No. 888 to allow a retail-turned-wholesale customer the opportunity to broker or market the generating capacity that its former retail supplier claims would be "stranded" by allowing a new municipal electric system to reach alternative suppliers of electricity.

It is ultimately the departing customer's option as to how it wants to pay stranded costs. The rule gives some ideas but does not dictate a specific result. Stranded costs can be paid in four ways:

A. A one-time payment – This is a payment of capital only and is based on net present value. The stranded cost value would be a discounted amount that based on the present value of money.

B. Payments over time. This would be a negotiated outcome. It will probably include the cost money, i.e., interest payments.

C. Transmission rates. The city can elect to pay in transmission rates over time. This would be litigated or settled in a rate case that Xcel would file at the FERC. This will happen if the city does not offer to pay a negotiated or litigated stranded award on any given time frame. The payment would be applied as a surcharge on Xcel's Open Access Transmission Tariff (OATT) for delivering power to Boulder. The amount would be based on typical utility ratemaking principles.

D. Marketing or brokering energy. The city could also take the power that generated by the stranded assets and market or broker a portion or all of the capacity and associated energy related to any stranded costs claimed by the public utility to one or more third parties in order to ensure that a true market price (as opposed to a utility's estimate of market price) is actually realized for any generating capacity actually "stranded" by a municipalization.

If council decides to move forward with the acquisition of Xcel's electric facilities and other property interests, the city will begin to develop its plan for the transition from retail service by Xcel to retail service by the Boulder electric utility. That transition plan will include the fuel sources the community desires to move us forward to reaching our clean energy goals. Part of that plan will necessarily involve discussions with Xcel Energy's wholesale division regarding continued provision of electricity as a wholesale customer. These conversations will necessarily take place while we are still retail customers. That conversation will also, undoubtedly, include a discussion of the city's stranded cost obligation, given the proposed mitigation by continuing to purchase power from Xcel.

ATTACHMENTS:

Attachment A –Ordinance No. 7919
Attachment B –Ordinance No. 7920
Attachment C –Ordinance No. 7920 - With amendments proposed by bond counsel.

ORDINANCE NO. 7919

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION SUBMITTED AS AN INITIATED AMENDMENT TO THE CHARTER BY ADDING A NEW SECTION 188 TO REQUIRE VOTER APPROVAL OF THE ELECTRIC UTILITY DEBT LIMIT AND TOTAL COST OF DEBT REPAYMENT PRIOR TO ISSUANCE OF ANY DEBT, PROVIDING COUNTY VOTERS IN THE SERVICE AREA VOTING STATUS IN SUCH CITY ELECTIONS, LIMITING SUCH ELECTIONS TO NOVEMBER IN ODD-NUMBERED YEARS, AND LIMITING BROKERAGE FEES ON SUCH INDEBTEDNESS; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES AND SETTING FORTH RELATED DETAILS.

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

Section 1. On June 28, 2013, a petition committee presented a petition with sufficient signatures of registered electors to initiate a vote on a proposed addition to the City Charter pursuant to section 31-2-210 C.R.S. The City Council is required to set the ballot title for the proposed amendment.

Section 2. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 3. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of making the amendment to the City Charter proposed by the petition committee with the following ballot title, which shall also be the designation and submission clause for the measure:

Ballot Question No. ____

Shall Article XIII of the Charter of the City of Boulder be amended by the addition of a new section 188 "Limitations on Debt," that provides (a) before the electric utility enterprise issues any debt, voters must approve the amount of the utility's debt limit and the total cost of debt repayment that the utility will incur, both to be stated in dollars in any ballot question; and (b) the utility's service area shall not extend to areas outside the city limits unless registered electors in those areas are permitted to vote in these debt limit and repayment cost elections; and (c) such elections shall be held on the dates of general municipal elections; and (d) any brokerage fees for managing any sale of bonds or other indebtedness shall be limited to one percent of proceeds?

For the Measure____ Against the Measure____

Section 3. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

Section 4. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance.

Section 5. The officers of the City are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the City.

Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 7. 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 8. 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.

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY this 24th day of July, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY TITLE ONLY this 6th day of August, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, PASSED, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August, 2013.

_____
Mayor

Attest:

_____
City Clerk

ORDINANCE NO. 7920

AN EMERGENCY ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF SETTING A DEBT LIMIT FOR ACQUISITION OF ELECTRIC UTILITY ASSETS; AMENDING ARTICLE XIII OF THE CITY CHARTER TO ALLOW UTILITY RELATED QUESTIONS TO BE CONSIDERED AT ANY ELECTION; ALLOWING OUT OF CITY SERVICE AND NON-RESIDENT CUSTOMERS TO BE REPRESENTED ON THE UTILITY ADVISORY BOARD; ADDING UTILITY SERVICES STANDARDS AND REQUIREMENTS FOR THE ELECTRIC UTILITY BOARD RELATED TO RATES AND RATE MAKING, AND SETTING STANDARDS AGAINST DISCRIMINATION AND THE GRANTING OF PRIVILEGES AND ADVANTAGES; ADDING NEW SECTIONS TO THE CITY CHARTER RELATED TO ACQUISITION DEBT LIMITS AND CUSTOMER CHOICE FOR OUT OF CITY UTILITY CUSTOMERS; SUPERSEDING ANY INITIATED BALLOT MEASURE TO THE CONTRARY; SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of making the following amendments to the City Charter.

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Section 3. Add new subsections 180(j) and 180(k) as follows, which the City Council finds conflict directly with the ballot measure as set forth in Ordinance No. 7919, in particular, the proposed subsections 188(b) and 188(c):

Sec. 180. Powers of the electric utility enterprise.

. . .

(j) Any ballot measure related to the light and power utility, including without limitation measures related to debt, may be placed on a ballot at any election, including without limitation a special election, a general municipal election or a special municipal election.

(k) The light and power utility's service area may include customers outside of the city to the extent that such a service area shall assist with the provision of a safe and reliable system for service to the utility's customers.

Section 4. Amend Charter section 182 as follows, which the City Council finds conflicts directly with the ballot measure as set forth in Ordinance No. 7919, in particular, the proposed section 188(b):

Sec. 182. Utility service standards.

. . .

(d) Rates: The council will by ordinance fix, establish, maintain, and provide for the collection of such rates, classes of rates, fees, or charges for electric service and other utility services furnished by the city. **Prior to changing rates, classes of rates, fees, or charges, the utility advisory board will review changes and provide a recommendation to the council, based on the criteria in this section**. The council will consider the following factors when setting utility rates:

(1) The utility will produce revenues at least sufficient to pay the cost of operation and maintenance of said utilities in good repair and working order; to pay the principal of and interest on all bonds of the city payable from the revenues of the utility;

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(2) The utility will provide and maintain an adequate fund for replacement of depreciated or obsolescent property, and for the extension, improvement, enlargement, and betterment of the utility; to pay the interest on, and the principal of, any bonds issued by the city to extend or improve the utilities;

(3) The utility will consider electricity rates of surrounding and similarly situated communities and use best efforts to set competitive utility rates; and

(4) The council will fix rates for which electric service will be furnished for all purposes, and rates shall be as low as good service will permit, consistent with the guiding principles set forth in section 178 (c)(1) – (6).

. . .

(j) Preferences Prohibited: The utility shall not make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage as to rates, charges, service, or facilities, or in any other respect, including without limitation whether the customer is inside or outside the city limits.

(k) Advantages Prohibited: The utility shall not establish or maintain any unreasonable differences or undue preferences as to rates, charges, service, facilities, or any respect as between any class of services including without limitation whether the customer is inside or outside the city limits. The utility may create a fund to provide assistance to low-income customers for energy efficiency or generation improvements or utility bill payments. When considering whether to approve such a fund, and give a preference or advantage to low-income utility customers, the utility shall take into account the potential impact of and cost-shifting to, utility customers other than the low-income utility customers.

Section 5. Amend section 185 as follows, which the City Council finds conflicts directly with the ballot measure as set forth in Ordinance Number 7919, in particular, the proposed section 188(b):

Sec. 185. Creation of the electric utilities board

(b) Board qualifications: Board members shall be selected from the registered electors of the city, ~~or~~ customers of the electric utility, or ~~from~~

the owners or employees of a business or governmental entity that is a customer of the electric utility, provided, however, that a majority of the board shall be registered electors of the city. Board members shall be well known for their ability, probity, public spirit, and particular fitness to serve on the electric utilities board. At least three board members shall be owners or employees of a business or governmental entity that is a customer of the electric utility. The duty of each member shall be to represent the entire utility customer base without discrimination between customer class or location and without regard to the location or class of customer or the member.

Section 6. Add a new section 188 as follows, which the City Council finds conflicts directly with the ballot measure as set forth in Ordinance No.7919 , in particular, the proposed sections 188(a), (b) and (d):

Sec. 188. Limitations on Debt

(a) The city is authorized to form, purchase, or otherwise acquire a light and power utility if the valuation of the assets acquired by the city for **the existing electric system as currently configured** does not exceed **$214 - million.** Thereafter, all debt shall be issued in compliance **with** the charter and other applicable laws.

(b) The light and power utility shall limit brokerage fees and other costs related to debt issuance to no more than commercially reasonable amounts paid by similarly situated utilities.

Section 7. The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure: *on following page*

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Ballot Question No. ____

Electric Utility ~~Charter~~ Amendments, ~~for Light and Power Utility, Debt Limit of up to~~ $214 million ~~for~~ acquisition debt limit ~~of assets,~~ and superseding ~~competing ballot~~ other initiatives~~.~~

Shall the Boulder Home Rule Charter be amended pursuant to Ordinance No. 7920, to provide a debt limit of $214 million to pay for the valuation of the assets acquired by the city for the existing system as currently configured from Xcel Energy, which amount may be increased annually by the Denver-Boulder-Greeley Consumer Price Index; limiting the utility's service area to an area supporting safe and reliable service to its customers; providing for elections at special or general elections; and limiting brokerage fees or other costs of debt issuance to the amount paid by other similarly situated utilities; requiring the utility advisory board to advise the council on rate making; and providing for customer choice for out of city customers; and for out of city customers to be represented on the utility advisory board; and to provide that, if this ballot question receives more votes than all other initiatives which pertain to debt limitations or the adoption of a new section 188 of the city charter, then this measure shall become law and such other initiatives shall not be implemented?

For the Measure____ Against the Measure____

Section 8. As permitted by section 31-2-215(1),C.R.S., this ballot measure is an alternative charter amendment that is to be submitted for the choice of the voters and will be voted on separately from the ballot measure that will be presented to the voters pursuant to Ordinance No. 7919**.** This ballot measure is also intended to conflict with all of the provision of Ordinance No. 7919. Under Charter section 53 and section 31-2-215, C.R.S., if this measure receives the highest number of affirmative prevailing votes, this measure shall prevail over Ordinance No. 7919.

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Section 9. Adding a new section 189 to the city charter as follows:

Sec. 189. Out-of-city customer choice

To the extent practical and allowed by law, upon the creation of the utility, the city wants to facilitate the ability of customers that are outside of the city boundaries and are not enclaves as defined in the Municipal Annexation Act of 1965 to choose their utility provider. It is anticipated that customers within a geographic area that constitutes a rational service area may wish to not take service from the light and power utility upon its creation. The City Council will adopt an approach to identifying such areas and understanding the preference of the area through voting, polling, or other approaches to public outreach. If the majority of those expressing a preference is to not take service from the city, the city will attempt to accommodate the customer wishes as a group through subsequent legislation, participation in the Colorado Public Utilities Commission, or other practical means.

Section 10. Any debt limit or bonding amount that is described in this ordinance is not intended to be used for the purpose of determining the value, just compensation, or fair market value of any part of the utility system.

Section 11. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

Section 12. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance.

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Section 13. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 14. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 15. 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 16. 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.

Section 17. The City Council finds that this ordinance is necessary for the preservation of the public peace, health, or property. The City Council amended the ordinance on third reading. This ordinance includes a ballot measure. Emergency passage is necessary to allow time for this matter to be placed on the November 5, 2013 ballot.

INTRODUCED, READ ON FIRST READING, AMENDED AND ORDERED PUBLISHED BY TITLE ONLY this 24th day of July, 2013.

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Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY TITLE ONLY this 6TH day of August, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, PASSED, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August, 2013.

_____
Mayor

Attest:

_____
City Clerk

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ORDINANCE NO. 7920

AN EMERGENCY ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF SETTING A DEBT LIMIT FOR ACQUISITION OF ELECTRIC UTILITY ASSETS; AMENDING ARTICLE XIII OF THE CITY CHARTER TO ALLOW UTILITY RELATED QUESTIONS TO BE CONSIDERED AT ANY ELECTION; ALLOWING OUT OF CITY SERVICE AND NON-RESIDENT CUSTOMERS TO BE REPRESENTED ON THE UTILITY ADVISORY BOARD; ADDING UTILITY SERVICES STANDARDS AND REQUIREMENTS FOR THE ELECTRIC UTILITY BOARD RELATED TO RATES AND RATE MAKING, AND SETTING STANDARDS AGAINST DISCRIMINATION AND THE GRANTING OF PRIVILEGES AND ADVANTAGES; ADDING NEW SECTIONS TO THE CITY CHARTER RELATED TO ACQUISITION DEBT LIMITS AND CUSTOMER CHOICE FOR OUT OF CITY UTILITY CUSTOMERS; SUPERSEDING ANY INITIATED BALLOT MEASURE TO THE CONTRARY; SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of making the following amendments to the City Charter.

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Section 3. Add new Subsections 180(j) and 180(k) as follows, which the City Council finds conflict directly with the ballot measure as set forth in Ordinance No. 7919, in particular, the proposed Subsections 188(b) and 188(c):

Sec. 180. Powers of the electric utility enterprise.

. . .

(j) Any ballot measure related to the light and power utility, including without limitation measures related to debt, may be placed on a ballot at any election, including without limitation a special election, a general municipal election or a special municipal election.

(k) The light and power utility's service area may include customers outside of the city to the extent that such a service area shall assist with the provision of a safe and reliable system for service to the utility's customers.

Section 4. Amend Charter Section 182 as follows, which the City Council finds conflicts directly with the ballot measure as set forth in Ordinance No. 7919, in particular, the proposed section 188(b):

Sec. 182. Utility service standards.

. . .

(d) Rates: The council will by ordinance fix, establish, maintain, and provide for the collection of such rates, classes of rates, fees, or charges for electric service and other utility services furnished by the city. Prior to changing rates, classes of rates, fees, or charges, the utility advisory board will review changes and provide a recommendation to the council, based on the criteria in this section. The council will consider the following factors when setting utility rates:

(1) The utility will produce revenues at least sufficient to pay the cost of operation and maintenance of said utilities in good repair and working order; to pay the principal of and interest on all bonds of the city payable from the revenues of the utility;

(2) The utility will provide and maintain an adequate fund for replacement of depreciated or obsolescent property, and for the extension, improvement, enlargement, and betterment of the utility; to pay the interest on, and the principal of, any bonds issued by the city to extend or improve the utilities;

(3) The utility will consider electricity rates of surrounding and similarly situated communities and use best efforts to set competitive utility rates; and

(4) The council will fix rates for which electric service will be furnished for all purposes, and rates shall be as low as good service will permit, consistent with the guiding principles set forth in section 178 (c)(1) –(6).

. . .

(j) Preferences Prohibited: The utility shall not make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage as to rates, charges, service, or facilities, or in any other respect, including without limitation whether the customer is inside or outside the city limits.

(k) Advantages Prohibited: The utility shall not establish or maintain any unreasonable differences or undue preferences as to rates, charges, service, facilities, or any respect as between any class of services including without limitation whether the customer is inside or outside the city limits. The utility may create a fund to provide assistance to low-income customers for energy efficiency or generation improvements or utility bill payments. When considering whether to approve such a fund, and give a preference or advantage to low-income utility customers, the utility shall take into account the potential impact of and cost-shifting to, utility customers other than the low-income utility customers.

Section 5. Amend Section 185 as follows, which the City Council finds conflicts directly with the ballot measure as set forth in Ordinance Number 7919, in particular, the proposed section 188(b):

Sec. 185. Creation of the electric utilities board.

(b) Board qualifications: Board members shall be selected from the registered electors of the city, ~~or~~ customers of the electric utility, or ~~from~~ the owners or employees of a business or governmental entity that is a

customer of the electric utility, provided, however, that a majority of the board shall be registered electors of the city. Board members shall be well known for their ability, probity, public spirit, and particular fitness to serve on the electric utilities board. At least three board members shall be owners or employees of a business or governmental entity that is a customer of the electric utility. The duty of each member shall be to represent the entire utility customer base without discrimination between customer class or location and without regard to the location or class of customer or the member.

Section 6. Add a new section 188 as follows, which the City Council finds conflicts directly with the ballot measure as set forth in Ordinance No.7919, in particular, the proposed sections 188(a), (b) and (d):

Sec. 188. Limitations on Debt

(a) Bonds or other obligations issued by the utility for the purpose of purchasing or otherwise acquiring the existing assets of the electric system shall be limited to an aggregate principal amount not-to-exceed $214,000,000, which not-to-exceed amount may be increased annually by the Denver-Boulder-Greeley Consumer Price Index. This limitation on debt for acquisition shall not limit the authority of the utility to issue bonds or other obligations in any amount for all other lawful purposes in compliance with the charter and other applicable laws

~~(a) The city is authorized to form, purchase, or otherwise acquire a light and power utility if the valuation of the assets acquired by the city for the existing electric system as currently configured does not exceed $214 million. Thereafter, all debt shall be issued in compliance with the charter and other applicable laws~~

(b) Underwriting ~~The light and power utility shall limit brokerage~~ fees and other costs of issuance of bonds or other obligations shall be limited ~~related to debt issuance~~ to no more than commercially reasonable amounts paid by similarly situated utilities.

Section 7. The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure: *on following page*

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- Ballot Question No. ____

Electric Utility ~~Charter~~Amendments, ~~for Light and Power Utility, Debt Limit of up to~~ $214 million ~~for~~ acquisition debt limit ~~of assets~~, and superseding ~~competing ballot~~ other initiatives

Shall the Boulder Home Rule Charter be amended pursuant to Ordinance No. 7920, to ~~provide a debt~~ limit the issuance of bonds or other obligations for the purpose of purchasing or otherwise acquiring the existing assets of the electric system to an aggregated principal amount not-to-exceed $214 million ~~to pay for the valuation of the assets acquired by the city for the existing system as currently configured from Xcel Energy~~, which amount may be increased annually by the Denver-Boulder-Greeley Consumer Price Index, and without limiting the authority of the utility to issue bonds or other obligations in any amount for all other lawful purposes in compliance with the Charter and other applicable laws; and limiting the underlying fees and other costs of issuance of the bones to amounts paid by other similarly situated utilities; limiting the utility's service area to an area supporting safe and reliable service to its customers; providing for elections at special or general elections; ~~and limiting brokerage fees or other costs of debt issuance to the amount paid by other similarly situated utilities;~~ requiring the utility advisory board to advise the council on rate making; ~~and~~ providing for customer choice for out-of-city customers; ~~and~~ for out-of-city customers to be represented on the utility advisory board; and to provide that, if this ballot question receives more votes than all other initiatives which pertain to debt limitations or the adoption of a new section 188 of the city charter, then this measure shall become law and such other initiatives shall not be implemented?

For the Measure____ Against the Measure____

Section 8. As permitted by Section 31-2-215(1),C.R.S., this ballot measure is an alternative Charter amendment that is to be submitted for the choice of the voters and will be voted on separately from the ballot measure that will be presented to the voters pursuant to Ordinance No. 7919**.** This ballot measure is also intended to conflict with all

of the provision of Ordinance No. 7919. Under Charter Section 53 and Section 31-2-215, C.R.S., if this measure receives the highest number of affirmative prevailing votes, this measure shall prevail over Ordinance No. 7919.

Section 9. Adding a new section 189 to the city Charter as follows:

Sec. 189. Out-of-city customer choice

To the extent practical and allowed by law, upon the creation of the utility, the city wants to facilitate the ability of customers that are outside of the city boundaries and are not enclaves as defined in the Municipal Annexation Act of 1965 to choose their utility provider. It is anticipated that customers within a geographic area that constitutes a rational service area may wish to not take service from the light and power utility upon its creation. The City Council will adopt an approach to identifying such areas and understanding the preference of the area through voting, polling, or other approaches to public outreach. If the majority of those expressing a preference is to not take service from the city, the city will attempt to accommodate the customer wishes as a group through subsequent legislation, participation in the Colorado Public Utilities Commission, or other practical means.

Section 10. Any debt limit or bonding amount that is described in this ordinance is not intended to be used for the purpose of determining the value, just compensation, or fair market value of any part of the utility system.

Section 11. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

Section 12. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance.

Section 13. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 14. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 15. 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 16. 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.

Section 17. The City Council finds that this ordinance is necessary for the preservation of the public peace, health, or property. The City Council amended the ordinance on third reading. This ordinance includes a ballot measure. Emergency passage is necessary to allow time for this matter to be placed on the November 5, 2013 ballot.

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INTRODUCED, READ ON FIRST READING, AMENDED AND ORDERED PUBLISHED BY TITLE ONLY this 24th day of July, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY TITLE ONLY this 6TH day of August, 2013.

_____
Mayor

Attest:

_____
City Clerk

K:\CMEN\o - 7920 3rd Bond Counsel Review-1562.docx

READ ON THIRD READING, PASSED, ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August 2013.

_____
Mayor

Attest:

_____
City Clerk

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C I T Y O F B O U L D E R
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE: Third reading and consideration of a motion to adopt Ordinance No. 7917 finding that the conditions precedent to formation of an electric power and light utility of Charter Section 178(a) have been satisfied, and setting forth related details and acceptance of the summary of the July 23, 2013, presentation by PowerServices, Inc.

PRESENTERS:
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Bob Eichem, Chief Financial Officer
Kathy Haddock, Senior Assistant City Attorney
Dave Bannon, Purchasing Supervisor
Tammye Burnette, Organizational Development Administrator

Council Action August 6, 2013

Recommended to move forward to August 20, 2013 on consent.

EXECUTIVE SUMMARY:

On April 16, 2013, by Ordinance No. 7898, council directed the city manager to retain a third-party independent expert to review the modeling and Base Materials performed by city staff and presented to council on February 26, 2013 and April 16, 2013. On July 23, 2013, Greg Booth of PowerServices, Inc. presented the company's finding of its review. PowerServices, Inc. had been selected as the third-party independent expert to review the Base Materials to verify whether or not they demonstrated that the city could meet the charter metrics required by Charter Section 178(a). PowerServices, Inc. verified that the

Base Materials prepared by staff for council demonstrated that the city could meet the requirements of the charter with several of the options proposed.

On August 6, 2013, representatives of PowerServices were present at the meeting for questions by council. Council referred the matter to third reading in order to consider adoption after receiving the written report of the presentation made by PowerServices on July 23, 2013. Council made clarifications to the basis for its findings in the version of Ordinance No. 7917 adopted at second reading.

The report of PowerServices is scheduled to be delivered to the city on August 15, 2013. When the report is delivered, staff will forward the report under a separate cover memo.

STAFF RECOMMENDATION:

Suggested Motion Language:

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

Motion to approve Ordinance No. 7917 finding that the conditions precedent to formation of an electric power and light utility of Charter Section 178(a) have been satisfied.

ATTACHMENTS:
A- Ordinance 7917

ORDINANCE NO. 7917

AN ORDINANCE FOLLOWING UP ON ORDINANCE NO. 7898 MAKING FINDINGS REGARDING THE CONDITIONS PRECEDENT OF CITY CHARTER SECTION 178, “LIGHT AND POWER UTILITY;” AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO FINDS AND DETERMINES:

A. In November 2011, the voters of the city of Boulder approved an amendment to the City Charter creating a new article XIII, "Light and Power Utility."

B. The Charter amendment requires that the City Council make certain findings prior to the creation of a new light and power utility.

C. In particular, Charter Section 178 requires that a light and power utility can be formed only if the city can demonstrate, with verification by a third-party independent expert, that:

1. The utility can acquire the electric distribution system in Boulder and charge rates that do not exceed those charged by Xcel Energy at the time of acquisition;

2. The rates charged by the utility will produce revenues sufficient to pay the operating expenses and debt payments, plus an amount equal to twenty-five percent (25%) of the debt payments;

3. The utility will have reliability comparable to Xcel Energy; and

4. The utility will have a plan for reducing greenhouse gas emissions and other pollutants, and a plan for increasing the use of renewable energy.

D. On February 26 and April 16, 2013, city staff and consultants presented to the City Council an analysis that demonstrated that various modeled scenarios would meet the conditions precedent to the creation of a light and power utility set forth in Section 178(a) of the Charter (the “Base Materials”.)

E. On April 16, 2013, council adopted Ordinance No. 7898 making the preliminary finding that the conditions precedent had been met and directed the city manager to retain a third-party independent expert to review the materials to verify that the conditions in Charter Section 178 had been met.

F. The city manager (i) retained PowerServices, Inc. as the third-party independent expert to perform an independent review of the council's preliminary determination required by Charter Section 178(a), and (ii) satisfied all of the requirements of Ordinance No. 7898.

G. PowerServices, Inc. has the experience, adequate technical training and proficiency to perform the evaluation; has maintained its independence (in fact and appearance) in all matters related to the evaluation contemplated by City Charter Section 178(a) and Ordinance No. 7898; has exercised due professional care during the performance of the evaluation and the preparation of the findings; has performed the evaluation diligently; and has detailed for the city manager and the City Council any material misleading or omitted statements, assumptions, or information encountered in the Base Materials, or discovered in the review process.

H. PowerServices, Inc. has reviewed the Base Materials and verified that the Base Materials demonstrate that the city **can** satisfy the conditions precedent to establishing a light and power utility as set forth in Charter Section 178(a).

I. The City Council's review of the work of PowerServices, Inc. has been limited to review of materials and presentations by PowerServices, Inc. and city staff. Council finds that based on information presented, PowerServices, Inc. has undertaken a credible review of the Base Materials.

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

Section 1. The City Council **accepts** the findings of PowerServices, Inc. presented on July 23, 2013.

Section 2. The City Council determines that based on the Base Materials and the verification by PowerServices, Inc., the conditions precedent to the creation of a light and power utility in Charter Section 178(a) **have been** satisfied. Specifically, the council makes a determination that, based on established standards and practices of the public power industry, the Base Materials demonstrate that:

A. The utility **can** acquire the electrical distribution system in Boulder and charge rates that do not exceed those rates charged by Xcel Energy at the time of acquisition;

B. The anticipated rates charged by the utility **will** produce revenues sufficient to pay for operating expenses and debt payments, plus an amount equal to twenty-five percent (25%) of the debt payments;

C. The acquisition, separation, and operational plan **will** result in electric reliability comparable to Xcel Energy; and

D. The Base Materials **include** plans for reducing greenhouse gas emissions and other pollutants and increasing the use of renewable energy.

Section 3. Recognizing that the Base Materials were created to make the findings that the conditions precedent of Charter Section 178(a) can be demonstrated and that revision to the Base Materials is necessary for the purpose of planning for such utility, the City Council directs that the city manager continue refinement of the Base Materials for use in creating and operating a light and power utility, including without limitation, addressing recommendations and suggestions of PowerServices, Inc.

Section 4. This ordinance shall not be construed to create a light and power utility. In the event that council determines to create a light and power utility in the future, it intends to do so by subsequent legislative action.

Section 5. 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 6. 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 24th day of July 2013.

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_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 6th day of August, 2013.

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_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, PASSED ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August, 2013.

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_____
Mayor

Attest:

_____
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE: Third reading and consideration of a motion to adopt Ordinance No. 7918 authorizing the acquisition of property interests owned by Public Service Company of Colorado d/b/a Xcel Energy by negotiation and purchase or through the power of eminent domain and setting forth related details.

PRESENTER/S
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development
Bob Eichem, Chief Financial Officer
Kathy Haddock, Senior Assistant City Attorney
Sandra Llanes, Assistant City Attorney
Kara Mertz, Environmental Action Project Manager

EXECUTIVE SUMMARY:

Ordinance 7918 would authorize staff and consultants to begin the acquisition process of the property interests and equipment within the proposed service area boundary of a new city electric utility. This authorization includes filing an action in eminent domain if good faith negotiations are not successful. If council adopts the ordinance, staff would send a Notice of Intent to Acquire to Xcel as required by Colorado law and direct appraisers to prepare written reports of their appraisals of the various property interests. Consultants would begin negotiations with Xcel that meet the applicable requirements for good faith negotiations, which are a prerequisite to a condemnation action. It is anticipated that this process would take several months. Therefore, if negotiations fail, the earliest staff anticipates that a condemnation action would be filed is in January 2014.

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Council Action on August 6, 2013:
Staff had proposed changes to the ordinance which council accepted on second reading.

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. 7918 authorizing the acquisition of property interests owned by Public Service Company of Colorado d/b/a Xcel Energy by negotiation and purchase or through the power of eminent domain as presented in the attachment.

BACKGROUND:

See agenda memo for first reading of the ordinance at https://documents.bouldercolorado.gov/WebLink8/0/doc/121433/Electronic.aspx.

See agenda memo for second reading of the ordinance at https://documents.bouldercolorado.gov/weblink8/0/doc/123287/Electronic.aspx

ATTACHMENTS
A Ordinance 7918

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ORDINANCE NO. 7918

AN ORDINANCE AUTHORIZING THE ACQUISITION OF PROPERTY INTERESTS OWNED BY PUBLIC SERVICE COMPANY OF COLORADO, D/B/A XCEL ENERGY, BY NEGOTIATION AND PURCHASE OR THROUGH THE POWER OF EMINENT DOMAIN, AND SETTING FORTH RELATED DETAILS.

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

Section 1. The City Council of the City of Boulder, Colorado finds and determines:

A. The City of Boulder is a home rule municipality of the State of Colorado.

B. The city and its utility enterprises are empowered pursuant to the Colorado Constitution, Article XX, § § 1 and 6, and the city's Home Rule Charter, including without limitation Article I, § 2(b) and (d) and Article XIII, § 180(a) to exercise the power of eminent domain, in the manner provided by Article 1 of Title 38, Colorado Revised Statutes, to acquire electric utility facilities and other interests associated therewith.

C. The franchise agreement between the city and Public Service Company of Colorado d/b/a Xcel Energy ("Xcel") provided for the city's right to condemn Xcel's property interests and Xcel's obligation to provide its records regarding such interests.

D. On November 1, 2011, the people of the city approved Ballot Question No. 2C authorizing the city to establish, acquire, erect, maintain, and operate a municipal light and power utility (the "Project").

E. Article XIII was added to the city's Home Rule Charter pursuant to approved Ballot Question No. 2C to provide for utility service standards, the creation of an electric utility governed by the City Council, an electric utilities board, and the general powers and limitations of the utility. Article XIII provides, among other things, that the electric utility has the power to acquire electric facilities and other property interests through purchase or through the power of eminent domain to effectuate the purpose of Ballot Question 2C.

F. The city has determined that the acquisition area within which electric facilities and other property interests should be acquired is as shown on the maps attached hereto as Exhibit A-1 and Exhibit A-2, dated July 5, 2013, and marked Acquisition Area Distribution System and Acquisition Area 115kV Transmission Loop (the "Acquisition Area") and is more particularly described in the agenda memoranda dated July 23 and August 6 provided to the City Council with this ordinance (the "Memoranda"). The Acquisition Area was designed to be the technically optimum place of separation to maintain reliability on both sides of the separation to serve properties within and owned by the city, avoid duplication of distribution and transmission equipment, minimize operational and maintenance conflicts, establish the Acquisition Area boundaries along property boundaries, and define the primary areas in which the utility will acquire property interests to implement Article XIII of the charter.

G. Article XIII of the charter provides for the electric utility to acquire, provide, and operate electric utility facilities that meet the goals and standards expressed in Article XIII and the city staff and consultants have created a preliminary inventory of the real property interests and equipment necessary to be acquired in the Acquisition Area as described in the Memoranda, which inventories, as they may be amended in the future, are incorporated herein by reference (the "Property Interests and Assets").

H. The Property Interests and Assets are used and useful in connection with the rendering of electric utility service for the Project and constitute a complete economic unit for the purpose of separation from Xcel.

I. The Project fulfills the goals of the city to reduce greenhouse gas emissions and other pollutants and increase the use of renewable energy, and is a public purpose under the law of Colorado and as approved by the voters of the city.

J. The acquisition of the Property Interests and Assets is necessary for the Project, is for a public purpose and in furtherance of public uses.

K. There is a public, local, and municipal need and necessity for the city to obtain possession of and to acquire the Property Interests and Assets for the Project, which will benefit the public health, welfare and safety.

L. The city has complied and is complying with all conditions precedent to the acquisition of the distribution and transmission systems as described herein and set forth in the Colorado Revised Statutes and the City Charter.

Section 2. The City Council authorizes the city manager to negotiate for the acquisition of the Property Interests and Assets or any parts thereof, as they may be adjusted to construct the Project.

Section 3. Should negotiations for the acquisition of the Property Interests and Assets fail, the City Council authorizes the city manager to acquire the Property Interests and Assets, or any parts thereof, by the exercise of the power of eminent domain, and further authorizes the city attorney to initiate condemnation proceedings to acquire the Property Interests and Assets; provided however, a Petition in Condemnation shall not be filed with the Boulder District Court before January 1, 2014. The city and its designees may from time to time amend the property described in Property Interests and Assets to add or delete real property or equipment to adequately reflect the intent of this ordinance.

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.

INTRODUCTED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 24th day of July, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 6th day of August 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August 2013.

_____
Mayor

Attest:

_____
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA

MEETING DATE: August 20, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt the following ordinances:

Ordinance No. **7910** regarding amending Section 98, Term of bonds-disposal of bonds of the Charter of the City of Boulder;

Ordinance No. **7914** regarding amendments to Charter Section 130 and other related Charter sections changing the requirement from City electors to City residents to serve on City Boards; and

Ordinance No. **7915** regarding extending Ordinance 7907, the moratorium on fracking, all as approved for adoption on consent at the August 5th council meeting and setting forth related details.

PRESENTER:
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
David J. Gehr, Deputy City Attorney
Claybourne M. Douglas, Senior Assistant City Attorney

EXECUTIVE SUMMARY
On August 5, 2013, City Council took the following actions:

Ordinance No. 7910 regarding amending Section 98, Term of bonds-disposal of bonds of the Charter of the City of Boulder. There were no changes and it was directed to be returned on consent on August 20, 2013.

Ordinance No. 7914 regarding amendments to Chart Section 130 and other related Charter sections removing the requirement that individuals be City electors to serve on City Boards. There were no changes and it was directed to be returned on consent on August 20, 2013.

Ordinance No. 7915 regarding extending Ordinance No. 7907, the moratorium on fracking for 5 years. There were no changes and it was directed to be continued and returned on consent on August 20, 2013.

STAFF RECOMMENDATION

Suggested Motion Language:

Motion to adopt Ordinance No. 7910 regarding amending Section 98, Terms of bonds-disposal of bonds of the Charter of the City of Boulder.

Motion to adopt Ordinance No. 7914 regarding amendments to Charter Section 130 and other related Charter sections changing the requirement from City electors to City residents to serve on City Boards.

Motion to adopt Ordinance No. 7915 regarding extending Ordinance No. 7907, the moratorium on fracking for 5 years.

ATTACHMENTS:

Attachment A - Ordinance 7910
Attachment B - Ordinance 7914
Attachment C - Ordinance 7915

ORDINANCE NO. 7910

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF AMENDING SECTION 98, "TERM OF BONDS - DISPOSAL OF BONDS" OF THE CHARTER OF THE CITY OF BOULDER TO AUTHORIZE NEGOTIATED OR PRIVATE SALES OF BONDS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 2. At that election, a question shall be submitted to the electors of the City of Boulder that will allow voters to consider the following amendment to section 98 of the city Charter pertaining to the term of bonds and disposal of bonds. The material to be added to the Charter is shown by double underlining and material to be deleted is shown stricken through with solid lines.

Sec. 98. Term of bonds–disposal of bonds.

For bonds or other obligations requiring an election prior to their issuance, the ~~The~~ term of any bond issues and the maximum rate of interest shall be fixed by the ordinance submitting the question to the registered electors of the city. ~~When issued, bonds~~ Bonds or other obligations shall be sold to the highest responsible bidder at public sale, ~~but in no case for less than par,~~ and in all cases to the best advantage of the city. Council shall have the option to authorize a negotiated or private sale of bonds or other obligations. Prior to authorization of a negotiated or private sale of bonds or other obligations, the manager will provide a recommendation to council as to whether such sale would be to the best advantage of the city. Bonds or other obligations may be sold at, above, or below par and contain provisions for redemption prior to maturity, with or without payment of a premium.

Section 3. The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

Ballot Question No. ____

Negotiated or Private Bond Sales

Shall Section 98, "Term of bonds - disposal of bonds" of the Charter of the City of Boulder be amended as described in Ordinance No. 7910 to give the City the option to sell bonds or other obligations by a negotiated or private sale instead of a public sale when determined to be to the best advantage of the City?

FOR THE MEASURE____ AGAINST THE MEASURE ____

Section 4. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the State of Colorado are hereby superseded.

Section 6. The officers of the City are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 8. 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 9. 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 16th day of July, 2013.

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_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August, 2013.

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_____
Mayor

Attest:

_____
City Clerk

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ORDINANCE NO. 7914

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF AMENDING SECTION 130 OF THE CITY CHARTER RELATING TO THE QUALIFICATIONS OF APPOINTEES TO CITY BOARDS AND COMMISSIONS; AMENDING SECTIONS 74, 157, 172, 185 IN A RELATED MANNER; SETTING FORTH THE BALLOT TITLE; AND SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES AND SETTING FORTH RELATED DETAILS.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of making the following amendment to the City Charter (material to be added to the Charter is shown as underlined while material to be deleted from the Charter is shown stricken through with solid lines):

Sec. 130. General provisions concerning advisory commissions.

At any time after the organization of the council elected under the provisions of this charter, the council by ordinance may create and provide for such advisory commissions as it may deem advisable; provided, that a library commission is hereby created, and the council shall, within ninety days from its organization, appoint the members thereof.

Each of such commissions, including the library commission, shall be composed of five ~~electors~~ city residents, appointed by the council, not all of one sex, who are well known for their ability, probity, public spirit, and particular fitness to serve on such respective commissions and who are at least eighteen years old and who have resided in the city of Boulder for at least one year immediately prior to their appointment to serve on the commission.

When first constituted, the council shall designate the terms for which each member is appointed so that the term of one commissioner shall expire on December 31 of each year; …

….

Sec. 74. Planning board.

There shall be a city planning board which shall consist of seven members appointed by the city council. The appointive members~~ shall be qualified electors of the city~~, shall be qualified to serve on an advisory commission pursuant to Section 130, shall not hold any other office under this charter except as provided in Section 84A, shall serve without pay, and shall be removable by the council for cause.

….

Sec. 157. Creation of the parks and recreation advisory board.

There shall be a parks and recreation advisory board consisting of seven members appointed by the city council. The members of the board shall be~~ residents of the city~~, qualified to serve on an advisory commission pursuant to Section 130, shall not hold any other office in the city, and shall serve without pay. The council may appoint such ex-officio members to the board for such terms as it deems advisable.

….

Sec. 172. Creation of the open space board of trustees.

There shall be an open space board of trustees consisting of five members appointed by the city council. The members of the board shall~~ be residents of the city~~, be qualified to serve on an advisory commission pursuant to Section 130, shall not hold any other office in the city, and shall serve without pay.

….

Sec. 185. Creation of the electric utilities board.

…

(b) Board qualifications: Board members shall ~~be selected from the registered electors of the city~~ be qualified to serve on an advisory commission pursuant to Section 130 or~~from~~ the owners or employees of a business or governmental entity that is a customer of the electric utility, provided, however, that a majority of the board shall be qualified to serve on an advisory commission pursuant to Section 130~~registered electors of the city~~. Board members shall be well known for their ability, probity, public spirit, and particular fitness to serve on the electric utilities board. At least three board members shall be owners or employees of a business or governmental entity that is a customer of the electric utility

….

The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

Ballot Question No. ____

Qualifications for Appointment to City Commissions

Shall Section 130 of the Charter of the City of Boulder be amended as described in Ordinance No. 7914 to provide that city residents may be appointed to serve on city commissions even if they are not city electors, if they are at least eighteen years old and if they have resided in the City of Boulder for at least one year immediately prior to their appointment, and shall related changes be made to Charter Sections 74, 157, 172 and 185 so that qualifications for service on the Planning Board, the Parks and Recreation Advisory Board, the Open Space Board of Trustees and the Electric Utilities Board be consistent in this respect?

FOR THE MEASURE____ AGAINST THE MEASURE____

Section 3. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

Section 4. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance.

Section 5. The officers of the City are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the City.

Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 7. 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 8. 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.

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY this 16th day of July, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August, 2013.

_____
Mayor

Attest:

_____
City Clerk

ORDINANCE NO. 7915

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF EXTENDING ORDINANCE NO. 7907, THE MORATORIUM ON ACCEPTING AND PROCESSING APPLICATIONS FOR DRILLING PERMITS ON CITY OF BOULDER OPEN SPACE PROPERTIES AND ON ANY CITY PERMITS OR USE REVIEW OF NEW MINING INDUSTRY USES INVOLVING OIL AND GAS EXTRACTION IN THE CITY OF BOULDER, AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. On June 4, 2013, the City Council adopted Ordinance No. 7907 an emergency ordinance imposing a moratorium until June 3, 2014, on application for any city permit that results in oil or gas exploration or for any application for use review under Title 9 of the Boulder Revised Code for new "Mining Industries" uses involving oil and gas extraction or exploration;

B. Ordinance No. 7907, recited numerous unresolved scientific and legal issues regarding the effects of oil and gas exploration, including directional or horizontal drilling and hydraulic fracturing, on public peace, health and property and the legal authority of a home rule city, such as Boulder, to protect the health and safety of its environment and citizens from dangers associated with those processes using its land use and police powers;

C. Several important scientific studies, including a study by the University of Colorado, are currently underway regarding the public health and safety effects of oil and gas exploration;

D. It may require 3 to 5 years before completion of those studies provides sufficient analysis of the public health and safety effects of oil and gas exploration;

E. It may also require 3 to 5 years to resolve pending litigation involving the legal authority of Colorado home rule cities to regulate oil and gas exploration; and

F. It is both useful and compelling to have a vote of the people on such matters of new and controversial public policy, having the potential to affect the public peace, health and property.

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013, between the hours of 7 a.m. and 7 p.m.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of extending the oil and gas exploration moratorium of Ordinance No. 7907 as stated below.

Section 3. The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the question:

Ballot Question NO. ___

Oil and Gas Exploration Moratorium Extension

Shall Ordinance No. 7907 be amended to extend the current moratorium on new oil and gas exploration until June 3, 2018 and to set legal standards and the council voting requirements for lifting the moratorium amended pursuant to Ordinance No. 7915?

FOR THE MEASURE____ AGAINST THE MEASURE____

Section 4. If a majority of all the votes cast at the election on the question submitted shall be for the question, the question shall be deemed to have passed and shall be effective upon passage, and sections 2 and 3 of Ordinance 7907 shall be amended to read as follows:

Section 2. Commencing immediately and continuing until 8 a.m. on June 3, ~~2014~~ 2018 , the city manager and city staff shall neither accept nor process any application for a new oil and gas exploration permit under the Oil and Gas Regulations of the City of Boulder, Colorado Open Space Board of Trustees

unless the City Council, after June 3, 2016, by a two-thirds majority vote of the council members present, finds, by ordinance, that credible scientific studies of the public health and safety effects of oil and gas exploration and development, or settled legal authority support or require earlier acceptance and processing of such applications.

Section 3. Commencing immediately and continuing until 8 a.m. on June 3, ~~2014~~ 2018 , the city manager and city staff shall neither accept nor process any application for any city permit that results in oil or gas exploration or for any application for use review under Title 9 of the Boulder Revised Code for new "Mining Industries" uses involving oil and gas extraction or exploration unless the City Council, after June 3, 2016, by a two-thirds majority vote of the council members present, finds, by ordinance, that credible scientific studies of the public health and safety effects of oil and gas exploration and development, or settled legal authority support or require earlier acceptance and processing of such applications.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981 and this ordinance, and all contrary provisions of the statutes of the State of Colorado are hereby superseded.

Section 6. The officers of the City are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the City.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 8. This ordinance is necessary to protect the public peace, health and property of the residents of the City, and covers matters of local concern.

Section 9. 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 16th day of July, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August 2013.

_____
Mayor

Attest:

_____
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE:
Introduction, first reading and consideration of a motion to order published by title only an ordinance designating the building and property at 3015 Kalmia Ave., to be known as the Lundgren-Harper House, as an individual landmark under the city's Historic Preservation Ordinance.

Owner/Applicant: Kalmia Estates Development, LLC

PRESENTERS:
Jane S. Brautigam, City Manager
Paul Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

EXECUTIVE SUMMARY:
The purpose of this item is to allow the City Council to determine whether the proposed individual landmark designation of the building and a portion of the property at 3015 Kalmia Ave. meets the purposes and standards of the Historic Preservation Ordinance *(Sections 9-11-1 and 9-11-2, B.R.C. 1981)*. The property owner is in support of the designation.

If approved, this ordinance (see **Attachment A**) would designate the building and a portion of property as an individual landmark. The findings are included in the ordinance. The landmark designation application was submitted by the property owner on February 22, 2013, and was heard by the Landmarks Board on June 5, 2013. The board voted 4-0 (K. Remley absent), to recommend the designation to City Council. The second reading for this designation will be a quasi-judicial public hearing.

BACKGROUND:

On February 22, 2013 the city received an application from Kalmia Estates Development, LLC, for individual landmark designation of the property at 3015 Kalmia Ave. This application is a condition per the Kalmia Estates subdivision agreement.

Figure 1: Location Map, 3015 Kalmia Ave.

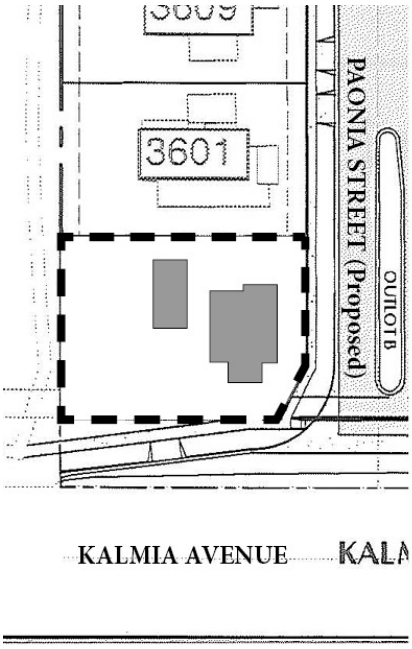

Figure 2: Proposed Landmark Boundary Map, 3015 Kalmia Ave. (dashed line)

The property is located just north of the Diagonal Highway and Mountain View Cemetery, west of 30th Street, and east of the Stazio Soccer Complex. Historically, the entire property encompassed 21 acres, and is now approved for subdivision and development of up to 57 units, including the historic house currently being considered for landmark designation. A

new north-south street will bisect the property, extending from Kalmia Avenue on the south to Palo Parkway on the north. Until the last decade, the property was agricultural with grazing and orchards.

The one-and-one-half story house appears to have been built around 1912 by Alfred and Laura Lundgren. The house is constructed of field stone laid in a random pattern, with wood shingled gable ends with bracketed wide eaves and exposed rafter rails. Windows on the house are primarily 1/1 double-hung replacement windows. A few original wood windows remain on the west elevation and north addition. A small bay on the east elevation projects from the house with a shed roof, painted green shingle cladding, with two 1/1 double-hung windows. A front-gabled porch on the front of the house has been partially enclosed with stone to match the existing house, with one original tapered column and stone base. The c. 1949 tax assessor card indicates this alteration occurred after that time. The roof is clad in brown asphalt shingle, with a shed roof dormer facing south that contains two windows. A brick chimney protrudes from the center of the roof at its peak. A one-car stone garage is located just to the west of the house. The garage has a front facing gable roof with shingled gable ends with bracketed eaves.

Alfred and Laura Lundgren lived in the house from its construction in c.1912 until 1938. Alfred was a stonemason by trade. From 1938 until 2003, the Lundgren's daughter and son-in-law Laurena and Ray Harper owned the house. Ray was also a stonemason, and was involved in several notable construction projects, including buildings at the University of Colorado, Boulder High School, several municipal buildings and many buildings in Longmont.

Figure 3: 3015 Kalmia Avenue Tax Assessor Card photograph c.1949.
Photograph Courtesy the Carnegie Branch Library for Local History.

RECOMMENDATION:

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

Motion to introduce and order published by title only an ordinance designating the building and a portion of the property at 3015 Kalmia Ave., to be known as the Lundgren-Harper House, as an individual landmark under the City of Boulder's Historic Preservation Ordinance.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

Economic: Owners of locally designated landmarked properties are eligible for state and local tax credits for approved rehabilitations and repairs, and studies have found that historic preservation adds to economic vitality and tourism. Exterior changes to individually landmarked buildings require a Landmark Alteration Certificate, issued by the Community Planning and Sustainability Department at no charge. The additional review process for landmarked buildings may, however, add time and design expense to a project.

Environmental: The preservation of historic buildings is inherently sustainable. Owners of individually landmarked buildings are encouraged to reuse and repair as much of the original building as possible when making exterior alterations, thereby reducing the amount of building material waste deposited in landfills. City staff can assist architects, contractors and homeowners with design and material selections and sources that are environmentally friendly. Also, the Historic Preservation website provides information on improving the energy efficiency of older buildings.

Social: The Historic Preservation Ordinance was adopted to "…enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage." Section 9-11-1 (a), B.R.C., 1981. The primary beneficiaries of historic designation are the property owners of a historic landmark and adjacent neighbors, who are ensured that the character of the immediate area will be protected through the design review process. The greater community also benefits from the preservation of the community's character and history.

OTHER IMPACTS:

Fiscal: The designation of individual historic landmarks is an anticipated and ongoing function of the Historic Preservation Program.

Staff Time: This designation application is within the staff work plan.

LANDMARKS BOARD ACTION:

On June 5, 2013 the Landmarks Board voted 4-0 (K. Remley absent) to recommend to City Council that the building and a portion of the property at 3015 Kalmia Ave. be designated as a local historic landmark, finding that it meets the standards for individual landmark designations in sections 9-11-1 and 9-11-2, B.R.C. 1981, and is consistent with the criteria specified in section 9-11-5(c), B.R.C. 1981.

PUBLIC FEEDBACK:
Eric Grosinger, Boulder Apartments, 2865 Baseline Rd., spoke in support of the landmark designation.

Figure 4: South and east elevations, 3015 Kalmia, 2013.

ANALYSIS:
Criteria for Review
Section 9-11-6(b), B.R.C. 1981, specifies that during the review for an application for local landmark designation, the council must consider "whether the designation meets the purposes and standards in subsection 9-11-1(a) and section 9-11-2, "*City Council May Designate or Amend Landmarks and Historic Districts*," B.R.C. 1981, in balance with the goals and policies of the Boulder Valley Comprehensive Plan" and provides that the City Council "shall approve by ordinance, modify and approve by ordinance, or disapprove the proposed designation."

Historic, Architectural, and Environmental Significance
Staff and the Landmarks Board find that the proposed designation of the building and a portion of the property at 3015 Kalmia Ave. maintain an appropriate setting and environment for the building, to enhance property value, stabilize the neighborhood, promote tourist trade and interest, and foster knowledge of the City's living heritage" (Section 9-11-1, B.R.C. 1981) (**Attachment B**). Staff considers that the application meets the historic, architectural, and environmental criteria for individual landmarks (**Attachment C**) as outlined below:

HISTORICAL SIGNIFICANCE:
Summary: The building located at 3015 Kalmia Ave. has historic significance under criteria 1, 2, and 3.

1. **Date of Construction:** c. 1912
   Elaboration: The house and garage are thought to have been built in 1912 by Alfred Lundgren, who was a stone mason by trade.

2. **Association with Persons or Events**: Ray Harper
   Elaboration: Ray Harper was born June 12, 1907 in Duncan's Bridge, MO. He came to Valmont, Colorado in 1911, and married Laurena Lundgren in January of 1928. Harper was a self employed masonry contractor from the mid-1940s until he retired in 1972. He was involved in several notable construction projects, including buildings at the University of Colorado, Boulder High School, several municipal buildings and many buildings in Longmont. He was a member of the Elks Club and the Bricklayers Union, and was awarded the Golden Trowel for his extended membership. Mr. Harper raised cattle on the property during his ownership from 1938 to 2003. Harper died in 2003 at the age of 96 and is buried in Mountain View Cemetery, across the street from the house.

3. **Development of the Community:** Agriculture, Boulder Oil Field.
   Elaboration: This property is associated with the small farming and ranching movement that was significant to the development of Boulder. It appears from ownership records that the property associated with this house was also associated with farmers who lived in Boulder, but owned or rented land outside the city for farming and ranching. The 1915 Drumm Wall Map of Boulder shows this property with an indication that a building existed in the same location as the current house. At that time, it was associated with 21 acres of land. In addition, at the southeast corner of the property was the Savannah No. 1 or Boulder North Bend oil well.

   Recognition by Authorities: None observed

ARCHITECTURAL SIGNIFICANCE:
Summary: Staff and the Landmarks Board consider that the building at 3015 Kalmia Ave. has architectural significance under criteria 1 and 5.

1. **Recognized Period or Style:** Craftsman Bungalow
   Elaboration: The house and garage are indicative of Craftsman Bungalow architecture which was most prevalent in Colorado from 1900 to 1930. According to the *Guide to Colorado's Historic Architecture and Engineering*, the Bungalow form is most commonly associated with forms of one or one-and-one-half story, wood or masonry walls with a gently pitched front or side gabled roof with overhanging eaves, broad porches. Craftsman elements include exposed rafter ends, overhanging eaves, knee bracing at the eaves, and large or battered porch columns. The house and garage at 3015 Kalmia Avenue exhibit all of these elements, including native stone construction, a side-gabled form with overhanging eaves, triangular knee braces at the eaves, exposed rafter ends, and battered columns.

2. **Architect or Builder of Prominence:** None known

3. **Artistic Merit:** None observed

4. **Example of the Uncommon:** None observed

5. **Indigenous Qualities:** Native stone construction
   Elaboration: The house and garage are constructed of native stone.

ENVIRONMENTAL SIGNIFICANCE:
Summary: Staff and the Landmarks Board consider the building at 3015 Kalmia Ave. has environmental significance under criterion 3.

1. **Site Characteristics:** None observed
   Elaboration: The site is proposed for significant redevelopment.

2. **Compatibility with Site:** None observed

3. **Geographic Importance:** Northeast Boulder
   Elaboration: These buildings are associated with the agricultural movement of northeast Boulder, much of which is no longer evident today. Due to this unique location, the house serves, and would continue to serve, as an established and familiar visual feature of the community.

4. **Environmental Appropriateness:** None observed

5. **Area Integrity:** None observed.

OPTIONS:

City Council may approve, modify or not approve the first reading ordinance.

Approved By:

_____
Jane S. Brautigam,
City Manager

ATTACHMENTS:
A: Ordinance No._____
B: Sections 9-11-1 and 9-11-2, "*Purposes and Intent*," B.R.C., 1981
C: Significance Criteria for individual landmarks

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ORDINANCE NO. ____

AN ORDINANCE DESIGNATING THE BUILDING AND THE A PORTION OF THE PROPERTY AT 3015 KALMIA AVE., CITY OF BOULDER, COLORADO, ALSO KNOWN AS THE LUNDGREN-HARPER HOUSE, A LANDMARK UNDER CHAPTER 9-11, "HISTORIC PRESERVATION" B.R.C. 1981, AND SETTING FORTH DETAILS IN RELATION THERETO.

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

Section l. The council enacts this ordinance pursuant to its authority under Chapter 9-11, "Historic Preservation," B.R.C. 1981, to designate as a landmark a property having a special character or special historic, architectural, or aesthetic interest or value.

Section 2. The council finds that: 1) on or about February 22, 2013, property owner Kalmia Estates Development, LLC, applied to the City of Boulder to designate the building and a portion of the property at said property as a landmark; 2) the Landmarks Board held a public hearing on the proposed designation on June 5, 2013; and 3) on June 5, 2013, the board recommended that the council approve the proposed designation.

Section 3. The council also finds that upon public notice required by law, the council held a public hearing on the proposed designation on August 20, 2013, and upon the basis of the presentations at that hearing finds that the building and a portion of the property at 3015 Kalmia Ave. does possess a special character and special historic, architectural, or aesthetic interest or value warranting its designation as a landmark.

Section 4. There is hereby created as a landmark the building and property located at 3015 Kalmia Ave., also known as the Lundgren-Harper House, whose legal landmark boundary is as follows:

LOT 23, KALMIA ESTATES, AS OUTLINED IN THE PROPOSED LANDMARK BOUNDARY MAP IDENTIFIED AS FIGURE 2.

Section 5. The characteristics of the subject property that justify its designation as a landmark are: 1) its historic significance is relevant to its construction of circa 1912 by local stone mason Alfred Lundgren, its association with Ray Harper who was prominent citizen of Boulder and involved in several notable construction projects including buildings at the University of Colorado, Boulder High School and several municipal buildings, and is connected with the small farming and ranching movement that was significant to the Development of Boulder; and 2) its architectural significance is indicative of Craftsman Bungalow architecture which is most commonly associated with forms of one or one-and-one-half story, wood or masonry walls with gently pitched front of side gabled roof with overhanging eaves, broad porches and in the case of this property the use of native stone construction; and 3) its environmental significance for its association with the agricultural movement of northeast Boulder, much of which is no longer evident today.

Section 6. The council further finds that the foregoing landmark designation is necessary to promote the public health, safety, and welfare of the residents of the city.

Section 7. The council directs that the department of Community Planning and Sustainability give prompt notice of this designation to the property owner and cause a copy of this ordinance to be recorded as described in Subsection 9-11-6(d), B.R.C. 1981.

Section 8. The 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of AUGUST, 2013.

.

_____

Mayor

Attest:

_____

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY

TITLE ONLY this ____ day of _____, 2013.

.

_____

Mayor

Attest:

_____

City Clerk

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9-11-1 & 9-11-2 Purposes and Intent
Boulder Revised Code, 1981

9-11-1: *Purpose and Legislative Intent* states:

(a) The purpose of this chapter is to promote the public health, safety, and welfare by protecting, enhancing, and perpetuating buildings, sites, and areas of the city reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this chapter to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.

(b) The City Council does not intend by this chapter to preserve every old building in the city but instead to draw a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage by ensuring that demolition of buildings and structures important to that heritage will be carefully weighed with other alternatives and that alterations to such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them.

(c) The City Council intends that in reviewing applications for alterations to and new construction on landmarks or structures in a historic district, the Landmarks Board shall follow relevant city policies, including, without limitation, energy-efficient design, access for the disabled and creative approaches to renovation.

9-11-2: *City Council may Designate or Amend Landmarks and Historic Districts* states:

(a) Pursuant to the procedures in this chapter the City Council may by ordinance:

(1) Designate as a landmark an individual building or other feature or an integrated group of structures or features on a single lot or site having a special character and historical, architectural, or aesthetic interest or value and designate a landmark site for each landmark;

(2) Designate as a historic district a contiguous area containing a number of sites, buildings, structures or features having a special character and historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;

(3) Designate as a discontiguous historic district a collection of sites, buildings, structures, or features which are contained in two or more geographically separate areas, having a special character and historical, architectural, or aesthetic interest or value that are united together by historical, architectural, or aesthetic characteristics; and

(4) Amend designations to add features or property to or from the site or district.

(b) Upon designation, the property included in any such designation is subject to all the requirements of this code and other ordinances of the city.

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SIGNIFICANCE CRITERIA
Individual Landmark
September 1975

On September 6, 1975, the City Council adopted Ordinance #4000 providing procedures for the designation of Landmarks and Historic Districts in the City of Boulder. The purpose of the ordinance is the preservation of the City's permitted cultural, historic, and architectural heritage. The Landmarks Board is permitted by the ordinance to adopt rules and regulations as it deems necessary for its own organization and procedures. The following Significance Criteria have been adopted by the board to help evaluate each potential designation in a consistent and equitable manner.

Historical Significance

The place (building, site, area) should show character, interest or value as part of the development, heritage, or cultural characteristics of the community, state or nation; be the site of a historic, or prehistoric event that had an effect upon society; or exemplify the cultural, political, economic, or social heritage of the community.

Date of Construction: This area of consideration places particular importance on the age of the structure.

Association with Historical Persons or Events: This association could be national, state, or local.

Distinction in the Development of the Community of Boulder: This is most applicable to an institution (religious, educational, civic, etc) or business structure, though in some cases residences might qualify. It stresses the importance of preserving those places which demonstrate the growth during different time spans in the history of Boulder, in order to maintain an awareness of our cultural, economic, social or political heritage.

Recognition by Authorities: If it is recognized by Historic Boulder, Inc. the Boulder Historical Society, local historians (Barker, Crossen, Frink, Gladden, Paddock, Schooland, etc), State Historical Society, The Improvement of Boulder, Colorado by F.L. Olmsted, or others in published form as having historic interest and value.

Other, if applicable.

Architectural Significance

The place should embody those distinguishing characteristics of an architectural type specimen, a good example of the common; be the work of an architect or master builder, known nationally, state-wide, or locally, and perhaps whose work has influenced later development; contain elements of architectural design, detail, materials or craftsmanship which represent a significant innovation; or be a fine example of the uncommon.

Recognized Period/Style: It should exemplify specific elements of an architectural

period/style, i.e.: Victorian, Revival styles, such as described by *Historic American Building Survey Criteria*, Gingerbread Age (Maass), 76 Boulder Homes (Barkar), The History of Architectural Style (Marcus/Wiffin), Architecture in San Francisco (Gebhard et al), History of Architecture (Fletcher), Architecture/Colorado, and any other published source of universal or local analysis of a style.

Architect or Builder of Prominence: A good example of the work of an architect or builder who is recognized for expertise in his field nationally, state-wide, or locally.

Artistic Merit: A skillful integration of design, material, and color which is of excellent visual quality and/or demonstrates superior craftsmanship.

Example of the Uncommon: Elements of architectural design, details, or craftsmanship that are representative of a significant innovation.

Indigenous Qualities: A style or material that is particularly associated with the Boulder area.

Other, if applicable.

Environmental Significance

The place should enhance the variety, interest, and sense of identity of the community by the protection of the unique natural and man-made environment.

Site Characteristics: It should be of high quality in terms of planned or natural vegetation.

Compatibility with Site: Consideration will be given to scale, massing placement, or other qualities of design with respect to its site.

Geographic Importance: Due to its unique location or singular physical characteristics, it represents an established and familiar visual feature of the community.

Environmental Appropriateness: The surroundings are complementary and/or it is situated in a manner particularly suited to its function.

Area Integrity: Places which provide historical, architectural, or environmental importance and continuity of an existing condition, although taken singularly or out of context might not qualify under other criteria.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE
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 to vacate a portion of a twenty-foot emergency access and utility easement in association with an approved use review request to locate 68 attached multi-family residential units in an industrial zoning district at 6655 Lookout Road.

Applicant: Bruce Dierking, Packard and Dierking, LLC
Property Owner: 6655 Lookout Road, Ltd., a Colorado limited partnership

PRESENTER/S
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichem, Finance Director
David Driskell, Executive Director of Community Planning and Sustainability
Charles Ferro, Development Review Manager
Sloane Walbert, Associate Planner

EXECUTIVE SUMMARY
The applicant requests vacation of a 5,071 square foot portion of an existing twenty-foot emergency access and utility easement at 6655 Lookout Road (see Figure 1). A utility easement will be reserved in the vacation ordinance. The easement was originally dedicated on the Greens Industrial Park subdivision plat, recorded August 7, 1979. A Use Review request to locate a residential use in an industrial zoning district and redevelop the site with 68 multi-family residential units was approved by the city manager on March 28, 2013 (see LUR2012-00093). There is no public need for the portion of emergency access and utility easement to be vacated because a separate emergency access easement has been dedicated to accommodate access to the new buildings.

STAFF RECOMMENDATION
Staff finds that the criteria of section 8-6-9, "Vacation of Public Rights-of-Way and Public Access Easements," B.R.C. 1981 can be met and recommends that the City Council take the following action:

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

Motion to:
Introduce on first reading and order published by title only the proposed ordinance vacating and authorizing the City Manager to execute a Deed of Vacation vacating a portion of a twenty-foot emergency access and utility easement located at 6655 Lookout Rd.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: None identified.
- Environmental: None identified.
- Social: None identified.

OTHER IMPACTS

- Fiscal: No impact.
- Staff time: The vacation application has been processed through the provisions of a standard vacation process and is within normal staff work plans.

BOARD AND COMMISSION FEEDBACK
Notification was sent to the Planning Board on August 9, 2013 in conformance with Section 79 of the Boulder City Charter.

PUBLIC FEEDBACK
All notice requirements of section 9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. Public notice of this proposed vacation was sent to property owners within 600 feet of the project on May 29, 2013. Staff has received no comments from the public.

BACKGROUND

The subject property is located north of and adjacent to Lookout Road, at the northern-most terminus of Gunpark Drive, in an Industrial General (IG) zone district (refer to **Attachment A**, *Vicinity Map*). The property is currently encumbered by a twenty-foot emergency access and utility easement that runs along the west property line (see Figure 1).

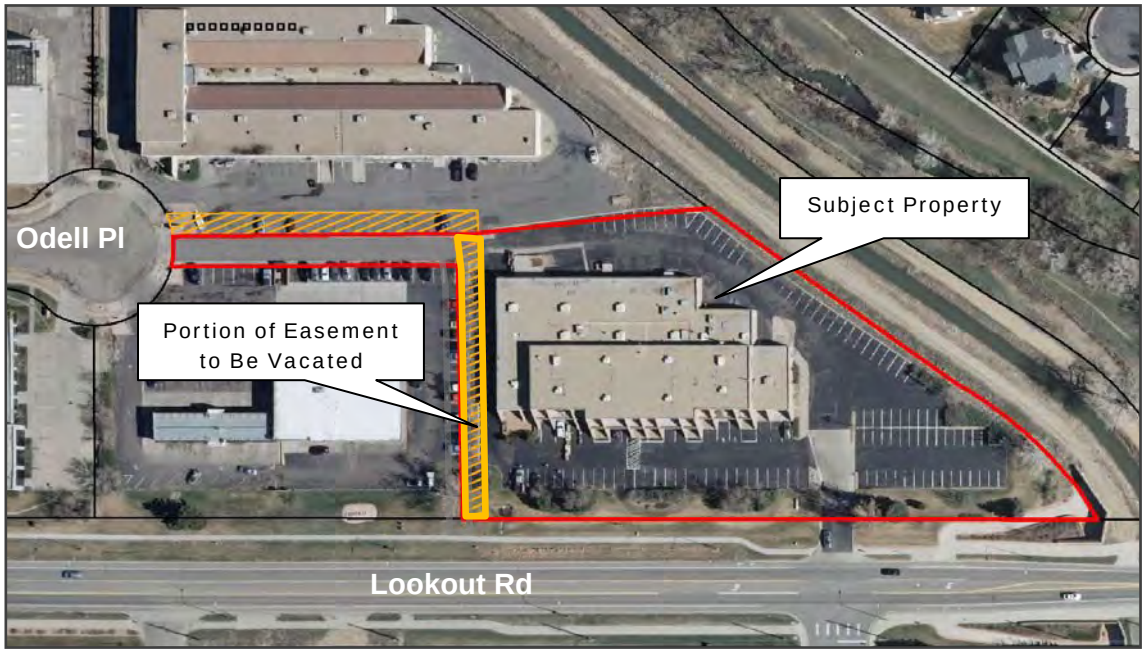

Figure 1.

The subject easement was dedicated to the public by the original subdivision plat for The Greens Industrial Park to provide for emergency access and utility connections from Lookout Road to the cul-de-sac terminus of Odell Place. The portion of easement to be vacated currently provides emergency access to the west side of the existing building.

On April 4, 2013, Planning Board approved a multi-family residential development on the site to include three buildings served by an internal access drive accessed from Lookout Road (please refer to **Attachment B**, *Site Plan*). The proposed vacation was a requirement of the approval and helps to implement the recently proposed development plan. The recently dedicated emergency access easement is configured to provide emergency access to the buildings along the internal access drive. The entire northern "flag" portion of the lot will be reserved for a future secondary road and pedestrian connection to Odell Place. In addition, the proposal accounts for a secondary road connection located along the western edge of the project site. There are currently water and underground electrical mains located within the existing easement and a utility easement interest will be reserved in the ordinance for utility purposes. The area of vacation will be converted to usable open space and drainage for the new multi-family development.

ANALYSIS

In order for the existing easement to be vacated the City Council would have to conclude that the criteria under subsection 8-6-9(c), B.R.C. 1981 are met and an ordinance would have to be approved. The subject easement has historically carried vehicular and pedestrian traffic and thus needs to be vacated by ordinance. Staff has reviewed this vacation request and has concluded that the criteria can be met as discussed below.

(1) The applicant must demonstrate that the public purpose for which an easement or right-of-way was originally acquired or dedicated is no longer valid or necessary for public use;

Located within the Gunbarrel subcommunity, the subject easement was dedicated to the public by The Greens Industrial Park subdivision plat, which was recorded in 1979. At that time, the subject easement was intended to provide emergency access and utility services to the property from Odell Place. Since its original platting, the character of Gunbarrel subcommunity has changed. The Gunbarrel Community Center Plan was adopted in 2004, guiding the redevelopment of the Gunbarrel subcommunity away from an automobile dominated landscape toward a more urban, walkable community. As such, Use Review and Technical document approvals were granted for a multi-family development known as Boulder Views Apartments with an internal access drive from Lookout Road.

The area to be vacated will be converted from a drive access to open space and drainage in the new multi-family development. The recently dedicated emergency access easement is configured to provide emergency access to the buildings along the internal access drive. The entire northern "flag" portion of the lot will be reserved for a future secondary road and pedestrian connection to Odell Place. In addition, the proposal accounts for a secondary road connection located along the western edge of the project site. For these reasons, the existing easement will no longer serve a public benefit. The improvements proposed with the new development will provide a greater public benefit than retaining the property in its present status.

(2) All agencies and departments having a conceivable interest in the easement or right-of-way must indicate that no need exists, either at present or conceivable in the future, to retain the property as an easement or right-of-way, either for its original purpose or for some other public purpose unless the vacation ordinance retains the needed utility or right-of-way easement;

The proposed vacation has been evaluated by the Planning, Public Works and Fire Departments and it has been collectively concluded that the public entities would have no conceivable future interest in the existing easement. A new emergency access easement has been dedicated to serve the recently approved redevelopment. There are currently water and underground electrical mains located within the existing easement. Therefore, a utility easement interest will be reserved in the ordinance. CenturyLink, Comcast, and Xcel have approved the request.

(3) The applicant must demonstrate, consistent with the Boulder Valley Comprehensive Plan and the City's land use regulations, either:

(A) That failure to vacate an existing right-of-way or easement on the property would cause a substantial hardship to the use of the property consistent with the Boulder Valley Comprehensive Plan and the City's land use regulations; or

Not Applicable.

(B) That vacation of the easement or right-of-way would actually provide a greater public benefit than retaining the property in its present status.

The vacation would result in a greater public benefit by providing for an improved site design at time of redevelopment. The vacation would minimize the existing paved area by allowing the existing drive access to be converted to open space and drainage for the new multi-family development. The development proposal furthers connectivity by accommodating future connections as identified in the Gunbarrel Community Center Plan Transportation Network Plan. After redevelopment the subject area of vacation will no longer serve a public benefit as emergency access.

ATTACHMENTS:

Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Draft Ordinance
Attachment D: Draft Deed of Vacation

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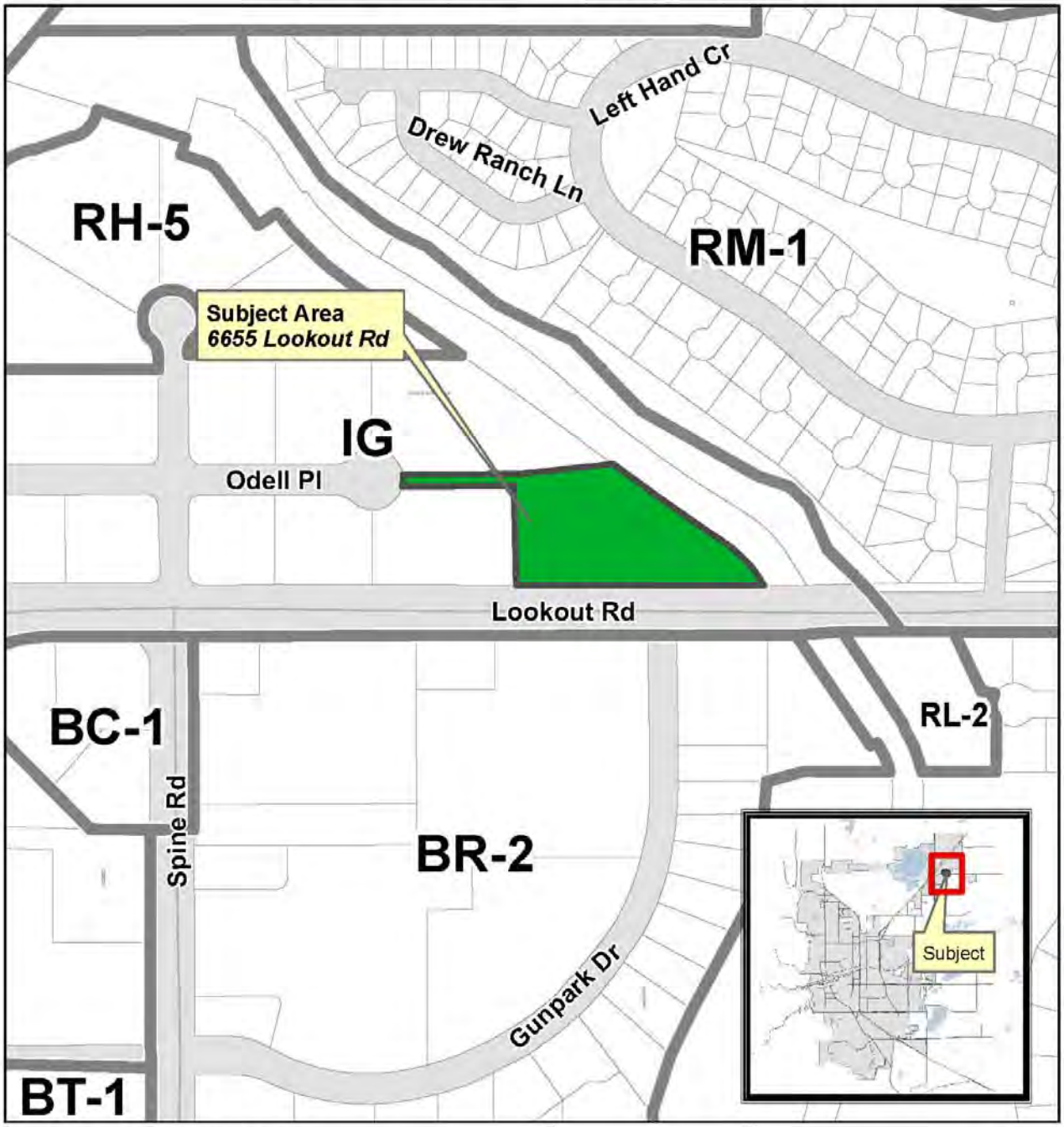
City of Boulder Vicinity Map



Location: ***6655 Lookout Rd***
Project Name: ***6655 Lookout Residential Redevelopment***
Review Type: ***Right-of-Way/Access Easement Vacation***
Review Number: ***LUR2013-00026***
Applicant: ***Bruce Dierking***
Zoning: ***Industrial - General (IG)***

NORTH

1 inch = 300 feet

City of Boulder

The information depicted on this map is provided as graphical representation only. The City of Boulder provides no warranty, expressed or implied, as to the accuracy and/or completeness of the information contained hereon.

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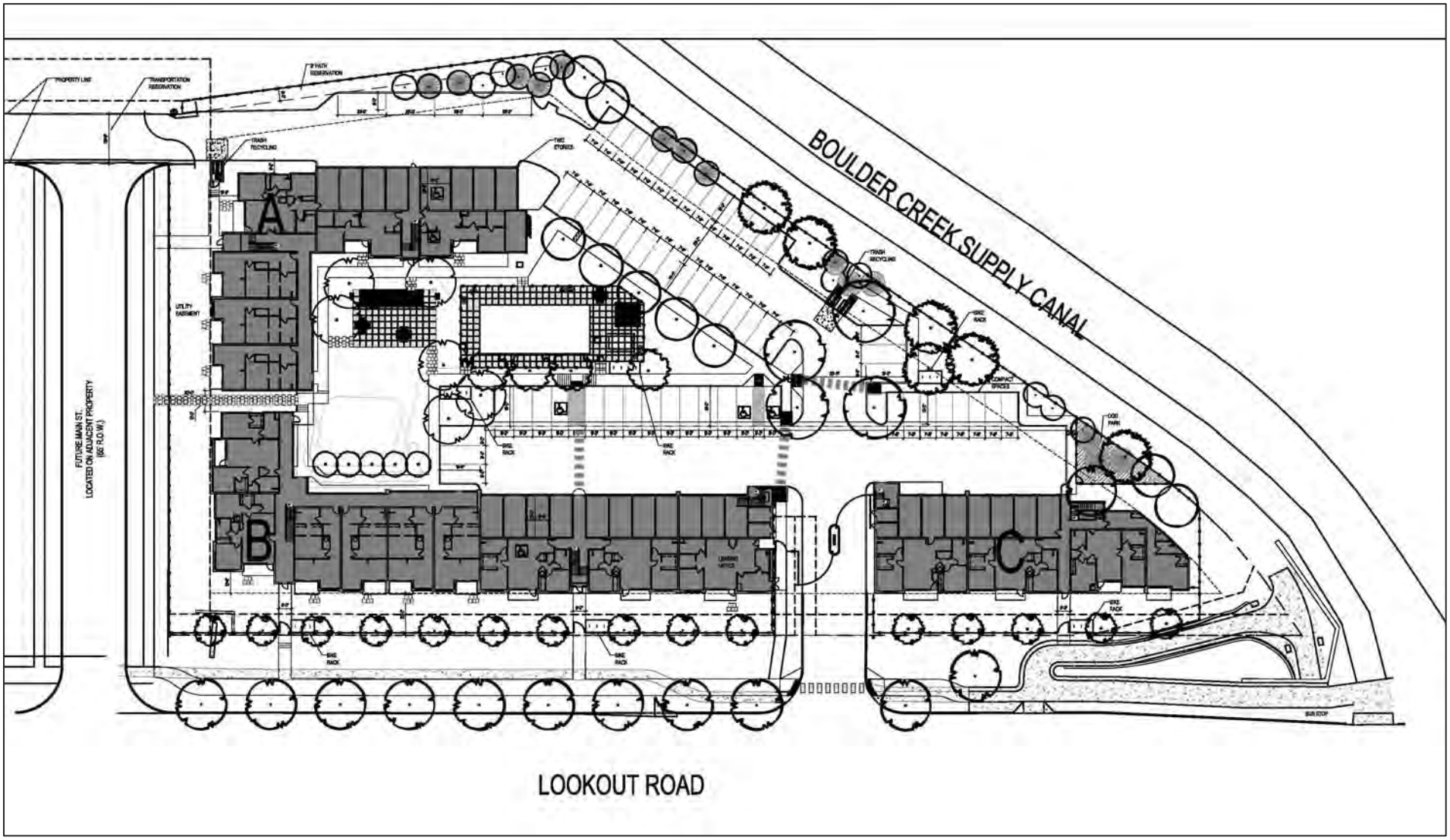

BOULDER CREEK SUPPLY CANAL
LOOKOUT ROAD
A
B
C
PROPERTY LINE
TRANSPORTATION RESERVATION
TRASH RECYCLING
UTILITY EASEMENT
FUTURE MAIN ST.
LOCATED ON ADJACENT PROPERTY
(82 R.O.W.)
BIKE RACK
COMPACT SPACES
DOG PARK

ORDINANCE NO. _____

AN ORDINANCE VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION FOR A PORTION OF A 20' EMERGENCY ACCESS AND UTILITY EASEMENT GENERALLY LOCATED AT 6655 LOOKOUT ROAD, CITY OF BOULDER, COUNTY OF BOULDER, COLORADO, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER FINDS AND RECITES THAT:

A. 6655 Lookout Road, Ltd., a Colorado limited partnership, the owner of the property located at 6655 Lookout Road, Boulder, CO ("Property"), has requested that the city vacate a portion of a 20' emergency access and utility easement located within The Greens Industrial Park Subdivision; and

B. The City Council is of the opinion that the requested vacation is in the public interest and that said 20' emergency access and utility easement is not necessary for the public use.

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

Section 1. The City Council vacates and authorizes the city manager to execute a deed of vacation a portion of a 20' emergency access and utility easement as dedicated to the City of Boulder on The Greens Industrial Park Subdivision plat recorded in the records of the Boulder County Clerk and Recorder at Film No. 1076, Reception No. 352392, on the 7th day of August, 1979 and as more particularly described in **Exhibit A**, reserving an easement interest for any and all utility purposes.

Section 2. 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 3. 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of September, 2013.

_____
Mayor

Attest:

_____
City Clerk

EXHIBIT A

(PAGE 1 OF 2)

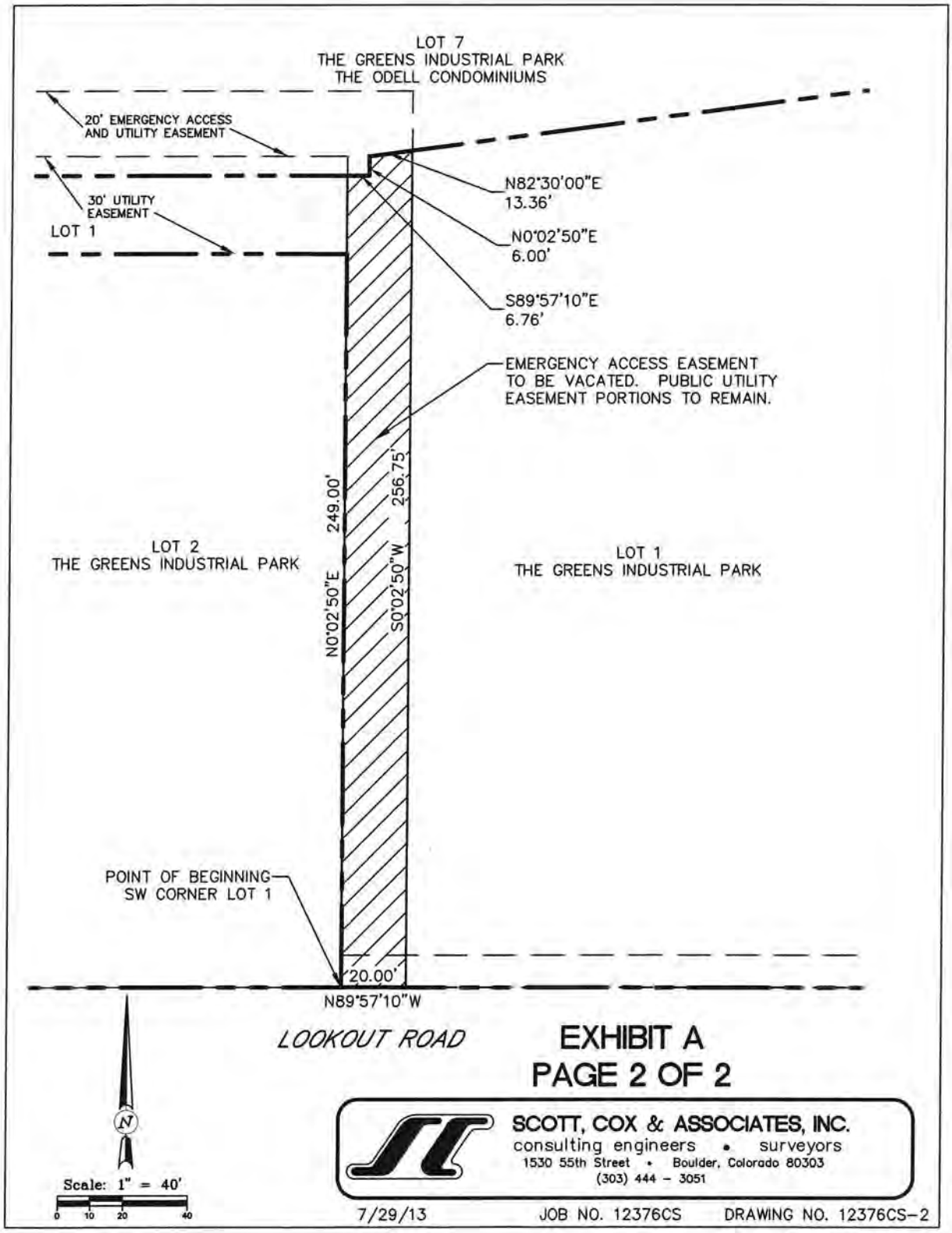
LEGAL DESCRIPTION – EMERGENCY ACCESS EASEMENT

THAT PORTION OF AN EMERGENCY ACCESS EASEMENT LOCATED IN LOT 1, THE GREENS INDUSTRIAL PARK, LOCATED IN THE S 1/2 OF SECTION 2, T1N, R70W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1, THENCE N00°02'50"E ALONG THE WEST LINE OF SAID LOT 1, 249.00 FEET; THENCE ALONG A LINE 6.00' SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1, S89°57'10"E, 6.76 FEET; THENCE N00°02'50"E, 6.00 FEET; THENCE ALONG THE NORTH LINE OF SAID LOT 1 N82°30'00"E, 13.36 FEET; THENCE S00°02'50"W, 256.75 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE ALONG SAID SOUTH LINE N89°57'10"W, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

SAID PARCEL CONTAINS 5071 SQUARE FEET OR 0.116 ACRES.

A. JOHN BURI P.L.S. #24302
FOR AND ON BEHALF OF
SCOTT, COX & ASSOCIATES, INC.
1530 55TH STREET
BOULDER, COLORADO 80303
303.444.3051
07/29/13
PROJECT NO. 12376CS


LOT 7
THE GREENS INDUSTRIAL PARK
THE ODELL CONDOMINIUMS
20' EMERGENCY ACCESS AND UTILITY EASEMENT
30' UTILITY EASEMENT
LOT 1
N82°30'00"E
13.36'
N0°02'50"E
6.00'
S89°57'10"E
6.76'
EMERGENCY ACCESS EASEMENT TO BE VACATED. PUBLIC UTILITY EASEMENT PORTIONS TO REMAIN.
249.00'
256.75'
N0°02'50"E
S0°02'50"W
LOT 2
THE GREENS INDUSTRIAL PARK
LOT 1
THE GREENS INDUSTRIAL PARK
POINT OF BEGINNING
SW CORNER LOT 1
20.00'
N89°57'10"W
LOOKOUT ROAD
EXHIBIT A
PAGE 2 OF 2
N
Scale: 1" = 40'
0 10 20 40
SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 - 3051
7/29/13
JOB NO. 12376CS
DRAWING NO. 12376CS-2

DRAFT DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the land, in the manner prescribed by Section 43-2-302, C.R.S., a portion of the 20' emergency access and utility easement previously dedicated to the City of Boulder on The Greens Industrial Park subdivision plat recorded in the records of the Boulder County Clerk and Recorder at Film 1076, Reception No. 352392, on the 7th day of August, 1979 located at 6655 Lookout Road and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference

Reserving unto the City an easement for the installation, construction, repair, maintenance and reconstruction of utilities and appurtenances thereto, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, and under and across the real property described on Exhibit A.

The above easement vacation and release of said easement at 6655 Lookout Road shall extend only to the portion and the type of easements specifically vacated. The within vacation is not to be construed as vacating any rights-of-way, easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 2013, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado, pursuant to Ordinance No. _____, adopted by the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

EXHIBIT A

(PAGE 1 OF 2)

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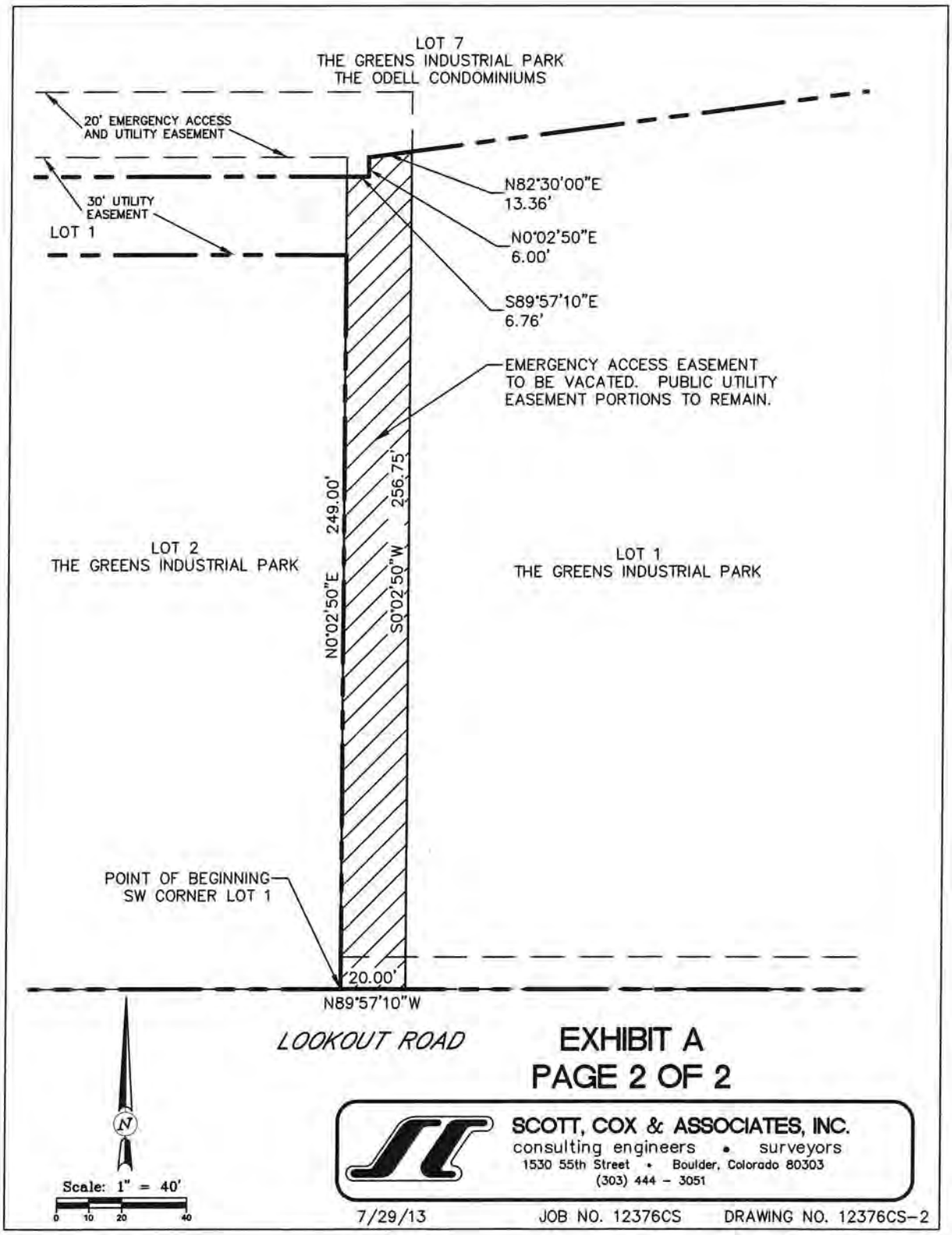
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0 10 20 40
7/29/13
JOB NO. 12376CS
DRAWING NO. 12376CS-2

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: AUG. 20, 2013

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only, an ordinance amending chapters 10-2, 10-5, 10-5.5, 10-6, 10-7,10-7.5, 10-8, 10-9, 10-9.5 and 10-10, B.R.C. 1981, adding a new chapter 10-8.5; adopting by reference, with amendments, the 2012 International Property Maintenance, Building, Residential, Energy Conservation, Fire, Wildland-Urban Interface, Mechanical, Fuel Gas and Plumbing Codes, and the 2011 Electrical National Code, amending sections 4-20-47, "Zoning Adjustment Filing Fees," and 2-3-4 "Board of Building Appeals," B.R.C. 1981; and setting forth related details.

PRESENTER/S
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Maureen Rait, Executive Director of Public Works
David Driskell, Executive Director of Community Planning and Sustainability
Larry Donner, Fire Chief
David Lowrey, Chief Fire Marshall
Charles Ferro, Development Review Manager
Brett KenCairn, Senior Environmental Planner
David Thacker, Building Services Manager/Chief Building Official
Kirk Moors, Senior Plans Examiner/Assistant Building Official

EXECUTIVE SUMMARY
The City of Boulder's codes were last updated in 2007. The proposed code updates address a wide range of public health and safety issues related to the built environment. The codes proposed for adoption include the:

- 2012 International Building Code (IBC)
- 2012 International Residential Code (IRC)
- 2012 International Energy Conservation Code (IECC)
- 2012 International Fire Code (IFC)
- 2012 International Wildland Urban Interface Code (IWUIC)*
- 2012 International Mechanical Code (IMC)
- 2012 International Plumbing Code (IPC)
- 2012 International Fuel Gas Code (IFGC)
- 2012 International Property Maintenance Code (IPMC)

- 2011 National Electric Code (NEC)

Although updating to the latest version of these codes is important from a life-safety standpoint, the process is fairly straight forward since most of the codes are developed and vetted through national and international processes and are not substantially changed by Boulder through local amendments. The exception is the potential energy code, which is proposed to have substantial local amendments to improve the energy efficiency in Boulder. Because the main focus of recent City Council and advisory board meetings has been on the energy efficiency amendments, this memo largely focuses on the energy efficiency requirements of the proposed code updates.

The proposed energy code update for commercial buildings will adopt the 2012 IECC standard as well as the 2010 American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) 90.1 standards, with local amendments requiring 30 percent increase in performance requirements. This proposed above-standard requirement will achieve a significant step toward improved energy efficiency in buildings in balance with the cost impact for new construction. As discussed in this memo, continuation of this stepped improvement to building energy efficiency—if supported by continued improvement in cost-efficient building and energy management technology—could achieve a “net zero” building code by 2031 (in which buildings, on balance, produce as much energy as they consume).

Staff is also proposing an energy efficiency improvement of 10 HERS points for all three of the Green Building Green Points (GBGP) tiered energy efficiency requirements for residential construction. This recommendation is the result of Planning Board input and further analysis by the city’s technical consultant, representing a step forward in residential energy efficiency for new construction in a manner that is aggressive but cost-effective.

STAFF RECOMMENDATION

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

Introduction, first reading and consideration of a motion to order published by title only, an ordinance amending chapters 10-2, 10-5, 10-5.5, 10-6, 10-7,10-7.5, 10-8, 10-9, 10-9.5 and 10-10, B.R.C. 1981, adding a new chapter 10-8.5; adopting by reference, with amendments, the 2012 International Property Maintenance, Building, Residential, Energy Conservation, Fire, Wildland-Urban Interface, Mechanical, Fuel Gas and Plumbing Codes, and the 2011 Electrical National Code, Amending Sections 4-20-47, "Zoning Adjustment Filing Fees, and" 2-3-4 "Board of Building Appeals," B.R.C. 1981; and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

Updating current building codes can produce economic, environmental, and social benefits at multiple levels across a community. High-performance buildings reduce

energy and environmental impacts, improve economic vitality, increase community pride, and may decrease utility rates by making peak energy demand more manageable.

Economic: Higher performing buildings increase property values, command higher lease prices, cost less to operate, and improve occupant comfort in addition to reducing greenhouse gases. However, initial costs to construct these buildings are higher. Exceeding the 2012 IECC requirements for commercial construction by at least 30 percent is projected to cost building owners an estimated 2 percent premium over baseline energy code compliant construction. Energy use modeling of a commercial office building indicates that the building efficiency improvements related to the proposed energy code will yield 33 percent in energy savings and have an overall payback of eight years. Similarly, modeling of a mixed-use building indicates that the efficiency improvements of the proposed energy code will yield 35 percent in energy savings and seven years for the overall payback.

Environmental: Using building and energy codes to ensure the energy efficiency of the building is within the limits of the code and will benefit the environment by reducing greenhouse gas (GHG) emissions.

Social: Improving the energy codes above the minimum standard requires energy conservation in the residential, public and private sectors. This results in less money flowing to energy costs over time, and more household and business income available for other uses. Additionally, the net outcome of decreased greenhouse gas emissions promotes a community-wide shift toward conservation and being good stewards of the built and natural environments.

FISCAL IMPACTS

Staff and consultant costs for the update work have been included into the 2013 budget. The staff time needed to implement the updated codes is not expected to be higher than current code review requirements.

BOARD AND COMMISSION FEEDBACK

On February 21, 2013, Planning Board held a study session regarding energy and greenhouse gas emissions in the built environment. The purpose of the study session was to:

- Review where and how the city's current policies, regulations and practices help to reduce energy use, water consumption and greenhouse gas emissions in the built environment;
- Review current work program efforts within that framework and anticipated schedules/outcomes;
- Identify what's working, what's not, and areas where the board feels additional attention or effort is most critical; and
- Discuss goals for addressing energy, water and GHG emissions within the context of site reviews, and next steps needed to create the necessary policy guidance.

While the session provided an overview of some of major work efforts currently underway that will have an impact on energy use and GHG emissions in Boulder (e.g., Boulder's Energy Future, SmartRegs implementation, EnergySmart services, Boulder's Climate Commitment, the Transportation Master Plan update, etc.), a significant portion of the discussion focused on how this goal is advanced through site-level design and decision making in the city's Site Review process. Specifically, the board expressed interest in better understanding how the current Site Review criterion in Section 9-2-14(h) (2) (F) (xi) B.R.C. 1981 (below) can or should be interpreted and applied:

(xi) Buildings minimize or mitigate energy use; support on-site renewable energy generation and/or energy management systems; construction wastes are minimized; the project mitigates urban heat island effects; and the project reasonably mitigates or minimizes water use and impacts on water quality.

Recognizing that the proposed Building Code changes will establish a very high baseline for building energy efficiency, staff committed to clarifying the above criterion and helping draw a better distinction between what energy conservation measures should be addressed by the Building Code amendments and those better addressed in the Site Review Criteria and Land Use Code.

The most significant area of impact identified by the board related to the consideration of an amendment to the code requiring that all non-residential buildings above the by right height for a zone district be net zero energy (i.e. the building consumes no more energy with additional floor area and height than without it).

Advisory board discussion has focused on attaining the optimum energy efficiency requirement. Concern was expressed that a too aggressive energy efficiency requirement might inhibit improvement or redevelopment of existing buildings. This was balanced with the idea that once a building is constructed, it impacts the city's GHG profile for many years after the construction date. These types of discussions precipitated proposing energy efficiency 30 percent improved over the base 2012 IECC and to have the Green Building Green Points energy efficiency requirements improved by 10 Home Energy Rating System (HERS) points.

At a June 6, 2013 Planning Board meeting, the issues of the International Wildland Urban Interface Code (IWUIC) and the existing landscaped areas within the wildland zone were raised. One of the main concerns heard is the impact the new code would have on existing mature landscaping. The code includes construction standards, but also requires the creation of a defensible space around dwellings to mitigate fire risk. The majority of the IWUIC code applies only to new construction. If adopted without a local amendment, regulations relating to the creation of defensible space would apply to both new construction and existing structures. Staff proposes repealing this portion of the code. Education and outreach will be conducted to promote clearing a defensible space around existing structures rather than through a regulatory requirement.

Another area for suggested improvement was the new portion of the International Fire Code (IFC) that regulates the installation of Solar Photo Voltaic (PV) Systems. During the June 6, 2013 Planning Board meeting, solar energy businesses and the community expressed concern about the way PV systems would be regulated. Staff worked closely with the Colorado Solar Energy Industries Association (CoSEIA) and community stakeholders to find a compromise that meets the intent of the IFC for firefighter safety, while still allowing the roof area necessary to maintain an economically sound PV array.

PUBLIC FEEDBACK

Staff has held five code update/public input meetings at various locations throughout the city. The meetings included information about significant changes to the upcoming codes. All licensed contractors, architects, structural engineers, and property owners were invited to attend and give feedback about the upcoming code amendments. The common concern expressed at these meetings is related to the cost premiums associated with meeting new energy code requirements, especially if the code is amended to achieve even greater energy efficiency. Outside on the public meetings, staff encouraged feedback from all in attendance in the form of emails and phone calls. However, no substantive feedback beyond cost premiums was received.

BACKGROUND

In the last code update, Boulder adopted the 2006 International Energy Conservation Code (IECC), with a local amendment requiring building energy performance of 30 percent higher than the IECC 2006 standard. The proposed code update presented in this memo will adopt the 2012 IECC standard as well as the 2010 American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) 90.1 standards, with local amendments requiring 30 percent higher performance. This recommendation is based on consultant analysis of the related cost premiums associated with the increased standard, projected payback period and anticipated future increases in efficiency standards.

As previously discussed, the high carbon intensity of the city's electrical supply contributes to building energy use being the single largest source of GHG emissions in Boulder. In addition to the many efforts underway to reduce building-related emissions (e.g., Boulder's Energy Future project, SmartRegs requirements for existing rental properties, and the delivery of EnergySmart services to homes and businesses), building regulations have a key role to play in achieving long-term GHG reduction goals. In recognition of the city's GHG reduction goals within the overall climate action commitment, a series of building performance requirements are identified that specify high-performance efficiency targets for each code update cycle over the next 18 years to achieve a 2031 goal of "net zero" in all new construction.

ANALYSIS

<u>Proposed Energy Code Standards:</u>

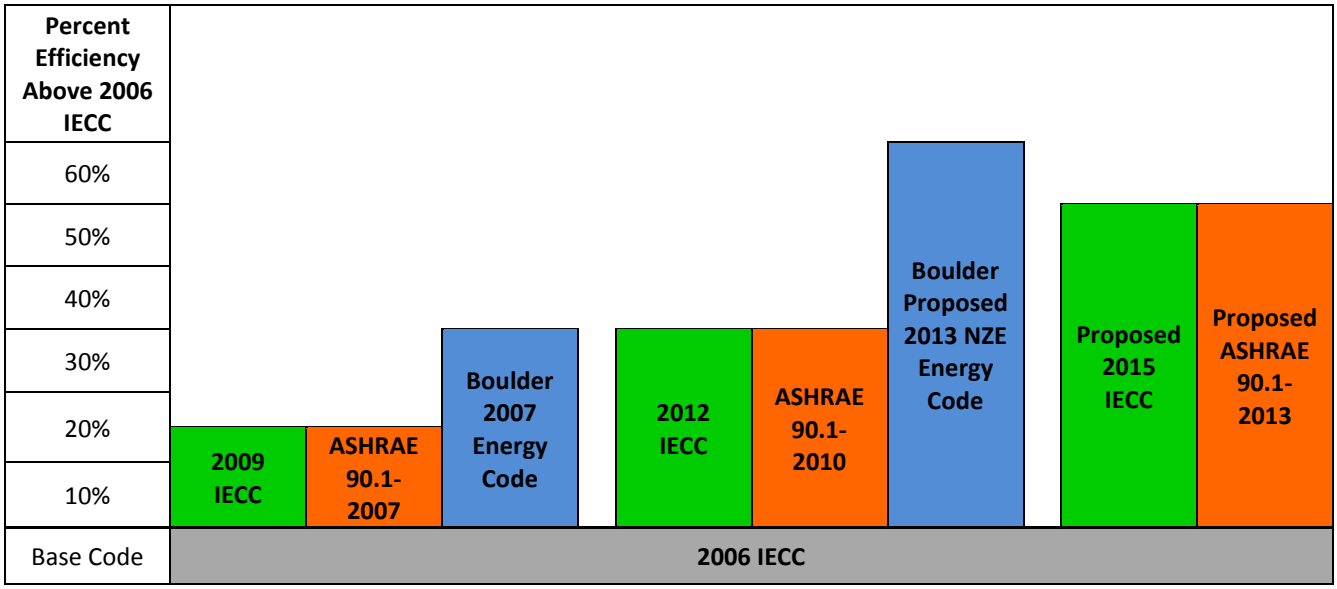
The proposed code update for commercial buildings presented in this memo will adopt the 2012 IECC standard as well as the 2010 American Society of Heating, Refrigeration,

and Air Conditioning Engineers (ASHRAE) 90.1 standards, with local amendments requiring 30 percent higher performance, while establishing a target of net zero energy by 2031.

For new residential construction (or additions), staff is proposing an energy efficiency requirement improvement of 10 HERS points for all three of the GBGP-tiered energy efficiency requirements. Continuing the pattern of reducing the HERS index each code cycle by 10 points will align the residential energy requirements with the commercial requiring all habitable structures to be net zero energy by 2031.

Commercial Energy Requirements:

The city's current commercial building energy code requires new construction and/or building additions to exceed the 2006 IECC by 30 percent. The chart below compares Boulder's current and proposed energy codes to the energy codes and standards that are available and under development, namely IECC and the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) 90.1.



Boulder's current code requirements are approximately 15 percent higher than the 2009 IECC and 2007 ASHRAE 90.1 standards. The proposed code adoption will be 30 percent more efficient than the 2012 IECC and 2010 ASHRAE 90.1 standards. This will bring the city ahead of the proposed levels for the 2015 IECC, which is proposed to be 50 percent more efficient than the 2006 IECC. Actual adopted levels for the 2015 IECC will be decided during the final action hearings scheduled for Oct. 2 – 10, 2013. ASHRAE 90.1 is referenced within the IECC as an alternate path of compliance for commercial buildings. The Department of Energy (DOE) has issued a statement that the 2009 IECC and ASHRAE 90.1 2007 are equivalent in efficiency.

The consultant team used the 2012 IECC as the baseline to begin its evaluation of potential measures.

Residential Energy Requirements:

Following Boulder County's adoption of residential energy efficiency requirements that improved their standard by about 10 Home Energy Rating System (HERS) points, city staff reviewed the cost analysis of energy efficiency requirements prepared by Architectural Energy Corporation for the last Green Building and Green Points (GBGP) update. At the time of the report, energy efficiency 50 percent greater than the 2006 IECC was being considered. The cost premium listed in the report for this level of energy efficiency varied from 1 to 3 percent based on the size of the house, with smaller houses reporting the higher cost. Since previous consultant work indicated that this level of energy efficiency is cost effective, the city is proposing an energy efficiency requirement improvement of 10 HERS points for all three of the GBGP-tiered energy efficiency requirements. Continuing the pattern of reducing the HERS index each code cycle by 10 points will align the residential energy requirements with the commercial requiring all habitable structures to be net zero energy by 2031.

Proposed HERS index improvement

Size of home Sq ft	**current HERS**	**proposed HERS**
Up to 3,000	**70**	**60**
3,001-5,000	**60**	**50**
5,001 and up	**35**	**25**
Multi-family	**70**	**60**

Currently, there are minimal changes proposed to the City's Green Building Green Points (GBGP) program. After further discussion with the Planning Board and various consultants, the need to take a closer look at the GBGP program is apparent and staff will be bringing a new proposal to council later this fall. Items being considered are the addition of green points for installing and maintaining cool/green roofs, pre-wiring/plumbing for the future installation of solar PV/thermal, deconstruction, and energy efficient lighting.

Defining a Path to "Net Zero":

In previous discussions, both the Planning Board and City Council have expressed an interest in understanding how this and subsequent code updates could move the city toward "net zero" energy use in buildings and support the city's Climate Commitment

goals. To inform that discussion, the city's consultant researched the ASHRAE Vision 2020 energy targets.

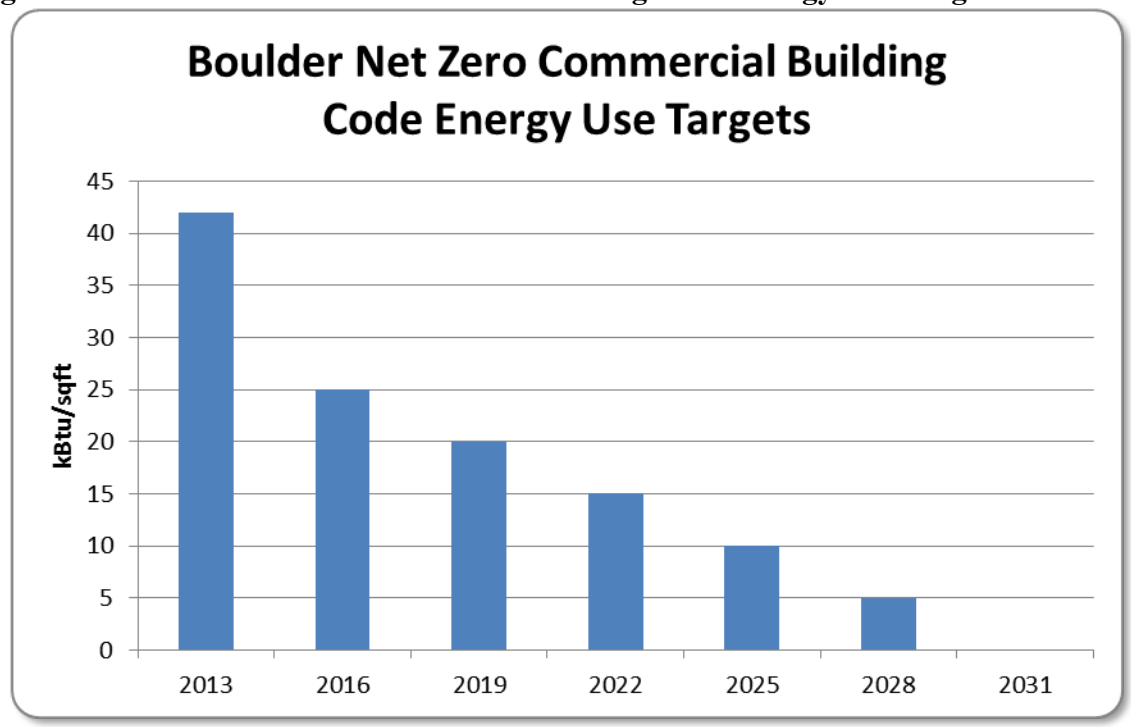
To frame a net zero energy (NZE) building code, two basic working definitions were established: building project boundaries and NZE. The building projects included in this analysis are all those impacted by the building energy code – namely any building project that requires a building permit. These projects include new construction as well as new additions and remodels. The working definition of NZE for this analysis is a building that produces as much total energy over an annual period as it uses when measured at the site.

As part of ASHRAE Vision 2020, strategies and actions were defined to guide members in designing, constructing and operating NZE buildings. As part of the ASHRAE Vision 2020 effort, the ASHRAE Board of Directors approved the energy use targets (in a unit of total annual energy usage, or kbtu, normalized by building area) shown in Figure 1.

Figure 1: ASHRAE Vision2020 Energy Use Targets

Based on ASHRAE's guidance, Figure 2 represents energy use targets framed for Boulder's customized commercial NZE building energy code. For context on the energy use targets shown in Figure 2, the energy use in 2013 represents a 25 percent energy use improvement over the 2012 IECC and then continues aggressive energy use improvements through 2031.

Figure 2: Boulder Net Zero Commercial Building Code Energy Use Targets



Boulder's NZE building energy use targets achieve net zero in the same time period as the ASHRAE Vision 2020 guidance and aligns with the typical 3-year building code cycle. Boulder's customized energy use targets of Figure 2 considers the current performance of building projects (Boulder Commercial Energy Code Consultation, December 2013, Brendle Group) and a customized rate of improvement for each of the 3-year code cycles. If supported by City Council, these targets will be used to guide future code updates. Residential targets and performance will be assessed by the GBGP program.

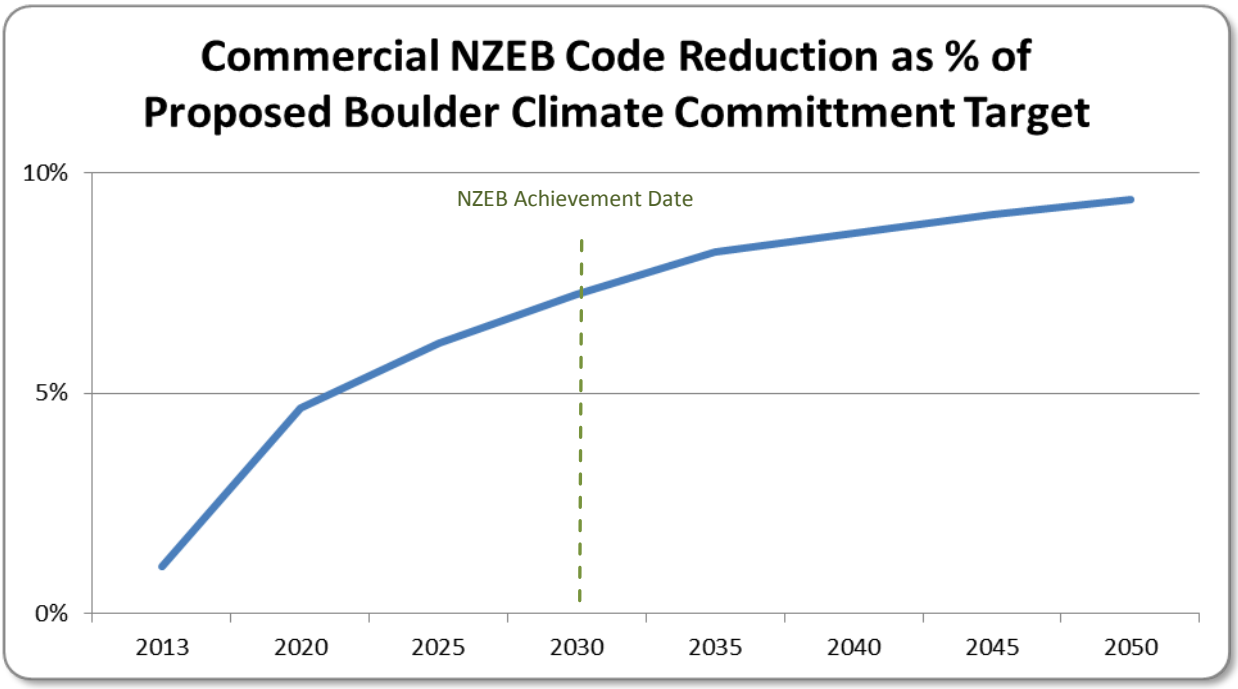
Achieving Boulder's Climate Commitment in New Buildings

The contribution from the stepped increases in Boulder's commercial energy efficiency requirements to the city's overall climate commitment was calculated based on expected energy savings. These calculations do not reflect the potential GHG benefits of changes to the city's electricity supply. Specifically, the expected energy savings for newly constructed buildings were calculated by comparing current modeled energy use – approximately 60 kBtu per square foot for commercial office space (Boulder Commercial Energy Code Consultation, December 2013, Brendle Group) - against the NZE building energy use targets in Figure 2. For remodeled buildings, energy savings were calculated by comparing Boulder's current existing building use – or approximately 87 kBtu per

square foot (City of Boulder Information Packet, March 19, 2013) – against Figure 1 NZE targets. Based on Boulder's current mix of utility providers, carbon conversion factors were then used to estimate carbon emission reductions from these energy savings.

For the first year of the NZE (assumed to be 2013), the carbon reductions were estimated to be 2,800 metric tons. By 2031, adoption of building code updates consistent with the proposed NZE targets could yield 89,000 metric tons of reduced carbon. Figure 3 below translates how these NZE carbon reduction results could contribute to a potential climate commitment goal of reducing current emissions by 80 percent by 2050. The city will be considering a new carbon reduction goal (beyond the currently adopted goal) in the coming months. The percent contributions indicated in Figure 3 can be recalculated at that time to reflect the adopted goal.

Figure 3: Potential Boulder Commercial Building Code Contributions to Overall 80% Carbon Reduction by 2050



By 2050, NZEB could contribute about 9 percent of the climate commitment target.

Two key assumptions considered in Figure 3 include the following:

- New building construction and remodel activity for 2013 was modeled using conservative building square footage estimates from actual activity in 2011 and 2012; and
- Since actual data is not yet available, construction activity was assumed to be the same for each subsequent year after 2013.

The relatively small number of new buildings to existing housing stock (2 percent locally) highlights the importance of programs aimed at existing buildings.

Summary of Building Code Changes:

While both the Planning Board and Council have expressed specific interest in the city's energy code requirements, the update will enact a number of other code requirements related to public health and safety in new construction. These include:

- 2012 International Building Code (IBC);
- 2012 International Residential Code (IRC);
- 2012 International Energy Conservation Code (IECC);
- 2012 International Fire Code (IFC);
- 2012 International Wildland Urban Interface Code (IWUIC);
- 2012 International Mechanical Code (IMC);
- 2012 International Plumbing Code (IPC);
- 2012 International Fuel Gas Code (IFGC);
- 2012 International Property Maintenance Code (IPMC); and
- 2011 National Electric Code (NEC).

Local amendments, where necessary, are being proposed to address issues including the administration of the Green Points Program. A summary of key local amendments is provided in ATTACHMENT A.

Substantial Code Changes and Impacts
Some of the proposed code changes are new to Boulder and have the potential to affect a large number of residents or affect properties in certain areas of the city. To ensure a transparent and open process, this section of the memo will highlight these proposed changes.

2012 International Wild land Urban Interface Zone (IWUIC)
The IWUIC would regulate the use, condition, construction, alteration, repair and maintenance of buildings, structures and premises within the wildland urban interface areas of the city. Regulations in the IWUIC are intended to mitigate the risk of wildland fire exposures and fire exposures from adjacent structures.

The wildland zone, although relatively small, runs through several areas in the city that have established landscaping and mature trees. After reviewing the IWUIC and noting the majority of the code addresses new construction, staff proposes repealing the portion of the code that affects existing properties. Due to concerns about how the code would affect mature landscaping, staff is proposing that concepts like clearing defensible space around existing structures be addressed in outreach/educational programs.

The code would be applicable to newly constructed dwellings within the wildland urban interface zone and would regulate the defensible space around dwellings to mitigate fire risk.

2012 International Residential Code: Fire Sprinkler Amendment
The City of Boulder has long required fire sprinklers in residential town homes and homes with limited access throughout the city. Residential fire sprinklers have been added to the 2012 IRC and are required in all new residential dwellings.

Per the National Fire Protection Agency's Fire Protection Research Foundation report, "Home Fire Sprinkler Cost Assessment" the average cost is $1.61 per square foot. That cost can be reduced to an average of $1.49 if credits/incentives are considered. The local average is slightly higher.

If adopted, the 2012 IRC would require all new residential dwellings to install and maintain a fire sprinkler system effective Sept. 1, 2014, approximately one year post adoption. If adopted, the city would do extensive outreach and provide resources to homeowners affected by the new requirement.

2012 International Plumbing Code: Grey Water recycling (repealed)
Chapter 13 of the IPC is dedicated to grey water recycling. This section has been repealed due to current state regulations not providing a direct regulatory path for use of gray water systems. In fact, some language in the current regulations can be problematic for permitting and implementation of such systems. A stakeholder group is currently being formed to develop a gray water control regulation for consideration by the Water Quality Control Commission.

Under the minimum standards of the current Colorado Plumbing Code, gray water systems are not authorized and potable water is required to be supplied to all plumbing fixtures. Any installations of gray water systems in the state may require approval of a code variance from the Examining Board of Plumbers.

Concerning water rights, the recirculation that occurs with a gray water system could potentially be characterized in water court as a second use or "reuse" of water. If such characterization were to occur, only water rights that are decreed (legally authorized) for reuse could supply gray water systems. This would be problematic for Boulder, because most of the city's water rights are not decreed for reuse.

2012 International Fire Code: Solar PhotoVoltaic
The proposed IFC restricts the placement of solar photovoltaic panels on residential buildings in relation to proximity of roof valleys, hips, and ridges. This requirement is meant to maintain a fire crew's ability to vent a roof during a fire response. Through extensive outreach to the solar community staff has been able to develop a compromise that maintains firefighter safety and effectiveness while allowing maximum use of the roof space for solar photo voltaic panels. (See Chapter 6 of the IFC (pg 97-99) in Attachment B).

2012 International Building Code: Administration

While code updates are useful to keep up with current technologies and building practices, it also presents the opportunity to utilize lessons learned to clarify and strengthen code enforcement. One such clarification involves the enforcement section of the code and provides the city the ability to assess civil penalties rather than being restricted to administrative action procedures.

SmartRegs:
The energy efficiency portion of the SmartRegs ordinance will have a few items for clean up, however no substantial changes will be made. The clean up items include:

- Making small clerical corrections to the energy efficiency code;
- Providing the definition of 'rehabilitation', as it applies to historic properties and SmartRegs;
- Restructuring of points category to adjust points awarded for specific appliances; and
- Adding points for the inclusion of common area laundry facilities.

NEXT STEPS

If codes are adopted, staff will continue with public education by offering code update workshops during the third and fourth quarter of 2013. Updates to the Site review criteria will be scheduled for Planning Board consideration during the fourth quarter of 2013. An update to the city's Green Building, Green Points program is scheduled for the fourth quarter of 2014.

ATTACHMENTS

- ATTACHMENT A: Proposed ordinance adopting and amending 2012 ICC codes and 2011 NEC
- ATTACHMENT B; Summary of Proposed Building Codes Local Amendments

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ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 10-2, 10-5, 10-5.5, 10-6, 10-7, 10-7.5, 10-8, 10-9, 10-9.5, AND 10-10, B.R.C. 1981; ADDING A NEW CHAPTER 10-8.5; ADOPTING BY REFERENCE, WITH AMENDMENTS, THE 2012 INTERNATIONAL PROPERTY MAINTENANCE, BUILDING, RESIDENTIAL, ENERGY CONSERVATION, FIRE, WILDLAND-URBAN INTERFACE, MECHANICAL, FUEL GAS AND PLUMBING CODES, AND THE 2011 NATIONAL ELECTRICAL CODE; AMENDING SECTIONS 4-20-47, "ZONING ADJUSTMENT FILING FEES," AND 2-3-4, "BOARD OF BUILDING APPEALS," B.R.C. 1981; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 10-2, B.R.C. 1981, is amended to read:

CHAPTER 10-2 – PROPERTY MAINTENANCE CODE

10-2-1 Legislative Intent.

(a) The City Council finds:

(1) Energy efficiency requirements for housing are necessary because:

(A) Reducing greenhouse gas emissions in existing buildings is imperative to meet the City of Boulder's sustainability goals;

(B) Rental housing represents the largest number of existing housing units in the City; and

(C) Efforts to establish incentives for voluntary energy efficiency retrofits in rental housing have proven to be ineffective.

(b) Reducing greenhouse gas emissions has been established as an important public policy objective and mandated by the City of Boulder due to:

(1) The well-documented link between reduction of such emissions and current and projected climate change; and

(2) The profound public health and safety impacts of such emissions, including but not limited to:

(A) Increased risk of extreme weather events,

(B) Increased flood severity,

(C) Increased risk and intensity of catastrophic wildfire,

(D) Increased insect invasions causing forest die-offs, and

(E) Increased risk of drought.

(c) The purposes of this chapter are as follows:

(1) To protect the public health, safety and general welfare of the residents of the City by regulating existing residential rental and privately occupied residential structures and to promote conservation and the efficient use of energy;

(2) To establish minimum energy efficiency requirements for existing rental and privately occupied housing in the City of Boulder with the goal of reducing greenhouse gas emissions; and

(3) To address the unique needs and challenges associated with energy retrofits in existing rental and privately occupied housing.

(d) The City Council hereby adopts the ~~2009~~ 2012 edition of the International Property Maintenance Code as the Property Maintenance Code of the City of Boulder. This chapter establishes minimum code standards related to: administration; definitions; general requirements; light, ventilation and occupancy limitations; plumbing facilities and fixture requirements; mechanical and electrical systems; fire safety requirements; rental licensing and existing residential rental structure energy conservation.

10-2-2 Adoption of the International Property Maintenance Code with Modifications.

(a) The ~~2009~~ 2012 edition of the International Property Maintenance Code (IPMC) of the International Code Council is hereby adopted by reference as the City of Boulder Property Maintenance Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended for local application by this chapter.

(b) IPMC Appendix chapters A, "Boarding Standard," and B, "Rental Housing Inspections," are adopted.

(c) For ease of reference, the following identifies all chapters, sections and appendices of the published and adopted IPMC and includes specific amendments for local application. Chapter, Section, Subsection or Appendix numbers of provisions not amended appear, followed by the words, "No changes." The amended text of specifically amended provisions appears below. Chapter, Section, Subsection or Appendix numbers of any provisions not adopted appear, followed by the word, "Deleted."

CHAPTER 1
SCOPE AND ADMINISTRATION

PART 1 — SCOPE AND ADMINISTRATION

SECTION 101
GENERAL

101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Boulder, hereinafter referred to as "this code."

101.2 Scope. This code shall apply to all existing ~~residential~~ structures and all existing ~~residential~~ premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, energy conservation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; this code also specifies the responsibility of the owners, operators and occupants related to code compliance; the occupancy of existing structures and premises, and provides for administration, licensing, enforcement and penalties.

101.2.1 Application of Rental Licenses Code. Existing residential structures utilized as rental properties will also be subject to the requirements of Chapter 10-3, "Rental Licenses," B.R.C. 1981.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Except as provided below, existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Existing structures and premises that comply with all applicable codes in force at the time of construction will be deemed to comply with this code except where the code official determines that deviations from this code pose a danger to the health, safety or welfare of the public or occupants, and issues an order for the owner to correct those specific conditions or alterations.

101.4 Severability. No changes.

SECTION 102
APPLICABILITY

102.1 General. No changes.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code shall be maintained in accordance with the code in effect when the structure or premises was legally constructed, altered or repaired and shall be maintained in good working order.

102.3 Application of Other Codes. Repairs, additions or alterations to a structure, inspections or changes of occupancy, shall be done in accordance with the procedures and provisions of the City of Boulder Building Code, City of Boulder Residential Code, City of Boulder Fuel Gas Code, City of Boulder Mechanical Code, City of Boulder Plumbing Code, City of Boulder Fire ~~Prevention~~ Code, City of Boulder Energy Conservation ~~and Insulation~~ Code and City of Boulder Electrical Code.

102.4 — 102.10 No changes.

PART 2 — ADMINISTRATION AND ENFORCEMENT

. . .

SECTION 106
VIOLATIONS

106.1 Violations.

(a) General Provisions:

(1) No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the City, or cause or permit the same to be done, except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official. No person shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof. No person shall fail to comply with any order issued by the code official under this code.

(2) In accordance with the provisions of section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, or use continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land and the agents of each of them are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code, or of any directive of the code official, may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(6) If an order under section 107 is not complied with, the code official may institute any appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or the order or direction made pursuant thereto. The code official may charge the cost of any action taken to correct a violation, plus up to fifteen percent of such cost, for administration to the property owner. If any property owner fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer, to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected, under the procedures described by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies:

(1) If the code official finds that a violation of any provision of this code or of any approval granted under this code exists, 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 take any one or more of the following actions to remedy the violation:

(A) Impose a civil penalty according to the following schedule:

(i) For the first violation of the provision or approval, $100;

(ii) For the second violation of the same provision or approval, $300; and

(iii) For the third violation of the same provision or approval, $1,000;

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e); or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this code or any approval granted under this code.

(2) Prior to the hearing, the code official may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the code official to exist with respect to such structure or land.

(3) If notice is given to the code official at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the code official will reinspect the structure or land. If the code official finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the code official under this section.

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this code, the code official is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit, until such time as the person submits a declaration of use that is in a form acceptable to the code official.

106.~~1~~2 — 106.3 ~~No changes~~Deleted.

106.4 Violation Penalties. ~~Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Violations of this code are punishable as provided in sections 9-15-3 through 9-15-5, of chapter 9-15, "Enforcement," B.R.C. 1981.~~Deleted.

106.5 Abatement of Violation. No changes.

SECTION 107
NOTICES AND ORDERS

107.1 Notice to Person Responsible. No changes.

107.2 Except in those instances where section 308, "RUBBISH AND GARBAGE," or section 309, "PEST ELIMINATION," applies or if a violation of chapter 10-3, "Rental

Licenses," B.R.C. 1981, is alleged, whenever the code official determines that there is or has been a violation of any provision of this code, notice shall be given of such determination to the person responsible to correct the violation. The notice shall:

1. Be in writing

2. Include a description of the real estate sufficient for identification.

3. Include a statement of the violation or violations and why the notice is being issued.

4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.

5. Inform the property owner or other person responsible to correct the violation of the right to appeal.

6. Include a statement of the rights under section 106.1 (a)(6) ~~to file a lien in accordance with section 106.3~~.

107.3 Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally upon the responsible person, or by leaving a copy thereof at the person's usual place of abode, with any person eighteen years of age or older and who is a member of the person's family; or at the person's usual workplace, with the person's supervisor, secretary, administrative assistant, bookkeeper, human resources representative or managing agent; or by delivering a copy to a person authorized by appointment or by law to receive service of process.

2. Sent by certified or registered mail addressed to the owner at the last known address with return receipt requested; or

3. Delivered in any other manner as prescribed by law. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

107.4 ~~**107.5**~~ No changes.

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in section 106.1.

107.6 Deleted.

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SECTION 111
MEANS OF APPEAL

111.1 Application of Appeal.

(a) Any appeal under this section shall be heard by the Board of Building Appeals established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing office under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.

(b) Any person directly affected by a decision of the code official or by an order issued under this code may appeal the decision or order on the ground that:

(1) The decision or order was based on an error of fact or on an erroneous interpretation of this code or the rules legally adopted thereunder;

(2) The code official has erroneously failed to approve an alternative material or method pursuant to Section 105.2 prior to its installation or use. In determining such an appeal the board shall apply the standards of Section 105.2, but the board shall have no jurisdiction to consider if a material or method expressly prohibited by this code is an acceptable alternative; or

(3) The code official has erroneously failed to grant a modification pursuant to Section 105.1 prior to its installation. In determining such an appeal the board or hearing officer shall apply the standards of Section 105.1.

The code official has the burden of proof under paragraph 1. The appellant has the burden of proof on appeals brought pursuant to paragraphs 2. and 3. The board or hearing officer shall determine the appeal and decide whether the code official's interpretation or application of such code was correct or in error at a hearing under the procedures described in Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(c) An application for appeal must be filed in writing with the city manager within fourteen days after the date the decision or order was served.

(d) An applicant for an appeal shall pay the fee prescribed by Section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981. The fee for an appeal heard by a hearing officer shall be the same as the fee for an appeal heard by the Board of Building Appeals.

(e) The city manager may apply to the Board of Building Appeals, without fee, for an advisory opinion concerning alternative methods, applicability of specific requirements, approval of equipment and materials, and granting of special permission as contemplated in Sections 105.1 or 105.2 of the Property Maintenance Code.

(f) The board or hearing officer has neither authority to interpret Chapter 1 (the administrative requirements) of this code, except as expressly provided in this section, nor, because this code sets minimum standards, to waive any requirement of this code.

~~Any person directly affected by a decision of the code official or a notice and order issued under this code shall have the right of appeal to the board of appeals, provided under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, if a written application for appeal is filed with the code official within ten days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.~~

111.2 Membership of Board. ~~The board of appeals shall consist of the Board of Building Appeals, established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing officer under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.~~Deleted.

111.2.1 Alternate Members. Deleted.

112.2.2 Chairman. Deleted.

112.2.3 Disqualification of Member. Deleted.

112.2.4 Secretary. Deleted.

112.2.5 Compensation of Members. Deleted.

111.3 Notice of Meeting. Deleted.

111.4 Open Hearing. Deleted.

111.4.1 Procedure. Deleted.

111.5 Postponed Hearing. Deleted.

111.6 Board Decision. Deleted.

111.6.1 Records and Copies. Deleted.

111.6.2 Administration. Deleted.

111.7 Court Review. Deleted.

111.8 Stays of Enforcement. Deleted.

111.9 Fees. ~~The fee for filing an appeal is that prescribed in section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981.~~ Deleted.

SECTION 112
STOP WORK ORDER

112.1 — 112.3 No changes.

112.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the penalties as detailed in section 106.1, "Violations ~~Penalties.~~" ~~as detailed in section 106.4~~.

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CHAPTER 3
GENERAL REQUIREMENTS

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SECTION 605
ELECTRICAL EQUIPMENT

605.1 — 605.2 No changes.

605.2.1 Non-grounding type electrical receptacles (two-prong receptacles). Where attachment to an equipment grounding conductor (two-wire circuits) does not exist in the receptacle enclosure, the installation shall comply with 1, 2 or 3 below.

1. A two-prong receptacle shall be permitted to be replaced with another two-prong receptacle.

2. A two-prong receptacle may be replaced with a ground-fault circuit interrupter-type (GFCI) three-prong receptacle. These receptacles shall be marked "No Equipment Ground." An equipment grounding conductor shall not be connected

from the GFCI-type receptacle to any outlet supplied from the GFCI-type receptacle.

3. A two-prong receptacle may be replaced with a three-prong, grounding-type receptacle where supplied through a GFCI device. Three-prong, grounding-type receptacles, supplied through the GFCI shall be marked "GFCI Protected" and "No Equipment Ground." An equipment grounding conductor shall not be connected between the grounding-type receptacles.

605.3 Luminaires. Deleted.

605.4. Wiring. No changes.

~~605.4~~605.5 Branch Circuits in Buildings with More Than One Occupancy. Each occupant shall have ready access to all circuit breakers protecting the conductors supplying that occupancy.

~~605.5~~605.6 Flexible Cord Uses Not Permitted. Flexible cords and cables shall not be used:

1. As a substitute for the fixed wiring of the structure.

2. Where run through holes in walls, structural ceilings, suspended ceilings, dropped ceilings or floors.

3. Where run through doorways, windows or similar openings.

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CHAPTER 7
FIRE SAFETY REQUIREMENTS

SECTIONS 701 — 703
No changes.

SECTION 704
FIRE PROTECTION SYSTEMS

704.1 — 704.4 No changes.

704.5 Residential Rental Smoke Alarms. In R-occupancies governed by chapter 10-3, "Rental Licenses," B.R.C. 1981, smoke alarms shall be installed and inspected as required in this section.

704.6 Smoke Alarm Inspections. Smoke alarm inspections shall be conducted by the property owner or agent as detailed below.

1. Smoke alarms that receive their primary power from the building wiring shall be checked for good operating condition once each year and if supplied with battery backup, the battery shall be replaced as necessary for proper function of the smoke alarm.

2. Battery-powered smoke alarms shall be tested for proper function on an annual basis. Batteries shall be replaced as necessary for proper function of the smoke alarm.

704.7 Fire Alarms. Fire alarms in existing residential structures shall be installed in accordance with chapter 10-8, section 907.3, "Fire ~~Prevention~~ Code," B.R.C. 1981.

SECTION 705
PORTABLE FIRE EXTINGUISHERS

705.1 Where Required. Portable fire extinguishers shall be installed as required by the City of Boulder Fire Code Section 906.

705.1.1 In new and existing R-1, R-2 and R-4 occupancies, portable fire extinguishers need only be installed when interior corridors and common areas exist in accordance with section 906.1 and table 906.3(2) for light (low) hazard occupancies and sections 906.3 through 906.9.

APPENDIX A
BOARDING STANDARD

A101 — A103 No changes.

APPENDIX B
RENTAL HOUSING INSPECTION AND LICENSING

B101 Scope. Appendix B sets standards for administering the rental housing maintenance, inspection and licensing process.

B102 Rental Licenses. Residential rental licenses are applied for and renewed in accordance with chapter 10-3, "Rental Licenses," B.R.C. 1981.

B103 Inspections. "Baseline" and "Renewal inspections" shall be performed and certified by licensed contractors as detailed in chapter 4-4, "Building Contractor License," B.R.C. 1981.

APPENDIX C
ENERGY EFFICIENCY REQUIREMENT

EXISTING RESIDENTIAL RENTAL STRUCTURES ENERGY CONSERVATION

C101

SCOPE

C101.1 Scope. Appendix C sets standards for residential rental dwelling unit energy efficiency. Effective January 2, 2019, the energy efficiency requirements of this section shall apply to all residential rental dwelling units licensed according to B.R.C. 1981, 10-3-2, Rental Licenses, except:

1. Buildings that can be verified as meeting or exceeding the energy efficiency requirements of the Energy Conservation ~~and Insulation~~ Code, Chapter 10-7, B.R.C. 1981.

2. Any manufactured home.

3. Accessory Dwelling Units and Attached Owner Accessory Units as detailed in section 9-6-3, "Specific Use Standards Residential Uses." B.R.C. 1981.

. . .

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

CHAPTER 10-5 - BUILDING CODE

10-5-1 Legislative Intent.

The purpose of this chapter is to protect the public health and safety by regulating the construction, alteration, repair, wrecking, and moving of structures in the city. The city council hereby adopts the ~~2006~~ 2012 edition of the *International Building Code* ~~and the 1997 edition of the *Uniform Code for the Abatement of Dangerous Buildings*~~ with certain amendments and deletions thereto found to be in the best interests of the residents of the city.

10-5-2 Adoption of International Building Code with Modifications.

(a) The ~~2006~~ 2012 edition of the *International Building Code* of the International Code Council is hereby adopted by reference as the City of Boulder Building Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) The Appendix chapters I, "PATIO COVERS~~,~~;" ~~and~~ J, "GRADING~~,~~;" and K, "ADMINISTRATIVE PROVISIONS," and sections contained therein are adopted.

(c) Section 101.1, "Title," is repealed and reenacted to read:

101.1 Title. These regulations shall be known as the Building Code of the City of Boulder or building code, hereinafter referred to as "this code." Where other codes are referenced in this code those code provisions shall not apply unless otherwise adopted by the City of Boulder. Where reference is made anywhere in this code to the "Department" or "Department of Building Safety" it shall have the same meaning as the "Division of Building Safety."

(d) Section 101.4, "Referenced codes," is repealed and reenacted to read:

Chapter 1, "Administration," in this code shall also apply and serve as Chapter 1, "Administration," in the following codes adopted by reference in this title: Chapter 10-5.5, International Residential Code; Chapter 10-9, International Mechanical Code; Chapter 10-9.5, International Fuel Gas Code; and Chapter 10-10, International Plumbing Code, B.R.C. 1981. Where administrative provisions are expressly adopted, or adopted in an altered form, for use in those chapters, they shall supersede any conflicting provisions of the administrative provisions of this chapter.

The other codes listed in Sections 101.4.1 through 101.4.~~7~~ 6 and referenced elsewhere in this code shall be considered as part of the requirements of this code as applicable.

(e) ~~Section 101.4.5, "Property Maintenance," is repealed.~~ Section 102.6, "Existing structures," is amended by addition of the following:

Existing structures and their systems, equipment, devices, installations and safeguards shall be maintained in proper operating condition in accordance with the original design and in a safe and sanitary condition. Structures, their systems, equipment, devices, installations and safeguards required by this code shall be maintained in compliance with the code in effect when they were installed. The owner or the owner's designated agent shall be responsible for the maintenance of the structures, their systems, equipment, devices, installations and safeguards. To determine compliance with this provision, the city manager shall have authority to require a structure, equipment, system, device, installations or safeguards to be reinspected.

(f) Section 103, "Department of Building Safety," is repealed and reenacted to read:

Section 103

"Division of Building Safety" means the administrative unit established by the city manager or the manager's delegates, and the personnel assigned to the unit by the manager.

(g) 104.8, "Liability," is repealed and reenacted to read:

Liability

No employee of the city who enforces, attempts to enforce, or is authorized to enforce this code renders him or herself or the city liable to third parties for any damage or injury to the

person or property of such third parties as a result of the enforcement or non-enforcement of this code. The city assumes no duty of care by virtue of the adoption of this code. No person is justified in relying upon the approval of a plan, the results of an inspection, or the issuance of a certificate of inspection or occupancy, and such approvals, inspections, and certificates are not a guarantee that the plan or work so approved, inspected, or certificated in fact complies with all the requirements of this code. It is the duty of the person owning, controlling, or constructing any building or structure to insure that the work is done in accordance with the requirements of this code, and it is such persons and not the city who are responsible for damages caused by negligent breach of such duty.

(h) Subsection 104.10.1, "Flood hazard areas," is repealed.

(~~h~~i) Section 105.2, "Work exempt from permit," is repealed and reenacted to read:

105.2 Work Exempt from permit. Exemptions from the building permit requirements of this code do not grant authorization for any work to be done in violation of the requirements of this code or any other laws or ordinances of the city. Building permits shall not be required for the following:

General:

1. One story detached non-conditioned buildings accessory to a residential structure and not more than 80 square feet in area or ten feet in height and not being served by any electrical, mechanical or plumbing fixtures or systems.

2. Fences not over ~~three~~ six feet high.

3. Retaining walls which are not over 3 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A flammable liquids.

4. Sidewalks and driveways not more than thirty inches above grade and not over any basement or story below and which are not part of an accessible route.

5. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.

6. Temporary motion picture, television, and theater stage sets and scenery.

7. Prefabricated swimming pools accessory to a Group R-3 occupancy which are less than 24 inches deep, do not exceed 5,000 gallons, and are installed entirely above ground.

8. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

9. Swings and other playground equipment accessory to detached one-and two-family dwellings.

10. Window awnings in Group R and Group U occupancies supported entirely by an exterior wall and which do not project more than 54 inches from the exterior wall.

11. Moveable cases, counters and partitions not over 5 feet 9 inches in height.

12. Replacement of windows in low-rise residential buildings that are three-stories or less in height.

13. Replacement of exterior siding on low-rise residential buildings that are three-stories or less in height.

14. Building energy efficiency components that (a) are required as part of a City energy efficiency program; (b) do not include any electrical, heating, ventilation and air conditioning equipment, solar photo voltaic and solar hot water heating systems; and (c) are inspected by a HERS rater (a Home Energy Rating System rater certified through Residential Energy Services Network) or a city licensed energy inspector as defined in chapter 4-4, "Building Contractor License," B.R.C. 1981.

Electrical:

Minor repair and maintenance work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles, radio and television transmitting stations, temporary testing systems for the testing or servicing of electrical systems or apparatus and those items in Article 90.2 (B) of the electrical code.

Gas:

1. Portable heating appliances.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance, portable cooling unit, portable evaporative cooler or portable ventilation equipment.

2. Steam, hot, or chilled water piping within any heating or cooling equipment regulated by this code.

3. Replacement of any part which does not alter an approval or listing or make any appliance or equipment unsafe.

4. Self contained refrigeration system containing ten pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste, or vent pipe provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves, or fixtures, and the replacement of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves or pipes.

(~~i~~j) A paragraph is added to Section 105.3.1, "Action on application," to read:

No building permit shall be issued until approved by every department of the city or Boulder County that has applicable regulations, including, without limitation, the following departments: building, flood control, utilities, wastewater, health, fire, engineering, zoning, planning, parks, and city clerk.

(~~j~~k) Section 105.3.2, "Time limitation of application," is repealed and reenacted to read:

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned one hundred eighty days after the date of filing unless the permit has been issued; except that the building official is authorized to grant not more than two extensions of time for additional periods not exceeding ~~ninety~~ 180 days each. The extension shall be requested in writing before the expiration date and justifiable cause demonstrated.

(~~k~~l) Section 105.5, "Expiration," is repealed and reenacted to read:

Section 105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty days after the time the work is commenced. The building official is authorized to grant in writing one or more extensions of time for periods not more than one hundred eighty days each. The extension shall be requested in writing and justifiable cause demonstrated. Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not completed and approved for occupancy within three years from the date the permit was issued. The permit fee for renewals may be prorated based on the amount of work completed and approved under the previous permit.

(~~l~~m) Section ~~106.1~~107.1, "~~Submittal Documents~~General," is repealed and reenacted to read:

~~106.1~~107.1 ~~Submittal Documents~~General. An applicant for a building permit shall submit a minimum of two sets of plans and specifications with each application when required by the building official for enforcement of any provisions of this code.

(1) A~~n~~ professional engineer or architect registered in the State of Colorado shall prepare the plans and specifications for and observe the construction of all buildings except for the following:

(a) Detached dwellings intended solely for private use, occupancy, or resale, including accessory buildings commonly associated with the same;

(b) Farm buildings and buildings for the marketing, storage, or processing of farm products;

(c) Minor additions, alterations, or repairs to the foregoing buildings that do not cause the completed buildings to exceed the applicable limitations herein set forth; or

(d) Non-structural alterations of any nature to any building, if such alterations do not affect the safety of the building.

(2) Drawings and specifications for footings and foundations shall bear the seal and signature of a professional engineer or architect registered in Colorado and be designed as specified in chapter 18 of the building code for all occupancies. ~~except those classified as R-3 and U, which shall be designed as specified in Chapter 4 of the residential code.~~

Exceptions:

(a) Detached structures not intended for human occupancy;

(b) Additions to existing detached dwellings not exceeding 150 square feet.

(~~m~~n)~~106.3.2~~107.3.2, "Previous ~~A~~approvals," is amended to read:

~~106.3.2~~107.3.2 Previous Approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has heretofore been issued or otherwise lawfully authorized, and the constraints of which have been pursued in good faith within one hundred eighty days after the effective date of this code and has not been abandoned. No person shall fail to comply with all of the conditions of such building permit and the provision of the building code under which such building permit has been issued.

(~~n~~o) Section ~~108.3~~109.3, "Building ~~P~~permit ~~V~~valuations," is repealed and reenacted to read:

~~108.3~~109.3 Building permit valuation. The valuation for buildings shall be as set forth in subsections 4-20-4(d) and (e), B.R.C. 1981.

(~~o~~p) Section ~~112~~113, "Board of Appeals," is repealed and reenacted to read:

____Section ~~112~~113 Appeals and Advisory Opinions.

(a) Any appeal under this section shall be heard by the Board of Building Appeals established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing officer under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.

(b)~~(a)~~ A person refused a building permit or refused approval of work done under a permit on the grounds that the proposed or completed construction fails to comply with this code or any other city building code other than the fire code may appeal the decision ~~to the board of zoning adjustment and building appeals~~ on the ground that:

(1~~.~~) The denial was based on an error in fact or an erroneous interpretation of such code by the city manager;

(2~~.~~) The city manager has erroneously failed to approve an alternate material or method pursuant to Section 104.11 prior to its installation or use. In determining such an appeal the board or hearing officer shall apply the standards of Section 104.11, but the board or hearing officer shall have no jurisdiction to consider if a material or method expressly prohibited by this code is an acceptable alternative; ~~or~~

(3~~.~~) The city manager has erroneously failed to grant a modification pursuant to Section 104.10 prior to its installation. In determining such an appeal the board or hearing officer shall apply the standards of Section 104.10; or~~.~~

(4~~.~~) The city manager has erroneously failed to approve an alternative design pursuant to Section K105 prior to its installation or use. In determining such an appeal, the board or hearing officer shall apply the standards of Section K105, but the board or hearing officer shall have no jurisdiction to consider if a design expressly prohibited by this code is an acceptable alternative.

The city manager has the burden of proof under paragraph 1. The appellant has the burden of proof on appeals brought pursuant to paragraphs 2, ~~and~~ 3 and 4. The board or hearing officer shall determine the appeal and decide whether the city manager's interpretation or application of such code was correct or in error at a hearing under the procedures described by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(c)~~(b)~~ Any person whose building permit or certificate of occupancy or certificate of completion has been suspended or revoked may appeal such action by the city manager ~~to the board of building appeals~~ on the ground that the suspension or revocation was based on an error in fact or an erroneous application of this code to the facts. The city manager has the burden of proving the facts upon which the manager relies at such a hearing.

(d) An application for appeal must be filed in writing with the city manager within fourteen days after the date of refusal of the building permit or approval of work performed under

the permit or revocation or suspension of the building permit or certificate of occupancy or certificate of completion stating the basis for appeal.

(e)~~(c)~~ An applicant for an appeal ~~to the board of appeals~~ shall pay the fee prescribed by Section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981. The fee for an appeal heard by a hearing officer shall be the same as the fee for an appeal heard by the Board of Building Appeals.

(f)~~(d)~~ The city manager may apply to the ~~board of appeals~~Board of Building Appeals, without fee, for an advisory opinion concerning alternative methods, applicability of specific requirements, approval of equipment and materials, and granting of special permission as contemplated in Sections 104.10 or 104.11 of the Building Code.

(g)~~(e)~~ The board ~~of building appeals~~or hearing officer has no authority to interpret Chapter 1 (the administrative requirements) and Chapter 34 of this code except as expressly provided in this section, nor, because this code sets minimum standards, to waive any requirement of this code.

(~~p~~q) Section ~~113~~114, "Violations," is repealed and reenacted to read:

~~Violations~~ Section ~~113~~114 Violations.~~.~~

(a) General Provisions

(1) No person shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof. No person shall fail to comply with any order issued by the code official under this code. No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the City or cause or permit the same to be done except in conformity with all of the provisions of this code and in conformity with the terms and conditions of any permit, certificate, or other approval issued under this code, or of any directive of the building official.

(2) In accordance with the provisions of section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, or use continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land, and the agents of each of them, are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code, or of any directive of the code official, may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by section 2-

2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b)~~(a)~~ Administrative Procedures and Remedies

(1) If the city manager finds that a violation of any provision of this ~~title~~ code or any approval granted under this ~~title~~ code exists, 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 take any one or more of the following actions to remedy the violation:

(A) Impose a civil penalty according to the following schedule:

(i) For the first violation of the provision or approval, $100~~.00~~;

(ii) For the second violation of the same provision or approval, $300~~.00~~; and

(iii) For the third violation of the same provision or approval, $1,000~~.00~~;

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e) of this section. ~~If the city manager determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the manager may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the city manager is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this title, the city manager is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit until such time as the person submits a declaration of use that is in a form acceptable to the city manager~~; or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this ~~title~~ code or any approval granted under this ~~title~~code.

(2) Prior to the hearing, the city manager may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the manager to exist with respect to such structure or land.

(3) If notice is given to the city manager at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the manager will reinspect the structure or land. If the manager finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the manager under this section.

(c)~~(b)~~ Criminal Penalties. ~~No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City or cause or permit the same to be done, contrary to or in violation of any of the provisions of the building code.~~ Violations of ~~the building~~this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the city manager determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the manager may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the city manager is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this code, the city manager is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit~~,~~ or wetland permit until such time as the person submits a declaration of use that is in a form acceptable to the city manager.

(r) Section 116.1, "Conditions," is repealed and reenacted to read:

116.1 Conditions. Premises, structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe premises shall be made safe and unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

(s) Section 116.3, "Notice," is repealed and reenacted to read:

116.3 Notice. If an unsafe condition is found, the building official shall serve on the owner, agent, or person in control of the structure or premises, a written notice that describes the condition deemed unsafe and specifies the required repairs, improvements, or modifications to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

(t) The last two sentences of Section 116.4, "Method of service," are amended to read as follows:

If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place on the premises or in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the premises or structure shall constitute service of notice upon the owner.

(u) Section 116.5, "Restoration," is amended by adding the following sentence:

The abatement of an unsafe condition of premises shall comply with the requirements of this code.

(~~q~~v)The definition of "Building Official" in Section 202 is repealed and reenacted to read:

BUILDING OFFICIAL is the city manager.

(~~r~~w) Section 202, "Definitions," is amended by the addition of the following new definition:

PERMIT ISSUANCE is the date that the approved building permit is paid for and received back from the city manager by the applicant or a representative of the applicant.

(x) A new subsection 6. is added to section 708.1, "General." to read:

6. Walls separating marijuana growing, processing and dispensing occupancies from adjacent occupancies.

~~(s)~~(y) A paragraph is added to Section (F) 903.2, "Where required," to read:

The maximum fire area without an automatic sprinkler system shall be determined by Section ~~903.1~~903.2 of the fire code.

~~(t) Section 1007.3, "Exit Stairways", is repealed and reenacted to read:~~

~~1007.3 Exit Stairways. In order to be considered part of an accessible means of egress, an exit stairway shall have a clear width of 48 inches (1219 mm) minimum between handrails and shall either incorporate an area of refuge within an enlarged floor-level landing or shall be accessed from either an area of refuge complying with Section 1007.6 or a horizontal exit.~~

~~Exceptions:~~

~~The area of refuge is not required at unenclosed interior exit stairways as permitted by Section 1020.1 in buildings or facilities that are equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~The clear width of 48 inches (1219 mm) between handrails is not required at exit stairways in buildings of facilities equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~Areas of refuge are not required at exit stairways in buildings or facilities equipped throughout by an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~The clear width of 48 inches (1219 mm) between handrails is not required for exit stairways accessed from a horizontal exit.~~

~~Areas of refuge are not required at exit stairways serving open parking garages.~~

~~Areas of refuge are not required for smoke protected seating areas complying with Section 1025.6.2.~~

~~The areas of refuge are not required in Group R-2 occupancies.~~

(z) Section 907.2.11, "Single- and multiple-station smoke alarms," is amended by the addition of the following subsections:

907.2.11.5 Alterations, repairs, and enlargements. (1) When buildings or structures, or portions of buildings or structures classified as Group R are altered, repaired or enlarged and the work requires a building permit or (2) when one or more sleeping rooms are added or created, smoke alarms shall be installed for each dwelling or sleeping unit affected by such work in accordance with Section 907.2.11, except as provided otherwise in this Section or its Subsections.

Exceptions:

1. Work involving solely the exterior surfaces of the building or structure, such as replacement of roofing or siding or the addition of a porch or deck.

2. Installation, alterations, and repairs of plumbing or mechanical systems.

907.2.11.5.1 Exception to interconnection. Section 907.2.11.3 applies except that interconnection of smoke alarms in existing areas shall not be required where alterations and repairs do not include removal of interior wall and ceiling finishes exposing the structure unless an attic, crawl space or basement is available to provide access for interconnection without removal of interior finishes.

907.2.11.5.2 Exception to power source. Section 907.2.11.4 applies except that (1) smoke alarms may be battery operated when installed in a building without commercial power and (2) hard wired smoke alarms shall not be required in existing areas where alterations or repairs do not result in the removal of interior wall and ceiling finishes exposing the structure unless an attic, crawlspace or basement is available to provide access for hard wiring without removal of interior finishes.

~~(t)~~(aa) Section 1405.3, "Vapor Retarders" is amended by adding two exceptions:

4. Commercial and multiple-residence buildings complying with the 2012 International Energy Conservation Code section C402.4, "Air leakage (mandatory)."

5. Residential buildings complying with the 2012 International Energy Conservation Code section R402.4, "Air leakage (mandatory)."

~~(u)~~(bb) Section 1505.1, "General," is repealed and reenacted to read:

1505.1 General. All roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM Standard E 108 or UL Standard 790. Class A roofs and the exceptions noted in 1505.3 for class B roofs as described in this chapter 15 are the

only roof assemblies and roof coverings allowed to be installed on any new or existing building within the city of Boulder. Wood shakes, wood shingles and wood roof covering materials are prohibited except as provided in Section 10-5-5, "Wood Roof Covering Materials Prohibited," B.R.C. 1981, for certain minimal repairs.

~~(v)~~(cc) Section 1608.1, "General," is repealed and reenacted to read:

1608.1 General. The minimum roof snow load shall be thirty pounds per square foot, but the design roof load shall not be less than that determined by Section 1607.

(dd) Section 1608.2, "Ground snow loads," is deleted.

~~(w)~~(ee) Section 1609.3~~.1~~, "Basic ~~W~~wind speed ~~conversion~~," is repealed and reenacted to read:

~~1609.3.1 Wind velocities. In Table 1609.3.1, the three second gust wind speed for the city shall be 110 miles per hour.~~

1609.3 Basic wind speed. The ultimate design wind speed, V_{ult}, in mph, for the determination of wind loads, shall be in accordance with local jurisdiction requirements. The ultimate design winds speeds, V_{ult}, determined by the local jurisdiction shall be in accordance with Section 26.5.1 of ASCE 7. Per the Colorado Front Range Wind Table, the ultimate design wind speed shall be 130 mph for areas west of Broadway Street and 120 mph for areas east of Broadway Street.

~~(x)~~(ff) Sections 1612.3, 1612.4, and 1612.5 are repealed.

(gg) Section 1705, "Required Verification and Inspection," is amended by the following Subsection:

1705.18. Special inspection for medical gas systems. Medical gas systems shall be tested as detailed in Chapter 12, "Special Piping and Storage Systems," of the City of Boulder Plumbing Code.

(hh) Section J103, "Permits Required," of Appendix J, "GRADING," is amended by adding the following subsections:

J103.3 Compliance with code and permit requirements. No person shall fail to perform and no property owner shall fail to perform or fail to cause the performance of all grading in compliance with this code, the Boulder Revised Code, and the conditions of the grading permit.

J103.4 No adverse affects. No person shall perform and no property owner shall perform or fail to prevent any grading that adversely affects the property of another without first obtaining the consent of the owner of such property.

J103.5 Unsafe premises. No person shall perform and no property owner shall perform or fail to prevent grading that results in any premises that are unsafe. For purposes of this

Appendix J, premises are considered unsafe if they are found to be dangerous to life, health, property, or the safety of the public.

J103.6 Abatement of unsafe premises. If the city manager determines that grading is not performed in accordance with the law and resulted in unsafe premises, the city may notify the owner of the unsafe premises, agent, or other person in control of the premises in accordance with Section 116.3 of this code. If the person so notified fails to abate the unsafe condition as required by the notice, the city manager may enter the property, pursuant to an administrative warrant issued by the municipal court, and abate the unsafe condition. The city manager may collect the full cost of the abatement and any expense to the city related to the abatement against the property owner, agent, or other person in control of the premises, and against the financial guarantee provided under Subsection J103.8. The permit holder, property owner and guarantor shall be jointly and severally liable for such costs and expenses. If the property owner fails or refuses to pay when due any charge imposed under this subsection, the city manager may certify due and unpaid charges, including interest, to the Boulder County Treasurer for collection, as provided in Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection,' B.R.C. 1981.

J103.7 Financial guarantee. Prior to the issuance of a permit under this Appendix J, "Grading," for any work on steep slope lots with a 15 percent or greater slope and on any projects with a cut, fill, or excavation of ten feet or more or cut, fill, or excavation less than two feet from the property line, the permittee or property owner shall provide a financial security in the form of a performance bond or other form of guarantee approved by the city manager that will satisfy the objectives of this subsection, for the benefit of the city to secure the abatement of an unsafe condition of any premises that may result from grading work. The performance bond or other financial guarantee shall be provided for a period of two years, following the expiration of the permit, and shall be for $10,000 for construction costs less than $10,000 and for the value of the project permit for construction costs greater than $10,000. At the time of permit application, the permittee shall submit documentation of the project costs, subject to review and approval by the City Manager. A bond shall be issued by a company licensed to do business in Colorado and shall be in a form acceptable to the City Attorney. The city manager shall review the performance bond or other financial guarantee annually to assure that it meets the term requirements and the full current cost of the completion of the work that is guaranteed and may require the permittee to augment the performance bond or other financial guarantee amount to meet such costs.

~~(y)~~(ii)-A new C~~c~~hapter 99 is added to the Building Code to read:

CHAPTER 99. FENCES AND WALLS.

Section 9901. Definitions.

(1) As used herein, the term "wall" means a free standing structure such as a fence or retaining wall.

(2) As used herein and in Section 9-3.3-6, "Fences, Hedges, and Walls," B.R.C. 1981, the term "finished grade" means the top surfaces of lawns, walks, drives, or other improved surfaces after completion of construction or grading operations, but not including vegetation growing on the surface.

(3) For purposes of determining the maximum height allowable for any fence or wall other than wind load height as specified in subsection (4) of this section, refer to Section 9-3.3-6, "Fences, Hedges, and Walls," B.R.C. 1981, and the diagram below.

[SPACE FOR DIAGRAM HERE] B.R.C. 9-9-15 (c)

4) For purposes of determining wind load design in the case of a fence erected above a retaining wall, the height of such fence means the distance from the top of the retaining wall to the top of the fence, as illustrated in the figure below:

[SPACE FOR DIAGRAM HERE] B.R.C. 9-9-15 (c)

(5) Nothing in this section is intended to prohibit the installation of a guardrail for safety purposes which otherwise conforms to the requirements of this code.

Section 9902. All fences and walls hereafter installed in the city shall comply with Section 9-3.3-6, "Fences, Hedges, and Walls," B.R.C. 1981, and the following provisions:

(1) All fences and walls thirty-six inches high and lower shall have a wind load design of ten pounds per square foot or shall conform to paragraph (3) of this section.

(2) All fences and walls thirty-seven through eighty-four inches high shall have a wind load design of twenty pounds per square foot or shall conform to paragraph (3) of this section.

(3) As an alternative to the requirements of paragraphs (1) or (2), a wood fence that does not exceed seven feet in height may be installed if the following requirements are met:

(a) All posts shall be at least four inch by four inch timber or two inch Schedule 40 pipe and shall be set at least twenty-four inches in the ground in concrete;

(b) All wood below grade shall be cedar, redwood, or penta pressure treated fir;

(c) Post spacing shall be arranged so that the area of the fence between posts does not exceed 30 square feet;

(d) Wood fencing more than fifty percent open may exceed the 30 square foot post spacing requirements if designed for a ten pound wind load.

(4) Chain link fences. On all chain link fences, the fence posts shall be at least one and one-half inch diameter pipe, and shall be set at least twenty-four inches in the ground in concrete.

(5) For the purpose of minimizing traffic hazards at street intersections by improving visibility for converging vehicles, obstructions higher than thirty inches above the adjacent top or curb elevation are not permitted to be planted, placed, or erected on any corner lot within the triangular portion of land designated as "Restricted Area" in the figure below or on the adjacent right of way:

[SPACE FOR DIAGRAM HERE]

6) Where permitted, fences exceeding seven feet in height shall conform to the zoning requirements for accessory structures.

10-5-3 ~~Adoption of Uniform Code for Abatement of Dangerous Buildings with Modifications.~~ (Repealed)

~~The 1997 edition of the *Uniform Code for the Abatement of Dangerous Buildings* of the International Conference of Building Officials is hereby adopted by reference as the City of Boulder's Abatement Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this section set forth below:~~

~~(a) Section 201.3, "Right of Entry," is repealed and reenacted to read:~~

~~Section 201.3 Right of Entry.~~

~~(1) Whenever the city manager has probable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous, or hazardous, and the manager determines that an inspection of the property is necessary to discover the extent of the hazard and to order the appropriate corrections, the manager shall request entry from the occupants or, if the building is unoccupied, from the owner or any other person having charge or control over the building or premises. If entry is refused, or if the manager is unable, after making reasonable efforts, to locate a person responsible for an unoccupied building, or such person does not respond to the manager's request, the manager shall apply to a judge of the municipal court for an inspection warrant pursuant to Subsection 2-6-3(e), B.R.C. 1981.~~

~~(2) In cases of emergency where there is imminent danger of injury to any person or of damage to property of another, the manager may enter any property to make any necessary inspections under this code or to take any other action authorized by this code without permission or warrant.~~

~~(b) Section 203, "Violations," is repealed and reenacted to read:~~

~~Violations~~

~~Section 203. (1) No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of the Code for Abatement of Dangerous Buildings. (2) No owner and no person having charge or control over any building or premises shall fail to comply with any order issued to such person under the Code for Abatement of Dangerous Buildings.~~

~~(c) Section 205.1, "Board of Appeals," is repealed and reenacted to read:~~

~~Appeals~~

~~Section 205.1.~~

~~(a) The record owner of a building or the owner's authorized agent or any person with any other legal interest in the building may appeal any order issued pursuant to Section 401.2 to the board of building appeals on the ground that such order was based on an erroneous interpretation or application of this or any other city code by the city manager. The city manager has the burden of proof in such an appeal. The board shall determine whether the city manager's interpretation or application of such code was correct or in error at a hearing under the procedures described by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.~~

~~[SPACE FOR DIAGRAM HERE] (b) An applicant for an appeal to the board of building appeals shall pay the fee prescribed by Section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981.~~

~~(c) The board of building appeals has no authority to interpret the administrative provisions of this code nor may the board waive any requirement of this code.~~

~~(d) The definition of "housing code" in Section 301, "General," is repealed and reenacted to read:~~

~~HOUSING CODE means Chapter 10-2, "Housing Code," B.R.C. 1981.~~

~~(e) The introductory paragraph of Section 302, "Dangerous Building," is repealed and reenacted to read:~~

~~For the purposes of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building.~~

~~(f) Paragraphs 4 and 5 of Section 401.2, "Notice and Order," and Sections 401.4 and 401.5 are repealed and reenacted to read:~~

~~4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the city manager:~~

~~(I) will order the building vacated and posted to prevent further occupancy until the work is completed;~~

~~(II) may proceed to cause the work to be done and charge the costs thereof against the property or its owner pursuant to Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981; and~~

~~(III) may cause a summons and complaint to be served upon the property owner or any person having charge or control over the building or premises for failure to make required repairs or demolition within the time specified.~~

~~5. Statements advising:~~

~~(I) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the city manager to the board of building appeals, provided the appeal is made in writing as provided in this code and filed with the city manager within ten days from the date of service of such notice and order; and~~

~~(II) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.~~

~~401.4 The method of service shall be as prescribed in Section 1-3-3, "Notice of Agency Action," B.R.C. 1981.~~

~~(g) The final paragraph of Section 501.1 is repealed.~~

~~(h) Chapter 6, "Procedure for Conduct of Hearing Appeals," is repealed and reenacted to read:~~

~~Chapter 6.~~

~~Appeal Procedure. Appeals shall be heard pursuant to Section 1-3-5, "Hearings and Determinations," B.R.C. 1981.~~

~~(I) Section 801.2, "Costs," is repealed and reenacted to read:~~

~~The cost of such work plus twenty percent for administrative overhead shall be billed to the record owner of the property, and if not paid within thirty days of billing may be collected pursuant to Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.~~

~~(i) Chapter 9, "Recovery of Cost of Repair or Demolition," is repealed.~~

10-5-~~4~~ 3 Building Permit Fees.

Building permit fees are those prescribed by Subsection 4-20-4(c), B.R.C. 1981. Fees for other permits issued pursuant to this chapter and charges for services are those prescribed by Subsection 4-20-4(d), B.R.C. 1981.

10-5-~~5~~ 4 Wood Roof Covering Materials Prohibited.

(a) No person shall install or cause to be installed any wood roof covering materials, including, without limitation, wood shakes or wood shingles. This prohibition includes wood roof covering materials with fire retardant treatments of any kind.

~~(b) It shall be a specific defense to a charge of violation of subsection (a) of this section that the wood roof covering materials were installed before January 1, 2014, to repair portions of an existing wood roof, that the repair wood roof covering materials were factory pressure treated so as to be fire retardant and are approved as meeting Class B standards in accordance with Section 1501.1 of the building code, and that the wood roof covering materials were installed in a~~

~~quantity not exceeding fifty percent of the roof surface in any three-hundred-sixty-five-day period.~~

~~(c)~~(b) No person owning a building with wood roof covering materials shall fail to remove or cause to be removed from the building all wood roof covering materials before January 1, 2014, and to replace the removed roofing with approved roof covering materials which conform to the International Building Code as adopted, and no person shall thereafter take possession or ownership of a building with wood roof covering materials.

~~(d)~~(c) The following additional definition applies to this section and to Chapter 15 of the building code:

"Wood roof covering material" means an exterior surface material used as a top covering and made of wood. "Wood," for the purposes of this definition, means any natural or composite material containing at least fifty percent wood by volume.

Section 3. Chapter 10-5.5, B.R.C. 1981, is amended to read:

CHAPTER 10-5.5 – RESIDENTIAL BUILDING CODE

10-5.5-1 Legislative Intent.

The purpose of this chapter is to protect the public health, safety, and general welfare by regulating the construction, alteration movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one and two-family dwellings and townhouses, not more than three stories above grade in height with a separate means of egress, and their accessory structures. The city council hereby adopts the ~~2006~~2012 edition of the International Residential Code with certain amendments thereto found to be in the best interests of the city.

10-5.5-2 Adoption of the International Residential Code with Modifications.

(a) The ~~2006~~ 2012 edition of the International Residential Code of the International Code Council is hereby adopted by reference as the City of Boulder Residential Building Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) The Appendix chapters D, E, G, H, J, K, and ~~O~~P and sections contained therein are adopted.

(c) Section R101.1 "Title" is repealed and reenacted to read:

R101.1 Title. These provisions shall be known as the Residential Code of the City of Boulder or residential code and shall be cited as such and will be referred to herein as "this code."~~.~~

(d) Sections R102 through R114 are repealed. This code shall be administered in accordance with Chapter 1, "Administration," of the International Building Code as adopted, with amendments, by Section 10-5-2, "Adoption of International Building Code With Modifications," B.R.C. 1981.

(e) The following definitions are added to Section R202, "Definitions":

NEW DWELLING UNIT. A dwelling unit is considered to be a new dwelling unit when the entire structure is newly built and when the dwelling unit is built on top of an existing foundation, such as caissons, footings, and other foundation systems, that remains from a demolished structure. An addition to a dwelling unit is considered a new dwelling unit when the floor area of the addition equals or exceeds 200~~%~~ percent of the floor area of the existing dwelling unit.

STORAGE ROOMS OR SPACES. Storage rooms or spaces are rooms or spaces with a level of finish sufficient only to make the room usable for the intended storage purposes. Rooms or areas that exceed these minimums will be considered habitable space and will have to meet the code requirements applicable to habitable space.

(f) A new sentence is added to the end of Section 301.1, "Application," stating:

Structural calculations demonstrating how the proposed construction meets the applicable requirements for load supports must be provided to the building official.

~~(e)~~ (g) The climatic and geographic design criteria applicable to Table R301.2 (1) are:

Ground Snow Load = thirty pounds per square foot with a minimum Roof Snow Load of 30 pounds per square foot.

Three second wind gust velocity = ~~110 MPH~~ 120 MPH east of Broadway, 130 MPH west of Broadway

Seismic Design Category = B

Weathering = severe

Frost line depth = 32 inches

Termite = slight

Decay = none to slight

Winter Design Temp = 2 degrees Fahrenheit

Ice barrier underlayment required = NO

Flood Hazards = See B.R.C. 1981 Sections 9-3-3 through 9-3-9

Air freezing index = 459

Mean annual temp = 52.1

~~(f)~~(h) Section R301.2.4, "Floodplain construction": A new sentence is added to the end of the section reading "All work on structures in the scope of this ~~C~~code shall also meet the requirements of ~~B.R.C. 1981~~ Sections 9-3-3 through 9-3-9, B.R.C. 1981."

(i) The exception listed in R302.2, "Townhouses," is repealed and reenacted to read:

> Exception: A common 1-hour fire-resistance rated wall assembly tested in accordance with ASTME 119 or UL 263 is permitted for townhouses equipped throughout with an automatic sprinkler system installed in accordance with the requirements of Section P2904 if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with Chapters 34 through 41 and Chapter 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. For townhouses not equipped throughout with an automatic sprinkler system installed in accordance with the requirements of Section P2904, a common 2-hour fire-resistance-rated wall is permitted if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with Chapters 34 through 41 and Chapter 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

(j) The first sentence of the Exception to Item 2 in Section R302.2.2, "Parapets," is amended by deleting " a minimum class C roof covering" and replacing it with "a minimum class B roof covering."

(k) Section R302.5.1, "Opening protection," is repealed and reenacted to read:

> R302.5.1 Opening protection. Openings from a garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with weather stripped, solid wood doors not less than 1 and 3/8 inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 1and 3/8 inches (35 mm) in thickness, or 20-minute fire-rated doors, equipped with a self-closing device.

(l) Section R309.5, "Fire sprinklers," is deleted.

(m) Section R311.2, "Egress doors," is repealed and reenacted to read:

> R311.2 Egress doors. At least one egress door shall be provided for each *dwelling unit.* The egress door shall be side hinged, and shall provide a minimum clear width of 32 inches (813 mm) when measured between the face of the door and the stop, with the door

open 90 degrees (1.57 rad). The minimum clear height of the door opening shall not be less than 78 inches (1981 mm) in height measured from the top of the threshold to the bottom of the stop.

(n) The following sentences are added to the end of R311.7.5.1, "Risers":

Where the bottom or top riser adjoins a sloping public way, walkway or driveway having an established grade and serving as a landing, the bottom or top riser is permitted to be reduced along the slope, with the variation in height of the bottom or top riser not to exceed one unit vertical in 12 units horizontal (8-percent slope) of stairway width. The nosings or leading edges of treads at such non-uniform height risers shall have a distinctive marking stripe, different from any other nosing marking provided on the stair flight. The distinctive marking stripe shall be visible in descent of the stair and shall have a slip-resistant surface. Marking stripes shall have a width of at least 1 inch (25 mm) but not more than 2 inches (51 mm).

(o) A new Section R311.9, "Access to exterior balconies, porches, decks and other walking surfaces from the interior of the building," is added, reading as follows:

R311.9 Access to exterior balconies, porches, decks, and other walking surfaces from the interior of the building. Access to exterior balconies, porches, decks, and other walking surfaces from the interior of the building shall be through a side hinged or sliding glass door and shall provide a minimum clear width of 24 inches (610 mm), when measured between the face of the door and the stop, when the door, other than the sliding glass door, is open 90 degrees (1.57 rad). The minimum clear height of the door opening shall not be less than 78 inches (1981 mm) in height, measured from the top of the threshold to the bottom of the stop. Access to exterior balconies, porches, decks, and other walking surfaces from the interior of the building for the required egress door shall meet the provisions of 311.2 for required height and width.

(p) Section R313.1, "Townhouse automatic fire sprinkler systems," is repealed and reenacted to read as follows:

R313.1 Townhouse automatic fire sprinkler systems. Effective September 1, 2014, an automatic residential sprinkler system shall be installed in townhouses.

Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. Additions which create a new dwelling unit are not exempt from the provisions or Section R313.1.

(q) Section R313.2, "One- and two-family dwelling automatic fire sprinkler systems," is repealed and reenacted to read:

R313.2 One- and two-family dwelling automatic fire sprinkler systems. Effective September 1, 2014, an automatic residential sprinkler system shall be installed in one- and two-family dwellings.

Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing buildings that do not have an automatic residential fire sprinkler system installed. Additions which create a new dwelling unit are not exempt from the provisions of Section R313.2.

(r) Section R315.1, Carbon monoxide alarms," is repealed and reenacted to read:

R315.1 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed outside each sleeping area in the immediate vicinity of bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units and accessory structures containing habitable space that have attached garages. All carbon monoxide alarms shall be installed so as to meet the requirements of Section R315, Carbon Monoxide Alarms, and of the applicable provisions of C.R.S.§38-45-101 through 106. Where the provisions of this code and the C.R.S. are in conflict, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(s) Section R322, "Flood resistant construction," is repealed and reenacted to read:

R322 Flood resistant construction. Buildings and structures constructed in whole or in part in the floodplain must be designed and constructed in accordance with the floodplain regulations of Title 9, Land Use Regulation,, B.R.C. 1981.

(t) The first paragraph of Section R401.1, "Application," is repealed and reenacted to read:

R401.1 Application. The provisions of this chapter shall control the design and construction of the foundation and foundation spaces for all buildings. In addition to the provisions of this chapter, the design and construction of foundations in a floodplain as established in Title 9, Land Use Regulation, B.R.C. 1981, shall meet ~~the provisions~~ all applicable provisions of Title 9, Land Use Regulation~~,~~, B.R.C. 1981. Where, in any specific case, the provisions of this code and the B.R.C. are in conflict, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Wood foundations shall be designed and installed in accordance with AF&PA PWF.

(u) A new Section R401.5, "Placement of backfill," is added to read:

R401.5 Placement of backfill. The provisions of Section 1804.2 of the Building Code of the City of Boulder shall apply to the placement of backfill.

(v) Section 408.7, "Flood resistance," is repealed and reenacted to read:

408.7 Flood resistance. Buildings located in a floodplain as established in Title 9, Land Use Regulation, B.R.C. 1981, shall comply with the applicable provisions in Title 9, Land Use Regulation, B.R.C. 1981.

(w) Exception 1 in Section R703.2, "Water-resistive barrier," is repealed and reenacted to read:

Exception 1: In detached accessory buildings which are not intended to be conditioned and where the interior wall cavities will remain exposed and unfilled.

(x) Exception 3 of Section 806.5, "Unvented attic and unvented enclosed rafter assemblies," is deleted.

~~(g)~~(y) Section R902.1, "Roof covering materials," is repealed and reenacted to read:

R902.1. Roof covering materials. All roof covering materials shall be listed as Class A as tested in accordance with UL Standard 790 or ASTM Standard E 108. Roof assemblies with covering of brick, masonry, slate, clay or concrete roof tile, exposed concrete roof deck, ferrous or copper shingles or sheets and metal sheets and shingles, shall be considered Class A roof coverings. Unless otherwise specified in this section, roof coverings shall be installed to resist the component and cladding loads specified in table R301.2(2), adjusted for height and exposure in accordance with table R301.2 (3).

~~(h)~~(z) Section R905.7, "Wood shingles," is repealed and reenacted to read:

R905.7. Wood shingles. Wood shakes, wood shingles and wood roof covering materials are prohibited except as provided in Section 10-5-5, "Wood Roof Covering Materials Prohibited," B.R.C. 1981, for certain minimal repairs.

~~(i)~~(aa) Section R905.8, "Wood shakes," is repealed and reenacted to read:

R905.8. Wood shakes. Wood shakes, wood shingles and wood roof covering materials are prohibited except as provided in Section 10-5-5, "Wood Roof Covering Materials Prohibited," B.R.C. 1981, for certain minimal repairs.

~~(j)~~(bb) Chapter 11, "Energy Efficiency".

Sections N1101 through ~~N1103~~ N1105 are repealed. A new Section N1101 is added to read:

N1101~~.~~ Scope. Regulations concerning the design and construction of buildings for the effective use of energy and requirements for green building practices shall be administered in accordance with the ~~2006~~ 2012 International Energy Conservation Code as adopted, with amendments, by Chapter 10-7, "Energy Conservation ~~and Insulation~~ Code", B.R.C. 1981 and Chapter 10-7.5 "Green Points", B.R.C. 1981.

(cc) Section M1301.1.1, "Flood-resistant installation," is repealed and reenacted to read:

M1301.11 Flood-resistant installation. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, the mechanical appliances, equipment and systems shall be

located or installed in accordance with the applicable provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(dd) A new Section M1308.3, "Rooftop equipment support and clearances," is added to read:

M1308.3 Rooftop equipment support and clearances.

(1) Mechanical equipment placed, replaced, or resting over roofing shall be supported by curbs or legs which shall be flashed to the roofing and made watertight. Mechanical equipment includes, but is not limited to, heating equipment, cooling and refrigeration equipment, ventilating fans, blowers, and other similar devices located on the roof.

(2) Flat roofs. On roofs having a pitch of less than 2 in 12, mechanical equipment shall be supported on a solid curb greater in size than the equipment which it serves. Curbs may be manufactured or built-in-place. If built-in-place, the curb shall be covered with metal of at least 26 gauge. The metal shall be weather tight. The curb shall be a minimum of 9 inches above the finished roof.

(A) Ducts less than ~~four~~4 feet in width shall have at least ~~twelve~~12 inches clearance from the finished roof surface to the bottom of the duct.

(B) Ducts between ~~four~~4 feet and ~~eight~~ 8 feet in width shall have at least ~~twenty-four~~24 inches clearance from the finished roof surface to the bottom of the duct.

(C) Ducts over ~~eight~~8 feet in width shall have at least ~~thirty-six~~36 inches clearance from the finished roof surface to the bottom of the duct.

(3) Pitched Roofs. On roofs having a roof pitch exceeding 2 in 12, mechanical equipment may be set on legs which provide a minimum of 11 inches clearance between the finished roof surface and the equipment frame.

(ee) Section M1401.5, "Flood hazard," is repealed and reenacted to read~~.~~:

M1401.5 Flood hazard. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, heating and cooling equipment and appliances shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

~~(k) Section M1501.1 "Outdoor discharge" is amended by adding "at a point where it will not create a nuisance" to the first sentence to read:~~

~~The air removed by every mechanical exhaust system shall be discharged to the outdoors at a point where it will not create a nuisance.~~

~~(l) A new sentence is added to item 2 of Section M1601.1.1, "Above-ground duct systems," to read:~~

~~Flexible air duct shall not exceed 7 feet in length and flexible connectors are limited to toilet rooms and bathroom exhaust systems only.~~

(ff) Section M1601.4.9, "Flood hazard areas," is repealed and reenacted to read~~.~~:

> M1601.4.9 Flood hazard areas. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, duct systems shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(~~m~~gg) A new sentence is added to Section M1602.1, "Return air," to read:

Within individual dwelling units there shall be at least one return air opening on each floor.

(hh) Section M2001.4, "Flood-resistant installation," is repealed and reenacted to read~~.~~:

> M2001.4 Flood-resistant installation. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, boilers, water heaters and their control systems shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(ii) Section M2201.6, "Flood-resistant installation," is repealed and reenacted to read~~.~~:

> M2201.6 Flood-resistant installation. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, tanks shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(jj) A new Section M2303, "Solar photovoltaic power systems," is added to read:

> M2303 Solar photovoltaic power systems. Solar photovoltaic power systems shall also meet the provisions of Section E3804, as amended.

(kk) Section G2404.7, "Flood hazard," is repealed and reenacted to read~~.~~:

> G2404.7 Flood hazard. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, the appliance, equipment, and system installations regulated by this code~~,~~ shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

~~(n) Exceptions 2, 3, and 4 to Section G2406.2, "Prohibited locations," are repealed, and exception 5 is amended by adding "thermally isolated" to the first sentence to read:~~

~~The appliance is installed in a thermally isolated room or space that opens only onto a bedroom or bathroom, and such room or space is used for no other purpose and is provided with a solid weather-stripped door equipped with an approved self-closing device.~~

~~(o) A new sentence is added to Section G2407.6, "Outdoor combustion air," to read:~~

~~The room in which the appliances are receiving outdoor combustion air must be thermally isolated from the conditioned space of the dwelling unit or such outdoor air must be conditioned prior to entering the dwelling unit or room in which the appliance served, is located.~~

~~(p) G2415.4 is repealed and reenacted to read:~~

~~G2415.4 Piping through foundation wall. Gas piping shall enter the building above grade through the foundation wall, building or structure.~~

~~(q) Section G2415.9, "Minimum burial depth," is repealed and reenacted to read:~~

~~G2415.9 Minimum burial depth. Underground piping systems shall be installed at a minimum depth of 12 inches below grade for metallic piping and a minimum depth of 18 inches for non-metallic piping. Where such depths cannot be obtained, equivalent protection must be provided by other means approved by the building official.~~

~~(r) Section G2415.9.1 is repealed.~~

~~(s) Section G2417.4.1, "Test pressure," is repealed and reenacted to read:~~

~~G2417.4.1. Test pressure. The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than 10 psig.~~

(ll) Items 2 and 3 of Section G2427.8, "Venting system termination location," are amended by adding a new sentence to the end of each Items 2 and 3 reading:

> Vents shall terminate a minimum of 18 inches (46 mm) above finished grade in the immediate vicinity of each vent.

~~(t) Section G2432.1, "Decorative appliances for installation in fireplaces," is amended by adding a new item 2432.1.2 to read:~~

~~G2432.1.2. Within a vented fireplace the damper must be removed or welded open and glass doors installed over the fireplace opening.~~

~~(u) Section G2434.1, "Vented gas fireplaces," is amended by adding a new item G2434.1.1 to read:~~

~~G2434.1.1. Vented gas fireplaces shall be provided with outside combustion air and glass doors.~~

~~(v) Section G2435.1, "Vented gas fireplace heaters," is amended by adding a new item G2435.1.1 to read:~~

~~G2435.1.1. Vented gas fireplace heaters shall be provided with outside combustion air.~~

~~(w) Section G2445.4, "Prohibited locations," is repealed and reenacted to read:~~

~~These appliances shall not be used in bedrooms or rooms readily used for sleeping purposes.~~

~~(x) Section P2503.6 "Water-supply system testing," is amended by deleting the words "for piping systems other than plastic" in the first paragraph.~~

(mm) Section P2503.7, "Water supply system testing," is repealed and reenacted to read:

> P2503.7 Water--supply system testing. Upon completion of the water-supply system or a portion of it, the system or portion completed shall be tested and proved tight under a water pressure of not less than the working pressure of the system or by an air test of not less than 100 psi (689.5 kPa). This pressure shall be held for not less than 15 minutes. The water used for tests shall be obtained from a potable water source."

(nn) The Exception to P2601.2, Connections to drainage system," is deleted in its entirety.

(oo) Section P2601.3, "Flood hazard areas," is repealed and reenacted to read~~.~~:

> P2601.3 Flood hazard areas. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, plumbing fixtures, drains, and appliances shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(pp) The first sentence of Section P2602.2, "Flood resistant installation," is repealed and reenacted to state:

> In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981:
>
> Items 1 and 2 remain unchanged.

~~(y) Section P2603.6.1 is deleted in its entirety.~~

~~(z) Section P2801.5.1 "Piping for safety pan drains shall be of those materials listed in Table P204.5." is repealed.~~

~~(aa) Section P2904.5 is amended by adding a new paragraph to read:~~

~~Water service line pipe between the water meter and building shall be Type K copper if it is in the public right-of-way, a public utility easement, or on other public property.~~

(qq) Section P 3001.3, "Flood--resistant installation," is repealed and reenacted to state:

P3001.3 Flood--resistant installation. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981,drainage, wastes and vent systems shall be located and installed to prevent infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(rr) Section P3009, "Gray Water Recycling Systems," is deleted in its entirety.

(ss) Section P3101.5, "Flood resistance," is repealed and reenacted to read~~.~~:

P3101.5 Flood resistance. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, vents shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

~~(bb) Section P3103.1 "Roof extensions" is amended to read:~~

~~Open vent pipes that extend through a roof shall be terminated at least 12 inches (305 mm) above the roof on the high side of the vent, except that where a roof is to be used for any other purpose other than weather protection, the vent extension shall run at least 7 feet (2138 mm) above the roof.~~

~~(cc) Section E3501.6.2. "Service Disconnect Location". A new sentence is added to the end to read: Service entrance conductors shall not exceed ten feet maximum developed length unspliced between the meter housing and the main disconnect. This allows the service entrance conductors to run within the building up to ten feet and to terminate at the disconnecting means.~~

~~(dd) The last sentence of section E3508.1.1.1, concerning metal underground water pipe as a grounding electrode system, is repealed and reenacted to read:~~

~~The supplemental electrode shall be permitted to be bonded to the grounding electrode conductor, the grounded service-entrance conductor, the grounded service raceway, or any grounded service enclosure by means of a separate grounding electrode conductor.~~

(tt) A new Section E3804, "Solar photovoltaic power systems," is added to read:

E3804 Solar photovoltaic power systems. Solar photovoltaic power systems shall meet the provisions of Sections 605.11 through 605.11.3.2.3 of the City of Boulder Fire Code.

~~(ee) Section E3808.14 is repealed and reenacted to read:~~

~~E3808.14 Connecting receptacle grounding terminal to box. An equipment bonding jumper shall be used to connect the gounding of a grounding-type receptacle to a grounded box.~~

~~(ff) Section E3901.6"Access" , the last sentence is repealed and reenacted to read:~~

~~They shall be so installed that the center of the grip of the operating handle of the switch or circuit breaker, when in its highest position, will not be more than six feet seven inches nor less than three feet above the floor or working platform if within a building, or exterior grade or a working platform if on the exterior of a building.~~

(uu) Section E4209.3, "Accessibility," is amended by adding the following to the end of the Section:

Equipment shall be accessed by a panel with a minimum size of 12 inches (305 mm).

~~(gg) Section AJ102.4 is amended to read:~~

~~Replacement Windows. Regardless of the category of work, when an existing window, including sash and glazed portion is replaced, the replacement window shall be in accordance with the 2006 International Energy Conservation Code as adopted, with amendments, by Chapter 10-7, "Energy Conservation and Insulation Code", B.R.C. 1981 and Chapter 10-7-5 "Green Points", B.R.C. 1981.~~

(vv) Section AJ102.5, "Flood hazard areas," is repealed and reenacted to read~~.~~:

AJ102.5 Flood hazard areas. Work performed in existing buildings located in a floodplain, as established by Title 9, Land Use Regulation, B.R.C. 1981, shall be done in accordance with the applicable provisions of Title 9, Land Use Regulation, B.R.C. 1981.

~~(hh) Section AK102.1, "Airborne Sound," is amended to read:~~

~~Airborne sound insulations for wall and floor-ceiling assemblies shall meet a Sound Transmission Class rating 50 when tested in accordance with ASTM Standard E 90. Penetrations or openings in construction assemblies for piping, electrical devices, recessed cabinets, bathtubs, soffits; or heating, ventilating, or exhaust ducts shall be sealed, lined, or insulated, or otherwise treated to maintain the required rating . Dwelling unit entrance doors which share a common space shall be tight fitting to the frame and sill.~~

~~(ii) Section AK103.1, "Structural-Borne Sound," is amended to read:~~

~~Floor/ceiling assemblies between dwelling units or between a dwelling unit and a public or service area within a structure shall have an impact insulation class (IIC) rating of not less than 50 when tested in accordance with ASTM Standard E 492.~~

~~(jj) Section AO101.1, The words "and for subsurface landscape irrigation" are repealed, and a new sentence is added to the end of the exception to read:~~

~~Such systems shall be designed as required by the Boulder County Health Department.~~

~~(kk) FigureAO101.1 (2) is repealed.~~

~~(ll) Section AO103 is repealed in its entirety.~~

(ww) A new footnote notation "b" is added to the heading and a new footnote "b" is added to AP Table AP103.3(2), "Load values assigned to fixtures," reading:

b. For the purpose of determining the largest instantaneous demand required in order to size a water meter, or for determining the amount of the plant investment fee, this table is

repealed and replaced by the Fixture Unit/GPM Demand Chart and PIF Computation sheet found at Appendix A to Chapter 11-1, Water Utility, B.R.C. 1981.

Section 4. Chapter 10-6, B.R.C. 1981, is amended to read:

CHAPTER 10-6 – ELECTRICAL CODE

10-6-1 Legislative Intent.

The purpose of this chapter is to protect the public health and safety by regulating the installation, alteration, or repair of or addition to electrical conductors or equipment installed within or on any structure in the city. The city council hereby adopts the ~~2005~~2011 edition of the *National Electrical Code* with certain amendments and deletions thereto found to be in the best interests of the residents of the city.

10-6-2 Adoption of the National Electrical Code with Modifications.

(a) The ~~2005~~2011 edition of the *National Electrical Code* of the National Fire Protection Association is hereby adopted by reference as the City of Boulder Electrical Code or electrical code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) ~~Article 90 is repealed.~~ This code shall be administered in accordance with Chapter 1, "Administration," of the 2012 edition of the International Building Code and Appendix K, "Administrative Provisions," of the 2012 edition of the International Building Code, as adopted, respectively, with amendments, by Section 10-5-2, "Adoption of the International Building Code with Modifications," B.R.C. 1981 ~~the 2006International Code Council Electrical Code (ICCEC) with the deletion of ICCEC Section 1202.2 Nonmetallic-sheathed Cable~~.

(c) The following definition is added to part "I. General" of Article 100, "Definitions:"

> **Dried in.** The building or structure is protected from weather in that all openings can be closed, the roofing material is installed, and the exterior walls provide the building or structure with a weather-resistant exterior wall envelope.

~~(c)~~(d) Subsection 210-.70(~~a~~A)3 is repealed and reenacted to read:

> (3) Storage or Equipment Spaces. For attics, underfloor spaces, utility rooms and basements, at least one lighting outlet controlled by a wall switch shall be installed where these spaces are used for storage or contain equipment requiring servicing. The control wall switch shall be located at the usual point of entry to such space. The lighting outlet shall be provided at or near the equipment requiring servicing.

~~(d)~~(e) The first sentence of Section 230.2, "Number of Services," is repealed and reenacted to read:

230.2. Number of Services. A building or other structure shall be supplied by only one service unless permitted in 230.2(A) through (D) and approved prior to permit issuance or prior to the start of any electrical work indicated on the permit.

~~(e)~~(f) A new item 3 is added to Section 230.2(B), Special Occupancies, to read:

(3) Fire areas separated by a minimum two hour fire wall as defined by the building code may be considered as separate buildings for the purpose of calculating the number of services if approved by the building official.

~~(f)~~(g) A new item 4 is added to Section 230.2(C), Capacity Requirements, to read:

(4) Where the existing service is being used to capacity and has been properly maintained.

~~(g)~~(h) Subsection 230-40, concerning the number of service-entrance conductor sets, is amended by deleting exceptions 3 and 4.

~~(h)~~(i) Subsection 230~~-~~.70(A)(1)~~(a)~~, concerning the location of service equipment disconnecting means, is repealed and reenacted to read:

(a) Readily Accessible Location. The service disconnecting means shall be installed at a readily accessible location either immediately adjacent to or attached to the outside of a building or structure, or inside nearest the point of entrance of the service conductors.

(1) Service entrance conductors shall not exceed ten feet maximum developed length unspliced between the meter housing and the main disconnect. This allows the service entrance conductors to run within the building up to ten feet and to terminate at the disconnecting means.

(2) Electrical rooms containing building main disconnects located within a structure shall be located near the point of service entrance and on the exterior wall with a door leading directly outside. The door shall be identified with three inch high lettering stating "Electrical Equipment Room."

~~(i)~~(j) Section 250.146, concerning connecting receptacle grounding terminal to box, is amended by ~~the~~ deleting items (A), (B) and (C).

~~(j) The last sentence of the first paragraph of Subsection 250.53(D)2, concerning metal underground water pipe as a grounding electrode system, is repealed and reenacted to read:~~

~~The supplemental electrode shall be permitted to be bonded to the grounding electrode conductor, the grounded service-entrance conductor, the grounded service raceway, or any grounded service enclosure by means of a separate grounding electrode conductor.~~

~~(k)Section 310.12(C) is amended by specifying the colors of ungrounded conductors to be black, red, blue for 120/208 volt systems and brown, orange, yellow for 277/480 volt systems.~~

(k) A new section 310.12, "Conductor Identification," is added to read:

> 310.12 Conductor Identification. The colors of ungrounded conductors shall be black, red, and blue for 120/208 volt systems and brown, orange, and yellow for 277/480 volt systems.

(l) A new item (6) is added to section 334.10, "Uses Permitted," to read:

> (6) Type NM, Type NMC, and Type NMS shall not be installed in any building or any structure until the building or structure is completely dried in.

~~(l) The first sentence of section 334.10(2) is amended to read:~~

> ~~(2) Multifamily dwellings permitted to be of types II, III, IV and V construction except as prohibited in 334.12.~~

~~(m) The first sentence of Section 334.10(3) is amended to read:~~

> ~~(3) Other structures permitted to be of Types IIB,IIIB, IVB and VB construction of 10,000 square feet or less.~~

~~(n)~~(m) The ~~last~~ second sentence of the introductory portion of Subsection 404.8(A), concerning the location of switches, is repealed and reenacted to read:

> They shall be ~~so~~ installed such that the center of the grip of the operating handle of the switch or circuit breaker, when in its highest position, will not be more than six feet seven inches nor less than three feet above the floor or working platform if within a building, or exterior grade or a working platform if on the exterior of a building.

~~(o)~~(n) Subsection 517.~~-~~13(A), concerning grounding of receptacles and fixed electric equipment in patient care areas, is amended by adding a sentence to read:

> Receptacles and electrical outlets within examining rooms, treatment rooms, and similar areas where the patient may come in contact with electrical devices in these rooms shall be listed hospital grade and identified as such.

~~(p) Subsection 518-4(B), concerning Non-rated Construction, is repealed and reenacted to read:~~

~~(B) Non-rated Construction. Non-metallic-sheathed cable, Type AC cable, electrical non-metallic tubing, and rigid non-metallic conduit shall be permitted to be installed in buildings or portions of buildings of non-rated types of construction in accordance with section 334.10(3).~~

(o~~q~~) Subsection 680.73, "Accessibility," is amended by adding the following: Equipment shall be accessed by a panel with a minimum size of twelve inches by twelve inches.

(p)A new subsection (I) is added to section 690.4, "Installation," to read:

(I) **Compliance with Fire Code.** Solar photovoltaic power systems shall be installed in accordance with the requirements of sections 605.11.1 through 605.11.4 of the City of Boulder Fire Code.

~~(r)~~(q) Subsection 690.9~~16~~ (C) ~~Location~~Photovoltaic Source Circuits. Concerning direct current solar photovoltaic source conductors entering into a building add the following text~~.~~:

(1) Rooftop mounted solar photovoltaic array systems whose source conductor circuits are entering the building ~~are to~~shall be protected against overcurrent at their source on the roof~~s with a slope of 4 inches of rise in 12 inches of run or less slope~~ before entering the building.

~~(2) Rooftop mounted solar array systems whose source conductor circuits are entering the building are to be protected against overcurrent at their source but no more than 900 mm (3 feet) from the roof eave on roof with a slope of more than 4 inches of rise in 12 inches of run.~~

10-6-3 Electrical Permit Fees.

Electrical permit fees are those prescribed by Subsection 4-20-8(a), B.R.C. 1981.

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

CHAPTER 10-7 – ENERGY CONSERVATION ~~AND INSULATION~~ CODE

10-7-1 Legislative Intent.

The purpose of this chapter is to protect the public health, safety, and welfare by encouraging the conservation of scarce energy resources through the regulation of building construction standards to minimize energy consumption for heating, cooling, lighting, and ventilating structures in the city and to encourage building design utilizing green building techniques.

10-7-2 Energy Conservation Code.

(a) Council adopts by reference the ~~2006~~ 2012 International Energy Conservation Code of the International Code Council with the amendments specified below. This chapter shall be administered, applied, and interpreted in accordance with and as part of Chapter 10-5, "Building Code," B.R.C. 1981. This chapter is also intended to comply with and be interpreted and enforced so as to comply with 42 U.S.C. Section 6297(f)(3) and any other federal requirements to avoid preemption. For purposes of 42 U.S.C. Section 6297(f)(3), "new construction" shall be interpreted to include all work that triggers the requirements established in this chapter.

(b) ~~Section C101.4.3 Additions, alterations, renovations and repairs. A new sub-section is added previous to the exceptions to read as follows:~~

~~C101.4.3.1 All permit applications involving demolition, new construction and remodels and/or additions of residential buildings greater than 500 square feet shall meet the requirements of this code and Chapter 10-7-5 "Green Points", B.R.C. 1981 as applicable.~~

~~(c)~~(b) Exception 3 of section C101.4.3 is repealed and reenacted as follows:

3.1. For an interior remodel of a residential structure, where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not alter more than 500 square feet of the existing conditioned space, existing ceiling, wall, or floor cavities exposed during construction are exempt from meeting the provisions for new construction provided that exposed wall framing cavities are insulated to their fullest depth, but no less than R-13, and attics and exposed or accessible floor/ceiling assemblies separating conditioned spaces from unconditioned spaces are insulated to their fullest depth, but no less than R-38 wherever possible. All replacement fenestration shall meet the prescriptive requirements of Table R402.1.1 or R402.1.3. Portions of basements and crawlspaces separating conditioned spaces from unconditioned spaces shall meet the prescriptive requirements of Table R402.1.1 or R402.1.3 for climate zone 5 wherever possible. The provisions of section R402.2 shall apply.

3.2. For additions to residential structures where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not add more than 500 square feet, building envelope components shall meet the provisions of Table R402.1.1 or R402.1.3, and applicable portions of Chapter 10-7-5 "Green Points", B.R.C. 1981. The provisions of section R402.2 shall apply.

3.3 .Remodels of non-residential structures where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not alter more than 500 square feet.

~~(d)~~(c) Section C10~~3~~2.1.1 is repealed and reenacted as follows:

Section C10~~3~~2.1.1 Above Code Programs. Except for those residential structures and portions of structures exempt from this code, the requirements of Chapter 10-7.-5 "Green Building and Green Points Program", B.R.C. 1981 shall be used to demonstrate compliance with the energy efficiency components of this code.

~~(e)~~(d) Section~~ECTION 104~~C103.1 is repealed and reenacted to read as follows:

~~104~~C103.~~2~~ 1 General. Construction documents and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents and designs submitted under the provisions of this chapter shall be prepared by and bear the stamp of a Colorado licensed professional engineer or architect. Documents submitted for the purposes of section ~~404 and~~ C507~~6~~ shall be submitted by a Colorado licensed engineer, architect or a professional who demonstrates the knowledge and experience to perform such calculations. Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a licensed professional.

Exceptions:

1. The code official may waive the submission of construction documents and other supporting data if the official finds that the nature of the work does not require review of the documents or data to obtain compliance. This waiver authority does not apply to documents required to be prepared by a licensed architect or engineer.

~~(f)~~(e) Sections C103.3 through C103.5 are deleted.

(f) Section C10~~4~~5.3, "Final Inspection," is amended by adding a new paragraph to read:

The applicant must provide at time of final inspection of a commercial building written verification which bears the stamp of a licensed architect or engineer or special inspector as described in section 107~~9~~.3.4~~7~~ of the 2012 edition of the International Building Code that the structure conforms with the provisions of Chapter ~~5~~4.

(g) Sections C104.5 through C104.8.1 are deleted.

(h) Section C107, "Fees," is deleted.

(i) Section C108, "Stop Work Order," is deleted.

(j) Section C109, "Board of Appeals," is deleted.

~~(g)~~(k) Section C202, the definition of "Code Official" is repealed and reenacted to read:

Code official is the city manager.

~~(h)~~(l) Section C401~~501~~.1 is repealed and reenacted to read:

Section C~~501~~401.1 Scope.

The requirements contained in this chapter are applicable to new commercial buildings and additions to or remodels of commercial buildings. Commercial buildings shall exceed the energy efficiency requirements of ASHRAE/IESNA Standard 90.1 Energy Standard for Building Except for Low-Rise Residential Buildings by at least 30 percent or other approved equivalent design criteria.

~~501~~401.1.1 Alternative approaches for compliance.

The following methods of compliance may be used in place of the approach described in section ~~501~~401.1 above:

1. Buildings of 20,000 square feet or less may be designed to a prescriptive standard as detailed in this chapter or through other measures that result in a building that is at least 30 percent more energy efficient than the ~~2006~~ 2012 IECC.

2. Commercial core and shell buildings that have 50 percent or less finished floor area may divide the 30 percent energy efficiency requirement between the core and shell building design and the future interior tenant finish design. The energy efficiency savings

percentages assigned to each element of the building shall be designated at the time of the submittal of the building permit for the core and shell permit.

3. The construction documents for remodeling an existing commercial envelope, mechanical and lighting systems shall demonstrate compliance with this section in one of the following ways described below. The construction documents shall include compliance documentation that demonstrates that:

A. The altered building area or systems will meet the requirements of section ~~506~~C407, "Total Building Performance" ~~2006~~ 2012 IECC and the resulting compliance package shows an altered building area or system that is 30 percent more energy efficient than the ~~2006~~ 2012 IECC;

B. The remodel area will meet an approved set of prescriptive requirements that are at least 30 percent more efficient than the ~~2006~~ 2012 IECC. An applicant may use the ASHRAE Advanced Energy Design Guides for such prescriptive requirements, or equivalent method that is approved by the city manager; or

C. The remodel area meets the ~~2006~~ 2012 IECC requirements and is submitted with an energy efficiency implementation plan prepared by a licensed architect or registered professional engineer which shows how the process will contribute to future energy efficiency improvements to bring the building up to 30 percent above the ~~2006~~ 2012 IECC.

(m) Section C401.2, “Application,” is repealed and reenacted to read:

C401.2 Application.

1.Buildings larger than 20,000 square feet must demonstrate compliance through third party performance modeling that is approved by the city manager.

2. Commercial buildings of 20,000 square feet or less, meeting the requirements of this Section C401 through the alternate approach of compliance found in C401.1,1 Subparagraph 1. by demonstrating that a building or system is 30 percent more energy efficient than the 2012 IECC, shall also comply with:

a. The requirements of Sections C402, C403, C404, C405, and C406; or

b. The requirements of Sections C407, C402.4, C403.2, C404, C405.2, C405.3, C405.4, C405.6, and C405.7.

(n) Section C401.2.1 is deleted.

(o) Section R101.4.3 Additions, alterations, renovations and repairs. A new sub-section is added previous to the exceptions to read as follows:

R101.4.3.1 All permit applications involving demolition, new construction and remodels and/or additions of residential buildings greater than 500 square feet shall meet the

requirements of this code and Chapter 10-7-5 "Green Building and Green Points Program", B.R.C. 1981 as applicable.

(p) Exception 3 of section R101.4.3 is repealed and reenacted as follows:

3.1. For an interior remodel of a residential structure, where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not alter more than 500 square feet of the existing conditioned space, existing ceiling, wall, or floor cavities exposed during construction are exempt from meeting the provisions for new construction provided that exposed wall framing cavities are insulated to their fullest depth, but no less than R-13, and attics and exposed or accessible floor/ceiling assemblies separating conditioned spaces from unconditioned spaces are insulated to their fullest depth, but no less than R-38 wherever possible. All replacement fenestration shall meet the prescriptive requirements of Table R402.1.1 or R402.1.3. Portions of basements and crawlspaces separating conditioned spaces from unconditioned spaces shall meet the prescriptive requirements of Table R402.1.1 or R402.1.3 for climate zone 5 wherever possible. The provisions of section R402.2 shall apply.

3.2. For additions to residential structures where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not add more than 500 square feet, building envelope components shall meet the provisions of Table 402.1.1 or 402.1.3, and applicable portions of Chapter 10-7-5 "Green Building and Green Points Program", B.R.C. 1981. The provisions of section 402.2 shall apply.

(q) Section R102.1.1 is repealed and reenacted as follows:

Section R102.1.1 Above Code Programs. Except for those residential structures and portions of structures exempt from this code, the requirements of Chapter 10-7-5 "Green Building and Green Points Program", B.R.C. 1981 shall be used to demonstrate compliance with the energy efficiency components of this code.

(r) Section R103.1 is repealed and reenacted to read as follows:

R103.1 General. Construction documents and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents and designs submitted under the provisions of this chapter shall be prepared by and bear the stamp of a Colorado licensed professional engineer or architect. Documents submitted for the purposes of section R405 shall be submitted by a Colorado licensed engineer, architect or a professional who demonstrates the knowledge and experience to perform such calculations. Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a licensed professional.

Exceptions:

1. The code official may waive the submission of construction documents and other supporting data if the official finds that the nature of the work does not require review of the documents or data to obtain compliance. This waiver

authority does not apply to documents required to be prepared by a licensed architect or engineer.

(s) Sections R103.3 through R103.5 are deleted.

(t) Sections R104.5 through R104.8.1 are deleted.

(u) Section R107, "Fees," is deleted.

(v) Section R108, "Stop Work Order," is deleted.

(w) Section R109, "Board of Appeal," is deleted.

(x) Section R202, the definition of "Code Official" is repealed and reenacted to read:

Code official is the city manager.

Section 6. Chapter 10-7.5, B.R.C. 1981, is amended to read:

CHAPTER 10-7.5 – GREEN BUILDING AND GREEN POINTS PROGRAM

10-7.5-1 Legislative Intent and Purpose.

The purpose of this chapter is to protect the public health safety and welfare by regulating residential construction with the intent to conserve energy, water and other natural resources, preserve the health of our environment through optional and mandatory requirements related to design, construction, operations, recycling, and deconstruction This chapter has the following additional purposes:

(a) It provides criteria for rating the environmental performance of residential construction practices and provides guidelines for documentation that demonstrates conformance with the criteria;

(b) It encourages cost-effective and sustainable residential building methods, by encouraging conservation of fossil fuels, water and other natural resources, reduction of greenhouse gas emissions, recycling of construction materials, reducing solid waste and improving indoor air quality;

(c) It identifies the specific requirements for complying with the Green Points Program and how the program interfaces and exceeds the ~~2006~~ 2012 International Energy Conservation Code adopted in Chapter 10-7, "Energy Conservation ~~and Insulation~~ Code," B.R.C. 1981;

(d) It includes mandatory green building requirements to ensure that construction waste and deconstruction materials are recycled, reused, or otherwise diverted from land fills, and minimum requirements to ensure that dwellings are constructed in an efficient manner; ~~and~~

(e) It includes provisions intended to provide for joint administration with the processing of building permits for remodeling, adding on, and constructing dwelling units; and.

(f) It is intended to comply with, and be interpreted and enforced so as to comply with, 42 U.S.C. Section 6297(f)(3) and any other federal requirements to avoid preemption. For purposes of 42 U.S.C. Section 6297(f)(3), "new construction" shall be interpreted to include all work that triggers the requirements established in this chapter.

10-7.5-2 Scope and Administration.

(a) Scope. The provisions of this chapter apply to the following:

(1) New construction, remodels, or additions to a dwelling, including without limitation single-unit dwellings, multi-unit dwellings, and dwellings within mixed use developments.

(2) Any two or more building permits for the same structure that are applied for in any 12 month period shall be considered as one application for the purpose of meeting the requirements of Sections 10-7.5-3, "Mandatory Green Building Requirements" and 10-7.5-4, "Resource Conservation – Green Points," B.R.C. 1981.

(3) The requirements of this chapter shall apply to construction activities of all types of dwellings unless the context clearly indicates otherwise.

(4) The requirements of this chapter are in addition to and do not replace the requirements within the Boulder Revised Code, including without limitation all of the life safety codes, the historic preservation ordinance, the land use code and the City of Boulder Design and Construction Standards.

(b) Administration. The Green Points Program shall be administered, applied, and interpreted in accordance with Chapter 1, "Administration," Chapter 2, "Definitions," of the International Building Code (IBC) and the International Residential Code (IRC) as adopted with amendments by Sections 10-5-2, "Adoption of International Building Code with Modifications," and 10-5.5-2, "Adoption of International Residential Code with Modifications," B.R.C. 1981.

(c) Inspection and Compliance. No person shall fail to comply with the requirements of this chapter. No person shall construct in violation of a Green Points approval. All approvals and inspections of Green Point's applications and requirements shall be done in conjunction with a residential building permit application and field inspections. An application shall be made on a form that is approved by the city manager. The applicant shall demonstrate compliance with all of the provisions of this chapter prior to the issuance of a certificate of occupancy by the city manager.

(d) Exceptions. Any structure that includes dwellings that are pursuing a U.S. Green Building Council's LEEDT (Leadership in Energy and Environmental Design) Silver Certification or comparable green building rating certification or higher will be exempt from the Green Points requirements. No person that applies for this exception shall fail to complete the LEED^{tm} certification process and receive such certification within six months after the final inspection on the building permit. The city manager may grant an extension to this time period if a request is made by the applicant and the applicant demonstrates a good cause as to why additional time is needed to complete the certification.

10-7.5-3 Mandatory Green Building Requirements.

(a) Energy Efficiency – New Dwelling Units. An applicant for a building permit for each new dwelling shall demonstrate that the building is more energy efficient than a building that meets the minimum requirements of Chapter 10-7, "International Energy Conservation ~~and Insulation~~ Code," B.R.C. 1981. Table 1 lists the minimum energy efficiency requirements.

TABLE 1A - Tiers for Energy Efficiency Thresholds

Type of Project	Square Footage	Energy Efficiency Thresholds Above Code
New Construction	Up to 3,000	~~30~~ 20 percent more energy efficient than ~~2006~~ 2012 IECC
	3,001-5,000	~~50~~40 percent more energy efficient than ~~2006~~ 2012 IECC
	5,001 and up	~~75~~65 percent more energy efficient than ~~2006~~ 2012 IECC
Multi-Unit Dwellings	Applies to all	~~30~~20 percent more energy efficient than ~~2006~~ 2012 IECC

(b) Thresholds for Application of New Construction Standards to Entire Building as the Result of an Addition. Any addition which meets any of the thresholds described below will require that the conditioned floor area of the entire building be upgraded to meet new construction standards for energy efficiency in Subsection 10-7.5-3(a), B.R.C. 1981.

(1) The addition is 100 percent or more than the conditioned floor area of the existing dwelling unit and the dwelling unit will have a total conditioned floor area after the addition to the dwelling unit that is up to 3,000 sq. ft in size.

(2) The addition is 50 percent or more than the conditioned floor area of the existing dwelling unit and the dwelling unit will have a total conditioned floor area after the addition to the dwelling unit that is from 3,001 to 5000 sq. ft in size.

(3) The addition is 25 percent or more than the conditioned floor area of the existing dwelling unit and the dwelling unit will have a total conditioned floor area after the addition to the dwelling unit that is over 5001 sq. ft in size.

(c) Energy Efficiency – Additions and Remodels. An applicant for a building permit for a remodel or an addition to a dwelling that does not exceed the thresholds in subsection (b) above shall demonstrate that it meets the energy efficiency requirements of this section. A building permit for an addition to or a remodel of a dwelling unit shall meet one of the following standards:

(1) Requirement if upgrading the energy efficiency of the entire structure. The applicant may demonstrate that the entire building meets the HERS requirements that are described in Table 1B below; or

(2) Requirement for the new addition or the area of the house that is subject to a remodel. The applicant may demonstrate that the addition or the area of the building subject to a remodel meets the requirement of the IECC for the remodel area or addition as described in Table 1B below. Building permits under this requirement shall also meet the following:

(A) Complete a blower door test before application for the building permit to determine whether the building has a fresh air infiltration rate of no more than 0.5 natural air changes per hour (NACH) compliance rating. If this standard is exceeded, then the applicant shall meet the requirement of paragraph (B).

(B) Improve, repair and seal the dwelling unit, verified by a subsequent blower door test and prior to a certificate of occupancy or completion that demonstrates that:

(i) for buildings that had an air infiltration rate of 1.0 NACH or greater, then the building shall have a NACH 50 percent or less than the original blower door test,

(ii) for all other buildings, the building has an air infiltration rate of not greater than 0.5 NACH compliance rating.

TABLE 1B - Tiers for Energy Efficiency Thresholds

Total Conditioned Area	**HERS Rating**	**Increased efficiency above the 2012 IECC**

Up to 3,000	100	15 percent
3,001 – 5,000	85	30 percent
5,001 and up	70	50 percent

(3) Remodels – Limitations. A remodel that does not substantially remove the interior finish of the thermal envelope of the conditioned space is not required to meet the energy efficiency requirements of Table 1B.

(d) Compliance with Energy Efficiency Requirements. A dwelling that is required to meet the energy efficiency requirements for new construction shall demonstrate that it meets such standard by:

(1) Using the Home Energy Rating System (HERS). The HERS rating will be used for the verification of energy performance of new construction. A HERS rating shall be performed by a rater accredited by the Residential Energy Services Network (RESNET);

(2) For multidwelling projects, through a HERS rating sampling protocol authorized and approved by the city manager; or

(3) For multidwelling projects, by demonstrating that the energy efficiency has been achieved by using the methodology in section R405~~-404~~, "Simulated Performance Alternative" or section ~~506~~C407, "Total Building Performance" of the ~~2006~~ 2012 International Energy Conservation Code.

(e) Energy Audit. An applicant for a building permit for an addition to a dwelling or a remodel of a dwelling shall be required to obtain an energy audit. The applicant shall provide proof of the completion of the energy audit with a building permit application. The energy audit of the house shall quantify the annual energy performance of the building according to generally accepted standards for energy audits approved by the city manager. An energy audit or an optional HERS rating report will indicate how efficiently the building is operating and where inefficiencies are occurring.

~~(f) Lighting Efficiency. Prior to final inspection for an addition to a dwelling or a remodel of a dwelling the applicant shall install energy efficient lamps (light bulbs) with a luminous efficacy of 40 lumens per watt or above in at least 50 percent of the existing home's light fixtures.~~

~~(g) Direct Vent Furnace. When the scope of the work of an addition to a dwelling or a remodel of a dwelling requires replacement of a furnace, the furnace shall be replaced with a direct vent unit that has a minimum 90 percent AFUE.~~

~~(h) Direct Vent Boiler. When the scope of the work of an addition to a dwelling or a remodel of a dwelling requires replacement of a boiler, the boiler shall be replaced with a direct vent unit that has a minimum 85 percent AFUE.~~

(~~i~~f) Construction Waste Recycling. An applicant for a building permit for a new dwelling or an addition to a dwelling shall demonstrate that a minimum of 50 percent of construction waste is recycled. Waste diversion calculations and tracking spreadsheet form must be provided at project completion which shows that the minimum recycling requirements have been met. No person shall fail to complete the diversion calculations and tracking spreadsheet or recycle construction waste as required by this section.

(~~j~~g) Demolition Management. An applicant proposing to demolish the dwelling, as that term is defined in Section 10-7.5-7, "Definitions," B.R.C. 1981, shall demonstrate through a deconstruction plan that at least 65 percent of material by weight from deconstruction of the existing structure, including concrete and asphalt, will be diverted from the landfill. Verification of deconstruction plan compliance must be provided prior to final inspection. No person shall fail to follow or otherwise implement an approved deconstruction plan.

10-7.5-4 Resource Conservation – Green Points.

. . .

Section 7. Chapter 10-8, B.R.C. 1981, is amended to read:

CHAPTER 10-8 – Fire ~~Prevention~~ Code

10-8-1 Legislative Intent.

The purpose of this chapter is to protect public health and safety by regulating the use, condition, construction, alteration, and repair of property, structures, and occupancies in the city in order to prevent the ignition and spread of fire and risk of harm to persons or property from fire and other causes. The city council hereby adopts the ~~2006~~2012 edition of the International Fire Code with certain amendments, additions, and deletions thereto found to be in the best interests of the city. The standards provided in this chapter shall be used, insofar as they are applicable, in determining whether a condition is ~~a~~ hazardous ~~one~~, whether any work that has been performed has been done in an approved manner, or whether any equipment is of an approved type or quality, and in any determination concerning fire hazards and fire safety in the city building code not specifically provided for therein.

10-8-2 Adoption of International Fire Code with Modifications.

(a) The ~~2006~~2012 edition of the International Fire Code of the International Code Council are adopted by reference as the City of Boulder Fire Code and has the same force and effect as

though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) The Fire Code adopted by subsection (a) of this section is amended in the following places:

(1) Section 102.3 is repealed and reenacted to read:

102.3 Change of use or occupancy. No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the International Building Code.

(2) Section 103.1 is repealed and reenacted to read:

103.1 Division of Fire Safety

A Division of Fire Safety is established within the fire department under the direction of the manager, which shall consist of such fire department personnel as may be assigned thereto by the manager. The function of this division shall be to assist the manager in the administration and enforcement of the provisions of this code.

(3) Section 103.4, is repealed and reenacted to read:

103.4 Liability

The fire code shall not be construed to hold the City of Boulder or any of its employees or agents responsible for any damage to persons or property by reason of inspection or reinspection or failure to inspect or reinspect as herein provided or by reason of the approval or disapproval of any equipment as herein provided.

No employee of the city who enforces, attempts to enforce, or is authorized to enforce the fire code renders him or herself or the city liable to third parties for any damage or injury to the person or property of such third parties as a result of the enforcement or non-enforcement of the fire code. The city assumes no duty of care by virtue of the adoption of the fire code. No person is justified in relying upon the approval of a plan, the results of an inspection, or the issuance of a certificate of inspection or occupancy, and such approvals, inspections, and certificates are not a guarantee that the plan or work so approved, inspected, or certificated in fact complies with all requirements of the fire code. It is the duty of the person owning, controlling, or constructing any building or structure to insure that the work is done in accordance with the requirements of the fire code, and it is such persons and not the city who are responsible for damages caused by negligent breach of such duty.

(4) 104.4 Identification, is repealed and reenacted to read:

104.4 Identification.

For the purposes of this section, the term "fire code official" includes all firefighters appointed pursuant to Section 2-5-4, "Identification Card for Firefighters," B.R.C. 1981.

(5) Section 105.6 is repealed and reenacted to read:

105.6 Required operational permits. The fire code official may issue an operational permit for the following operations:

(a) 105.6.14, Explosives

(b) 105.6.30, Open Burning

(c) 105.6.32, Open Flames and Candles

(d) 105.6.36 Pyrotechnic special effects material

(e) 105.6.43~~4~~ is amended by the addition of the following:

105.6.43 Temporary Membrane Structures, tents and canopies. An operational permit may be issued with the construction permit that will be issued by the building official.

(6) Section 105.7 is repealed and reenacted to read:

105.7 Required construction permits. All construction permits will be issued by the building official. The Division of Fire Safety will be the approving authority for following:

(a) 105.7.1 Automatic fire-extinguishing systems

(b) 105.7.6~~4~~ Fire alarm and detection systems and related equipment

(c) 105.7.7~~5~~ Fire pumps and related equipment

(d) 105.7.15~~2~~ Standpipe systems

(7) Section~~s~~ 108, "Board of Appeals," is repealed and reenacted to read:

108 ~~Board of~~ Appeals

(a) Any appeal under this section shall be heard by the Board of Building Appeals established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing officer under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.

~~(a)~~(b) Appeal of refusal to approve work or building permit. A person refused a building permit or refused approval of work done under a permit on the grounds that the proposed or completed construction fails to comply with this code or any other city

building code may appeal the decision ~~to the board of zoning adjustment and building appeals~~ on the grounds that:

1. The denial was based on an erroneous interpretation of such code by the city manager; or

2. The city manager has erroneously failed to approve an alternate material or method pursuant to Section 104.9 of the fire code prior to its installation or use. In determining such an appeal the board or hearing officer shall apply the standards of Section 104.9 of the fire code.

The city manager has the burden of proof under paragraph 1 above. The appellant has the burden of proof on appeals brought pursuant to paragraph 2. The board or hearing officer shall determine the appeal and decide whether the city manager's interpretation or application of such code was correct or in error at a hearing under the procedures described by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

~~(b)~~(c) Appeal of suspension or revocation of building permit or certificates. Any person whose building permit or certificate of occupancy or certificate of completion has been suspended or revoked may appeal such action by the city manager ~~to the board of appeals~~ on the ground that the suspension or revocation was based on an error in fact or an erroneous application of this code to the facts. The city manager has the burden of proving the facts upon which the manager relies at such a hearing.

(d) An application for appeal must be filed in writing with the city manager within fourteen days after the date of refusal of the building permit or approval of work performed under the permit or revocation or suspension of the building permit or certificate of occupancy or certificate of completion stating the basis for appeal.

(e) Appeals Concerning Existing Conditions

i. Any aggrieved person who has been issued an order or other notice of violation under this fire code, other than a summons and complaint, under Section 102.1 and 102.2 concerning legally existing conditions in a structure based upon the city manager's determination that such conditions constitute a distinct hazard to life or property, and who believes the alleged violation to be factually or legally contrary to the requirements of this fire code or rules and regulations issued pursuant to this fire code may appeal the order or notice. An appellant shall file the appeal with the board within thirty days from the date of service of the notice of alleged violation. The appellant may request enlargement of time to file if such request is made before the end of the time period. The city manager may extend for a reasonable period the time to file with the board if the applicant shows good cause therefor.

ii. Any person aggrieved by a decision of the city manager upon a reinspection that any or all of the violations alleged in the notice of violation have not been adequately corrected may appeal such determination by filing a notice of appeal within fourteen days of the date of the reinspection.

iii. The appeal will be conducted under the procedures of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. The burden of proof is on the city manager to establish an alleged violation.

iv. If the board of appeals or hearing officer affirms the determination by the city manager, it shall grant the person a reasonable period of time to correct the violation appealed. Any subsequent determination by the manager as to whether the violations alleged in the notice of violation have been adequately corrected is final.

v. If no person appeals a notice of violation under this section, the provisions of the notice becomes final when the time for filing an appeal with the board has expired. An order appealed to court is final unless a stay is in effect.

vi. If a person to whom the city manager has issued a notice of violation does not appeal under this section, such person may not raise as a defense to any subsequent prosecution in municipal court for a violation of an order that the conditions alleged to be violations in the notice of violation were not in fact or law violations.

~~(c)~~(f) An applicant for an appeal ~~to the board of appeals~~ shall pay the fee prescribed by Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981. The fee for an appeal heard by a hearing officer shall be the same as the fee for an appeal heard by the Board of Building Appeals.

~~(d)~~(g) The city manager may apply to the ~~board of appeals~~Board of Building Appeals, without fee, for an advisory opinion concerning alternative methods, applicability of specific requirements, approval of equipment and materials, and granting of special permission as contemplated in Sections 104.8 or 104.9 of the fire code.

~~(e)~~(h) The ~~b~~Board of Building ~~a~~Appeals or hearing officer has no authority to interpret Chapter 1 (the administrative requirements) of this code except as expressly provided in this section, nor, because this code sets minimum standards, to waive any requirement of this code.

~~(8) Appeals Concerning Existing Conditions~~

~~(i) Any aggrieved person who has been issued an order or other notice of violation under this fire code, other than a summons and complaint, under Section 102.1 and 102.2 concerning legally existing conditions in a structure based upon the city manager's determination that such conditions constitute a distinct hazard to life or property, and who believes the alleged violation to be factually or legally contrary to the requirements of this fire code or rules and regulations issued pursuant to this fire code may appeal the order or notice to the board of building appeals in a manner provided by the board under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. An appellant shall file the appeal with the board within thirty days from the date of service of the notice of alleged violation. The appellant may request enlargement of time to file if such request is made before the end of the time period. The city manager may extend for a reasonable period the time to file with the board if the applicant shows good cause therefor.~~

~~(ii) Any person aggrieved by a decision of the city manager upon a reinspection that any or all of the violations alleged in the notice of violation have not been adequately corrected may appeal such determination by filing a notice of appeal with the board of appeals within ten days of the date of the reinspection.~~

~~(iii) The appeal will be conducted under the procedures of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. The burden of proof is on the city manager to establish an alleged violation.~~

~~(iv) If the board of appeals affirms the determination by the city manager, it shall grant the person a reasonable period of time to correct the violation appealed. Any subsequent determination by the manager as to whether the violations alleged in the notice of violation have been adequately corrected is final.~~

~~(v) The fee for filing an appeal is that prescribed by Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981.~~

~~**(f)(i) An aggrieved person seeking judicial review of a decision of the b**~~**Board of Building a**~~**Appeals or hearing officer made under this section shall file a complaint for such review within thirty days after the date of the decision under Colorado Rule of Civil Procedure 106(a)(4).**~~

~~(g) If no person appeals a notice of violation to the board of appeals, the provisions of the notice becomes final when the time for filing an appeal with the board has expired. An order appealed to court is final unless a stay is in effect.~~

~~(h) If a person to whom the city manager has issued a notice of violation does not appeal to the board, such person may not raise as a defense to any subsequent prosecution in municipal court for a violation of an order that the conditions alleged to be violations in the notice of violation were not in fact or law violations.~~

~~(i)~~(j) If the city manager determines that the subject of an order or notice issued under this fire code constitutes an immediate hazard to the public health, safety, or welfare, the manager may order immediate compliance. Persons subject to such orders shall comply forthwith, but shall be entitled to a prompt post-compliance appeal hearing before the board of building appeals or a hearing officer under the procedures specified in this section.

(8) Section 109.1, "Unlawful acts," is repealed and reenacted to read:

109.1 Violations.

(a) General Provisions:

(1) No person shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof. No person shall fail to comply with any order issued by the city manager under this code. No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip,

use, occupy, maintain, or utilize any building, structure, occupancy, premises, or system in the ~~C~~city or cause or permit the same to be done except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official.

(2) In accordance with the provisions of section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, or use continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land, and the agents of each of them, are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code or of any directive of the fire code official may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the fire code official may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(6) The fire code official may charge the cost of any action taken to correct or abate a violation, as authorized by this code, plus up to fifteen percent of such cost for administration to the property owner. If any property owner fails or refuses to pay when due any charge imposed under this section, the fire code official may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer, to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected, under the procedures described by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies:

(1) If the fire code official finds that a violation of any provision of this code or any approval granted under this code exists, 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 take any one or more of the following actions to remedy the violation:

(A) Impose a civil penalty according to the following schedule:

(i) For the first violation of the provision or approval, $100;

(ii) For the second violation of the same provision or approval, $300; and

(iii) For the third violation of the same provision or approval, $1,000.

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e); or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this code or any approval granted under this code.

(2) Prior to the hearing, the fire code official may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the fire code official to exist with respect to such structure or land.

(3) If notice is given to the fire code official at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the fire code official will reinspect the structure or land. If the fire code official finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the fire code official under this section.

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the fire code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the fire code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this code, the city manager is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit until such time as the person submits a declaration of use that is in a form acceptable to the fire code official.

(9) Section 109.3.3, “Prosecution of violations,” is repealed.

(10) Section 109.4, “Violation penalties,” is repealed and reenacted to read:

109.4 Abatement of violation.

In addition to the imposition of the penalties described in Section 109.1 Violations, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

~~(9)~~(11) Chapter 2, "Definitions," is amended by the addition of the following additional definitions:

"Accessible Private Drive" means a twenty foot unobstructed clear width with a twelve foot hard-all weather drivable surface which can support forty tons on ten wheels and has a SU-30 turning radius for the fire department's fire apparatus.

~~**"Attached Dwelling Unit" means a structure which contains more than one dwelling unit regardless of any fire separation features.**~~

"Fire code official" means the city manager or the manager's delegate.

~~**"Detached Dwelling Unit" means a structure which contains only one dwelling unit together with any building accessory to the dwelling unit, and is structurally independent of other structures or occupancies, and has a fire separation distance of not less than six feet from other structures.**~~

"Emergency Vehicle Access Street" means a street meeting the requirements of this code and the City of Boulder Design and Construction Standard.

~~**"Fire Access Distance" means the distance between two hydrants, or the distance from a hydrant to any external portion of any building or buildings or the distance from the center line of a non-dead-end emergency vehicle access street to the point on the curb on such street from which access to such building is gained, measured along public or private (but accessible to fire equipment) roadways or fire lanes, as would be traveled by motorized firefighting equipment.**~~

"Fire Department" or "Municipal Fire Department" means the Fire Department of the City of Boulder, Colorado.

"House Behind a House" exists if the dwelling unit is on a lot which does not front on an emergency vehicle access street meeting the requirements of Sections 503.1 and 503.2, or the dwelling unit is not served by a fire lane meeting the requirements of Section 502.1 from an emergency vehicle access street to an entrance to the dwelling unit, and access from the emergency vehicle access street to the unit is obstructed by any structure.

"Portable Appliance" Means any appliance that is designed to be moved or relocated on a daily basis without any special knowledge. This includes, but not limited to, box or oscillating fans, power tools, vacuums cleaners and floor polishers.

"Tank Truck" means any single rear axle, self-propelled motor vehicle, equipped with a cargo tank mounted thereon, and used for the transportation of flammable and combustible liquids, but this term excludes any combination of units, such as a semi-trailer. Said tank truck shall not exceed 35,000 GVW, and its total capacity shall not exceed 3,000 gallons.

"Transport route" means:

(1) Denver-Boulder Turnpike (U.S. 36) from the south city limits to Baseline Road.

(2) Foothills Parkway (Colorado 157) from U.S. 36 to the north city limits.

(3) 28th Street from Baseline Road to the north city limits.

(4) Arapahoe Avenue from Folsom~~28th~~ Street to the east city limits.

(5) Canyon Boulevard from 28th Street to the west city limits.

(6) Pearl Street/Pearl Parkway from Folsom~~28th~~ Street to the east city limits.

(7) Longmont Diagonal Highway (Colorado 119) as it passes through the city limits.

(8) Valmont Road from Folsom Street~~the Foothills Parkway (Colorado 157)~~ to 55th Street.

(9) Airport Road and Airport Boulevard~~Road~~.

(10)~~(9)~~ Baseline Road from ~~the east side of 28th Street (U.S. 36)~~27th Way to Foothills Parkway (Colorado 157).

(11) 55th Street from Valmont Road to Arapahoe Avenue.

(12) 30th Street from Arapahoe to Diagonal Highway (Colorado 119).

(13) Longmont Diagonal Highway (Colorado 119) from 28th Street to and connecting with Foothills Parkway (Colorado 157).

(14) South Foothills Highway/Broadway (Colorado 93) from the south city limits to 27th Way and connecting to Baseline Road.

"Unobstructed By Any Structure Above Grade" means that no structure blocks the view so that there is not at least one entire face of the building substantially visible in a direct line over the lot upon which the building sits from the nearest emergency vehicle access street, and no structure would significantly interfere with a stream of water being sprayed on the building by a nozzle mounted on a fire truck parked on the nearest emergency vehicle access street. For the purposes of this definition, a legal fence shall not be considered an obstruction if it has a gate which opens at least three feet wide, which is not locked, and through which firefighters on foot have ready access to the building within the distance limitations.

~~(10)~~(12) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces," is repealed and reenacted to read:

307 Open Burning and Recreational Fires.

(1) No person shall kindle or maintain outside of a habitable building or outside of an exterior fireplace built in accordance with the City of Boulder Building Code any bonfire or burn or permit to be burned any trash, paper, rubbish, wastepaper, wood, weeds, brush, plants, or other combustible or flammable material anywhere within the city limits or anywhere on city property outside of the city limits, except when:

(a) The burning is in the course of an agricultural operation in the growing of crops as a gainful occupation and presents no fire hazard to other property in the vicinity;

(b) The burning is a smokeless flare or a safety flare used to indicate some danger to the public;

(c) The burning is a training fire conducted by the fire department, or is a training fire conducted by another fire department, or privately for industrial or commercial fire training purposes; or

(d) The burning is solely for the purpose of fuels mitigation to alleviate wildland fire potential, or weed abatement to assist restoration of native plants~~, and~~.

(2) Mobile or portable type outdoor fire places are prohibited within the city limits or anywhere on city property outside of the city limits.

~~(11) Section 308 is repealed and reenacted to read:~~

~~308 Open Flames. Open flames are prohibited within the city limits.~~

~~Exception: Where a permit is obtained through the Boulder Fire Department, Division of Fire Safety.~~

~~(12)~~(13) Exceptions 1 and 2 to Section 311.2.2., "Fire protection," are repealed.

~~(13)~~(14) A new Section ~~401.3.1.1~~ 401.9, "Fire Alarm Fees," is added to read:

(a) After the fire department has responded to two alarms of fire from any property or address in any calendar year, the city manager may impose a charge for each additional response to an alarm which originates from the property during the same calendar year, in accordance with the schedule prescribed by Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981.

(b) The city manager may waive a charge imposed for a fire alarm response if the property owner of record demonstrates that such alarm was caused by a fire or the threat of a fire, or that such alarm was not under the property owners control. It shall not be a defense that the alarm system is malfunctioning, unless the owner or manager is able to demonstrate that said alarm system is currently being serviced to remedy the problems being encountered.

~~**(c) If any fee is not paid within thirty days after demand therefor has been mailed to the record owner of the building, the city manager may certify the amount due to the County Treasurer pursuant to Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.**~~

~~(14)~~(15)Section 503.2.1, "Dimensions," is repealed and reenacted to read:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6,096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 15 feet (4,572 mm).

~~(15)~~(16) Section 507~~8~~.5.1, "Where required," is repealed and reenacted to read:

507~~8~~.5.1 Where required. Location and spacing of fire hydrants will be in accordance with the City of Boulder Design and Construction Standards.

~~(16)~~(17) Section 603.4, "Portable unvented heaters," is repealed and reenacted to read:

603.4 Portable unvented heaters. Portable unvented fueled-fired heating equipment are prohibited.

(18) Subsection 605.11.3.2.1, "Residential buildings with hip roof layouts", is repealed and reenacted to read:

605.11.3.2.1 Residential buildings with hip roof layouts. Panels/modules installed on residential buildings with hip roof layouts shall be located in a manner that provides a 3-foot-wide (914 mm) clear access pathway from the eave to the ridge on each roof slope where panels/modules are located.

Exceptions:

1. These requirements shall not apply to roofs with slopes of 2 units vertical in 12 units horizontal (2:12) or less.

2. These requirements shall not apply to roofs where each panel/module array area on the roof is 1,000 square feet (92.90 m²) or less in size, no continuous section of panels/modules is larger than 150 feet in length or width, a clear access pathway of not less than 12-inch-width is provided along each side of all horizontal ridges, and a clear access pathway of not less than 30-inch-width is provided from the eave to the ridge of one roof slope where panels/modules are located.

3. These requirements shall not apply to roofs where each panel/module array area on the roof is 1,000 square feet (92.90 m²) or less in size, no continuous section of panels/modules is larger than 150 feet in length or width, a clear access pathway of not less than 12-inch-width is provided along each side of all horizontal ridges, and, where panels/modules are to be placed on both sides of a hip, a clear access pathway of not less than 18-inch-width is provided along each side of such hip.

4. These requirements shall not apply to roofs -where the total combined area of solar array does not exceed 33 percent as measured in plan view of the total roof area of the structure,

(19) Subsection 605.11.3.2.2, "Residential buildings with a single ridge," is repealed and reenacted to read:

605.11.3.2.2 Residential buildings with a single ridge. Panels/modules installed on residential buildings with a single ridge shall be located in a manner that provides two, 3-foot-wide (914 mm) clear access pathways from the eave to the ridge on each roof slope where panels/modules are located.

Exceptions:

1. -This requirement shall not apply to roofs with slopes of 2 units vertical in 12 units horizontal (2:12) or less.

2. This requirement shall not apply to roofs where each panel/module array area on the roof is 1,000 square feet (92.90 m²) or less in size, no continuous section of panels/modules is larger than 150 feet in length or width, and a clear access pathway of not less than 12-inch-width is provided along each side of the horizontal ridge provided that:

a. The total combined area of solar array does not exceed 33 percent as measured in plan view of the total roof area of the structure; or

b. A 30-inch-wide clear access path is provided from the eave to the ridge of a roof slope where panels/modules are located.

(20) Subsection 605.11.3.2.3, "Residential buildings with roof hips and valleys," is repealed and reenacted to read:

605.11.3.2.3 Residential buildings with roof hips and valleys. Panels/modules installed on residential buildings with roof hips and valleys shall be located no closer than 18 inches (457 mm) to a hip or a valley where panels/modules are to be placed on both sides of a hip or valley. Where panels are to be located on only one side of a hip or valley that is of equal length, the panels shall be permitted to be placed directly adjacent to the hip or valley. In addition, a 12-inch-wide clear access pathway shall be provided along each side of any horizontal ridge.

Exceptions:

1. This requirement shall not apply to roofs with slopes of ~~two~~2 units vertical in 12 units horizontal (2:12) or less.

2. These requirements shall not apply to roofs where a 30-inch-wide clear access pathway is provided from the eave to the ridge as well as 12-inch-wide clear access pathways along each side of any horizontal ridge.

(21) Subsection 605.11.3.2.4, "Residential building smoke ventilation," is repealed and reenacted to read:

605.11.3.2. 4 Pathways. All access pathways required under this Section 605.11.3.2 shall be provided in a structurally strong location on the building capable of supporting the live load of fire fighters accessing the roof.

~~(17)~~(22)Section 901.6, "Inspection, testing and maintenance," is amended by the addition of the following:

~~**If any building, structure, or portion of the same is protected by a fire detection, alarm and extinguishing system or the owner has agreed with the city manager so to protect the building or structure or portion thereof, then no person shall shut off or disable such system except as authorized under Section 11-1-45, Water to Be Shut Off for Failure to Pay, B.R.C. 1981, and no owner, manager, or tenant of such space shall fail to prevent the shutting off or disabling of such system. It is a specific defense to a charge of violation of this section that the system was shut off in order to perform maintenance work on the system, that it was shut off for the**~~

~~**minimum period of time necessary to perform such work, and that maintenance personnel were on the premises performing such work during the entire time the system was shut off. The minimum penalty for violation of this section, no portion of which may be suspended, is a fine of $1,000.00.**~~

~~(18)~~(23) Section 903 is amended by the addition of the following:

Any new building or change of occupancy of an existing building that does not have approved fire department access as required by the fire code may be required by the fire code official to have an automatic fire sprinkler system installed regardless of the building size.

~~(19)~~(24) Section 903.1, is repealed and reenacted to read:

Section 903.1 General. An automatic sprinkler system shall be installed in the occupancies and locations as set forth in this section. ~~Changes in use, as defined in Section 10-5-2, "Adoption of International Building Code with Modifications," B.R.C. 1981, shall comply with the provisions listed below.~~

(25) The first sentence of Section 903.2 is repealed and reenacted to read:

Approved automatic sprinkler systems in new buildings and structures shall be provide in the locations described in Section 903.2.1 through 903.2.15.

~~(20)~~(26) Section 903.2.1 is amended by the addition of the following:

903.2.1 Group A. All basements classified as, or a part of, a Group A occupancy shall be provided with an automatic sprinkler system regardless of the gross square footage.

(a) Section 903.2.1.1 Group A-1, # 1 is repealed and reenacted to read.

1. The fire area exceeds 2,000 square feet (185.8m^2)

(b) Section 903.2.1.2 Group A-2, # 1 is repealed and reenacted to read.

1. The fire area exceeds 2,000 square feet (185.8m^2)

(c) Section 903.2.1.3 Group A-3, # 1 is repealed and reenacted to read.

1. The fire area exceeds 2,000 square feet (185.8m^2)

(d) Section 903.2.1.4 Group A-4, # 1 is repealed and reenacted to read.

1. The fire area exceeds 2,000 square feet (185.8m^2)

~~(21)~~(27) A new subsection is added to Section 903.2.1 is added to read:

903.2.1.6~~,~~ Group B occupancies.~~, is enacted to read:~~ ~~a~~An automatic sprinkler system shall be provided throughout all new Group B occupancies greater than 2,000 gross square feet (185.8m^2).

~~(22)~~(28) Section 903.2.3~~2~~, Group E. #1is repealed and reenacted to read:

(a) Throughout all Group E fire areas greater than 2000 (185.8m^2) in area.

(b) Exception is repealed.

(c) All basements classified as, or a part of, a Group E occupancy shall be provided with an automatic sprinkler system regardless of the gross square footage

~~(23)~~(29) Section 903.2.4~~3~~, Group F-1 is repealed and reenacted to read:

An automatic sprinkler system shall be provided throughout all new Group F occupancies greater than 2000 square feet (185.8m^2).

(30) Exceptions 3 and 4 to Section 903.2.6, Group I, are repealed.

~~(24)~~(31) Section 903.2.7~~6~~, Group M is repealed and reenacted to read:

An automatic sprinkler system shall be provided throughout all ~~new~~ Group M occupancies greater than 2000 square feet (185.8m^2).

~~(25)~~(32) The first sentence of Section 903.2.8~~7~~, but not Subsections 903.2.8.1 and 903.2.8.2, is repealed and reenacted to read~~amended by the addition of the following~~:

Effective September 1, 2014, an automatic sprinkler system in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area; detached one- and two- family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the fire sprinkler system requirements of the City of Boulder Residential Building Code.

Prior to September 1, 2014, the following standards apply:

An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

(a) Exception 1: Detached and two unit attached dwelling units are not required to have an automatic fire sprinkler system if they are not used as residential board and care occupancies, and the distance, unobstructed by any structure above grade, landscaping or topographical obstructions, from the curb face of the emergency vehicle access street on which the structure is addressed, to a face of the unit containing an entrance, is not greater than one hundred feet.

(b) Exception 2. A detached dwelling unit is not required to have an automatic fire sprinkler system if it is not used as a residential board and care occupancy, and is located on a lot larger than 14,500 square feet, in which the driveway meets the requirements of a fire department accessible private drive, and extends without interruption from the nearest emergency vehicle access street on which the structure is addressed, to the side of the building which contains the main entrance.

(c) If more than one principal building is constructed on a lot pursuant to the exceptions listed in Section 9-3.2-16, "Two Detached Dwelling Units on a Single Lot," B.R.C. 1981, then each building other than the building closest to an emergency vehicle access street on which the structure is addressed, shall be protected by an approved and supervised automatic sprinkler system in accordance with Section 903.3.

Exception: If a lot has frontage on two streets and each street is an emergency vehicle access street, then two buildings, each closest to their respective streets, shall not be required to be so protected by this subsection.

(d) Houses behind houses shall be protected throughout by an approved automatic sprinkler system in accordance with Section 903.3.

~~(26)~~(33) Section 903.2.9~~8~~ Group S-1, is repealed and reenacted to read:

An automatic sprinkler system shall be provided throughout all ~~new~~ Group S-1 occupancies greater than 2000 square feet (185.8m^2) , including, but not limited to, repair garages.

~~(27)~~(34) Section 903.2.10~~9~~ Group S-2, is repealed and reenacted to read:

An automatic sprinkler system shall be provided throughout all ~~new~~ Group S-2 occupancies greater than 2000 square feet (185.8m^2).

~~(28)~~(35) A new ~~section~~Section, 903.2.13 "Group U occupancies," is added to read:

Section 903.2.1~~2.~~3 Group U ~~O~~occupancies. An automatic sprinkler system shall be provided throughout all new Group U occupancies greater than 2,000 gross square feet (185.8m^2).

~~(29)~~(36)A new Section 903.2.1~~2.~~4 is added to read:

Section 903.2.14 Any occupancy, structure or unit required to be protected by a sprinkler system by one provision of the fire code or the building code, and falling within an exception to a requirement of such protection to any other provision of the fire code or building code, shall be so protected.

~~(30)~~(37) A new Section 903.2.1~~2.~~5 is added to read:

Section 903.2.15 If the floor area of an addition to any existing occupancy as described in 903.1 through 903.2.1~~2.~~3 above is greater than either fifty percent of the existing gross floor area or 2,000 square feet, and the total altered structure would be required to be protected by a sprinkler system by this section if it were new construction, then the entire addition shall be protected throughout by an approved and supervised automatic sprinkler system, installed in accordance with Section 903.3.1. Said sprinkler system shall be continuous throughout the addition up to a fire barrier built in accordance with the building code for that occupancy.

~~(31)~~(38) Section 903.3.1.1.1 Exception 4 is repealed

~~**(32) Section 903.3.5.1 is repealed**~~

~~(33)~~(39) -Section 903.3.5.1.2 is repealed and reenacted to read:

903.3.5.1.2 Residential combination services. Combination of domestic and fire service lines shall be in accordance with the City of Boulder Design and Construction Standard.

~~(34)~~(40) Section 903.4.1, "Monitoring," is repealed and reenacted to read:

903.4.1 ~~Signal~~Monitoring. Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an Underwriters Laboratory listed ~~central~~supervising station.

Exceptions:

1. Underground key or hub valves in roadway boxes provided by the municipality or-public utility need not be supervised.

2. Systems installed in accordance with NFPA 13D.

~~(35)~~(41) Section 903.4.2, "Alarms," is repealed and reenacted to read:

903.4.2 Alarms. Approved audible and visual devices shall be connected to every new automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided in the interior of the building in accordance with NFPA 72 and on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler shall actuate the building fire alarm system.

~~(36)~~(42) A new Section 903.7, "Response time sprinkler requirement," is adopted to read:

903.7 Response time sprinkler requirement.

(a) It is the city's goal, as reflected in the Boulder Valley Comprehensive Plan's urban-fire service criteria, that land not be annexed unless the response time for

service is normally six minutes or less. Nonetheless, there may be occasions when annexation outside the existing six minute limit but within eight minutes or less is, due to special circumstances, in the city's best interest. Before such land is annexed, consideration must be given to the need for and provision of additional fire stations and equipment to serve properly the area being annexed and to bring it within the six minute limit eventually. Protection by a sprinkler system as required by subsection (c) below is a temporary substitute, and is not intended to eliminate the requirement for additional fire stations and equipment.

(b) Land used or to be used for residential purposes will not normally be annexed if it is outside the six minute limit unless excepted from this policy by subsection (d) below. All new dwelling unit on land annexed outside the six minute limit shall be protected by an automatic fire sprinkler system.

(c) On land annexed after the effective date of this chapter and not excepted under subsection (d) below, all new non-residential construction and any existing non-residential structures shall be provided throughout with an approved and supervised fire sprinkler system installed in accordance with Section 903.3.1 adopted in Chapter 10-8, "Fire ~~Prevention~~ Code," B.R.C. 1981, if such land is outside of the six minute City of Boulder fire response time from city fire stations housing at least one pumper which is rated at one thousand gallons per minute pumping capacity or greater, and which requires a crew of three or more for proper operation.

(d) The requirements of this Section may be waived by the city council by a provision doing so in an annexation agreement incorporated into an annexation ordinance if, in the opinion of the city council it is in the city's best interest to do so because:

(1) Of changed or special conditions;

(2) The land to be annexed is located on Arapahoe Avenue west of the city; or

(3) The land to be annexed is below the blue line, west of Broadway, south of Norwood Avenue, and north of Table Mesa Drive.

Exceptions (2) and (3) above reflect the fact that it is not anticipated that new fire stations will be constructed to bring these areas within the six minute limit. In other areas it is anticipated that new fire stations will eventually be constructed or upgraded to bring the service area within this limit.

~~(37)~~(43) A new Section 903.8, "Fire suppression systems," is added to read:

903.8 Fire Suppression Systems

All existing structures in the following categories shall be protected throughout by an approved and supervised automatic sprinkler system installed in accordance with the provisions of Section 903.3.1 Except that any structure or portion thereof required by this section to be so protected prior to the effective date of this ordinance shall be immediately so protected:

(a) R-1 and R-2 occupancies greater than fifty five feet high.

(b) Hotels and motels. Exceptions: One- and two-story structures, and three story structures with an exterior exit balcony for all rooms above grade.

(c) Congregate residences classified as Group R-4.

(d) Group I-1 and I-2 occupancies as defined in the fire code.

(e) Basements greater than 2,000 gross square feet.

Exception 1. Basements below R occupancies.

Exception 2. Basements used exclusively for "services to the building," such as electric meters, compressors, and so forth. But "services to the building" shall not include any storage (either combustible or non-combustible), nor routine human occupancy.

Exception 3. Basements where there is provided at least 20 square feet of opening entirely above the adjoining ground level in each fifty lineal feet or fraction thereof of exterior wall in the basement on at least one side of the building. Openings shall have a minimum dimension of not less than 30 inches, and shall be accessible to the fire department from the exterior and shall not be obstructed in a manner that firefighting or rescue cannot be accomplished from the exterior.

When openings are provided on only one side and the opposite wall of said basement is more than seventy-five feet from such openings, said basement shall be provided with an approved automatic sprinkler system, or openings as specified above shall be provided on at least two sides of an exterior wall of the basement.

(f) All Group A occupancies used primarily for dining, drinking or motion picture viewing, shall be protected throughout by an approved and supervised automatic sprinkler system installed in accordance with the provisions of Section 903.3.1 when said Group A occupancy is greater than 2,000 gross square feet in size.

For Group A occupancies described in this part (f) not currently provided with complete automatic sprinkler protection, this paragraph shall take effect during a remodel or renovation which 1) requires one or more building permits with a combined valuation (labor and materials) of $30~~.00~~ per square

foot or more within any calendar year, and 2) necessitates business closure for a combined period of five calendar days or more, in the aforementioned calendar year.

~~(38)~~(44) Section 907.6.5~~15~~, is repealed and reenacted to read:

Section 907.6.5~~15~~ Monitoring. Fire alarm systems shall be supervised by an Underwriters Laboratory listed ~~central~~supervising station.

(45) Section 1103.5, "Sprinkler systems," is repealed and reenacted to read:

1103.5. Sprinkler systems. The automatic sprinkler system requirements set forth in Sections 903.1 and 903.2 of this code shall be complied with in existing buildings where the occupancy or use, as defined in Chapter 3 of the Building Code of the City of Boulder, changes in a fire area exceeding 2,000 square feet.

~~(39)~~(46) Section ~~33~~5601.2.4.2, "Fireworks," is amended by the addition of the following:

~~**The city manager shall require a certificate of insurance to protect persons and property from death or injury as a result of the fireworks display, in an amount not less than $150,000.00 per person injured and $600,000.00 per incident. The insurance shall cover any liability of the city or any employee or agent thereof arising out of or connected with the permit and the fireworks display permitted thereunder. Before any permit for a fireworks display is issued, the applicant shall comply with the provisions of this Section.**~~

~~(40)~~(47) Section ~~34~~5701.4, "Permits," is amended by the addition of the following:

(1) A regular permit allows a permittee on a transport route to take delivery of flammable and combustible liquids from any delivery vehicle or from a tank truck where the premises are ~~not~~ located on a transport route. Upon payment of the fee provided in Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981, the city manager shall issue to an applicant therefor a permit to receive deliveries of flammable and combustible liquids at a particular location or outlet if the manager finds that:

(a) The outlet or location contains sufficient room to accommodate the delivery vehicle, so that the delivery vehicle is capable of being parked entirely within the property boundary lines of the outlet or location and in such a manner that no part of the vehicle extends into any street, sidewalk, or alley while the vehicle is off-loading and no backing of the vehicle either into or out of station property is necessary;

(b) The entrance and exit access-ways for the delivery vehicle are so arranged that no obstruction of traffic will result from the vehicle entering or leaving the outlet or location; and

(c) The storage tanks for flammable and combustible liquids are located underground and constructed in accordance with the applicable provisions of this code, unless specifically allowed to be installed above ground by other sections of this code.

(2) A special permit allows a permittee to take delivery of flammable and combustible liquids on premises outside of transport routes from specified delivery vehicles other than a tank truck. The owner or person in control of any outlet or location holding a regular permit may, upon payment of the fee provided in Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981, apply to the city manager for a special permit allowing delivery with a vehicle other than a tank truck as defined in Section 221. The city manager shall schedule with the applicant a simulated demonstration with an empty vehicle of the size and design that the applicant will use under the permit. The applicant shall furnish the vehicle and driver at its cost. The simulated test shall be observed by the city manager who shall issue the special permit if the manager finds that:

(a) The outlet or location contains sufficient room to accommodate the delivery vehicle, so that the delivery vehicle is capable of being parked entirely within the property boundary lines of the outlet or location in such a manner that no part of the vehicle shall extend into any street, sidewalk or alley while the vehicle is off-loading, and no backing of the vehicle either into or out of the station property is necessary;

(b) The entrance and exit access-ways for the delivery vehicles are so arranged that no obstruction of traffic will result from the vehicle entering or leaving the outlet or location;

(c) The roads and streets are accessible to fire-fighting equipment and vehicles;

(d) The topography or configuration of the roads and streets does not involve potential difficulties in containing, fighting, or suppressing a fire or spill and does not impair the ability of a transport vehicle to maneuver safely; and

(e) The traffic congestion and flow of vehicles using the roads and streets will not create potential hazards to transport vehicles. Upon issuance, the permit will designate a specific route to be followed from the nearest transport route to the permit location and to return to the transport route. The permit will specify a vehicle capacity. Special permits are valid only between 3:00 a.m. and 6:00 a.m. But, for the delivery of gasoline or diesel fuel only, if the permit location is in an industrial zone, and is connected to a transport route by a former transport route established by ordinance 4636 (1982), and the applicant demonstrates that there were no incidents involving the discharge of gasoline or diesel fuel from delivery vehicles using the relevant portion of such former route, then the city manager may issue the special permit for such other hours as the applicant is able to demonstrate present no more hazard than delivery during the hours of 3:00 a.m. through 6:00 a.m.

(3) Revocation or Suspension of Permits.

(a) Each of the following is a ground for revocation of a special permit:

1. Failure of a transport vehicle to park entirely on the site while unloading;

2. Obstructing of sidewalks while unloading;

3. Backing the vehicle onto or off of the site;

4. Obstruction of traffic while entering or leaving;

5. Failure of a transport driver to follow the prescribed route to or from the permit location; or

6. Failure to maintain a copy of the special permit on the premises.

7. Failure of a transport driver to be present while off loading.

(b) Each of the following is a ground for suspension of a regular permit for up to fourteen days:

1. Failure of a transport vehicle to park entirely on the site while unloading;

2. Obstructing of sidewalks while unloading;

3. Backing the vehicle onto or off of the site;

4. Obstruction of traffic while entering or leaving; or

5. Failure of a transport driver to follow the prescribed route to or from the permit location.

6. Failure of a transport driver to be present while off loading.

(c) When matters are brought to the attention of the city manager, which if substantiated would be grounds for revocation of a special permit or suspension of a regular permit, the manager shall issue a written notice thereof to the permittee containing a concise written statement of the violation constituting grounds for revocation or suspension and indicating that the revocation or suspension shall take effect fourteen days after the issuance of said notice unless the permittee appeals in accordance with the terms of Section 108~~3.1.4~~.

(d) All special permit revocations shall be for a period of six months, after which time the permittee may reapply for a special permit. During the period of revocation, the outlet may continue to operate with and according to the terms of a regular permit.

(4) If, due to changed conditions, including without limitation changes in the transport routes, the manager has probable cause to believe that an existing regular or special permit

no longer meets the criteria for issuance, the manager may require a new simulated demonstration. For purposes of notice and appeal, such proceedings shall be deemed a new application, but no additional fee shall be charged.

~~(41)~~(48) A new Section ~~34~~57~~01~~.6, "Prohibited acts," is adopted to read:

(a) No owner and no person in control of any outlet or location shall accept deliveries of flammable or combustible liquids, unless such person has applied for and has been issued a permit therefor by the city manager.

(b) No owner and no person in control of any outlet or location for which a permit to accept deliveries of flammable or combustible liquids has been issued shall accept deliveries of such liquids unless delivery is in compliance with all the provisions of this code and any conditions on the permit.

(c) No person shall spill more than thirty-two fluid ounces of flammable or combustible liquid upon the ground.

(d) No person shall fail to notify the fire department of any spill of flammable or combustible liquid of more than thirty-two fluid ounces at the earliest practicable moment after said spill has occurred.

(e) Except to replace existing tanks, no person shall install any tanks used for the storage of any type of flammable or combustible liquid, or other hazardous material or waste in the floodplain as defined in Section 9-9-2, "Definitions," B.R.C. 1981. This prohibition is not retroactive, but no person shall use or maintain any tank installed in violation of this prohibition.

(f) No person shall weld or cut by torch on the premises of a service station or allow or cause crankcase drainings to be spilled or poured onto the ground. No person shall dispose of hazardous materials by dumping or pouring on the ground or into a storm drain or sanitary sewer or any connection thereto.

~~(42)~~(49) Section ~~34~~57~~04~~.2, "Tank ~~S~~storage," is amended by the addition of the following.

(a) Except for fuel carried on tank trucks, above-ground storage of all Class I, II, and III flammable and combustible liquids in aggregate amounts of more than 500 gallons of such liquids on a single lot is allowed only in those areas of the city zoned "industrial." All installations shall comply in all respects with Chapter 57~~34~~. Any tank intended for the bulk storage of any Class I, II or III flammable or combustible liquid may be stored above ground only in those areas of the City zoned industrial.

(b) ~~All service stations, as defined in Chapter 22, regardless of zoning, shall install all bulk fuel storage tanks, oil storage tanks, and waste oil storage tanks underground and meet all requirements of Chapter 22 and Chapter 34. All bulk fuel storage tanks, oil storage tanks, and waste oil storage tanks in a residential zone shall be installed underground and meet all requirements of Chapter 34.~~ Liquefied natural gas (LNG) or liquefied petroleum gas (LP-Gas) may be stored above ground in areas of the city zoned "industrial" and

dispensed at such sites by a service station, if the city manager finds that such installation meets all the requirements of applicable fire codes before any dispensing of such fuel and proper and necessary on-site fire control devices are provided. ~~The fee for review and inspection of such a specialized installation shall be as provided in Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981.~~

(c) All underground tanks used for dispensing or bulk storage of any flammable or combustible liquid shall comply with the requirements of Chapter 57~~34~~, "Flammable and Combustible Liquids," any other pertinent city codes, including without limitation those concerning fire and flood, the Colorado State Oil Division, and the manufacturer's specifications for installation. Plans for installation shall be approved by the Colorado State Oil Division and the city flood control office, before the city may issue permits for construction, installation, and use of the tanks. No person shall install a used tank.

(d) No person shall install a tank or tanks for the dispensing or bulk storage of any flammable or combustible liquid, including temporary installations on construction sites, until such person has first submitted plans for the installation to the city manager and has received approval of such plans and of the installation.

~~(43)~~(50) A new Section ~~34~~57~~06~~.2.8.2, "Safety devices required for outlets or locations accepting deliveries of flammable or combustible liquids, is adopted to read:

No owner and no person in control of any outlet or location shall accept deliveries of flammable and combustible liquids, and no person shall make deliveries of such liquids to any outlet or location, unless the following conditions are met during such delivery:

(a) The hose connection employed in making a delivery of flammable or combustible liquids contains the safety device known as a "glass elbow" to allow inspection of the contents of the delivery hose; and

(b) Any hose used in making deliveries of flammable or combustible liquids contains the apparatus commonly known as a tight-fill connection device to secure the off-loading device of the delivery vehicle to the intake structure of the storage tank.

(c) Exceptions to (1) and (2) above may be granted by the city manager for industrial installations if conditions warrant.

~~(44)~~(51) A new Section ~~34~~57~~06~~.2.8.3, Full compartment dumps required," is adopted to read:

Any person delivering flammable and combustible liquids in a vehicle that contains compartments larger than six hundred gallons shall empty each such compartment at a single stop, if any delivery of liquids is made at any outlet or location from any such compartment.

(52) In Chapter 80, "Referenced Standards," the NFPA standard reference numbers for 13, 13D, 13R, and 72 are repealed and reenacted to read:

13-13

13D-13

13R-13

72-13

~~**10-8-3 Violations.**~~

~~Any violation of the International Fire Code, any appendix thereto adopted by this chapter, or of any order issued by the city manager thereunder is punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981. Every twenty-four-hour period in which a violation exists constitutes a separate violation.~~

Section 8. A new Chapter 10-8.5, B.R.C. 1981, is enacted to read:

Chapter 10-8.5 Wildland Code

10-8.5-1 Legislative Intent.

The purpose of this chapter is to protect public health and safety by regulating the use, condition, construction, alteration, repair and maintenance of buildings, structures and premises within the wildland-urban interface areas in the City in order to prevent the spread of fire and risk of harm to persons and property from the intrusion of fire from wildland fire exposures and fire exposures from adjacent structures as well as to prevent structure fires from spreading to wildland fuels. The city council hereby adopts the 2012 edition of the International Wildland-Urban Interface Code with certain amendments, additions, and deletions thereto found to be in the best interests of the city.

10-8.5-2 Adoption of the International Wildland-Urban Interface Code with Modifications.

(a) The 2012 edition of the International Wildland-Urban Interface Code of the International Code Council are adopted by reference as the City of Boulder Wildland Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) Appendix B, "Vegetation Management Plan" and Appendix C, "Fire Hazard Severity Form" and sections contained therein are adopted.

(c) Section 102.4.1, "Conflicts," is amended to read:

102.4.1 Conflicts. Where conflicts exist between provisions of this code and the referenced standards or the building, residential, or fire code, the most restrictive provisions shall govern.

(d) Section 103.1, "Creation of an enforcement agency," is repealed and reenacted to read:

103.1 Division of Building Safety. "Division of Building Safety" means the administrative unit established by the city manager or the manager's delegates, and the personnel assigned to the unit by the manger. The Division of Building Safety administers the City of Boulder Wildland Code assisted by a Division of Fire Safety, established within the fire department, under the direction of the city manager.

(e) Section 104.3, "Liability of the code official," is repealed and reenacted to read:

104.3. Liability. The Wildland Code shall not be construed to hold the City of Boulder or any of its employees or agents responsible for any damage to persons or property by reason of inspection or reinspection or failure to inspect or reinspect as herein provided or by reason of the approval or disapproval of any equipment as herein provided.

No employee of the city who enforces, attempts to enforce, or is authorized to enforce the Wildland Code renders him or herself or the city liable to third parties for any damage or injury to the person or property of such third parties as a result of the enforcement or non-enforcement of the fire code. The city assumes no duty of care by virtue of the adoption of the Wildland Code. No person is justified in relying upon the approval of a plan, the results of an inspection, or the issuance of a certificate of inspection or occupancy, and such approvals, inspections, and certificates are not a guarantee that the plan or work so approved, inspected, or certificated in fact complies with all requirements of the Wildland Code. It is the duty of the person owning, controlling, or constructing any building or structure to-einsure that the work is done in accordance with the requirements of the fire code, and it is such persons and not the city who are responsible for damages caused by negligent breach of such duty.

(f) Section 106, "Appeals," is repealed and reenacted to read:

SECTION 106 APPEALS

106.1 Appeals.

(a) Any appeal under this section shall be heard by the Board of Building Appeals established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing office under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.

(b) Any person directly affected by a decision of the code official or an order issued under this code may appeal the decision or order on the ground that:

1. The decision or order was based on an error of fact or an erroneous interpretation of this code or the rules legally adopted thereunder; or

2. The code official erroneously failed to approve an alternative material or method pursuant to Section 105.3 prior to its installation or use. In determining such an appeal the board shall apply the standards of Section 105.3, but the board shall have no jurisdiction to consider if a material or method expressly prohibited by this code is an acceptable alternative; or

3. The code official has erroneously failed to grant a modification pursuant to Section 105.1. In determining such an appeal the board or hearing officer shall apply the standards of Section 105.1.

The code official has the burden of proof under paragraph 1. The appellant has the burden of proof on appeals brought pursuant to paragraphs 2~~.~~ and 3. The board or hearing officer shall determine the appeal and decide whether the code official's interpretation or application of such code was correct or in error at a hearing under the procedures described in Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(c) An application for appeal must be filed in writing with the city manager within fourteen days after the date the decision or order was served.

(d) An applicant for an appeal shall pay the fee prescribed by Section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981. The fee for an appeal heard by a hearing officer shall be the same as the fee for an appeal heard by the Board of Building Appeals.

(e) The city manager may apply to the Board of Building Appeals, without fee, for an advisory opinion concerning alternative methods, applicability of specific requirements, approval of equipment and materials, and granting of special permission as contemplated in Sections 105.1, "Practical difficulties," or Section 105.3, "Alternative materials or methods," of the Wildland Code.

(~~g~~f) The board or hearing officer has no authority to interpret Chapter 1 (the administrative requirements) of this code except as expressly provided in this section, nor, because this code sets minimum standards, to waive any requirement of this code.

(g) Section 107, "Permits," is repealed and reenacted to read:

107 Permits. The provisions of Section 105, "Permits," of the City of Boulder Building Code, Section 105, "Permits," of the City of Boulder Fire Code, and Section 105, "Permits," of the City of Boulder Residential Code, apply, as otherwise applicable to the work requiring the permit.

(h) Section 108.1, "General," is repealed and reenacted to read:

108.1 General. The requirements of Section 106.1, "Submittal Documents," of the City of Boulder Building Code apply.

(i) Section 109.4.6, "Prosecution of violation," is repealed and reenacted to read:

109.4.6 Violations

(a) General Provisions

(1) No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the City or cause or permit the same to be done except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official. No person shall violate the provisions of this code, fail to comply with any requirements thereof, or fail to comply with any order issued by the code official under this code.

(2) In accordance with the provisions of section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, use, or violation continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land and the agents of each of them are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code or of any directive of the code official may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(6) The code official may charge the cost of any action taken to correct or abate a violation, as authorized by this code, plus up to fifteen percent of such cost for administration to the property owner. If any property owner fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer, to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected, under the procedures described by

section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies

(1) If the code official finds that a violation of any provision of this code or any approval granted under this code exists, 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 take any one or more of the following actions to remedy the violation:

(A) Impose a civil penalty according to the following schedule:

(i) For the first violation of the provision or approval, $100;

(ii) For the second violation of the same provision or approval, $300; and

(iii) For the third violation of the same provision or approval, $1,000;

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e); or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this code or any approval granted under this code.

(2) Prior to the hearing, the code official may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the code official to exist with respect to such structure or land.

(3) If notice is given to the code official at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the code official will reinspect the structure or land. If the code official finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the code official under this section.

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or

otherwise authorized by this title, the code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this code, the code official is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit until such time as the person submits a declaration of use that is in a form acceptable to the code official.

(j) Section 109.4.7, "Violation penalties," is repealed.

(k)The definition of "Code Official" in Section 202, "Definitions," is repealed and reenacted to read:

CODE OFFICIAL. Code official means the city manager or the city manager's delegate.

(l) Section 403.2, "Driveways," is repealed and reenacted to read:

403.2 Driveways. Driveways shall be provided when any portion of an exterior wall of the first story of a building is located more than 100 feet (30 480 mm) from a fire apparatus access road.

(m) Section 403.2.1, "Dimensions," is repealed and reenacted to read:

403.2.1 Dimensions. Driveways shall be provided as defined in Section 503.2.1. "Dimensions," of the City of Boulder Fire Code, as locally amended in Section 10-8-1(15), B.R.C. 1981~~,~~, for an "accessible private drive" and with a minimum unobstructed height of 15 feet (4572 mm).

(n) Section 403.2.4, "Turnarounds," is repealed and reenacted to read:

403.2.4 Turnarounds. Driveway turnarounds shall have a turning radius to accommodate an SU-30 vehicle. Driveways that connect with a road or roads at more than one point shall be considered as having a turnaround if all changes in direction meet the radii requirements for driveway turnaround.

(o) Section 403.3, "Fire apparatus access road," is repealed and reenacted to read:

403.3 Fire apparatus access road. When required, fire apparatus access roads shall meet the requirements of the City of Boulder Design and Construction Standard.

(p) Section 404.2, "Water sources," is repealed and reenacted to read:

404.2 Water sources. Water sources shall be designed and installed in accordance with the City of Boulder Design and Construction Standard.

(q) Section 505.2, "Roof covering," is repealed and reenacted to read:

505.2 Roof covering. Roofs shall be installed in accordance with the requirements of the City of Boulder Building Code and the City of Boulder Residential Building Code~~.~~, as applicable.

(r) Section 506.2, "Roof covering," is repealed and reenacted to read:

506.2 Roof covering. Roofs shall be installed in accordance with the requirements of the City of Boulder Building Code and the City of Boulder Residential Building Code., as applicable.

(s) Section 507, "Replacement or repair of roof coverings," is repealed and reenacted to read:

507 Replacement or repair of roof coverings. Replacement or repair of any wood roof shall meet the requirements of section 10-5-5, Wood Roof Covering Materials Prohibited, B.R.C. 1981.

(t) Section 601.1 "Scope" is repealed and reenacted to read:

601.1 Scope. The provisions of this chapter establish general requirements for new buildings, structures, and premises located within wildland-urban interface areas. Only the requirements of Sections 607.1~~,~~, "General," and 607.2,"Storage for off-site use," shall apply to new and existing buildings, structures and premises located within wildland-urban interface areas.

(u) The first sentence of Appendix C, "Fire Hazard Severity Form," is repealed and reenacted to read:

This appendix may be used in place of Table 502.1 to determine the fire hazard severity.

Section 9. Chapter 10-9, B.R.C. 1981, is amended to read:

Chapter 10-9 Mechanical Code

10-9-1 Legislative Intent.

The purpose of this chapter is to protect the public health and safety by regulating the installation, alteration, and repair of heating, ventilating, cooling, and refrigeration devices in structures in the city. The city council hereby adopts the ~~2006~~2012 edition of the *International Mechanical Code* with certain amendments and deletions thereto found to be in the best interests of the residents of the city.

10-9-2 Adoption of the International Mechanical Code with Modifications.

(a) The ~~2006~~2012 edition of the *International Mechanical Code*, including Appendices A thereto of the International Code Council, is hereby adopted by reference as the Mechanical Code of the

City of Boulder or mechanical code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) Except as specified below, Chapter 1 is repealed. This code shall be administered in accordance with Chapter 1, "Administration," of the International Building Code as adopted, with amendments, by Section 10-5-2, "Adoption of International Building Code with Modifications," B.R.C. 1981.

(1) Section 101.2, "Scope," is adopted as an administrative provision.

(2) Section 101.2.1, "Appendices," is adopted as an administrative provision. Appendix A is adopted as a part of this code.

(3) Section 101.3, "Intent," is adopted as an administrative provision.

(c) Section 301.10~~7~~ "Electrical" is repealed and reenacted to read:

301.10~~7~~ Electrical. Electrical wiring, controls and connections to equipment and appliances regulated by this code shall be in accordance with Chapter 10-6, "Electrical Code," B.R.C. 1981.

~~(d) Section 306.5 "Equipment and appliances on roofs or elevated structures" is repealed and reenacted to read:~~

~~306.5 Equipment and appliances on roofs or elevated structures. Where equipment and appliances requiring access are installed on roofs or elevated structures at a height exceeding 16 feet (4877mm), such access shall be provided by a permanent approved means of access. The means of access shall start at no more than 8 feet (2438 mm) above finished grade or floor level and continue unobstructed to the equipment and appliances level service space.~~

~~(e)~~(d) A new Section 306.6, Rooftop equipment support and clearances, is added:

306.6 Rooftop equipment support and clearances.

(1) Mechanical equipment placed, replaced, or resting over roofing shall be supported by curbs or legs which shall be flashed to the roofing and made watertight. Mechanical equipment shall include, but not be limited to, heating equipment, cooling and refrigeration equipment, ventilating fans, blowers, and other similar devices located on the roof.

(2) Flat roofs. On roofs having a pitch of less than 2 in 12, mechanical equipment shall be supported on a solid curb greater in size than the equipment which it serves. Curbs can be manufactured or built-in-place. If built-in-place, the curb shall be covered with metal of at least 26 gauge. All seams and miter corners of the metal shall be riveted and soldered so as to be weathertight. The curb shall be a minimum of 9 inches above the finished roof.

(A) Ducts less than four feet in width shall have at least twelve inches clearance from the finished roof surface to the bottom of the duct.

(B) Ducts between four feet and eight feet in width shall have at least twenty-four inches clearance from the finished roof surface to the bottom of the duct.

(C) Ducts over eight feet in width shall have at least thirty-six inches clearance from the finished roof surface to the bottom of the duct.

(3) Pitched Roofs. On roofs having a slope over a 2 and 12, mechanical equipment may be set on legs which provide a minimum of 11 inches clearance between the finished roof surface and the equipment frame.

~~(f)~~(e) Section 603.6.1.1 "Duct length" is repealed and reenacted to read:

603.6.1.1 Duct length. Approved Class 0 and Class 1 flexible air duct shall not exceed ~~seven~~fourteen feet in length.

~~(g) Section 603.6.2.1 "Connector length" is modified to read limited in length to 7 feet (2134 mm).~~

~~(h)~~(f)Section 606.3, "Installation" is amended by the addition of a new sentence to read:

Smoke detectors must be capable of being tested from a remote and readily accessible location.

10-9-3 Mechanical Permit Fees.

Mechanical permit fees are those prescribed by Subsection 4-20-13(c), B.R.C. 1981.

Section 10. Chapter 10-9.5, B.R.C. 1981, is amended to read:

Chapter 10-9.5 Fuel Gas Code

10-9.5-1 Legislative Intent.

The purpose of this chapter is to protect the public health and safety by regulating fuel gas systems and gas-fired appliances in the city. The city council hereby adopts the ~~2006~~2012 edition of the International Fuel Gas Code as a new chapter 10-9.5 with certain amendments thereto found to be in the best interest of the city.

10-9.5-2 Adoption of the International Fuel Gas Code With Modifications.

(a) The ~~2006~~2012 edition of the International Fuel Gas Code of the International Code Council is hereby adopted by reference as the City of Boulder Fuel Gas Code or fuel gas code and has the

same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) Except as specified below, Chapter 1 is repealed. This code shall be administered in accordance with Chapter 1, "Administration," of the International Building Code as adopted, with amendments, by Section 10-5-2, "Adoption of International Building Code with Modifications," B.R.C. 1981.

(c) SECTION 101, "GENERAL," is adopted as an administrative provision with the following amendments:

(1) 101.1, "Title," is amended to read:

101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Boulder or fuel gas code.

(2) SECTION 107, "INSPECTIONS AND TESTING," is adopted as an administrative provision.

(3) Exceptions 2, 3 and 4 in Section 303.3, "Prohibited locations," are repealed.

(4) Section 404.4 Piping through foundation wall is repealed and reenacted to read:

404.4 Piping through foundation wall. Gas piping shall enter the building above grade through the foundation wall, building or structure.

~~(5) Section 404.9 "Minimum burial depth" is repealed and reenacted to read:~~

~~404.9 Minimum burial depth. Underground piping systems shall be installed at a minimum depth of 12 inches below grade for metallic piping and a minimum depth of 18 inches for non-metallic piping or where such depths cannot be obtained, other equivalent protection must be provided.~~

(5~~6~~) Section 404.9.1 is repealed.

(6~~7~~) Section 406.4.1 "Test pressure" is repealed and reenacted to read:

The test pressure to be used shall be no less than 1-1/2 times the proposed maximum working pressure, but not less than 10 psig.

~~(8) Section 406.4.2 "Test duration" is repealed and reenacted to read:~~

~~Test duration shall not be less than 15 minutes.~~

(8~~9~~) Section 602.1 "General" is amended by adding a new sentence to read:

Within a vented fireplace the damper must be removed or welded open and glass doors installed over the fireplace opening.

~~(10) Section 604 "VENTED GAS FIREPLACES" is amended by adding a new section to read:~~

~~604.3 Combustion air. Vented gas fireplaces shall be provided with outside combustion air and glass doors.~~

~~(11) Section 605 "VENTED GAS FIREPLACE HEATERS" is amended by adding a new section to read:~~

~~605.2 Vented gas fireplace heaters shall be provided with outside combustion air.~~

~~(12) Section 621.4 "Prohibited locations" is amended by adding a new sentence to read:~~

~~These appliances shall not be used in bedrooms or rooms readily used for sleeping purposes.~~

Section 11. Chapter 10-10, B.R.C. 1981, is amended to read:

Chapter 10-10 Plumbing Code

10-10-1 Legislative Intent.

The purpose of this chapter is to protect the public health and safety by regulating the installation, alteration, and repair of plumbing devices in structures in the city. The city council hereby adopts the ~~2006~~2012 edition of the *International Plumbing Code* with certain amendments and deletions thereto found to be in the best interests of the residents of the city.

10-10-2 Adoption of the International Plumbing Code with Modifications.

(a) The ~~2006~~2012 edition of the *International Plumbing Code*, published by the International Code Council, including ~~appendices C Gray Water Recycling Systems, and~~Appendix E, "~~-~~Sizing of Water Piping System," is hereby adopted by reference as the City of Boulder Plumbing Code or plumbing code, and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) Except for Sections 101, 102, and 107, Chapter 1 is repealed. This code shall be administered in accordance with Chapter 1, "Administration," of the International Building Code as adopted, with amendments, by Section 10-5-2, "Adoption of International Building Code with Modifications," B.R.C. 1981.

(c) Section 101.1 is repealed and reenacted to read:

101.1 Title. These regulations shall be known as the Plumbing Code for the City of Boulder or plumbing code and will be referenced herein as "this code."

(d) The Exception to Section 301.3, "Connections to drainage system," is deleted in its entirety.

(e)Section 312.5, "Water supply system test," is amended by deleting the words "for piping systems other than plastic" and by modifying the test pressure required from 50 psi (344 kPa) to 100 psi (688 kPa).

~~(e)~~(f) Section 504.7.1 "Piping for safety pan drains shall be of those materials listed in Table 605.4." is repealed.

~~(f)~~(g) Section 610, "Disinfection of potable water system," is repealed.

~~(g)~~(h) Section 605.3~~4~~ is amended by adding a new paragraph to read:

Water service line pipe between the water meter and building shall be Type K copper if it is in the public right-of-way, a public utility easement, or on other public property.

~~(h)~~(i) Section 712.4.2, "Capacity," is amended by the addition of a new sentence to read:

Sewage pumps and sewage ejectors serving public fixtures shall be provided with dual pumps and ejectors arranged to operate independently in case of overload or failure.

(j) Section 903.1, "Roof extension," is repealed and reenacted to read:

> Open vent pipes that extend through a roof shall be terminated not less than 6 inches above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall terminate not less than 7 feet above the roof.

(k)Section 1003.1, "Where required," is amendment by adding the following:

> Grease, oil, and sand interceptors shall hold a minimum capacity of 750 gallons and shall be remotely located.

(l) Section 1003.3, "Grease interceptors," is amended by adding the following:

> Grease interceptors shall not receive the drainage and retain grease from more than four fixtures. A grease interceptor shall not be connected to heated water fixtures, including, without limitation, dishwashers, and shall not be connected before waste disposal units, including without limitation, garbage disposals and grinders.

(m) Section 1003.4, "Oil separators required," is repealed.

~~(i)~~(n) Section 1101.3, "Prohibited drainage," is repealed and reenacted to read:

No rain, surface, or subsurface water shall be connected to or discharged into any drainage system, unless first approved by the ~~Administrative Authority~~code official.

~~(j)~~(o) Section 1106.1, "General," is repealed and reenacted to read:

1106.1 General. The size of the vertical conductors and leaders, building storm drains, building storm sewers, and any horizontal branches of such drains or sewers shall be based on the 100-year hourly rainfall rate of 2.5 inches per hour or other approved local weather data.

~~(k)~~(p) Chapter 13, "Gray Water Recycling Systems," is deleted in its entirety.

~~Appendix C, Section C101, last sentence of exception is repealed and reenacted to read:~~

~~Such systems that may impact public health in commercial and multiple residence projects shall be designed as required by the Boulder County Health Department.~~

~~(l)~~(q) Table E103.3(2), "Load Values Assigned to Fixtures," is amended by the addition of a new sentence to read:

For the purpose of determining the largest instantaneous demand required in order to size a water meter, or for determining the amount of the plant investment fee, this table is repealed and replaced by the Fixture Unit/GPM Demand Chart and PIF Computation Sheet found at Appendix A to Chapter 11-1, "Water Utility," B.R.C. 1981.

~~(m)~~(r) Table E103.3(3), "Table for Estimating Demand," is amended by the addition of a new sentence to read:

For the purpose of determining the largest instantaneous demand required in order to size a water meter, or for determining the amount of the plant investment fee, this table is repealed and replaced by the Fixture Unit/GPM Demand Equations and PIF Computation Sheets found at Appendix A to Chapter 11-1, "Water Utility," B.R.C. 1981.

Section 12. Section 4-20-47, "Zoning Adjustment Filing Fees," B.R.C. 1981, is amended to read:

4-20-47. Zoning Adjustment and Building Appeals Filing Fees.

(a) The fee for filing an appeal to or requesting a variance from the board of zoning adjustment under subsection 9-9-21(s) or section 10-3-9, "Temporary License Appeals," 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," 10-5-2, "Adoption of International Building Code With Modifications," 10-6-2, "Adoption of the National Electrical Code With Modifications," 10-8.5-2, "Adoption of the International Wildland-Urban Interface Code with Modifications," 10-9-2, "Adoption of the International Mechanical Code With Modifications," 10-9.5-2, "Adoption of the International Fuel Gas Code with Modifications," 10-10-2, "Adoption of the International Plumbing Code With Modifications," or 10-12-24, "Appeals and Variances," B.R.C. 1981, is $106~~.00~~, except that the fee for an emergency appeal is $210~~.00~~.

(b) The fee for requesting a variance from the board of zoning adjustment under subsection 9-9-21(s), B.R.C. 1981, is $550~~.00~~.

(c) The fee for requesting a setback variance or for a variance for parking spaces in front yard setbacks from the board of zoning adjustment under section 9-2-3, "Variances and Interpretations," B.R.C. 1981, is $550~~.00~~.

(d) The fee for filing an appeal to the board of zoning adjustment under section 10-12-24, "Appeals and Variances," B.R.C. 1981, is $550~~.00~~.

Section 13. Section 2-3-4, Board of Building Appeals, B.R.C. 1981, is amended to read:

2-3-4. Board of Building Appeals.

(a) The City of Boulder Board of Building Appeals consists of the five members of the Board of Zoning Adjustment, who shall sit as the Board of Building Appeals.

(b) The chief city building official and the city fire chief shall be advisory members of the board without vote. The city manager shall be secretary of the board.

(c) In addition to any other duties the council may prescribe, the responsibility of the board is to hear appeals by any person as provided in section 9-9-21, "Signs," chapters 10-2, "Property Maintenance Code," 10-5, "Building Code," 10-6, "Electrical Code," 10-7, "Energy Conservation ~~and Insulation~~ Code," 10-8, "Fire ~~Prevention~~ Code," 10-8.5, "Wildland Code," 10-9, "Mechanical Code," 10-10, "Plumbing Code," and 10-12, "Mobile Homes," B.R.C. 1981.

Section 14. The City Council orders and directs the city manager to make any additional citation and reference changes not included in this ordinance that are necessary to properly implement the adoption of 2012 editions of the International Codes and the adoption of the 2011 edition of the National Electrical Code and all related local amendments.

Section 15. This ordinance shall become effective thirty days after its final passage by City Council. It shall be applied to building permit applications submitted after the effective date. Building permits applied for before the effective date shall be considered under the program in effect at the time of application.

Section 16. 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 17. 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____ 2013.

. _____

Mayor

Attest:

_____

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____ 2013.

. _____

Mayor

Attest:

_____

City Clerk

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ATTACHMENT B: Summary of Proposed Building Codes Local Amendments

2012 International Building Code (IBC) Amendments

Proposed amendments include:

- The definition for 'existing structures' has been changed to include 'that all structures and associated systems are maintained in proper operating conditions.' This change was made to ensure that not only the structure, but also the operating system maintenance, is included in existing buildings for code compliance.
- The existing 90-day time limit of a permit application extension request was amended to allow two consecutive 180-day extensions. The requests will be submitted in writing prior to the expiration date of the permit and justifiable cause must be demonstrated.
- A section has been added requiring a financial guarantee for grading permits in steep slope areas, or in preparation for deep cuts prior to the construction of a building. The financial guarantee shall be in place to allow the city to use the funds to abate any unsafe or incomplete excavation/grading conditions if work on a site lapses for six months or more and the permit expires.

2012 International Residential Code (IRC) Amendments

Proposed amendments include:

- Revising the definition of 'new dwelling unit' to include any addition to a residential structure greater than 200 percent of the floor area of the existing structure. This creates a condition that encourages full code compliance in large additions.
- Storage rooms or spaces have been defined to more specifically to designate any area that is shown as a storage area on the approved drawings and may have to meet specific criteria. This will include criteria such as light and ventilation, minimum dimensions, emergency egress and other life safety requirements.
- Clarified the minimum width and height requirements for egress doors.
- Residential Fire sprinklers have been added to the IRC and are now required in all residential dwelling units. The City of Boulder has been requiring fire sprinklers in residential town homes and homes with limited access throughout the city, but will now require all residential dwellings to install and maintain a fire sprinkler system. The effective date for the proposed fire sprinkler requirement is Sept. 1, 2014.

2012 International Fire Code (IFC) Amendments

Proposed amendments include:

- Updating the 'Abatement of Violation' section to allow the fire code official to take appropriate action to restrain, abate, or prevent a violation or illegal occupancy of a structure and/or premises.

- The open burning and recreational fires provisions have been more specifically regulated to disallow any burning outside of an exterior fireplace built in accordance with the City of Boulder Building Code, or listed and approved fuel gas appliance.
- Photo voltaic (PV) arrays installed on the roofs of Group R-3 one and two family dwellings must be located so they create a minimum 3-foot clearance between the PV array and roof ridge. This requirement is necessary so fire fighters have an unobstructed area in which to cut ventilation openings. Low slope roofs 2:12 or less are exempt from this requirement. In some PV applications, this requirement may be restrictive enough to render the application cost prohibitive. The ordinance allows for flexibility for potential administrative remedies on a case-by-case basis.

2012 International Wild land Urban Interface Zone (IWUIC) Amendments

The IWUIC is new to the family of codes currently proposed for adoption by the city. The purpose of the IWUIC is to protect public health and safety by regulating the use, condition, construction, alteration, repair and maintenance of buildings, structures and premises within the wild land-urban interface areas within the city. The IWUIC is needed in order to mitigate the fire risk from wild land fire exposures and to prevent structure fires from spreading to wild land fuels.

The Fire Department, along with the Building Inspection team, will be working hand in hand to enforce the requirements of this code.

2012 International Mechanical Code (IMC) Amendments

Proposed amendments include:

- Amendments to the IMC are minimal and no significant changes have been made to the currently adopted code.

2012 International Plumbing Code (IPC) Amendments

Proposed amendments include:

- Roof extensions for vent terminations has been updated to more specifically note that all roofs used for weather protection shall have vent extensions a minimum of six inches above the finished roof. If the roof is used for anything other than weather protection, the extension shall be a minimum of seven feet.
- Chapter 13 “Gray Water Recycling” has been deleted in its entirety.

2012 International Fuel Gas Code (IFGC) Amendments

Proposed amendments include:

- Amendments to the IFGC are minimal and no significant changes have been made to the currently adopted code.

2012 International Property Maintenance Code (IPMC) Amendments

Proposed amendments include:

- Procedures for 'administrative procedures and remedies for code violations' have been updated to include civil penalties for a first, second, and third violations.
- Notice and Order service methods have been updated to ensure that orders are served to responsible adults under the right circumstances. The language within the ordinance provides specific criteria related to who constitutes as a responsible adult and under what circumstances orders can be served.
- The means of appeal have been updated to more clearly explain that a hearing officer may be appointed to hear the appeal if the city manager determines, due to the nature of the issues in a particular appeal, to appoint such an officer.

2011 National Electric Code (NEC) amendments

Proposed amendments include:

- A definition for 'dried in,' a term used in the construction industry to describe when a structure has enough weather protection to insure that the wiring is protected from getting moisture in it, has been added to aid in the requirement for all structures to be dried in prior to electrical work being done. Previously no such definition existed.
- Reference to the IFC for solar photovoltaic system installation has been added to coordinate the requirements of both documents. These requirements are specific to the location, placement, and accessibility of the area around solar photovoltaic systems to ensure that fire fighters can access roofs for venting in case of a fire.

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: Aug. 20, 2013

AGENDA TITLE: Introduction, first reading, and consideration of a motion to order published, by title only, an ordinance amending floodplain regulations in order to clarify existing regulations and to protect critical facilities and lodging facilities in the 100- and 500-year floodplains, including Chapter 9-3 "Overlay Districts," Subsection 9-6-1(d) "Use Table," and Section 9-16-1 "Definitions" B.R.C. 1981.

PRESENTER/S

Jane S. Brautigam, City Manager
Paul Fetherston, Deputy City Manager
Maureen Rait, Executive Director of Public Works
Jeff Arthur, Director of Public Works for Utilities
Bob Harberg, Principal Engineer–Utilities
Scott Kuhna, Acting Public Works Development Review Manager
Annie Noble, Flood and Greenways Engineering Coordinator
Katie Knapp, Utilities Project Manager

EXECUTIVE SUMMARY

As a component of the city's comprehensive floodplain management program, a Critical Facilities and Lodging Facilities Ordinance (Attachment A) is being proposed to help protect critical infrastructure and the people most vulnerable to flood hazards, including the elderly, children, and visitors who may not be aware of local flood risks.

The proposed ordinance would regulate two categories of facilities within the 500-year floodplain: critical facilities and lodging facilities.

> ***Critical facilities*** provide essential services, serve at-risk populations or contain hazardous materials. Critical facilities would be required to develop emergency plans and implement flood protection measures when constructing new facilities or undergoing significant renovations. Emergency plans include either an evacuation plan or a shelter-

in-place plan. Flood protection measures include elevating a structure above the flood protection elevation or floodproofing the structure.

Lodging facilities provide temporary accommodations and include hotels, motels, dormitories, bed and breakfasts, and overnight shelters. These facilities would be required to develop emergency plans.

The proposed ordinance also provides clarification of the flood protection requirements for mixed-use structures and lodging facilities within the 100-year floodplain. Under the proposed revisions, mixed-use structures and lodging facilities must be elevated or floodproofed to the flood protection elevation, with all lodging units and residential units elevated above the flood protection elevation.

STAFF RECOMMENDATION

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

> Motion to order published, by title only, an ordinance amending floodplain regulations under Chapter 9-3 "Overlay Districts," Subsection 9-6-1(d) "Use Table," and Section 9-16-1 "Definitions" B.R.C. 1981 as proposed in Attachment A.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – Protecting critical facilities from being damaged during a flood will allow essential services, and the community as a whole, to more quickly recover and return to pre-flood business operations faster.

  The proposed ordinance requires flood protection measures for critical facilities and the development of emergency plans for both critical facilities and lodging facilities. Most flood protection measures will be implemented in association with facility expansions or modifications. Existing buildings would be allowed to remain in operation in their current state, as long as they do not contain significant amounts of hazardous materials, but would be required to develop emergency management plans within 5 years. If a facility is expanding or undergoing a significant modification, then additional flood protection measures would be required for the existing structure. Under this scenario, the cost of compliance will represent an incremental increase in planned permitting and construction costs.

  An "Analysis of Economic Impacts" that was completed to determine the associated costs for affected facilities is presented on the Critical Facilities and Lodging Facilities Ordinance Web page. Costs to develop emergency plans will vary depending on the type of facility and whether or not the plan includes an evacuation plan or a shelter-in-place plan.

  Emergency plans that include an evacuation plan are estimated to cost approximately $3,000. Emergency plans that include a shelter-in-place plan will also require a structural analysis to

ensure that the building can withstand the force of floodwaters. Shelter-in-place plans are estimated to cost approximately $13,000. It is expected that most facilities will complete evacuation plans. However, shelter-in-place plans could be a better option for facilities within flood-protected buildings or with populations that cannot evacuate quickly.

Flood protection measures are anticipated to cost $12 per square foot or less for most critical facilities. Flood protection measures typically include either raising the lowest floor elevation of a structure or installing floodproofing measures that allow the structure to resist the force of floodwaters. Costs for raising the floor elevation of buildings are expected to range between $1.20 per square foot and $10 per square foot. Costs for installing floodproofing measures range between $4.50 per square foot and $85 per square foot.

- **Environmental –** The city's guiding principles for floodplain management include using a non-structural approach to flood mitigation and seeking to accommodate floods, not control them. Focusing efforts on life safety and protecting critical uses, instead of structural containment of floodwaters, helps preserve natural riparian areas and floodplain functions. Requiring measures to prevent the release of hazardous materials into floodwaters will also reduce the environmental contamination often associated with floods.

- **Social** – Incorporating flood protection measures at critical facilities will help maintain essential services. Requiring critical and lodging facilities to develop emergency plans will better prepare these facilities for a flood emergency and allow them to respond faster. This will help protect the most vulnerable populations from being harmed from a flood.

OTHER IMPACTS

- **Fiscal** – Many of the City of Boulder's buildings and infrastructure are included in the list of critical facilities because they provide essential services to the community. This includes:

    - public safety facilities such as police stations, fire and rescue stations, and emergency operations centers;
    - public utility facilities;
    - essential government facilities, including where permanent records are stored, courts, jails, building permitting and inspection services, divisions that manage utilities and transportation systems, the Information Technology Department, Finance Department, City Manager's Office, and maintenance and equipment centers.

  The proposed ordinance would not require modifications to existing structures, but new facilities and facilities undergoing expansions or significant renovation work would need to incorporate flood protection measures if they are located within the 500-year floodplain and are not already protected from floods. Many of the city's existing facilities are already within the 100-year floodplain, have emergency plans, and are subject to the city's current floodplain regulations; therefore, these existing facilities will not be greatly impacted by the proposed ordinance.

  If the Critical Facilities and Lodging Facilities Ordinance is adopted:

- the Facilities and Asset Management Master Plan will be updated to include the essential service facilities definition;
- future facility improvements will incorporate the requirements of the ordinance; and
- the provisions of the ordinance will be incorporated into the Boulder Civic Area Plan, as applicable.

The majority of the Civic Area is within the 100-year floodplain and is already subject to the city's existing floodplain regulations.

- **Staff time** – The time associated with implementing the ordinance and permit requirements will be covered by existing staff or engineering consultants. The 2013 work plan for the flood management program has prioritized staff time for the work leading up to the implementation of this ordinance. Fees consistent with existing 100-year floodplain development permits have already been adopted for the cost recovery of the staff time or consultant costs associated with the implementation of these requirements.

BOARD AND COMMISSION FEEDBACK

The Water Resources Advisory Board (WRAB) voted 4-0 to recommend approval of the ordinance at the Mar. 18, 2013 meeting. The Planning Board voted 6-1 to recommend approval of the ordinance at the Apr. 18, 2013 meeting. The dissenting Planning Board member agreed with the concept of the ordinance, but felt uncomfortable recommending approval because there were still outstanding questions. The Planning Board provided the following feedback:

- develop emergency plan guidelines;
- consider allowing other professionals to develop emergency plans in addition to engineers and architects;
- reduce the emergency plan compliance window from 10 years to 5 years;
- require that emergency plans be periodically reviewed and updated to reflect current conditions;
- update the Boulder Revised Code's Use Table to indicate the critical and lodging facilities requirements;
- clarify the posting requirements for emergency evacuation routes or sheltering locations; and
- review the ordinance periodically and, in the future, consider prohibiting new critical uses in the 500-year floodplain.

The ordinance was revised in response to Planning Board's comments. Staff agrees with the Planning Board recommendation that the ordinance should be reviewed periodically to verify that it is accomplishing the desired goals and intends to include a review of the ordinance in future work plans. There was no public feedback at the WRAB and Planning Board meetings.

PUBLIC FEEDBACK

The draft Critical Facilities and Lodging Facilities Ordinance has been developed through a multi-year public process that began in 2010. Impacted facility managers were notified of the proposed ordinance and invited to attend a project open house and public hearings to provide feedback. In addition, numerous stakeholders were engaged as follows:

- a presentation to the Boulder Chamber Community Affairs Council in October 2010;
- a February 2011 spot on Channel 8's "Controversy and Consensus" show;
- a project Web page detailing the ordinance information and meeting dates;
- email updates to interested members of the public;
- articles in the Boulder Daily Camera;
- an October 2012 presentation to the Planning and Development Services Advisors Group;
- a November 2012 presentation to the Boulder Hotel and Motel Association;
- meetings with representatives of the Regional Transportation District, Boulder Community Hospital, Corden Pharma, Boulder County, Boulder Valley School District, and the University of Colorado; and
- emails, letters, and phone calls to private schools, nursing homes, and day cares.

The feedback received to date has focused on understanding which facilities are included, what the new requirements are, and what the compliance triggers are. Facility managers have generally been supportive of the proposed ordinance; they recognize the importance of protecting critical facilities and think that the proposed regulations are reasonable. The Boulder Community Hospital has incorporated the draft provisions of the ordinance into their recent expansion of the Foothills Hospital facility.

In response to outreach efforts to private schools, nursing homes and day cares, a few day care owners have indicated an interest in attending a workshop to learn more about emergency management plans and how best to prepare for a flash flood event. One day care owner expressed concern that the proposed requirements would duplicate the State of Colorado day care licensing requirements and thinks that the current emergency plans approved by the state are sufficient. The State of Colorado has the following requirement for licensed day care facilities:

> "The center must have a written emergency procedure that explains, at a minimum, how the center will be evacuated in case of fire or other disaster requiring evacuation, how to function during a tornado alert, and the reporting of reportable communicable illnesses to the local health department pursuant to regulations of the State Department of Public Health and Environment."

The state licensing requirement does not specifically address emergency preparation for flash floods. Flash flood alerts and evacuation procedures are much different from fire alarms and fire evacuations. Therefore, staff is recommending that the emergency plan requirements for day cares remain in the proposed ordinance.

BACKGROUND

Recent and historical flood events across the globe have demonstrated that flooding of critical facilities (such as fire stations, hospitals and wastewater treatment facilities) disrupts needed services, increases costs and delays economic recovery. These situations have also highlighted the vulnerability of certain populations, including the sick, elderly and children, who pose unique challenges for safe evacuation or shelter-in-place care. Out-of-town visitors are also of special concern because they are likely unaware of the local flash flood risks and therefore are less prepared to react quickly during a flood emergency.

Additional protection standards for critical facilities have been discussed for more than a decade by city officials, advisory boards and City Council. The ideas and intentions behind the Critical Facilities and Lodging Facilities Ordinance have been articulated in several city planning documents, including the Comprehensive Flood and Stormwater Master Plan, the Multi-hazard Mitigation Plan, and the Boulder Valley Comprehensive Plan (BVCP). More specifically, the BVCP states in Section 3.23–Larger Flooding Events:

> "The city recognizes that floods larger than the 100-year event will occur resulting in greater risks and flood damage that will affect even improvements constructed with standard flood protection measures. The city will seek to better understand the impact of larger flood events and consider necessary floodplain management strategies including the protection of critical facilities."

A draft Critical Facilities Ordinance was presented to City Council at a May 29, 2012 flood study session. The council expressed overall support for continuing development of the ordinance and concerns about the following items:

- financial impacts to nonprofits and small businesses;
- conflicts between height restrictions and elevation requirements; and
- the ordinance was not structured to clearly reflect the impacted uses.

Based on City Council's feedback, staff made the following modifications to the ordinance.

- Impacts to nonprofits and small businesses were reduced by removing restaurants, theaters, and all assembly group uses (previously defined as Mobile Population Facilities) from the ordinance. The subset of Mobile Population Facilities still included in the ordinance has been renamed and now makes up the "Lodging Facilities" category. This subset was kept in the ordinance because staff deemed it was important to include emergency plans for people sheltering in overnight lodging facilities who may be unaware of Boulder's flash flood risk.

- Potential conflicts between height restrictions and elevation requirements are avoided by allowing floodproofing for all facilities inside the 500-year floodplain but outside the 100-year floodplain. Floodproofing is a series of modifications to a structure that make it more watertight in order to reduce or eliminate water infiltration and damage. Floodproofing does not require the elevation of buildings or additions. Without this amendment, residential facilities would have been required to provide flood protection through building elevations or additions. In some instances, this elevation could have caused a building or addition to exceed the city's height restrictions, which could have required a reduction in the proposed number of floors.

- The ordinance has been rewritten to more clearly reflect the impacted uses. In addition to clarifications added to Chapter 9-3, notes have been added to Table 6-1: Use Table in Chapter 9-6 to put potentially impacted uses on notice regarding these new regulations.

ANALYSIS

The risk of flash flooding is an important issue for the City of Boulder, primarily due to its location at the mouth of Boulder Canyon and other canyon creeks. The city is affected by 15 drainageways and associated floodplains. A map of the 500- and 100-year floodplains is included as Attachment B. Canyon creek flash floods happen quickly, with minimal warning time, creating a significant risk to life safety and property damage. The proposed ordinance would regulate two categories of facilities within the 500-year floodplain: critical facilities and lodging facilities. Critical facilities include those providing essential services, serving at-risk populations and containing hazardous materials. Examples of critical facilities and lodging facilities are listed below:

Critical Facilities

- Essential services such as police and fire stations, hospitals, and water and wastewater treatment facilities.
- At-risk populations such as nursing homes, schools, and day cares where parents or guardians are not present onsite.
- Hazardous materials facilities with significant amounts of dangerous substances.

Lodging Facilities

Examples include hotels, motels, dormitories, bed and breakfasts, emergency shelters, overnight shelters and hostels.

Critical facilities would be required to develop emergency plans and implement flood protection measures. Flood protection measures include elevating a structure above the flood protection elevation or floodproofing the structure. Lodging facilities would be required to develop emergency plans. Emergency plans will detail evacuation routes to locations outside of the 500-year floodplain or methods of sheltering-in-place. Shelter-in-place plans will be required to include a structural analysis to ensure the building can withstand the force of floodwaters.

Under existing city floodplain regulations, all facilities in the 100-year floodplain currently need to be elevated or floodproofed to two feet above the 100-year flood elevation. Under the proposed regulations, critical facilities in the 500-year floodplain would need to be elevated or floodproofed to one foot above the 500-year flood elevation. Within the 500-year floodplain, outside the 100-year floodplain, critical facilities would be required to meet the less restrictive of these requirements. There are no existing requirements for emergency plans in the 500- or 100-year floodplains.

Impacted Facilities

Under the proposed ordinance, approximately 80 critical and lodging facilities (31 public facilities) will be required to develop emergency plans. Of those 80 facilities, approximately 33 critical facilities (14 public facilities) are within the 500-year floodplain and would be subject to new flood protection requirements. A list of impacted facilities is included as Attachment C.

The State of Colorado does not require flood protection for critical facilities in the 500-year floodplain for its agencies such as the University of Colorado. The State of Colorado will have discretion on the enforcement of the proposed ordinance for those facilities, but staff will work with facility mangers to seek voluntary compliance. Federal government agencies are required

to either avoid building in the 500-year floodplain or protect federal facilities to the 500-year water surface level.

The tables below summarize the proposed ordinance requirements:

Emergency Plan Requirements in the 500- and 100-year Floodplains

Facility Type	Strategy	Compliance Triggers
• Essential service • At-risk population • Hazardous material • Lodging	Emergency Plan, including a shelter-in-place or evacuation plan	New uses, development requiring a floodplain permit, or compliance within five years

Flood Protection Requirements in the 500-year Floodplain

Facility Type	Protection Method	Compliance Triggers
• Essential service • At-risk population	Floodproof[4] or elevate	New uses, new buildings, additions, substantial improvements[1] or substantial modifications[2]
• Hazardous material	Floodproof or elevate or contain chemicals[3]	New uses, new buildings, additions, substantial improvements[1], substantial modifications[2] or compliance within 10 years

1. "Substantial improvements" are improvements that equal or exceed 50 percent of the building's value.
2. "Substantial modifications" are expansions that equal or exceed 50 percent of the building's floor area.
3. "Contain chemicals" means securing hazardous materials in a manner that will prevent their release during a flood.
4. Floodproofing of residential structures is not allowed in the 100-year floodplain.

Mixed-Use Structures

The proposed ordinance also provides clarification of the flood protection requirements for mixed-use structures and lodging facilities within the 100-year floodplain. Under the current regulations, there is no definition for "mixed-use structures" and hotels and motels are included in the definition of residential structures. Within the 100-year floodplain, residential structures are required to be elevated to the flood protection elevation and floodproofing is not allowed. The Federal Emergency Management Agency (FEMA) definition of "Non-residential Structure" includes hotels and motels, and FEMA allows these types of structures to be floodproofed and does not require that they be elevated.

The current City of Boulder definition for "Residential structure" was adopted by Ordinance 5199, on June 27, 1989. A definition for "Nonresidential structure" was also introduced in the ordinance as part of major regulatory revisions to emphasize life safety with adoption of the local high-hazard zone and a requirement that floodproofing require no human intervention. The current definitions are as follows:

"'Residential structure' means any structure or any portion of a structure that is used for, or designed as and capable of being used for, the temporary or permanent domicile of persons, including, without limitation, a dwelling, a boarding house, a hotel, a motel, and similarly used structures. (Floodplain)"

"'Nonresidential structure' means any structure or any portion of a structure used exclusively for, or designed as and capable of being used for, office, commercial, industrial, or governmental occupation. (Floodplain)"

The 1989 definitions were developed to protect public safety while maintaining flexibility for future floodplain development. The definitions were intended to ensure that residential applications involving sleeping occupants (such as hotel guest rooms) are elevated and allow non-residential uses in the same structure to be floodproofed. The definitions were intended to provide for mixed-use structures with the added wording "or any portion of a structure" to provide for the combined and separate management for each use. Applications for mixed-use structures are now common in Boulder.

A city council memorandum dated May 11, 1989 (Attachment D) explains the background for the definitions and regulatory application. At least two hotel developments with floodproofed underground parking have been approved under the current regulations, including the Village Marriott at 2660 Canyon Blvd. and the St. Julien Hotel at 9th Street and Canyon Boulevard, as well as several mixed-use projects, such as One Boulder Plaza. These projects included floodproofed underground parking; ground-level, non-residential uses; and elevated residential uses.

The existing regulations are unclear concerning floodproofed underground parking for hotel or mixed-use structures and what constitutes a mixed-use structure. In order to clarify the elevation and floodproofing requirements for hotel structures and mixed-use structures, the proposed ordinance would revise the current definitions for "Residential structure" and "Nonresidential structure," and introduce a new definition for "Mixed-use structure" as follows:

"'Residential structure' means any structure that is used for, or designed as and capable of being used for, the temporary or permanent domicile of persons for periods of six months or more, including, without limitation, a dwelling, a boarding house, a dormitory, a fraternity, a bed and breakfast, and similarly used structures. (Floodplain)"

"'Nonresidential structure' means any structure used exclusively for, or designed as and capable of being used for, office, commercial, industrial, or governmental occupation, or the temporary lodging of persons for periods of less than six months including hotels, motels, emergency shelters, and overnight shelters but excluding dormitories, fraternities, and bed and breakfasts. (Floodplain)"

"'Mixed-use structure' means any structure with both residential uses and nonresidential uses where no less than twenty-five percent of the finished floor area contains nonresidential uses. (Floodplain)"

Under the proposed revisions, hotels and mixed-use structures must be elevated or floodproofed to the flood protection elevation, with all residential units and lodging units elevated above the flood protection elevation. This is consistent with FEMA requirements and the intent of the previous revisions to the floodplain regulations.

Ordinance Effective Date
Staff recommends an effective date of Jan. 1, 2014 to allow time to develop the application processes and continue to explore additional methods to reduce emergency plan development costs for businesses and nonprofits. Some options being considered include grant assistance funding for small businesses and nonprofits or completing multiple emergency plans at one time to get better unit costs.

Summary of Revisions
In response to City Council's feedback in May 2012, Planning Board's feedback in April 2013, and feedback from Planning and Development Services staff, the following amendments have been made to the ordinance.

- Restaurants, theaters, and all assembly group uses have been removed from the ordinance requirements.
- Flexibility in flood protection methods was expanded by allowing structural floodproofing of residential facilities inside the 500-year floodplain but outside the 100-year floodplain, in addition to structural elevation.
- In addition to professional engineers, Certified Facility Managers are authorized to develop emergency plans and architects are no longer authorized to develop emergency plans, as development of emergency plans is outside of the practice of architecture for which professional architects are licensed under state law.
- The emergency plan compliance window was reduced from 10 years to 5 years.
- A requirement to annually review and update emergency plans was added.
- The Boulder Revised Code's Use Table was amended to include the critical and lodging facilities requirements.
- Requirements for posting evacuation routes and sheltering-in-place information were further clarified.
- A clarification for the application of flood protection measures to mixed-use structures and lodging facilities within the 100-year floodplain was added.

Based on Planning Board's feedback and concern over costs, an emergency plan guideline that details evacuation and shelter-in-place plan requirements is being developed. The guidelines are intended to convey the required elements of an emergency plan, streamline the development process, and reduce costs. Additional efforts are being made to reduce the cost of developing emergency plans for small businesses including providing grant assistance funding.

NEXT STEPS
Pending City Council's feedback, the ordinance's second reading and a public hearing are scheduled for Sept. 17, 2013.

ATTACHMENTS

Attachment A: Critical Facilities and Lodging Facilities Ordinance
Attachment B: 500- and 100-year Floodplain Map
Attachment C: List of Existing Critical Facilities and Lodging Facilities
Attachment D: City Council Memorandum dated May 11, 1989

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ORDINANCE NO. _____

AN ORDINANCE AMENDING FLOODPLAIN REGULATIONS IN ORDER TO CLARIFY EXISTING REGULATIONS AND TO PROTECT CRITICAL FACILITIES AND LODGING FACILITIES IN THE ONE HUNDRED-YEAR AND FIVE HUNDRED-YEAR FLOODPLAINS, INCLUDING CHAPTER 9-3, "OVERLAY DISTRICTS," SUBSECTION 9-6-1(d), "USE TABLE," AND SECTION 9-16-1, "GENERAL DEFINITIONS," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-3-2, B.R.C. 1981, is amended as follows:

9-3-2 Floodplains.

(a) Legislative Intent: The purpose of this ~~section~~ chapter is to regulate certain areas of the city subject to flooding in order to protect the public health, safety, and welfare by:

(1) Restricting or prohibiting certain uses that are hazardous to life or property in time of flood;

(2) Restricting the location of structures intended for human occupancy and regulating the manner in which such structures may be built in order to minimize danger to human life within and around such structures;

(3) Requiring that those structures allowed in the floodplain be expanded or enlarged, and equipment and fixtures be installed or replaced, in a manner designed to prevent their being washed away and to assure their protection from severe damage;

(4) Regulating the method of construction and replacement of water supply and sanitation systems in order to prevent disease, contamination, and unsanitary conditions;

(5) Maintaining for public inspection available maps delineating areas subject to such provisions in order to protect individuals from purchasing or using lands for purposes that are not suitable;

(6) Protecting and preserving the water-carrying and water-retention characteristics and capacities of watercourses used for conveying and retaining floodwaters; and

(7) Obtaining and maintaining the benefits to the community of participating in the National Flood Insurance Program.

(b) Flooding May Occur: The degree of flood protection provided by the terms of this ~~section~~ chapter has been determined to be reasonable for regulatory purposes. Floods of greater magnitude will occur, and flood heights may be increased as a result of natural or human-made causes. The provisions of this ~~section~~ chapter do not imply that areas outside of the floodplain or land uses permitted within the floodplain are free from flooding, flood hazard, or flood damages. A grant or approval by the city under the requirements of this ~~section~~ chapter does not constitute a representation, guarantee, or warranty of any kind or nature by the city or any city official or employee of the practicability or safety of any structure or proposed use, and it creates no liability to or cause of action against the city or any city official or employee for any damages from flood or otherwise that may result from such structure or use.

(c) Scope and Application:

(1) The requirements of this ~~section~~ chapter supplement those imposed on the same lands by any underlying zoning provisions of this code or other ordinance of the city. If there is a conflict between such requirements, the more restrictive controls.

(2) If a lot or parcel of land lies partly within the high hazard zone, ~~or~~ the conveyance zone, the one hundred-year floodplain, or the five hundred-year floodplain~~flood fringe area~~, the part(s) of such lot or parcel lying within such area or areas shall meet all the standards and requirements of such respective area as prescribed by this ~~section~~chapter. ~~For the purposes of new construction, i~~If any portion of a structure lies partly within the high hazard zone, ~~or~~ the conveyance zone, the one hundred-year floodplain, or the five hundred-year floodplain~~flood fringe area~~, all the standards and requirements of ~~this section~~ such respective area(s) as prescribed by this chapter shall apply to the entire structure unless stated otherwise.

(3) If lands located outside the city limits are included within the five hundred-year floodplain, the one hundred-year floodplain~~flood fringe~~, the conveyance zone, or the high hazard zone, the requirements of this ~~section~~chapter shall apply to such lands upon annexation.

(d) Administration: The city manager shall administer the requirements of this ~~section~~chapter and shall:

(1) Determine that the requirements of this ~~section~~chapter have been met before issuing any permit for development in the floodplain;

(2) Obtain and maintain for public inspection any certificates of floodproofing required by this ~~section~~chapter, and any information on the elevation (in relation to mean sea level) of the ~~level of the~~ lowest floor (including basement) of all new or substantially improved structures, and information specifying whether ~~or not~~ such structures contain a basement, and, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed;

(3) Notify Boulder County and the Colorado Water Conservation Board before permitting any change in a watercourse and submit evidence of such notice to FEMA;

(4) Adopt rules interpreting and implementing the requirements of this ~~section~~chapter, including~~,~~ without limitation, application procedures for floodplain development permits~~,~~; ~~and~~ specifications for the floodproofing of structures, substantial improvements, and utilities~~,~~; and specifications for the content of and application procedures for emergency management plans;

(5) Assure that the Boulder Valley Comprehensive Plan is consistent with the floodplain management objectives of this ~~section~~ chapter and the regulations of FEMA;

(6) Make necessary interpretations of the exact location of the boundaries of the floodplain, the five hundred-year floodplain, the one hundred-year floodplain~~flood fringe~~, the conveyance zone,, and the high hazard zone;

(7) Amend the boundaries of the high hazard zone and the conveyance zone pursuant to subsection (f) of this section;

(8) Determine that all necessary permits have been obtained from state, federal, or local agencies the approval of which is required before issuing any permit for development in the floodplain;

(9) Require that persons changing a watercourse maintain the watercourse so that its flood carrying capacity is not diminished;

(10) Require that new and replacement water supply systems in the floodplain be designed to minimize or eliminate infiltration of floodwaters into the systems;

(11) Require that new and replacement sanitary sewage systems within the floodplain be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(12) Require that on-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding; and

(13) Obtain, review, and reasonably utilize any ~~base~~ flood elevation and floodway data available from federal, state, and other sources, including data developed pursuant to ~~c~~Chapter 9-12, "Subdivision," B.R.C. 1981, as criteria for requiring that all new development meet the requirements of this ~~section~~chapter.

(e) Appeals: Any person contesting the city manager's interpretation of a boundary location under paragraph (d)(6) of this section, or any person aggrieved by the granting or denial of a floodplain development permit, may appeal such determination to the planning board through the process described in S~~s~~ection 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. The request shall set forth the reason and basis for the appeal and such other information as the manager may prescribe by rule.

(f) Map Amendments: As watercourse or flood channel improvements or mapping corrections are made, the city manager may amend the flood regulatory area maps to recognize the changed conditions produced by such improvements or corrections, provided that no such amendments or corrections may change a FEMA "area of special flood hazard" or

"regulatory floodway" unless the City is in receipt of a letter of map amendment or a letter of map revision issued by FEMA.

(g) Flood Regulatory Areas:

(1) The provisions of this ~~section~~ chapter apply to the area shown as floodplain on the most recent maps adopted by the city council, as amended from time to time by the city manager pursuant to subsections (d), (e), and (f) of this section. The regulatory floodplain encompasses the five hundred-year floodplain, the one hundred-year floodplain, ~~the flood fringe,~~ the conveyance zone, and the high hazard zone. The following regulations governing each portion of the floodplain are cumulative and not exclusive.

(2) In addition to the regulatory areas identified in paragraph (g)(1) of this section, the City has adopted the areas of special flood hazard identified in the Flood Insurance Study for Boulder County, effective December 18, 2012, and delineated on the Flood Insurance Rate Map for Boulder County and the City of Boulder as adopted by the City in compliance with 44 C.F.R. chapter 1. In no event will the regulations contained in this ~~section~~ chapter be interpreted to permit any action not permitted under those regulations promulgated by FEMA for the regulation of areas of special flood hazard and regulatory floodways.

(h) Floodproofing: Whenever this chapter requires floodproofing a building or structure or a portion thereof, the following standards shall be met:

(1) Such building or structure or portion thereof shall be floodproofed in accordance with any rules adopted by the city manager for floodproofing and with current state and federal laws and regulations governing floodproofing;

(2) Such building or structure or portion thereof shall be floodproofed to the flood protection elevation in such a manner that the building or structure is watertight with walls substantially impermeable to the passage of water and in a manner requiring no human intervention;

(3) Such building or structure or portion thereof shall have structural components capable of resisting projected hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(4) Such floodproofing shall be certified by a Colorado registered professional engineer or registered architect to comply with this paragraph. Such certifications shall be provided to the city manager as set forth in Paragraph 9-3-2(d)(2), B.R.C. 1981.

(i) Standards for Critical Facilities and Lodging Facilities in the Five Hundred-Year Floodplain:

(1) Floodplain Development Permit: In the five hundred-year floodplain, no person shall construct or establish a new critical facility or make any development to a structure housing an existing critical facility prior to issuance of a floodplain development permit pursuant to Section 9-3-6, “Floodplain Development Permits,” B.R.C. 1981,

unless the activity is exempt under Subsection 9-3-6(a), "Activities Exempt from Floodplain Development Permit Requirement," B.R.C. 1981.

(2) Requirements Apply to Entire Building: If any portion of a structure housing a critical facility or lodging facility lies partially within the five hundred-year floodplain, the requirements of this section shall apply to that entire ~~critical facility or lodging facility~~structure.

(3) Emergency Management Plans:

(A) Emergency Management Plan Required: No owner or operator of a critical facility or lodging facility in the five hundred-year floodplain shall fail to develop and have approved an emergency management plan meeting the requirements of this subsection prior to issuance of any floodplain development permit for any development requiring a floodplain development permit but no later than January 1, 2019, or five years after the effective date of a map change that placed the facility into the five hundred-year floodplain, if that date is later than January 1, 2019,

(B) Floodplain Development Permit: To obtain the required approval of an emergency management plan, an owner or operator of a critical facility or lodging facility in the five hundred-year floodplain shall file an application for floodplain development permit pursuant to Section 9-3-6, Floodplain Development Permits, B.R.C. 1981.

(C) Purpose: The purpose of the emergency management plan requirements set forth in this section is:

(i) To protect the health, safety, and welfare of the public and of employees, visitors, residents, guests, contractors, and others at risk from hazards at the facility;

(ii) To minimize interruptions or disruptions of operations of critical facilities;

(iii) To protect buildings, physical assets, and electronic information; and

(iv) To prevent environmental contamination.

(D) Emergency Management Plan Requirements: With the exception of requirements the city manager finds inapplicable to a particular facility, all emergency management plans shall contain, without limitation:

(i) An assessment by a Colorado registered professional engineer or an International Facility Management Association Certified Facilities Manager of the risks to persons at the facility and others at risk from hazards at the facility, to the facility itself, its physical assets, and its operation, and to the environment during flood events;

(ii) An assessment of the resources needed for responding to the risk of flood events and for continuing business operations and for communicating during and after an incident;

(iii) A plan for obtaining and maintaining the resources identified as needed in subsection (i)(3)(C)(ii) above;

(iv) A plan to protect employees, visitors, residents, guests, contractors, and others at risk from hazards at the facility during flood events. Such plan shall include an evacuation plan or a shelter in place plan, unless both are necessary to protect the health, safety and welfare of the persons at risk at the facility.

a. Evacuation plans shall be certified by a Colorado registered professional engineer or an International Facility Management Association Certified Facilities Manager and shall provide a means for safely evacuating occupants to a location outside of the five hundred-year floodplain or to an approved shelter in place location.

b. Shelter--in--place plans shall be certified by a Colorado registered professional engineer, shall demonstrate that the structure will be safe to occupy during a five hundred-year flood event, and shall designate a safe shelter--in--place location within the building and safe routes to such location.

(v) A system and strategies to communicate with employees, customers, residents, guests, contractors, and others at risk at the facility during a flood event:

(vi) Strategies to minimize and quickly overcome any disruption or interruption of operations of the facility during a flood event;

(vii) An incident management system that defines responsibilities and coordinates activities before, during, and after a flood event;

(viii) A program to train persons with defined roles in the management plan to do their assigned tasks and to train all employees and other regular occupants of the facility so they can take appropriate protective actions during a flood event; and

(ix) Any other strategies, techniques, systems, programs, or plans the city manager determines are necessary to serve the health, safety, and welfare of the public and any persons at or near the facility.

(E) —Posting of Evaluation Routes and Routes to Shelter--In--Place Locations: The approved evacuation routes and routes to shelter--in--place locations shall be posted on the inside of each doorway leading to a separate unit in a lodging facility and be displayed in a prominent location or a location designed to

provide information to persons within the critical facility that is approved by the city manager.

(F) Implementation of Emergency Management Plans: No owner or operator of a critical facility or lodging facility in the five hundred-year floodplain shall fail to implement and to annually review and update, if necessary, an approved emergency management plan and shall make the plan available to the city manager for review upon request.

(4) Construction Requirements for Critical Facilities in the Five Hundred-Year Floodplain. The following standards apply to critical facilities located in the five hundred-year floodplain:

(A) No owner or operator of a critical facility shall construct, modify, or establish, or cause to be constructed, modified, or established a critical facility within the five hundred-year floodplain except in compliance with the requirements of this subsection.

(B) Any person making an expansion or an enlargement to a structure housing an existing at-risk population facility or essential service facility shall floodproof or elevate the lowest floor, including the basement, of the expanded or enlarged portion to or above the flood protection elevation.

(C) Any person making a substantial modification or a substantial improvement to a structure housing an existing at-risk population facility or essential service facility shall floodproof or elevate the lowest floor, including the basement, of the substantially modified or improved portion to or above the flood protection elevation and shall floodproof or elevate the remainder of the existing structure to or above the flood protection elevation.

(D) Any person constructing or establishing a new at-risk population facility or essential service facility shall floodproof or elevate the lowest floor, including the basement, to or above the flood protection elevation.

(E) Any person constructing or establishing a new hazardous material facility shall secure all hazardous materials from flooding and from being released during a five hundred-year flood event or shall floodproof the facility. Any person making a substantial modification or a substantial improvement to a structure housing an existing hazardous material shall secure the hazardous materials from flooding or otherwise being released during a five hundred-year flood event. The owner or operator shall demonstrate compliance with this standard by providing a certification from a Colorado registered professional engineer that documents that hazardous material will not be released at or from the facility during a five hundred-year flood event.

(F) No person owning, operating, or otherwise using a hazardous material facility shall fail to, or fail to, cause to secure all hazardous materials from flooding and from being released during five hundred-year flood events or to

floodproof the facility before January 2024 or five years after the effective date of a map change that placed the facility into the five hundred-year floodplain, whichever date is later.

(G) Whenever any construction, modification, improvement or other activity related to a critical facility triggers any floodproofing or elevation requirements of this subsection (4), the construction standards described in Subsections (a)(3), "Construction Materials and Methods," (a)(4), "Utilities," (a)(18), "Enclosures," and (a)(19), "Below Grade Crawl Space Construction," of Section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, shall also be complied with.

(H) Existing Uses: The use of any land or structure that was lawful before the application of this subsection (i)(4), Construction Requirements for Critical Facilities in the Five Hundred-Year Floodplain, or any amendment thereto but that does not conform to the requirements of this subsection may be continued subject to the requirements of this subsection. If such a use not conforming to the requirements of this subsection is discontinued for twelve consecutive months, no person shall use the land or structure thereafter unless such use conforms to the requirements of this subsection.

(5) Exemption for Critical Facilities Protected by Levee System: Critical facilities protected by a levee system within the five hundred-year floodplain are exempt from the requirements of subsection (i)(4) of this section 9-3-2, provided that the following requirements are satisfied:

(A) The owner or operator of a new or existing critical facility located landward of a levee system~~,~~ outside of the one hundred-year floodplain, but within the five hundred-year floodplain, demonstrates that the levee system provides protection against a five hundred-year flood event by:

(i) meeting the riverine levee design criteria of 44 C.F.R. § 65.10, as amended from time to time, except that the minimum riverine levee freeboard shall be one foot above the water surface elevation of a five hundred-year flood, rather than three; and

(ii) providing an operating and maintenance manual for the levee that incorporates all operating and maintenance requirements of 44 C.F.R. § 65.10 and Rule 10 of the Colorado Rules and Regulations for Regulatory Floodplains in Colorado (2 C.C.R. 408-1:10, Criteria for Determining Effects of Levees on Regulatory Floodplains), as amended from time to time, to ensure continuing proper function of the structure.

(B) The owner or operator of a new or existing critical facility located landward of an accredited levee or a provisionally accredited levee within areas mapped Zone X (shaded) shall demonstrate that the levee system meets the riverine

levee design, operation, and maintenance criteria of 44 C.F.R. § 65.10 and Rule 10 of the Colorado Rules and Regulations for Regulatory Floodplains in Colorado (2 C.C.R. 408-1:10, Criteria for Determining Effects of Levees on Regulatory Floodplains).

(C) If the levee is owned by a person other than the owner or operator of the critical facility, the owner or operator, respectively, must demonstrate that a fully executed agreement exists between the levee owner and the owner or operator of the critical facility ensuring that the requirements of subsections 9-3-2(i)(5)(A) or (B) and (F) for continued operation and maintenance of the levee system will be met.

(D) The exemptions under this subsection (i)(5) for critical facilities located landward of an levee system were approved by the city manager through the issuance of a floodplain development permit pursuant to Subsection 9-3-6, "Floodplain Development Permits," B.R.C. 1981, after finding that all requirements of this subsection (i)(5) have been met~~,~~.

(E) If a levee system protecting an existing critical facility in the five hundred-year floodplain fails to meet the freeboard requirement of subsection (i)(5)(A) of this section solely because FEMA revises a FIRM, maintenance and use of that critical facility may occur for two years after the revision before having to meet the requirements of subsections (i)(3) and (i)(4) of this section.

(F) No person shall fail to construct, operate, or maintain or fail to cause the construction, operation, or maintenance of a levee system protecting a critical facility and approved by the city manager in a floodplain development permit as an exemption to the requirements of subsections (i)(3) and (i)(4) of this section in accordance with a design and an operating and maintenance manual meeting the requirements of this subsection (i)(5).

(6) As the one hundred-year floodplain, conveyance zone, and high hazard zone are all located within of the five hundred-year floodplain, the requirements of this subsection 9-3-2(i), "Standards for Critical Facilities and Lodging Facilities in the Five Hundred-Year Floodplain," also apply to critical facilities and lodging facilities in the one hundred-year floodplain, conveyance zone, and high hazard zone unless stricter requirements apply in the one hundred-year floodplain, conveyance zone, or high hazard zone, as applicable.

Section 2. Section 9-3-3, B.R.C. 1981, is amended as follows:

9-3-3 Regulations Governing the One Hundred-Year Floodplain.

(a) General Provisions: In the ~~entire~~ one hundred-year floodplain, the following standards apply:

(1) Floodplain Development Permit: Except as specified ~~in paragraph (a)(1)(A)~~Subsection 9-3-6(a), "Activities Exempt from Floodplain Development Permit Requirement," B.R.C. 1981, no development in the one hundred-year floodplain may occur prior to the issuance of a floodplain development permit pursuant to section 9-3-6, "Floodplain Development Permits," B.R.C. 1981.

~~(A) Activities exempt from a floodplain development permit: The following activities are allowed within the flood regulatory area and do not require a floodplain development permit:~~

~~(i) "Maintenance" as defined in chapter 9-16 "Definitions" that does not constitute a substantial improvement and does not affect the efficiency or capacity of the conveyance zone or high hazard zone.~~

~~(ii) Sidewalks, concrete, asphalt or stone flatwork that does not result in the establishment or expansion of parking area and does not modify existing grade by more than six inches.~~

~~(iii) Underground utilities that do not modify existing grade.~~

~~(iv) Poles, lines, cables, sign posts, landscaping and artwork that do not affect the efficiency or capacity of the conveyance zone or high hazard zone.~~

~~(v) Temporary facilities that are not permanently attached to the ground such as tents, traffic control devices and lawn furniture provided that they will not affect the efficiency or capacity of the conveyance zone or high hazard zone, or they will remain in place for no more than thirty days.~~

(2) Anchoring:

(A) All new construction and substantial improvements or substantial modifications shall be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads.

(B) All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties connecting to permanent ground anchors, in addition to any anchoring requirements for resisting wind forces and any tie-down requirements of chapter 10-12, "Mobile Homes," B.R.C. 1981. Requirements shall include, without limitation, the following:

(i) Over-the-top ties shall be provided at each of the four corners of the manufactured homes. For manufactured homes fifty feet or longer, two additional ties per side are required at intermediate locations. For manufactured homes less than fifty feet long, one additional tie per side is required;

(ii) Frame ties shall be provided at each of the four corners of the manufactured homes. For manufactured homes fifty feet or longer, five

additional ties per side are required at intermediate points. For manufactured homes less than fifty feet long, four additional ties per side are required;

(iii) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred pounds; and

(iv) Any additions to manufactured homes shall be similarly anchored.

(3) Construction Materials and Methods:

(A) All new construction, substantial improvements, and substantial modifications shall be constructed with materials and utility equipment resistant to flood damage as outlined in the most current FEMA Technical Document on~~2-93,~~ Flood-Resistant Materials Requirements.

(B) All new construction, substantial improvements, and substantial modifications shall be constructed using methods and practices that minimize flood damage.

(C) All new construction, substantial improvements and substantial modifications shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located (by elevating or floodproofing the components) so as to prevent water from entering or accumulating within the components during flooding conditions.

(4) Utilities:

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

(B) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

(C) On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.

(5) Subdivision Proposals:

(A) All subdivision proposals shall demonstrate efforts to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development.

(E) No subdivision proposal shall create a lot which is unbuildable pursuant to this section.

(6) Floodproofing: Whenever this section requires a building or structure to be floodproofed, the ~~following~~ standards in Subsection 9-3-2(h), "Floodproofing," B.R.C. 1981, shall be met.~~:~~

~~(A) Such building or structure shall be floodproofed in accordance with any rules for floodproofing promulgated by the city manager pursuant to chapter 1-4, "Rulemaking," B.R.C. 1981, and with current FEMA National Flood Insurance Program (NFIP) Technical Bulletins;~~

~~(B) Such building or structure shall be floodproofed to the flood protection elevation in such a manner that the building or structure is watertight with walls substantially impermeable to the passage of water and in a manner requiring no human intervention;~~

~~(C) Such building or structure shall have structural components capable of resisting projected hydrostatic and hydrodynamic loads and the effects of buoyancy; and~~

~~(D) Such floodproofing shall be certified by a Colorado registered professional engineer or registered architect to comply with this paragraph. Such certifications shall be provided to the city manager as set forth in paragraph 9-3-2(d)(2), B.R.C. 1981.~~

(7) Hazardous ~~Materials~~Substances: No person shall store a hazardous substance at or below the flood protection elevation for the area of the floodplain in which it is located, except for the storage of ~~gasoline~~ fuel in existing and replacement underground tanks in existing ~~gasoline~~ fueling service stations and service garages, which tanks are designed to prevent infiltration and discharge into floodwaters and which are adequately anchored and shielded against rupture. For purposes of this paragraph, "existing" means in place and in use on January 1, 1989.

(8) Automobile Parking: Notwithstanding other provisions of this title, no person shall establish an area for automobile parking in any portion of the floodplain where flood depths exceed eighteen inches.

(9) Flood Warning System: No owner of a hotel, a motel, a dormitory, a rooming house, a hostel, a school, a bed and breakfast, a daycare center, a group home, or a residential or congregate care facility located in the Boulder Creek one hundred-year floodplain shall fail to provide a flood warning system approved by the city manager that is connected to a point of central communication in the building with twenty-four-hour monitoring. No such person shall fail to maintain such a flood warning system.

(10) Rental Property: No owner of property that is located in a one hundred-year floodplain and subject to a city rental license under chapter 10-3, "Rental Licenses," B.R.C. 1981, shall fail to post on the exterior of the premises at the entrance a sign approved by the city manager stating that the property is subject to flood hazard and containing such further information and posted at such other locations inside the building as the city manager may require.

(11) Manufactured Housing: All manufactured homes placed in the City after July 1, 1989, and all manufactured homes which are substantially improved or substantially modified shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is at or above the flood protection elevation and is securely

anchored to an adequately anchored foundation system, and shall meet the anchorage and tie-down requirements of paragraph (a)(2) of this section.

(12) Recreational Vehicles: In order to reduce debris and hazard potential, recreational vehicles shall either: a) be in the one hundred-year floodplain for fewer than one hundred eighty consecutive days, b) be fully licensed and ready for highway use, or c) meet the permit requirements and elevation and anchoring requirements for manufactured homes.

(13) Structure Orientation: In order to minimize the obstruction to flow caused by buildings, to the extent consistent with other city policies regarding solar access, new structures shall be placed with their longitudinal axes parallel to the predicted direction of flow of floodwaters or be placed so that their longitudinal axes are on lines parallel to those of adjoining structures.

(14) Existing Uses: The use of any land or structure that was lawful before the application of this section or any amendment thereto but that does not conform to the requirements of this section may be continued subject to the requirements of this section. If such a use not conforming to the requirements of this section is discontinued for twelve consecutive months, no person shall use the land or structure thereafter unless such use conforms to the requirements of this section.

(15) New Uses: All uses allowed by the underlying zoning district may be established, subject to the requirements of this section, except for the outdoor or uncontained storage of moveable objects below the flood protection elevation.

(16) Existing Structures: Any structure in existence before the enactment of this section or any amendment thereto that does not conform to the requirements of this section may remain or may undergo rehabilitation subject to the requirements of this section. Further, any such structure may be otherwise improved as follows:

(A) Any person making an expansion or an enlargement to an existing residential structure shall elevate the lowest floor, including the basement, of the expanded or enlarged portion to or above the flood protection elevation.

(B) Any person making an expansion or an enlargement to an existing nonresidential structure shall floodproof or elevate the lowest floor, including the basement, of the expanded or enlarged portion to or above the flood protection elevation except that any lodging units within the expanded or enlarged portion of such structure shall be elevated to or above the flood protection elevation.

(C) Any person making an expansion or an enlargement to an existing mixed-use structure shall floodproof or elevate the lowest floor, including the basement, of the expanded or enlarged portion to or above the flood protection elevation and shall elevate the residential lodging units within the expanded or enlarged portion to or above the flood protection elevation.

(D) Any person making a substantial modification or a substantial improvement to any existing nonresidential structure shall floodproof or elevate the lowest floor, including the basement, of the ~~substantially modified or improved portion~~entire

structure to or above the flood protection elevation~~ and shall floodproof the remainder of the existing structure~~ except that any lodging units within the expanded or enlarged portion of such structure shall be elevated to or above the flood protection elevation.

(~~D~~E) Any person making a substantial modification or a substantial improvement to any existing residential structure shall elevate the lowest floor, including the basement, of the entire residential structure to or above the flood protection elevation.

(F) Any person making a substantial modification or a substantial improvement to an existing mixed-use structure shall floodproof or elevate the lowest floor, including the basement, of the entire structure and shall elevate all residential and lodging units within the structure to or above the flood protection elevation.

(17) New Structures: Construction of new structures shall meet the following requirements:

(A) Any person constructing a new residential structure shall elevate the lowest floor, including the basement, to or above the flood protection elevation;

(B) Any person constructing a new mixed-use structure shall floodproof or elevate the lowest floor, including the basement, of the entire structure and shall elevate all residential and lodging units within the structure to or above the flood protection elevation;

(C) Any person constructing a new nonresidential structure shall elevate all lodging units within the structure to or above the flood protection elevation and shall floodproof in a manner requiring no human intervention or elevate the lowest floor, including the basement, to or above the flood protection elevation with the following exceptions:

(i) Open air carwashes;

(ii) Unheated pavilions;

(iii) Unfinished or flood resistant building entryways or access areas;

(iv) Garden storage sheds;

(v) Sidewalks, paving, or asphalt, concrete, or stone flatwork;

(vi) Fences; and

(vii) Poles, lines, cables, or other transmission or distribution facilities of public utilities.

(~~C~~D) Any person constructing a new structure on a property removed from the one hundred-year floodplain through a FEMA Letter of Map Revision Based on Fill (LOMR-F) shall protect the lowest floor, including the basement, to or above the flood protection elevation that existed before placement of fill, as follows:

(i) Residential structures: by elevating the structure; or

(ii) Nonresidential structures: by elevating or floodproofing the structure.

Solely for the purposes of this subparagraph (a)(17)(C), previously designated floodplain areas that have been removed from the one hundred-year floodplain through a LOMR-F shall be considered to be within the floodplain. No person shall construct a new structure subject to this subparagraph (a)(17)(C) prior to the issuance of a floodplain development permit pursuant to Ssection 9-3-6, "Floodplain Development Permits," B.R.C. 1981.

(18) Enclosures: Enclosures below the lowest floor that are unfinished or flood resistant, usable solely for parking of vehicles, crawl spaces, building access or storage, in an area that is not a basement, and that are not floodproofed as set forth in this section shall meet the following requirements:

(A) Compliance with the provisions of paragraphs (a)(2), (a)(3), and (a)(4) of this section; and

(B) Design and construction that automatically equalizes hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(i) Designs for meeting this requirement shall meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(ii) Any designs not in conformance with subparagraph (a)(18)(B)(i) above, shall be certified by a registered professional engineer or licensed architect and shall conform with the most current FEMA Technical Bulletin on~~1-93,~~ Openings in Foundation Walls.

(C) Fully enclosed areas below the lowest floor subject to this provision include the following:

(i) Residential garages placed at or above grade;

(ii) Enclosures or vestibules that are attached to structures and that are utilized for storage or entryways;

(iii) Crawl spaces; and

(iv) Outdoor pavilions and patio enclosures with removable walls not located in the high hazard zone.

(19) Below Grade Crawl Space Construction: New construction, expansion or enlargement, substantial improvement and substantial modification of any below grade crawl space shall meet the following requirements:

(A) Interior grade elevation that is below the base flood elevation shall be no lower than two feet below the lowest adjacent grade;

(B) The height of the below grade crawl space measured from the interior grade of the crawl space to the top of the foundation wall shall not exceed four feet at any point;

(C) Adequate drainage systems shall allow floodwaters to drain from the interior area of the crawl space following a flood; and

(D) The provisions of paragraphs (a)(2), (a)(3), (a)(4) and (a)(18) of this section shall be complied with.

(20) Critical Facilities and Lodging Facilities: The requirements of Subsection 9-3-2(i), "Standards for Critical Facilities and Lodging Facilities in the Five Hundred-Year Floodplain," B.R.C. 1981, apply to critical facilities and lodging facilities in the one hundred-year floodplain. Where a conflict exist between the requirements of this section and the provision of Subsection 9-3-2(i), B.R.C. 1981, the most restrictive requirements apply.

Section 3. Section 9-3-4, B.R.C. 1981, is amended as follows:

9-3-4 Regulations Governing the Conveyance Zone.

In the conveyance zone, the following standards apply:

(a) The provisions of section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981.

(b) The provisions of section 9-3-5, "Regulations Governing the High Hazard Zone," B.R.C. 1981, if the land is also located in the high hazard zone.

(c) All uses allowed under the provisions of section 9-3-3, "Regulations Governing the Floodplain," B.R.C. 1981, if they are not prohibited by the underlying zoning district or any ordinance of this City, may be established except that no person shall establish or change any use that results in any rise in the elevation of the one hundred-year flood.

(d) All structures allowed under section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, may be established except that no person shall:

(1) Place any structure in the conveyance zone that will result in any rise in the elevation of the one hundred-year flood; or

(2) Place any obstruction in the conveyance zone, except a device reasonably necessary for flood management if the device is designed and constructed to minimize the potential hazards to life and property.

(e) No person shall carry out any other development that results in any rise in the elevation of the one hundred-year flood.

(f) Localized rises within flood channels or on a specific parcel that is being developed are permissible if there is no adverse impact on nearby properties and there is no increase in the average water surface elevations along the cross sections of the floodplain.

(g) Localized rises on land owned or controlled by a government or government subdivision or agency, or within public drainage or flood control easements, are permissible if the following requirements have been satisfied:

(1) The applicant has necessary property interests or permission to use land to allow the increase in any water sur-face elevation or there is no adverse impact to such land;

(2) There are no insurable structures under the FEMA National Flood Insurance Program affected by the localized rise;

(3) The applicant minimizes the amount of the localized rise in a flood elevation; and

(4) The applicant complies with all necessary FEMA requirements, including, without limitation, obtaining a Condi-tional Letter of Map Revision (CLOMR) prior to development and a Letter of Map Revision (LOMR) upon completion of a project causing a localized rise in flood elevation.

Section 4. Section 9-3-5, B.R.C. 1981, is amended as follows:

9-3-5 Regulations Governing the High Hazard Zone.

In the high hazard zone of the floodplain, the following standards apply:

(a) The provisions of section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981.

(b) The provisions of section 9-3-4, "Regulations Governing the Conveyance Zone," B.R.C. 1981, if the land is also located in the conveyance zone.

(c) All uses allowed under the provisions of section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, if they are not prohibited by the underlying zoning district or any other ordinance of the City, may be established, except that no person shall:

(1) Change the use of an existing structure intended for human occupancy from a nonresidential use to a residential use or use as a school, daycare center, group home, residential care facility, or congregate care facility.

(2) Establish any new parking lot for motor vehicles.

(3) Establish any campground.

(d) All structures allowed under the provisions of S~~s~~ection 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, may be established, except that no person shall:

(1) Construct or place any new structure intended for human occupancy.

(2) Expand, enlarge, or make a substantial modification or substantial improvement to any existing structure intended for human occupancy. Notwithstanding this provision, a person may reconstruct a non-flood-damaged structure or portion thereof, which otherwise does constitute a substantial improvement, under the provisions of Ssubparagraphs 9-3-3(a)(16)(C) and (a)(16)(D), B.R.C. 1981.

(e) Unconditioned, unenclosed building elements such as balconies, awnings and roof overhangs may extend up to four feet into the high hazard zone if completely located above the flood protection elevation and the remainder of the structure complies with this chapter.

Section 5. Section 9-3-6, B.R.C. 1981, is amended as follows:

9-3-6 Floodplain Development Permits.

(a) Activities Exempt from Floodplain Development Permit Requirement: The following activities are allowed within the one hundred-year floodplain and in the five hundred-year floodplain and do not require a floodplain development permit:

(i) "Maintenance" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, that does not affect the efficiency or capacity of the conveyance zone or high hazard zone.

(ii) Sidewalks, concrete, asphalt or stone flatwork that does not result in the establishment or expansion of parking area and does not modify existing grade by more than six inches.

(iii) Underground utilities that do not modify existing grade.

(iv) Poles, lines, cables, sign posts, landscaping and artwork that do not affect the efficiency or capacity of the conveyance zone or high hazard zone.

(v) Temporary facilities that are not permanently attached to the ground such as tents, traffic control devices and lawn furniture provided that they will not affect the efficiency or capacity of the conveyance zone or high hazard zone, or they will remain in place for no more than thirty days.

(b) An applicant for a floodplain development permit shall pay the fee prescribed by Ssection 4-20-44, "Floodplain Development Permits and Flood Control Variance Fees," B.R.C. 1981, and shall complete an application form provided by the city manager that shall include, without limitation, the following:

(1) The written consent of the owners of all property subject to the development request;

(2) A written statement addressing the criteria for approval;

(3) Information on the location of hazardous material and how it will be secured to prevent its release during a five hundred-year flood event, if the floodplain development permit application is for a critical facility which will contain hazardous

material~~A surface view plan showing elevations and contours of the ground; pertinent structures, fill, and storage elevations; sizes, locations, and spatial arrangements of all proposed, anticipated, and existing structures on the site; location and elevations of streets, water supplies and sanitary facilities; and soil types~~; ~~and~~

(4) A copy of the emergency management plan, if the floodplain development permit application is for a critical facility or lodging facility; and~~Specifications for building construction and materials, filling, dredging, grading, channel improvements and changes, storage of materials, water supply, and sanitary facilities.~~

(5) A written statement by a Colorado registered professional engineer certifying that the proposed levee design and operating and maintenance manual meet the requirements of Subsection 9-3-2(i)(5), "Exemption for Critical Facilities Protected by Levee System," B.R.C. 1981, if the flood development permit application is for a critical facility or lodging facility for which an exemption is sought under Subsection 9-3-2(i)(5).

(~~b~~c) The manager may require the applicant to furnish additional information and details deemed necessary to evaluate the effects of the proposed construction upon the floodplain or to determine whether the requirements of this chapter have been met, including, without limitation:

(1) A surface view plan showing elevations and contours of the ground; pertinent structures, fill, and storage elevations; sizes, locations, and spatial arrangements of all proposed, anticipated, and existing structures on the site; location and elevations of streets, water supplies, and sanitary facilities; and soil types;

(2) Specifications for building construction and materials, filling, dredging, grading, channel improvements and changes, storage of materials, water supply, and sanitary facilities~~.~~;

(3) Valley cross sections showing the floodplain surrounding the watercourse, cross sections of the area to be occupied by the proposed development, ~~and~~ one hundred-year flood maximum water surface elevation information, and, for critical facilities and lodging facilities, five hundred-year flood maximum water surface elevation information;

(~~2~~4) A profile showing the slope of the bottom of the channel or thalweg of the watercourse;

(~~3~~5) A floodplain analysis by a Colorado registered professional engineer of the flood profile, elevation, and velocity, using methodology acceptable to FEMA, including existing and anticipated uses and making a determination that the proposed construction or development will not cause a rise in the elevation of the water surface of a one hundred-year flood; and

(~~4~~6) A structural analysis by a Colorado registered professional engineer showing that any proposed structures will be adequately designed and constructed to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and scouring.

(~~c~~d) When reviewing an application for a permit, the city manager shall determine which portion or portions of the floodplain are affected by the particular development request and shall then apply the provisions of S~~s~~ections 9-3-2, “Floodplains,” 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," 9-3-4, "Regulations Governing the Conveyance Zone," and 9-3-5, "Regulations Governing the High Hazard Zone," B.R.C. 1981, as applicable. The manager also shall determine whether the application meets the intent of this chapter prescribed by S~~s~~ubsection 9-3-2(a), B.R.C. 1981, after considering the following factors:

(1) The effects upon the efficiency or capacity of the conveyance zone and high hazard zone;

(2) The effects upon lands upstream, downstream, and in the immediate vicinity;

(3) The effects upon the one hundred-year flood profile;

(4) The effects upon any tributaries to the main stream, drainage ditches, and any other drainage facilities or systems;

(5) Whether additional public expenditures for flood protection or prevention will be required;

(6) Whether the proposed use is for human occupancy;

(7) The potential danger to persons upstream, downstream, and in the immediate vicinity;

(8) Whether any proposed changes in a watercourse will have an adverse environmental effect on the watercourse, including, without limitation, stream banks and streamside trees and vegetation;

(9) Whether any proposed water supply and sanitation systems and other utility systems can prevent disease, contamination, and unsanitary or hazardous conditions during a flood;

(10) Whether any proposed facility and its contents will be susceptible to flood damage and the effect of such damage;

(11) The relationship of the proposed development to the Boulder Valley Comprehensive Plan and any applicable floodplain management programs;

(12) Whether safe access is available to the property in times of flood for ordinary and emergency vehicles;

(13) Whether the applicant will provide flood warning systems to notify floodplain occupants of impending floods;

(14) Whether the cumulative effect of the proposed development with other existing and anticipated uses will increase flood heights; and

(15) Whether the expected heights, velocities, duration, rate of rise, and sediment transport of the floodwaters expected at the site will adversely affect the development or surrounding property.

(~~d~~e) If the city manager determines that the applicant meets the purposes and requirements of this chapter, the manager shall issue the permit and may attach such conditions as deemed necessary to further the purposes of this chapter.

(~~e~~f) ~~A~~ Every permit issued on or after April 7, 1985, shall become invalid ~~expires three years after its date of issuance, if the permittee has not commenced construction under the permit.~~ if the work authorized by such permit is not completed and approved by the city manager within three years from the date such permit was issued. Upon receipt of a request in writing that demonstrates justifiable cause and is received prior to expiration of the permit, the city manager may grant in writing one or more extensions of time for periods not more than 180 days each. As part of an approval of extension of a permit, the city manager may impose additional conditions on the applicant in order to ensure compliance with any amendments to this chapter or the floodplain mapping effective after the date of the original permit approval. ~~The term "commenced construction" shall mean the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation; but does not include land preparation, grading and filling, or installation of streets or sidewalks.~~

(~~f~~g) No person who has obtained a permit shall fail to construct in accordance with their approved application and design.

(~~g~~h) Floodplain development permits that allow for development in the conveyance zone or the high hazard zone, or which will involve a change of watercourse, shall be decided by the city manager. The decision of the city manager shall be subject to call-up by the planning board, or appeal by any aggrieved party to the planning board, subject to the call-up and appeal procedure of S~~s~~ection 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(i~~h~~) A floodplain development permit for any of the following items is effective upon the date of its issuance:

(1) Sidewalks, parking lots, or other concrete, asphalt, or stone flatwork that do not modify existing grade;

(2) Uninhabited overhead structural projections, no portion of which extends below the flood protection elevation; or

(3) Rehabilitation of an existing structure in accordance with the definitions in ~~c~~Chapter 9-16, "Definitions," B.R.C. 1981. In addition, for properties in the high hazard zone, the rehabilitation shall not result in a prohibited change in use as set forth in S~~s~~ubsection 9-3-5(c), B.R.C. 1981.

(j~~i~~) No person shall initiate any use after obtaining a permit under this section without first submitting to the city manager a certification by a Colorado registered professional engineer that the development has been completed in compliance with the approved permit application and that all conditions have been fulfilled.

(~~j~~k) At least once every three years, the owner or operator of a critical facility protected by a levee for which the city manager approved an exemption under Paragraph 9-3-2(i)(5), "Exemption for Critical Facilities Protected by Levee System," B.R.C. 1981, in a floodplain development permit, shall file with the city manager a written certification from a Colorado registered professional engineer that the levee meets the minimum freeboard requirements set forth in Subsection 9-3-2(i)(5) and that the levee appears, on visual inspection, to be structurally sound and adequately maintained. The city manager may require the owner or operator to submit such certification more frequently than once every three years if warranted by recent flood conditions or circumstances that may lead to changes in the levee system at the critical facility. The permit expires if the certification required pursuant to this subsection is not filed with the city manager. Once a floodplain development permit has been issued granting an exemption under Paragraph 9-3-2(i)(5), "Exemption for Critical Facilities Protected by Levee System," B.R.C. 1981, for a critical facility protected by a levee system, future development on the land protected by the levee system that does not in any way affect the levee system or its operation and maintenance shall not require a floodplain development permit so long as the requirements of this subsection (k) and Paragraph 9-3-2(i)(5), B.R.C. 1981, are met.

Section 6. Section 9-3-7, B.R.C. 1981, is amended as follows:

9-3-7 Variances.

(a) ~~A person wishing to expand or enlarge an existing structure that does not conform to the requirements of this chapter and cannot be made to conform without unreasonable expense or unreasonable impact on the existing structure may apply to the city manager for a variance from the requirements of subparagraphs 9-3-3(a)(16)(C) and (a)(16)(D)~~The city manager may grant a variance from the requirements of Subsection 9-3-2(i) and Sections~~,~~ 9-3-3, 9-3-4, and 9-3-5, B.R.C. 1981, except that no variance shall be granted for expansion or enlargement of any structure constructed after July 12, 1978, unless such expansion or enlargement conforms to the flood protection elevation requirement in effect at the time of the original construction.

(b) The city manager shall not grant a variance under this section unless the manager determines that:

(1) Considering the flood hazard, the variance is the minimum necessary to afford relief;

(2) To do so would not result in additional threats to public safety, extraordinary public expense, nuisance, fraud, victimization of the public, or for variances in the conveyance zone a rise in the elevation of the water surface of a one hundred-year flood, or be in conflict with existing provisions of this code, ~~or~~ any ordinance of the City, or any other applicable laws; and

(3) Failure to grant the variance would result in exceptional hardship to the applicant, except that a hardship need not be shown for a variance sought to the requirements of Paragraph (i)(4) of 9-3-2, B.R.C. 1981, for a~~n~~ public essential services facility in the five hundred-year floodplain if the applicant demonstrates to the satisfaction of the city manager that the facility is an element of a redundant system for which services will not be interrupted during a flood. At a minimum, the applicant shall demonstrate that one or more redundant facilities are available, either owned by the same public entity or available through an intergovernmental agreement or other contract, and are connected~~,~~; that the alternative facilities are either located outside of the five hundred-year floodplain or are compliant with the requirements of this chapter~~,~~; and that an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the city manager by the owner or operator of the facility upon request by the city manager.

(c) The manager shall examine the following factors in determining whether or not to grant a variance under this section:

(1) The danger to life and property due to flooding or erosion damage;

(2) The likelihood that the proposed development, in conjunction with existing and anticipated development, may increase flood hazards;

(3) The relationship of the proposed development to the Boulder Valley Comprehensive Plan and any applicable floodplain management programs; and

(4) The cost and ability of providing essential services such as maintaining and protecting public utility systems, roads, and bridges and of restoring normal operations for the community during and after floods.

(d) The city manager shall not grant a cumulative total of variances that increases a structure's floor area by more than ten percent of the structure throughout the life of the structure.

(e) An applicant for a variance shall apply on forms provided by the city manager and pay the fee prescribed by S~~s~~ection 4-20-44, "Floodplain Development Permits and Flood Control Variance Fees," B.R.C. 1981, unless a floodplain development permit is required as well, in which case no fee is required for the variance.

(f) Any decision by the city manager to approve a variance is subject to call-up by the planning board or appeal by any aggrieved party to the planning board as described by S~~s~~ection 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(g) When granting any variance that allows for construction below FEMA's one hundred-year flood protection elevation, the city manager shall provide to the recipient of the variance written notice that the proposed construction does not conform with FEMA guidelines and that the proposed construction and the original structure may be subject to increased flood insurance premiums.

Section 7. Table 6-1: USE TABLE of Subsection 9-6-1(d), B.R.C. is amended as follows:

9-6-1 Schedule of Permitted Land Uses

…

(d) Use Table:

TABLE 6-1: USE TABLE

Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Specific Use Standard
Residential Uses																												
Detached dwelling units	A	A	A	A	C	A	A	*	*	A	U	U	A	A	A	A	*	A	A	A	A	*	U	U	*	U	U	9-8-4
Detached dwelling unit with two kitchens	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(c)
Duplexes	*	A	A	A	C	A	A	*	*	A	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4
Attached dwellings	*	A	A	A	C	A	A	C	*	A	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4
Mobile home parks	*	U	U	*	U	U	*	*	A	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Townhouses	*	A	A	A	C	A	A	A	*	A	A	A	A	A	A	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4
Live-work	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	*	*	*	*	*	U	U	U	A	*	*	
Cooperative housing units	C	C	C	C	C	C	C	*	*	C	C	C	*	*	*	*	*	*	*	*	*	*	U	U	*	*	*	9-6-3(b)
Efficiency living units:																												
A. If <20% of total units	*	*	*	*	U	A	A	*	*	M	A	A	A	A	G	A	*	A	A	A	A	G	U	U	N	U	*	
B. If ≥20% of total units	*	*	*	*	*	U	A	*	*	U	A	A	U	U	U	U	*	U	U	U	U	U	U	U	U	U	*	
Accessory units:																												
A. Accessory dwelling unit	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(a)
B. Owner's accessory unit	C	*	*	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)
C. Limited accessory unit	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)
Caretaker dwelling unit	*	*	*	*	*	*	*	*	*	**	*	*	*	*	*	*	*	*	*	*	A	A	A	A	A	A		
Group quarters:																												
A. Congregate care facilities	*	*	~~A~~C	~~C~~A	~~C~~A	~~A~~C	~~A~~C	~~A~~C	*	~~A~~C	~~A~~C	~~A~~C	C	~~A~~C	C	~~A~~C	*	~~A~~C	C	C	C	*	U	U	*	U	*	9-6-3(f) 9-3-2(i)

B. Custodial care	*	*	U	U	U	U	U	U	*	U	U	U	*	U	*	U	*	U	*	U	U	*	U	U	*	*	*	
C. Group homes	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	C	*	C	C	C	C	*	*	*	*	*	*	9-6-3(d) 9-3-2(i)
D. Residential care facilities	*	*	C	C	C	C	C	C	*	C	C	C	C	C	C	C	*	C	C	C	C	*	U	U	*	*	*	9-6-3(f) 9-3-2(i)
E. Fraternities, sororities, and dormitories	*	*	*	*	*	~~A~~C	~~A~~C	*	*	U	*	*	*	~~A~~C	G	~~A~~C	*	~~A~~C	*	*	~~A~~C	*	U	U	*	*	*	9-3-2(i)
F. Boarding houses	*	*	U	U	A	A	A	*	*	U	A	A	G	A	G	A	*	A	*	*	A	*	U	U	*	*	*	
Home occupation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	C	C	C	C	9-6-3(e)
Transitional housing	C	C	C	C	C	C	C	C	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-6-3(h)
Dining and Entertainment																												
Art or craft studio space ≤2,000 square feet	*	U	U	U	U	U	U	U	*	A	A	A	A	A	A	A	A	A	A	A	A	A	A	*	A	U	*	
Art or craft studio space >2,001 square feet	*	U	U	U	U	U	U	*	*	M	U	U	A	A	A	A	A	A	A	A	A	A	A	*	A	*	*	
Breweries, distilleries or wineries <15,000 square feet and with a restaurant	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	*	*	9-6-5(b)(3.5)
Breweries, distilleries or wineries <15,000 square feet and without a restaurant	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*	9-6-5(b)(3.5)
Breweries, distilleries or wineries with or without a restaurant >15,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	C	C	*	*	*	9-6-5(b)(3.5)
Commercial kitchens and catering	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	U	U	U	U	U	A	A	A	A	*	*	
Indoor amusement establishment	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	U	A	U	U	U	*	*	*	*	*	*	
Mobile Food Vehicle on Private Property	*	*	*	*	*	*	*	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-6-5(d)
Mobile Food Vehicle on Public Right of Way	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	C	*	9-6-5(d)
Museums	*	*	*	*	*	*	*	*	*	*	*	*	A	U	A	A	A	A	A	A	A	U	U	U	U	*	*	
Restaurants (general)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	C	C	C	C	n/a	n/a	9-6-5(b)

Restaurants, brewpubs and taverns no larger than 1,000 square feet in floor area, which may have meal service on an outside patio not more than ⅓ the floor area, and which close no later than 11:00 p.m.	*	*	*	*	*	U	A	*	*	A	A	A	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Restaurants, brewpubs and taverns no larger than 1,500 square feet in floor area, which may have meal service on an outside patio not morethan ⅓ the floor area, and which close no later than 11:00 p.m.	*	*	*	*	*	n/a	*	*	*	*	A	*	A	U	A	A	A	A	A	A	C	n/a	n/a	n/a	n/a	n/a	n/a	9-6-5(b)
Restaurants, brewpubs and taverns over 1,000 square feet in floor area, or which close after 11:00 p.m., or with an outdoor seating area of 300 square feet or more	*	*	*	*	*	U	*	*	*	U	A	U	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Restaurants, brewpubs and taverns that are: over 1,500 square feet in floor area, outside of the University Hill general improvement district; over 4,000 square feet within the University Hill general improvement district; or which close after 11:00 p.m.	*	*	*	*	*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	U	U	U	A	A	A	A	A	U	n/a	n/a	n/a	n/a	n/a	n/a	

Restaurants, brewpubs and taverns in the University Hill general improvement district that are greater than 1,500 square feet and do not exceed 4,000 square feet in floor area, and which close no later than 11:00 p.m.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	C	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	9-6-5(b)
Restaurants, brewpubs and taverns with an outdoor seating area of 300 square feet or more within 500 feet of a residential zoning district	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	U	U	U	U	U	U	U	U	U	n/a	n/a	n/a	n/a	n/a	n/a	
Small theater or rehearsal space	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	U	A	U	U	U	A	A	U	A	*	*	
Taverns (general)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	*	*	*	*	n/a	n/a	
Temporary outdoor entertainment	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-6-5(c)
Lodging uses:																												
Hostels	*	*	*	*	*	U	U	*	*	U	~~A~~C	U	G	U	G	~~A~~C	*	~~A~~C	G	G	U	*	U	U	*	*	*	9-3-2(i)
Bed and breakfasts	*	*	*	*	*	U	~~A~~C	*	*	U	~~A~~C	~~A~~C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-5(a) 9-3-2(i)
Motels and hotels	*	*	*	*	*	*	*	*	*	*	*	*	~~A~~C	U	~~A~~C	~~A~~C	*	~~A~~C	~~A~~C	~~A~~C	U	*	*	*	*	*	*	9-3-2(i)
Public and Institutional Uses																												
Airports and heliports	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	9-3-2(i)
Cemeteries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	
Daycare, home	A	A	A	A	A	A	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Daycare center with ≤50 children	U	U	C	U	U	C	C	U	U	~~A~~C	U	U	U	~~A~~C	U	~~A~~C	~~A~~C	~~A~~C	U	~~A~~C	~~A~~C	U	U	U	U	U	U	9-6-6(a) 9-3-2(i)
Daycare center with >50 children	U	U	U	U	U	U	U	*	*	U	U	U	U	~~A~~C	U	~~A~~C	~~A~~C	~~A~~C	U	~~A~~C	~~A~~C	U	U	U	U	U	U	9-6-6(a) 9-3-2(i)
Day shelter	*	*	U	*	U	C	C	*	*	U	C	U	C	C	C	C	C	C	C	C	C	C	C	C	C	U	*	9-6-6(b)
Emergency shelter	U	U	U	U	U	C	C	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	U	*	9-6-6(b) 9-3-2(k)
Essential municipal and public utility services	U	U	U	U	U	U	U	U	U	U	U	U	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	U	U	9-3-2(i)
Governmental facilities	U	U	U	U	U	U	U	U	U	U	U	U	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~C~~A	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	U	*	9-3-2(i)
Mortuaries and funeral chapels	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	U	U	U	*	*	U	*	*	*	*	*	*	

Nonprofit membership clubs	*	*	*	*	*	*	*	*	*	*	*	*	A	U	G	A	A	A	A	A	A	*	*	*	*	U	*	
Overnight shelter	*	*	U	*	U	C	C	*	*	U	C	U	C	C	C	C	C	C	C	C	C	C	C	C	C	U	*	9-6-6(b) 9-3-2(i)
Private elementary, junior, and senior high schools	U	U	U	U	U	~~A~~C	U	*	*	U	U	U	~~A~~C	~~A~~C	G	~~A~~C	~~A~~C	~~A~~C	U	~~A~~C	U	*	*	*	*	*	*	9-3-2(i)
Public elementary, junior, and senior high schools	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	*	9-3-2(i)
Public colleges and universities	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	*	
Private colleges and universities	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	A	*	A	*	U	U	*	U	U	*	A	*	
Public and private office uses providing social services	*	*	*	*	*	*	*	*	*	U	U	U	C	A	G	A	A	A	G	A	A	*	U	*	U	U	*	
Religious assemblies	A	A	A	A	U	A	A	*	*	A	U	U	A	A	A	A	A	A	A	A	A	*	*	*	*	*	*	
Adult educational facility with <20,000 square feet of floor area	U	U	U	U	U	U	U	*	*	U	U	U	A	A	G	A	A	A	U	A	U	A	A	A	A	A	*	
Adult educational facilities with ≥20,000 square feet or more of floor area	U	U	U	U	U	U	U	*	*	U	U	U	*	A	G	A	A	A	U	A	U	U	U	U	U	A	*	
Vocational and trade schools	*	*	*	*	*	*	*	*	*	*	*	*	A	U	G	A	U	A	U	U	U	A	A	A	A	A	U	
Office, Medical and Financial Uses																												
Data processing facilities	*	*	*	*	*	*	*	*	*	*	*	*	C	A	G	A	C	A	G	A	A	*	A	A	A	*	*	9-6-7
Financial institutions	*	*	*	*	*	*	M	*	*	M	M	M	C	U	A	A	A	A	A	A	A	*	*	*	*	*	*	
Hospitals	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	~~A~~C	*	9-3-2(i)
Medical or dental clinics or offices or addiction recovery facilities	*	U	U	U	*	U	U	*	*	M	U	U	C	~~A~~C	~~A~~C	~~A~~C	C	~~A~~C	G	~~A~~C	~~A~~C	*	*	*	*	U	*	9-6-7 9-3-2(i)
Medical and dental laboratories	*	*	*	*	*	*	M	*	*	M	M	M	C	A	A	A	A	A	*	*	*	U	A	*	U	*	*	
Offices, administrative	*	*	*	*	*	*	*	*	*	*	*	*	C	A	A	A	C	A	G	A	A	*	A	A	*	*	*	9-6-7
Offices, professional	*	U	U	U	U	U	M	*	*	M	M	M	C	A	A	A	C	A	G	A	A	*	*	*	*	*	*	9-6-7
Offices, technical; with <5,000 square feet of floor area	*	U	U	U	U	U	M	*	*	M	M	M	A	A	A	A	C	A	G	A	A	A	A	A	A	*	*	9-6-7
Offices, technical; with >5,000 square feet of floor area	*	U	U	U	U	U	M	*	*	M	M	M	U	A	U	A	C	A	G	A	A	*	A	A	A	*	*	9-6-7
Offices - other	*	U	U	U	U	U	M	*	*	M	M	M	C	A	A	A	C	A	G	A	A	*	*	*	*	*	*	9-6-7

Parks and Recreation Uses																											
Campgrounds	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	*	U	
Outdoor entertainment	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	U	U	U	U	*	*	*	*	U	*	
Park and recreation uses	A	A	A	A	A	A	A	*	A	A	A	A	*	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Indoor recreational or athletic facilities	*	*	*	*	*	U	U	*	*	U	U	A	A	A	A	A	A	A	A	A	A	A	U	U	A	*	*	
Commercial, Retail and Industrial Uses																											
Service Uses:																											
Animal hospital or veterinary clinic	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	A	U	A	*	*	U	A	A	A	U	*	*	
Animal kennel	*	*	*	*	*	*	*	*	*	*	*	*	C	*	U	U	A	U	*	*	*	A	A	U	A	*	*	
Antennas for wireless telecommunications services	*	*	*	C	C	C	C	*	*	C	C	C	A	C	C	C	C	C	C	C	C	C	C	C	C	C	C	9-6-9(a)
Broadcasting and recording facilities	*	U	U	U	U	U	U	*	*	M	M	M	~~A~~C	~~A~~C	G	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	~~A~~C	*	*	9-3-2(i)
Business support services <10,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	A	*	A	A	A	A	A	A	A	A	U	U	A	*	*	
Business support services ≥10,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	A	A	A	A	A	A	U	U	U	U	*	*	
Industrial service center	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	*	*	*	*	*	*	*	*	*	
Non-vehicular repair and rental services without outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	U	U	U	U	A	U	*	A	*	*	
Neighborhood business center	*	U	U	*	*	U	U	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-9(f)
Personal service uses	*	U	U	U	*	U	A	U	U	A	A	A	A	A	A	A	A	A	A	A	A	*	*	*	*	*	*	
Retail Sales Uses:																											
Accessory sales	*	*	*	*	*	A	A	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*	9-16
Convenience retail sales ≤2,000 square feet	*	U	U	U	*	U	A	*	*	A	*	A	A	U	A	A	U	U	*	A	A	C	C	*	C	*	*	
Convenience retail sales >2,000 square feet	*	*	*	*	*	U	U	*	*	M	M	*	A	U	A	A	A	U	A	A	A	*	C	*	C	*	*	
Retail fuel sales (not including service stations)	*	U	U	U	*	U	U	*	*	U	U	U	C	U	C	C	U	C	*	U	U	C	C	*	U	*	*	9-6-9(d)
Retail sales ≤5,000 square feet	*	*	*	*	*	*	*	*	*	U	*	U	A	*	A	A	A	A	A	A	A	*	*	*	*	*	*	

Retail sales >5,000 square feet but ≤20,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	A	*	A	A	A	A	A	A	A	*	*	*	*	*	*	
Retail sales >20,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	A	A	A	A	U	*	*	*	*	*	*	
Building material sales ≤15,000 square feet of floor area	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	A	A	A	A	*	*	
Building material sales >15,000 square feet of floor area	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	*	*	*	U	U	U	U	*	*	
Temporary sales	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	C	C	C	C	C	C	C	C	C	*	*	9-6-5(c)
Vehicle-Related Uses:																												
Automobile parking lots, garages, or car pool lots as a principal use	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	A	U	U	*	U	U	A	A	A	U	U	*	9-6-9(b)
Car washes	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	U	U	U	U	*	*	*	*	*	*	
Drive-thru uses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	U	U	*	*	*	*	*	*	9-6-9(c)
Fuel service stations or retail fuel sales	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	C	C	C	*	U	C	C	C	*	U	*	*	9-6-9(d)
Sales and rental of vehicles	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	U	*	*	*	A	A	*	*	*	*	
Sales and rental of vehicles within 500 feet of a residential use module	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	C	C	*	*	*	C	C	*	*	*	*	9-6-9(i)
Service of vehicles with no outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	U	A	U	*	*	*	A	A	A	A	*	*	
Service of vehicles with limited outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	*	*	A	A	*	A	*	*	
Industrial Uses:																												
Building and landscaping contractors	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	*	A	A	A	A	*	*	
Cleaning and laundry plants	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*	
Cold storage lockers	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	U	U	A	A	A	A	*	*	
Computer design and development facilities	*	*	*	*	*	*	*	*	*	*	*	*	A	A	G	A	C	A	G	A	A	*	A	A	A	*	*	9-6-7(a)
Equipment repair and rental with outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	U	U	U	U	A	A	A	A	*	*	
Lumber yards	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	*	*	*	*	

Manufacturing uses ≤15,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	A	*	*	*	*	A	A	A	A	*	*	
Manufacturing uses >15,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	A	A	A	*	*	
Manufacturing uses with potential off-site impacts	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	*	*	*	9-6-9(e)
Outdoor storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	U	A	*	*	*	
Outdoor storage of merchandise	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	*	C	*	*	*	C	C	C	C	*	*	9-6-9(g)
Printers and binders	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*	
Recycling centers	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	U	*	*	
Recycling collection facilities - large	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	*	*	U	U	U	U	U	*	9-6-9(h)
Recycling collection facilities - small	*	*	*	*	*	*	*	*	*	*	*	*	C	*	C	C	C	U	U	U	U	C	C	C	C	C	*	9-6-9(h)
Recycling processing facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	U	*	U	*	9-6-9(h)
Self-service storage facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	U	*	*	*	*	
Telecommunications use	*	*	*	*	*	*	*	*	*	*	*	*	G	A	G	A	U	A	G	A	A	*	A	A	A	*	*	
Warehouse or distributions facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*	
Wholesale business	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	*	*	*	*	*	A	A	A	A	*	*	
Agriculture and Natural Resource Uses																												
Open space, grazing and pastures	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	
Community gardens	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	9-6-4(a)
Crop production	A	A	A	A	A	A	A	A	A	A	A	A	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	
Mining industries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	U	
Firewood operations	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	*	*	*	
Greenhouse and plant nurseries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	A	A	
Accessory																												
Accessory buildings and uses	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	9-16

A: Allowed use.
C: Conditional use. See Section 9-2-2 for administrative review procedures.
*****: Use prohibited.
U: Use review. See Section 9-2-15 for use review procedures.
G: Allowed use provided that it is located above or below the ground floor.
M: Allowed use provided at least 50% of the floor area is for residential use and the nonresidential use is less than 7,000 square feet per building, otherwise use review.

N: Allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use review.
n/a: Not applicable; more specific use applications apply.

Section 8. Section 9-16-1, B.R.C. 1981, is amended as follows:

9-16-1 General Definitions.

(a) The definitions contained in chapter 1-2, "Definitions," B.R.C. 1981, apply to this title unless a term is defined differently in this chapter.

(b) Terms identified with the references shown below after the definition are limited to those specific sections or chapters of this title:

(1) Airport influence zone (AIZ).

(2) Floodplain regulations (Floodplain).

(3) Historic preservation (Historic).

(4) Inclusionary housing (Inclusionary Housing).

(5) Residential growth management system (RGMS).

(6) Solar access (Solar).

(7) Wetlands Protection (Wetlands).

(8) Signs (Signs).

(c) The following terms as used in this title have the following meanings unless the context clearly indicates otherwise:

…

“Accredited levee or provisionally accredited levee” means a system of artificial embankment(s) or flood control structure(s) used for property protection, flood control, and flood hazard mitigation that is accredited or provisionally accredited and mapped Zone X (shaded) by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP). (Floodplain)

...

"Area of special flood hazard" means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Such areas may be designated as Zones A, AO, AH, AE and A1-30 on the FIRM for the City of Boulder. (Floodplain)

…

“At-risk population facility” means a pre-school, public or private primary or secondary school, before and after school care center with twelve or more students, daycare center with twelve or more children the parents or guardians of which do not remain in the same building of the facility, group home, or residential or congregate care facility with twelve or more residents. (Floodplain)

...

“Base flood elevation” means the computed elevation to which floodwater is anticipated to rise during the one hundred-year flood. (Floodplain)

"Basement" means any enclosed area of a building having its lowest floor a minimum of two feet below grade level on all sides. (Floodplain)

…

"Change in a watercourse" means any change in an existing thalweg, bed, or bank of a watercourse. (Floodplain)

…

"Conveyance zone" means those portions of the floodplain required for the passage or conveyance of the one-hundred-year flood. The conveyance zone is delineated based on an equal encroachment methodology (measured in volume of water), which is applied to the floodplain from the edges of the flood channel to a point where the one-hundred-year flood profile will be raised no more than six inches, after considering a reasonable expectation of blockage at bridges and other obstructions by flood-borne debris. The City may, in its discretion, delineate the conveyance zone on city owned land or right of way based on unequal encroachment to minimize delineation on other properties. The conveyance zone is equivalent to a floodway delineation based on a six-inch rise. (Floodplain)

…

"Crawl space" means the enclosed area contained inside the foundation walls and below the habitable floor of a structure. Crawl spaces having the lowest floor a minimum of two feet below grade level on all sides shall be considered a basement, and not a crawl space. (Floodplain)

“Critical facility” means any structure or related infrastructure, the loss of which may result in severe hazards to public health and safety or may interrupt essential services and operations for the community at any time before, during, and after a flood. Critical facilities are classified as follows: (1) essential services facility, (2) hazardous material facility, and (3) at-risk population facility. (Floodplain)

…

"Daycare center" means a facility:

(1) Licensed by the state, if applicable;

(2) Providing care for children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and

(3) Which may include some instruction.

(4) Which is not located within a dwelling unit.

"Daycare home" means a facility:

(1) Licensed by the state, if applicable;

(2) Which is located within a dwelling unit;

(3) Providing care for twelve or fewer children or adults who (except for family members) do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. Family members who receive care in the facility are included in the total.

…

"Development" means any change to improved or unimproved real estate, including, without limitation, constructing, relocating, rehabilitating, reconstructing or expanding or enlarging (but not maintaining) a building or other structure or portion thereof, or establishing or changing a use, or mining, dredging, filling, grading, paving, or excavation. (Floodplain)

"Essential service facility" means any facility providing an essential service that, if flooded, may result in severe hazards to public health and safety or interrupt essential services and operations for the community at any time before, during, or after a flood. Examples of essential service facilities include without limitation the following:

(1) Public safety facilities such as police stations, fire and rescue stations, and emergency operation centers;

(2) Emergency response facilities, such as emergency vehicle and equipment storage, and essential governmental work centers for continuity of government operations;

(3) Emergency medical facilities, such as hospitals, emergency care, urgent care, and ambulance services, but excluding clinics, doctors offices, and non-urgent care medical facilities;

(4) Shelters designated by the city manager that will be used during or after a flood for displaced persons;

(5) Communication facilities, such as main hubs for telephone systems, main broadcasting equipment for television systems, radio and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits;

(6) Public utility plant facilities and essential equipment for treatment, generation, storage, pumping, and distribution, such as hubs for water, wastewater, power, and gas, but excluding hydro electric facilities, towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines;

(7) Essential governmental facilities, including, without limitation, facilities where permanent records, as defined by an agency's data retention policy, are stored~~,~~; courts~~,~~ and jails~~,~~; building permitting and inspection services~~,~~; departments that manage utilities and transportation systems~~,~~; information technology departments,

finance departments, and health departments~~,~~; the county commissioner's office, the city manager's office, and maintenance and equipment centers; and

(8) Air transportation lifelines, such as an airport or heliport, and structures serving emergency functions, and associated infrastructure, such as aviation control towers, air traffic control centers, and emergency equipment aircraft hangars.

(Floodplain)

…

"Exceptional hardship" means a substantially disproportionate burden in relationship to the benefit to be derived from conformance with the requirements of this title. (Floodplain)

…

"Expansion or enlargement of a structure" means any addition of an exterior wall to the structure or any addition to the floor area of the structure, whether under, at, or above grade, and whether or not the external dimensions of the structure are changed, or the reconstruction of a flood-damaged portion of a structure, so long as such expansion, enlargement or reconstruction does not constitute a "substantial modification" or a "substantial improvement." (Floodplain)

…

"FEMA" means the Federal Emergency Management Agency. (Floodplain)

…

"Five hundred-year flood" means a flood having a 0.2 percent chance of occurring in any year. (Floodplain)

"Flood" or "flooding" means a general or temporary condition of partial or complete inundation of normally dry land areas from a watercourse that temporarily overflows the boundaries within which it is ordinarily confined or from the rapid accumulation of runoff of surface water caused by rain, snow melt, flow blockage, or any other source. (Floodplain)

"Flood channel" means a natural or artificial watercourse with a definite bed and banks which periodically or continuously conducts flowing water and is shown on the Flood Channel Inventory Map prepared by the City's Utility Division of the Public Works Department. (Floodplain)

~~"Flood fringe" means those portions of the floodplain that are not in the conveyance zone or in the high hazard zone. (Floodplain)~~

"Flood Insurance Rate Map (FIRM)" means the official map on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. (Floodplain)

"Flood insurance study (FIS)" means the official report provided by the Federal Emergency Management Agency that included flood profiles, the Flood Boundary-Floodway Map, and the water surface elevations of the base flood. (Floodplain)

"Flood profile" means a graph showing the elevations of the floodwater surface and the elevations of the underlying land as a function of distance along a path of flow. (Floodplain)

"Flood protection elevation" means ~~an elevation of~~:

(1) In the one hundred-year floodplain, an elevation of:

(A) ~~t~~Two feet above the elevation of the water surface of a one-hundred-year flood as determined pursuant to ~~s~~Sections 9-3-2 through 9-3-8, B.R.C. 1981, or, if no such elevation is determined, two feet above the highest grade adjacent to a structure~~,~~; or

(B) ~~t~~Two feet above the base flood elevation in AE zones or two feet above the flood depth number indicated for AO zones on the FIRM for the City of Boulder;~~,~~ whichever is higher.

(2) In the five hundred-year floodplain, the lower of the following elevations:

(A) One foot above the water surface of a five hundred-year flood under the standards in Sections 9-3-2 through 9-3-8, B.R.C. 1981; or

(B) The one hundred-year flood protection elevation.

(Floodplain)

"Floodplain" means the area that is susceptible to being inundated by a flood. (Floodplain)

"Floodplain development permit" means any permit granted under the terms and conditions of S~~s~~ections 9-3-2 through 9-3-8, B.R.C. 1981, for development on land in a floodplain. (Floodplain)

"Floodplain, five hundred-year" means the area of the floodplain ~~inundated by a flood~~ having a 0.2 percent or greater chance of ~~occurring~~ flooding in any given year. (Floodplain)

"Floodplain, one hundred-year" means the area of the floodplain~~inundated by a flood~~ having a one percent or greater chance of ~~occurring~~ flooding in any given year. (Floodplain)

"Floodproofing" means any combination of structural and nonstructural changes, modifications, or adjustments to structures or real property which reduce or eliminate flood damage to improved

or unimproved real property, water and sanitary facilities, structures and their contents. (Floodplain)

"Floodway, FEMA regulatory" means the channels of watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Floodplain)

…

"Hazardous material" means any material used, generated, or stored at a facility of a type and in a quantity that would classify the facility as a hazardous materials facility. (Floodplain)

"Hazardous material facility" means a structure (or group of structures) that is:

(1) Subject to Section 303 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11003, as amended from time to time, because it has an "Extremely Hazardous Substance" on site in quantities that meet or exceed the "Threshold Planning Quantities" established by the United States Environmental Protection Agency and listed at 40 C.F.R. Part 355, Appendix A and Appendix B, as may be amended from time to time;

(2) Unless covered by subpart (1) above, storing hazardous material as defined by Department of Transportation regulations at 49 C.F.R. Parts 171-180, as may be amended from time to time, but only to the extent that the facility is storing the hazardous material in the "Bulk Packaging" container in which it was delivered as that term is defined at 49 C.F.R. 171.8, as may be amended from time to time;

(3) Storing a hazardous substance of the type and quantity listed by §29-22-107, C.R.S., as may be amended from time to time; or

(4) Regulated as a transfer facility under Colorado hazardous waste regulations at 6 C.C.R. 1007-3, Part 263, as may be amended from time to time.

(Floodplain)

"Hazardous substance" means any substance, as determined from time to time by the city manager pursuant to the rule making authority granted by S~~s~~ubsection 9-3-2(c), B.R.C. 1981, that is flammable, radioactive, toxic, or explosive, and that in times of flooding could be released in sufficient quantities to be harmful to humans, animals, or plant life. (Floodplain)

…

"High hazard zone" means those portions of the floodplain where an unacceptably high hazard to human safety exists defined as those areas where the product number of flow velocity (measured in ft./sec.) times flow depth (measured in feet) equals or exceeds four, or where flow depths equal or exceed four feet. (Floodplain)

…

"Hostel" means a facility for residence of under one month that provides simple dormitory or sleeping rooms and common rooms for cooking, meeting, recreational, and educational use; that is chartered or approved by the International Hostel Federation or its national or regional affiliates, or similar organizations; and that is supervised by resident house-parents or managers who direct the guests' participation in the domestic duties and activities of the hostel.

"Hotel/motel" means an establishment that offers temporary lodging in rooms, for less than one month, and may include a restaurant, meeting rooms, and accessory uses and services, including, without limitation, newsstands, gift shops, and similar incidental uses conducted entirely within the principal building but excludes a "bed and breakfast," as defined in this section.

…

"Intended for human occupancy" means, as applied to structures, capable of and likely to be used for residential habitation, or for commercial, industrial or governmental occupation by persons on a regular basis. Examples of structures normally not intended for human occupancy include, without limitation, garages useable solely for the parking of vehicles or storage, open air carwashes, unheated pavilions, porches or patio covers, crawl spaces, flood resistant enclosures useable solely for building access, barns and other agricultural buildings, garden storage sheds, ATMs, and mausoleums. (Floodplain)

…

“Lodging facility” means a hotel, motel, dormitory, bed and breakfast, hostel, emergency shelter, and overnight shelter as defined in the Boulder Revised Code. (Floodplain)

…

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement or crawl space). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable design requirements of S~~s~~ections 9-3-2 through 9-3-8, B.R.C. 1981. (Floodplain)

…

"Maintenance" means any activity undertaken to repair or prevent the deterioration, impairment or failure of any stream, previously constructed improvement or structure, including, without limitation the removal of sediment and debris, installation of erosion and sediment control devices and the replacement of structural components. Maintenance does not include expansion or enlargement of a structure, substantial modifications, substantial improvements, total replacement of existing facilities or total reconstruction of a facility. (Floodplain)

…

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle." (Floodplain)

"Manufactured home park or manufactured home subdivision" means any lot or tract of land designed, used, or intended to provide a location or accommodation for one or more manufactured homes and upon which any manufactured home or homes are parked or located, whether or not the lot or tract or any part thereof is held or operated for profit, on which construction was completed on or after July 12, 1978. (Floodplain)

…

<u>"Mixed-use structure" means any structure with both residential uses and nonresidential uses where no less than twenty-five percent of the finished floor area contains nonresidential uses. (Floodplain)</u>

…

"Moveable object" means an item or material not anchored to the ground that is subject to being transported by water, including, without limitation, a manufactured home not anchored to a permanent foundation, a tank, a trash dumpster, lumber, and other materials, but not a motor vehicle. (Floodplain)

…

"New construction" means structures for which the "start of construction" commenced on or after July 12, 1978, and includes any subsequent improvements to such structures. (Floodplain)

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading, or pouring of concrete pads) is completed on or after July 12, 1978. (Floodplain)

…

"Nonresidential structure" means any structure ~~or any portion of a structure~~ used exclusively for, or designed as and capable of being used for, office, commercial, industrial, or governmental occupation<u>, or the temporary lodging of persons for periods of less than six months including hotels, motels, emergency shelters, and overnight shelters but excluding dormitories, fraternities, and bed and breakfasts</u>. (Floodplain)

…

"Obstruction" means any item or material not constituting a moveable object in, along, across, or projecting into the floodplain that might impede, retard, or change the direction of a flow of

water, either by itself or by catching or collecting debris carried by such water, in a way that the city manager determines would increase the flood hazard to adjacent properties. (Floodplain)

…

"One hundred-year flood" means a flood having a one percent chance of occurring in any year. (Floodplain)

…

"Residential structure" means any structure ~~or any portion of a structure~~ that is used for, or designed as and capable of being used for, the temporary or permanent domicile of persons for periods of six months or more, including, without limitation, a dwelling, a boarding house, a dormitory, a fraternity, a bed and breakfast~~hotel, a motel~~, and similarly used structures. (Floodplain)

…

"Reconstruction" means exact replacement of an existing structure or portion thereof or exact structural repair of a damaged structure. (Floodplain)

"Recreational vehicle" means a vehicle which is: 1) built on a single chassis; 2) four hundred square feet or less when measured at the largest horizontal projections; 3) designed to be self-propelled or permanently towable by a light duty truck; and 4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Floodplain)

…

…

"Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. (Floodplain)

…

"Structure" means a building or other roofed construction, a basement, a wall, a fence, a manufactured home, or a storage tank. (Floodplain)

…

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred. (Floodplain)

"Substantial improvement" means any repair, reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or 2) any alteration of a structure listed on the National Register of Historic Places or the Colorado Inventory of Historic Places or designated as an individual landmark under Ssection 9-11-2, "City Council May Designate Or Amend Landmarks And Historic Districts," B.R.C. 1981. (Floodplain)

"Substantial modification" means any expansion or enlargement of a structure which equals or exceeds fifty percent of the floor area of the structure intended for human occupancy, considered cumulatively, commencing July 12, 1978. (Floodplain)

…

Section 9. This ordinance shall become effective on the later of January 1, 2014, or 30 days after its final passage by the City Council. This ordinance shall apply to all permits and development applications submitted to the city after the effective date of its passage.

Section. 10. 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 11. 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

ATTACHMENT A

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

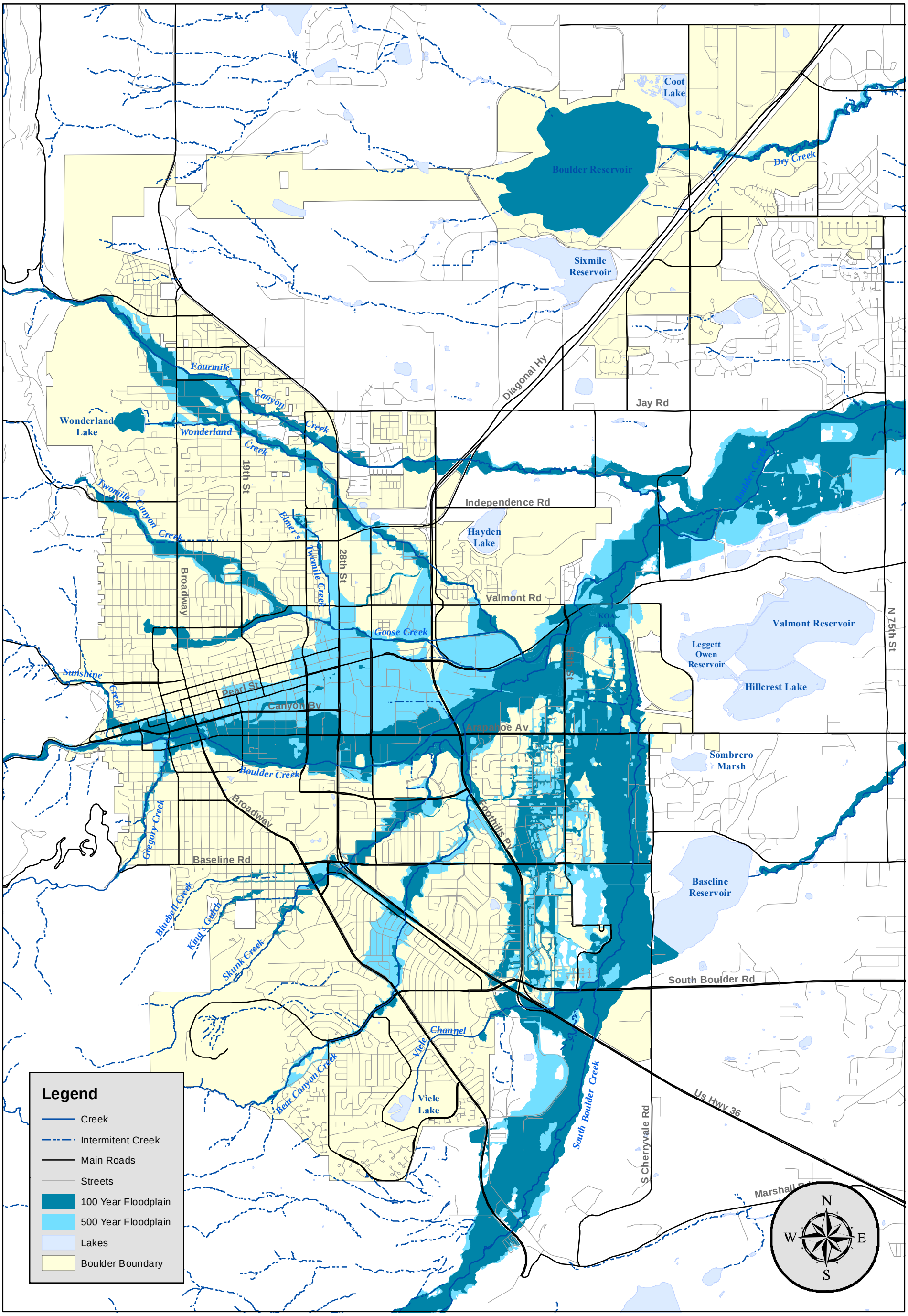
READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

K:\FCAD\o-Critical Facilities Ordinance-1190.doc



0 0.5 1 2 3 Miles

City Of Boulder

100 & 500 Year Floodplains

List of Existing Critical Facilities and Lodging Facilities

500-year Floodplain

Name	Address	Facility Type	Creek
Boulder County Justice Center	1777 6th St	Essential Service	Boulder
Boulder Fire Station 7	1380 55th St	Essential Service	South Boulder
Police Annex	1500 Pearl St	Essential Service	Boulder
Century Link	1545 Walnut St	Essential Service	Boulder
American Medical Response	3800 Pearl St	Essential Service	Goose
Boulder Community Foothills Hospital	4747 Arapahoe Ave	Essential Service	Boulder
Boulder County Clerk and Recorder	1750 33rd St	Essential Service	Boulder
Boulder Fire Station 5	4365 19th St	Essential Service	Fourmile Canyon
Boulder Sheriff	5600 Flatiron Parkway	Essential Service	Boulder
Public Safety Building	1805 33rd St	Essential Service	Boulder
Regional Transportation District	1707 Exposition Dr	Essential Service	Boulder
Municipal Service Center	5050 Pearl St	Essential Service	Goose
Xcel Boulder Terminal	2500 28th St	Essential Service	Goose
75th St Wastewater Treatment Facility	4049 N 75th St	Essential Service	Boulder
Eisenhower Elementary School	1220 Eisenhower Dr	At-risk Population	South Boulder
First Presbyterian Church	1820 15th St	At-risk Population	Boulder
September School	1902 Walnut St	At-risk Population	Boulder
September School (auditorium)	1833 19th St	At-risk Population	Boulder
Alterra Villas at the Atrium	3350 30th St	At-risk Population	Wonderland
Alaya Preschool	3340 19th St	At-risk Population	Goose
Boulder County Head Start	2675 Mapleton Ave	At-risk Population	Goose
Boulder County Head Start (Martin Park)	3650 Martin Dr	At-risk Population	Bear Canyon
Canyon Pointe Housing	700 Walnut St	At-risk Population	Boulder
Columbine Elementary School	3130 Repplier St	At-risk Population	Twomile Canyon
Homestar Child Development Center	3280 Dartmouth Ave	At-risk Population	Bear Canyon
McGregor's Garden Preschool	3535 Eastman Ave	At-risk Population	Bear Canyon
Montessori Education Center of the Rockies	4745 Walnut St	At-risk Population	Boulder
Mountain Morning Preschool	1286 Sumac Ave	At-risk Population	Wonderland
New Horizons Cooperative Preschool	1825 Upland Ave	At-risk Population	Fourmile Canyon
Shining Mountain Waldorf School	1179 Union Ave	At-risk Population	Fourmile Canyon
Sunflower Preschool	3340 Dartmouth	At-risk Population	Bear Canyon
Tiny Minders Day Care	3685 Martin Dr	At-risk Population	Bear Canyon
Comcast	3250 Walnut St	Hazardous Material	Boulder
Corden Pharma	2075 55th St	Hazardous Material	South Boulder
The Bradley Boulder Inn	2040 16th St	Lodging	Boulder
Boulder Best Western	770 28th St	Lodging	Skunk
Golden Buff Motel	1725 28th St	Lodging	Boulder
Residence Inn	3030 Center Green Dr.	Lodging	Wonderland
The Village Marriott	2660 Canyon Blvd	Lodging	Boulder

Notes:

1. New flood protection regulations for listed essential service, at-risk population, and hazardous material facilities in the 500-year floodplain.
2. Emergency management plan requirements for all listed facilities in the 500-year floodplain.
3. Blue fill denotes government facilities.

100-year Floodplain

Name	Address	Facility Type	Creek
Regional Transportation District	4920 Table Mesa Dr	Essential Service	South Boulder
Regional Transportation District Terminal	1800 14th St	Essential Service	Boulder
Atrium Building	1300 Canyon Blvd	Essential Service	Boulder
Boulder Building Maintenance	1720 13th St	Essential Service	Boulder
Boulder Community Hospital	1100 Balsam Ave	Essential Service	Goose
Boulder Fire Station 3	1585 30th St	Essential Service	Boulder
Boulder Medical Center	2750 Broadway	Essential Service	Goose
Boulder Municipal Building	1777 Broadway	Essential Service	Boulder
CU Research Center	3300 Marine St	Essential Service	Boulder
FBI	1050 Walnut #219	Essential Service	Boulder
New Britain Building	1101 Arapahoe Ave	Essential Service	Boulder
Park Central Building	1739 Broadway	Essential Service	Boulder
Countryside Montessori Preschool	5524 Baseline Rd	At-risk Population	South Boulder
Friend's School	5465 Pennsylvania Ave	At-risk Population	South Boulder
Frasier Meadows	4950 Thunderbird Dr	At-risk Population	South Boulder
The Carillon at Boulder Creek	2525 Taft Dr	At-risk Population	Boulder
Boulder High School	1604 Arapahoe Ave	At-risk Population	Boulder
Boulder Presbyterian Manor	1050 Arapahoe Ave	At-risk Population	Gregory Canyon
Boulder Waldorf Kindergarten	4072 N 19th	At-risk Population	Wonderland
City Assisted Housing on Arapahoe	951-53 Arapahoe Ave	At-risk Population	Gregory Canyon
Cottage School	805 30th St	At-risk Population	Skunk
Cottage School North	1301 North St	At-risk Population	Goose
Crest View Elementary School	1897 Sumac Ave	At-risk Population	Fourmile Canyon
CU Children's Center	2202 Arapahoe Ave	At-risk Population	Boulder
Dream Makers Preschool	1345 28th St	At-risk Population	Boulder
Flatirons Elementary School	1150 7th St	At-risk Population	Gregory Canyon
Foothills Elementary School	1001 Hawthorn Ave	At-risk Population	Twomile Canyon
Living School	1852 Arapahoe Ave	At-risk Population	Boulder
Patience Montessori	3600 Hazelwood Ct	At-risk Population	Wonderland
Shining Mountain Waldorf School	999 Violet Ave	At-risk Population	Fourmile Canyon
The Elm Tree	1330 Alpine Ave	At-risk Population	Goose
Wynwood at Ridge Point	3375 34th St	At-risk Population	Wonderland
Ball Aerospace	1600 Commerce St	Hazardous Material	Boulder
Athens Court Family Housing	2010 Athens St	Lodging	Boulder
Boulder University Inn	1632 Broadway St	Lodging	Boulder
Briar Rose Bed & Breakfast	2151 Arapahoe Ave	Lodging	Boulder
Homewood Suites	4950 Baseline Rd	Lodging	South Boulder
Marine Court Family Housing	1350 20th St	Lodging	Boulder
Millennium Harvest House	1345 28th St	Lodging	Boulder
Newton Court Family Housing	1475 Folsom St	Lodging	Boulder
Quality Inn & Suites Boulder Creek	2020 Arapahoe Ave	Lodging	Boulder
St. Julien Hotel	900 Walnut St	Lodging	Boulder

Notes:

1. Emergency management plan requirements for all listed facilities in the 100-year floodplain.
2. Blue fill denotes government facilities.

CITY OF BOULDER, COLORADO

Office of the City Attorney
Municipal Building
P.O. Box 791
Boulder, Colorado 80306
Phone 441-3020

Joseph N. de Raismes
City Attorney

Jane W. Greenfield
Deputy City Attorney

MEMORANDUM

TO: James W. Piper, City Manager
Linda S. Jourgensen, Mayor
Members of the City Council

FROM: David A. Rhodes, Director of Public Works
Robert L. Wheeler, Assistant Director of Public Works for Utilities
Alan Taylor, Development Review Coordinator
Joseph N. de Raismes, III, City Attorney
Jane W. Greenfield, Deputy City Attorney

SUBJECT: Options/ Elevation Requirements for Structures in the Floodplain

DATE: May 11, 1989

BACKGROUND

At Council's March 17th meeting, staff presented a memo outlining the issues discussed at the Feb. 28th flood control study session and asking for Council's comments on the issue of the impact of the proposed ordinance on the construction of commercial and industrial buildings in the floodplain. The proposed ordinance requires all structures in the floodplain to be elevated to the flood protection elevation. The existing code requires only residential structures to be elevated. Since the proposed requirement could create an additional restriction on proposed and future development in the floodplain, Council requested staff to prepare several options for its consideration, prior to preparing the final draft of the ordinance. The ordinance is scheduled to be returned to Council for action in June. Six options are described below.

ISSUE

The issues that staff was addressing by requiring non-residential structures as well as residential structures to be elevated instead of floodproofed were those of life safety and property protection. Although flood depths may be fairly shallow in the flood fringe portions of the floodplain, the placement of a "basement" below ground level may produce as dangerous a condition in the flood fringe as in the floodway, since once the floodwaters reach the elevation of the surrounding grade, the area

below grade fills up. Thus, the proposed ordinance, like the existing ordinance, does not differentiate between different areas in the floodplain in applying this restriction as the hazard is substantially the same throughout. Staff also recognizes that certain types of uses, such as residential habitation, occurring below the flood protection elevation may be more hazardous than others. Like the City, FEMA regulations currently require that residential structures be elevated, not merely floodproofed.

The protection of property by floodproofed structures assumes greater level of risk than that of elevated structures. Any flooding depths greater than the design elevation will result in overtopping of the elevated floor or floodproofing. Where this occurs, damage will be much less in an elevated structure where the potential depth of overtopping is small. However, in a floodproofed structure, any overtopping or failure of the floodproofing will result in flooding to the depth of the floodproofing plus the overtopping, and damage will be significant. Full depth basements would experience depths of eight feet plus.

OPTIONS

Staff has developed the following six options in response to Council's request. They are ranked in order from least restrictive to most restrictive. However, each option assumes that floodproofing to the flood protection elevation level would be required. An analysis of the options follows in the next section.

1. **Retain existing code language.** This allows new construction and substantial improvements of commercial, industrial, or other non-residential structures to be elevated or floodproofed.

2. **Same as 1. above but require that the method of floodproofing provided not involve any active human intervention.** Types of acceptable floodproofing would include berms or floodwalls. A variation on this option would be to require the floodproofing to be extended to some height greater than the present 100-year flood protection elevation ("f.p.e.") (two feet of freeboard over the projected 100-year depths).

3. **Allow floodproofing of certain types of non-residential structures based upon their use or occupancy characteristics.** This option would attempt to identify those uses that would be less hazardous if located below the f.p.e., and permit structures or portions of structures containing such uses to be constructed below the f.p.e. protected by the type of passive floodproofing described in 2. above. Elevation would be required for those structures or portions of structures that enclose less benign uses.

4. **Require the lowest floor of non-residential structures to be placed at or above the existing grade rather than the f.p.e.** This option would prohibit the placement of "basements" or other occupiable space below ground level.

5. **Require elevation of non-residential structures to the base flood elevation rather than the f.p.e.** This option would prohibit the placement of "basements" or other occupiable space below the anticipated water surface of the 100-year flood.

6. **Adopt proposed ordinance, requiring non-residential as well as residential structures to elevate to the f.p.e.**

ANALYSIS

In formulating the recommendation below, staff considered several factors. In the first three options, effective floodproofing is the mechanism relied upon to provide protection against flooding, while in the last three options that protection is achieved by the degree of elevation required. This factor recognizes that ,in the first three options, floors below grade could become "high hazard" zones, by definition, if the floodproofing fails. In the last three options, since no construction will be permitted in the high hazard zone, even if the floodproofing fails no high hazard is created as a structure at or above grade will not flood more deeply than the surrounding floodplain. The second factor considered was that if floodproofing is effective, the interior of a structure can be "removed" from the floodplain, just as it can be with elevation. In examining the effectiveness of floodproofing it is fairly obvious that permanent floodproofing that requires no human intervention, at the time of the flood, to emplace will be more successful. Thus, berms, floodwalls and watertight foundations will be more effective than shields or gaskets that must be put in place after a flood warning is received or must remain a constant maintenance item for the life of the structure.

In evaluating the level of acceptable risk associated with floodproofing, staff also considered the types of uses which would be protected. Uses involving fewer human occupants or a lower intensity of human activity pose a lesser threat to life safety; whereas, occupancy by a less mobile population, such as children or the elderly, or residential habitation seem to present a greater risk. Staff identified two lower intensity uses, parking and storage, which might be placed below the flood protection elevation.

Another factor considered was the degree to which future development in the floodplain would be affected. Many proposed uses, such as the Depot relocation project and the 9th & Canyon hotel and parking structure, would be seriously affected by the

choice of options. The urban design of the downtown area could be affected by the inability to construct underground parking.

RECOMMENDATION

After consideration of the above factors, staff recommends the approach outlined in Option 3 with parking and storage being the uses allowed below the f.p.e. If Council wishes to allow other uses such as office space, meeting rooms, lobbies, or retail space, to be placed below the flood protection elevation, staff would recommend that the lowest floor of these uses not be placed at an elevation which could create an artificial high hazard area.

PW FC DDI

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE Consideration of a motion to authorize the disposal of approximately 0.798 acres of Open Space and Mountain Parks land described as a permanent easement to Public Service Company of Colorado and CenturyLink to place power poles on the East Rudd property for the purpose of facilitating the construction of the planned Community Ditch Trail underpass at State Highway 93. This is a disposal of Open Space land under City Charter Section 177.

PRESENTER/S Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Michael D. Patton, Director, Open Space and Mountain Parks
James L. Reeder, Land & Visitor Services Division Manager
James S. Schmidt, Property Agent

EXECUTIVE SUMMARY

Currently, Public Service Company (PSCo) of Colorado has an electric power line and supporting poles that cross the area where the planned Community Ditch Trail underpass at State Highway (SH) 93 will be constructed. There are three poles that need to be relocated onto Open Space and Mountain Parks (OSMP) property known as East Rudd. The poles cannot be relocated within Colorado Department of Transportation (CDOT) right-of-way (ROW) due to the grade differences and tight layout that will exist between the ditch, trail, underpass and retaining walls. Also, the highway itself will be widened to accommodate bike paths on both sides of the highway. At the present time, CenturyLink has a buried fiber cable in the CDOT ROW on SH 93. The building of the trail underpass will require this cable to be realigned and strung on the new power poles which PSCo will erect for its power line.

STAFF RECOMMENDATION

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

Motion to authorize the disposal of approximately 0.798 acres of Open Space land for use as a permanent easement to Public Service Company of Colorado and CenturyLink for the relocation of poles for power and fiber lines to facilitate the construction of the Community Ditch Trail underpass.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – This easement will facilitate the construction of the Community Ditch Trail underpass and widening of SH 93. Both are likely to entice more people to visit and do business in Boulder.
- Environmental – There are always environmental impacts associated with the construction of infrastructure on OSMP lands. However, OSMP staff continues to work with PSCo and CenturyLink to minimize any potential impacts of this project. These pole relocations add very little impact to this project.
- Social - There are no known negative social impacts associated with this easement. The building of the Community Ditch underpass will greatly benefit the Open Space trail connectivity in this region of the system and greatly increase the safety of trail users.

OTHER IMPACTS

- Fiscal – This easement will have no fiscal impact on the city. The poles are being relocated at PSCo's expense.
- Staff time – The only staff time involved is the time needed to create the easement document and pole relocation monitoring.

BOARD AND COMMISSION FEEDBACK

At its Aug. 14, 2013 meeting, the Open Space Board of Trustees unanimously approved and recommended that City Council approve the disposal of 0.798 acres of Open Space land for use by PSCo and CenturyLink as a permanent easement.

PUBLIC COMMENT AND PROCESS

This item was heard as part of the August 14, 2013 OSBT public meeting advertised in the *Daily Camera* on August 11, 2013. A Notice of Disposal of Open Space lands was published in the *Daily Camera* on August 2 and 3, 2013 pursuant to Section 177 of the City Charter.

This item is being heard as part of this public meeting advertised in the *Daily Camera* on August 18, 2013.

BACKGROUND
Currently, PSCo of Colorado has an electric power line and supporting poles that cross the area where the planned Community Ditch Trail underpass at SH 93 will be constructed. There are three poles supporting the line that are presently in CDOT ROW that need to be relocated to allow for the construction of the planned trail underpass and the widening of the highway. The wider highway will accommodate multi-modal traffic (bikes) in a much safer manner than is possible today. The affected OSMP property is known as East Rudd.

In addition, CenturyLink has a buried fiber cable in the CDOT ROW in this same area. The building of the trail underpass will require this cable to be realigned and strung on the new power poles which PSCo will erect for its power line.

PSCo is willing to effect the relocation at its cost and staff is recommending that the city not seek compensation from PSCo for the new easement. See Attachment A.

CDOT and its contractor have begun initial work to widen the road to create bike lanes and will start work on the underpass in the near future.

ANALYSIS
Staff believes that it is in the city's interest for the city to grant the easement to PSCo of Colorado which will allow them to relocate their supporting poles onto OSMP lands. CenturyLink will coordinate with PSCo to use the same poles to hang their fiber cable. While this relocation is to accommodate the planned construction of the Community Ditch Trail underpass, PSCo has indicated it will relocate the poles at its cost. Therefore, staff is recommending that the city not seek compensation from the utility for this easement. Staff will require that PSCo follow staff's recommended reclamation plan and utilize best management practices during the relocation activities.

ATTACHMENTS:
A. Easement Description
B. Map – Easement Location

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EXHIBIT "A"

EASEMENT DESCRIPTION
CITY OF BOULDER – PUBLIC SERVICE COMPANY OF COLORADO
STATE HIGHWAY 93 POWER LINE EASEMENT
DATE: JULY 31, 2013

An easement lying in that parcel of land described at Reception Number 00720064, as recorded on October 17, 1985, in the Boulder County, Colorado records, said easement being in the Southwest Quarter of Section 21, Township 1 South, Range 70 West, of the 6th Principal Meridian, in Boulder County, Colorado, containing 34,747 sq. ft. (0.798 acres) of land, more or less, and being more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 21 (a found 1 5/8" brass cap), Whence the South Quarter Corner of said Section 21 (a found 1 5/8" brass cap set in iron pipe) bears N89°42'37"E a distance of 2672.51 feet, Thence N65°57'06"E a distance of 1624.88 feet to a point on the easterly right-of-way line of State Highway 93 (August 2013), said point being the POINT OF BEGINNING;

1. Thence N. 04°15'12" W., a distance of 708.07 feet;

2. Thence N. 85°44'48" E., a distance of 45.00 feet;

3. Thence S. 04°15'12" E., a distance of 785.33 feet;

4. Thence S. 85°44'48" W., a distance of 29.66 feet, to a point on said easterly right-of-way line;

5. Thence along said easterly right of way line, N. 15°29'11" W., a distance of 78.77 feet, more or less, to the POINT OF BEGINNING.

The above described Easement contains 34,747 sq. ft. (0.798 acres), more or less.

BASIS OF BEARINGS: Bearings are based on a line connecting the S 1/4 Corner of Section 28, Township 1 South, Range 70 West of the 6th Principal Meridian (being a found 2 1/2" brass cap in a stone pile), and the Center 1/4 Corner of Section 28, Township 1 South, Range 70 West of the 6th Principal Meridian (being a found 2 1/2" aluminum cap on 2" iron pipe in a mound of stone), being an assumed bearing of N 00°07'31" W, 2,664.85' as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN).

Prepared by: Geoffrey F. Stephenson, PLS 23521
For and on Behalf of
The Lund Partnership, Inc.
12265 West Bayaud Avenue, Suite 130
Lakewood, Colorado 80228

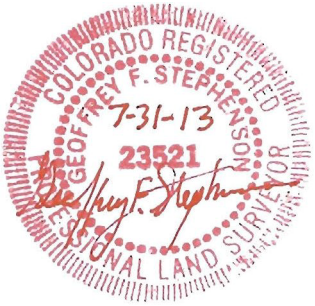
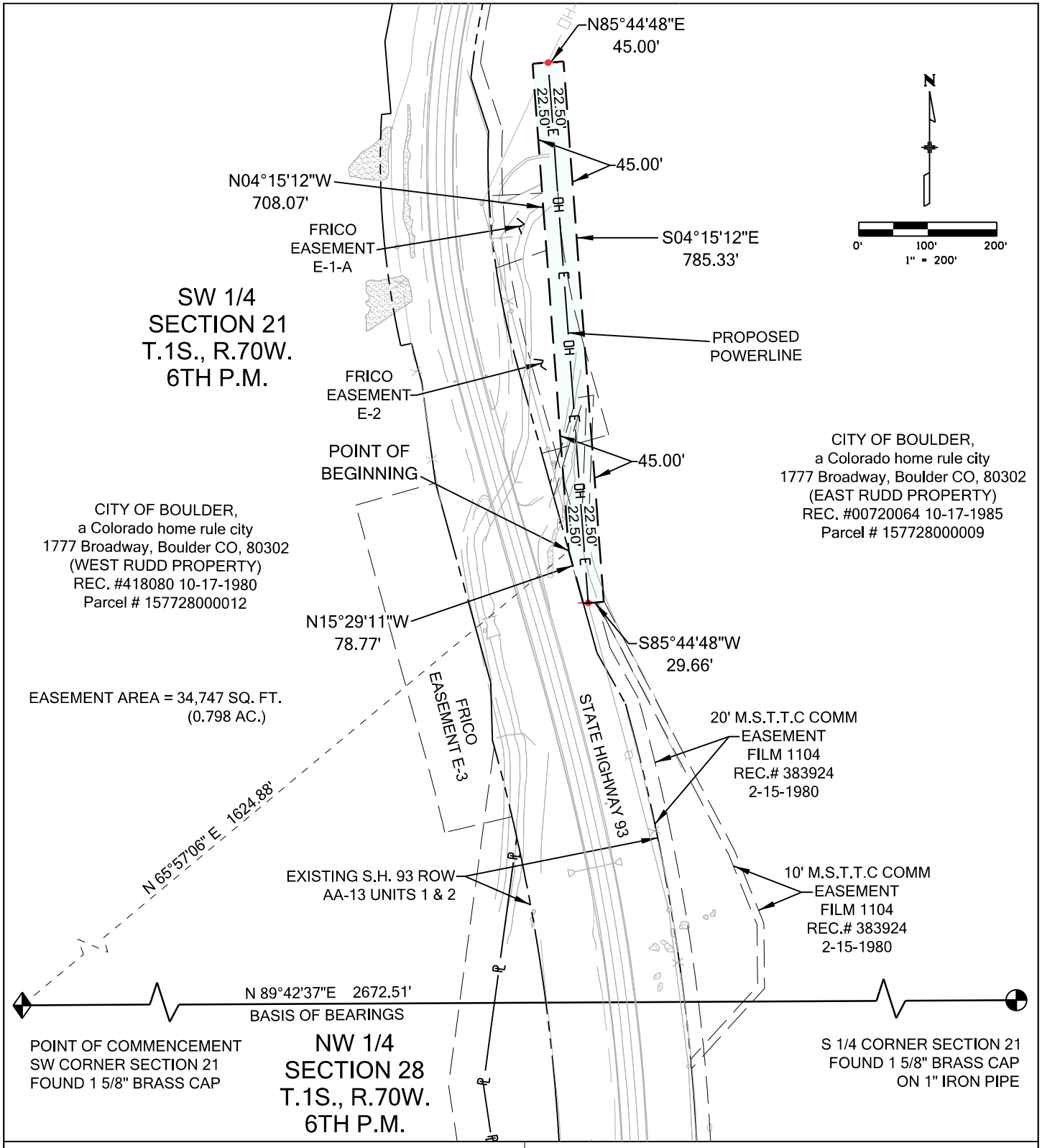


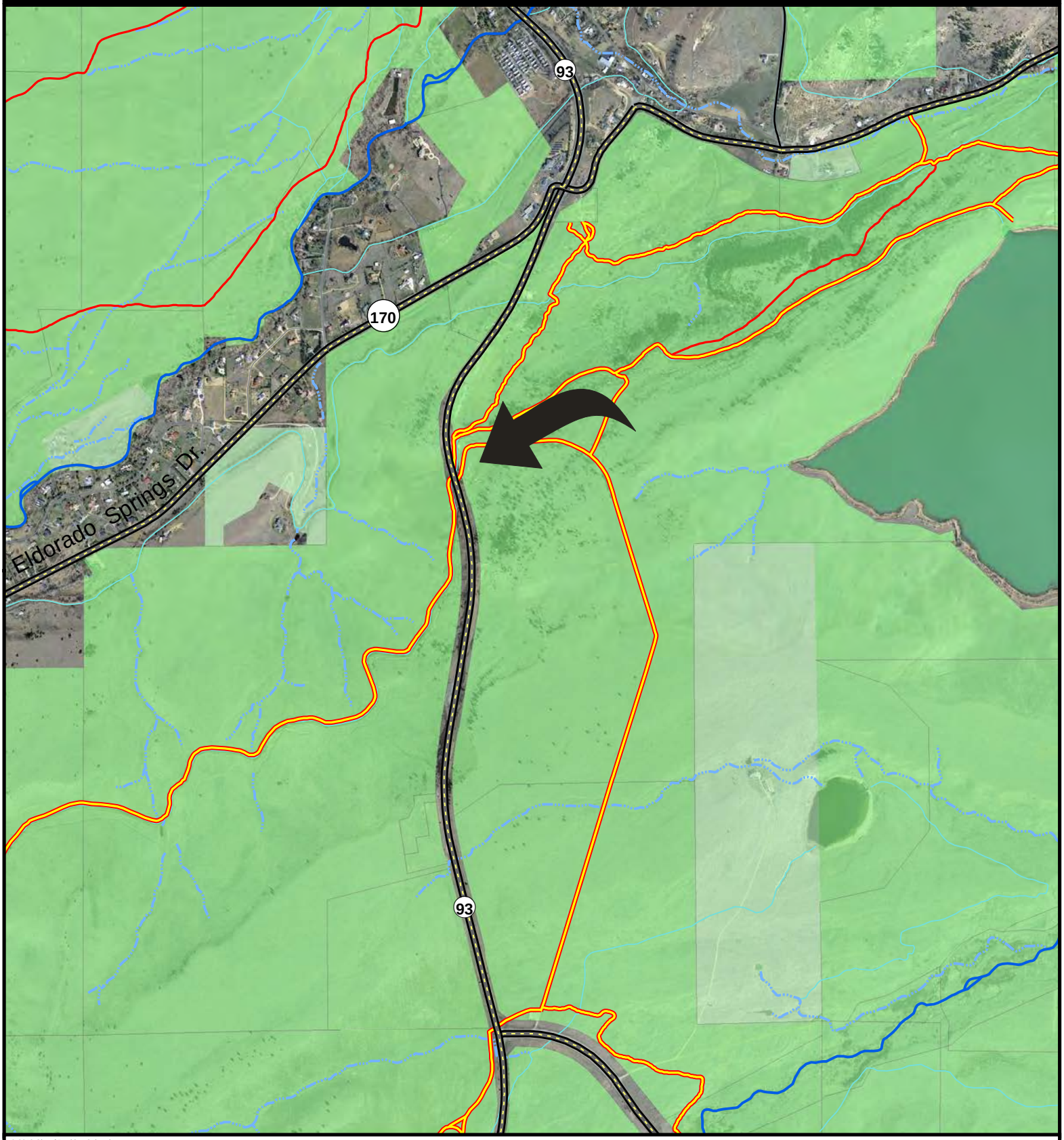
ILLUSTRATION FOR EXHIBIT A



CITY OF BOULDER, COLORADO			AN EASEMENT LYING IN THE SW 1/4 OF SECTION 21, T 1 S, R 70 W, OF THE 6TH P.M., BOULDER COUNTY, COLORADO, COVERING A PORTION OF CITY OF BOULDER PARCEL RECORDED AT RECEPTION NO. 00720064, DATED 10-17-1985
DRAWN BY: JAD	SCALE: 1" = 200'	R.O.W. PROJ. CODE: 18465	
CHECKED BY: GFS	DATE: 07-31-2013	JOB NUMBER: 587-0101	

ATTACHMENT B - City of Boulder Open Space & Mountain Parks

LOCATION MAP - Easement Location



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OSMP Managed Multi-Use Trail

OSMP fee/CE

N

0 0.25 0.5 Miles

2012 Aerial Photography

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt Emergency Ordinance No. 7922, submitting to the registered electors of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, the question of extending a 0.15 cent sales and use tax, which is currently dedicated to open space and expires December 31, 2019, to remove the expiration date and dedicate the funds to transportation until December 31, 2029 and thereafter dedicating the funds to general government needs as introduced and passed on first reading at the August 5, 2013 council meeting and setting forth related details.

PRESENTER:
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Robert Eichem, Chief Financial Officer
Maureen Rait, Executive Director, Public Works
Tracy Winfree, Director, Public Works for Transportation

EXECUTIVE SUMMARY

At the July 16, 2013 City Council meeting, council members discussed various approaches to addressing the need to fund the Transportation Department. Council voted to amend and approve on first reading Ordinance No. 7913 to impose a 0.15 cent sales tax for five years, dedicated to transportation funding. There was discussion about different options that could be pursued to fund transportation infrastructure and other transportation purposes. These discussions included exploring solutions that were tied more directly to transportation behavior, finding alternative means to fund transportation outside of a sales tax, exploring a community-wide Eco-Pass, imposing a head tax related to transportation that would tax heavy road utilization, and demurring until the new Transportation Master Plan was developed.

In a council "Hotline" message on August 1, 2013, Council Members Becker and Ageton asked council to reconsider including on the ballot an extension of the 0.15 cent sales

tax for transportation funding. As requested, staff prepared a draft ordinance for first reading to dedicate the 0.15 cent sales tax to transportation funding for ten additional years, starting at the expiration of the new tax proposed by Ordinance No. 7913 on December 31, 2019.

Accordingly, on August 5, 2013, City Council introduced and adopted on first reading Ordinance 7922 placing before the voters a measure extending a 0.15 cent sales tax for transportation purposed from January 1, 2020 through December 31, 2029 and from January 1, 2030 for general fund purposes.

The changes incorporated on first reading to the ordinance and ballot titles have been added to the ordinance. Staff recommends amending on second reading and passing the measure by emergency. An emergency finding has been included in the ordinance.

STAFF RECOMMENDATION

Staff recommends that the council adopt these ordinances by motion with the following suggested motion language:

Suggested Motion Language:

Motion to adopt Emergency Ordinance No. 7922 placing on the November 5, 2013 ballot a measure extending a 0.15 sales tax and dedicating that tax to fund transportation construction and services such as maintenance of pavement, construction of transportation infrastructure, transit service and other transportation purposes for the period between January 1, 2020 and December 31, 2029 and beginning January 1, 2030 dedicating that tax to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Imposing and extending a temporary 0.15 cent sales tax could have some detrimental effect on the economy. However, job creation and efficiencies derived from additional funding for transportation improvements, maintenance and support of transit should significantly offset any detrimental effect. Lengthening the period of time that this 0.15 tax increase remains in effect would provide more stability, certainty and longevity to provide a longer planning horizon. Providing stable funding for services such as fire, police, libraries, parks, recreation, human services and other general fund purposes also should provide a significant positive effect on the economy.

- Environmental – Investing in transportation infrastructure and supporting transit will reduce congestion and support alternative transportation modes.

- Social –Transportation improvements support the social fabric of the community. Voters would have more certainty about how the city will provide for basic transportation infrastructure. Providing funding for other government services that support the social network in the city will have a substantial benefit to our community.

BACKGROUND

Ordinance No. 7922 would place on the November 5, 2013 ballot a measure extending a 0.15 cent sales tax originally approved by the voters through passage of Ordinance No. 7301 on November 4, 2003. This tax is set to expire on December 31, 2019. The original tax dedicated all of the tax revenue to open space. At the August 5, 2013 special council meeting council introduced and adopted Ordinance No. 7922. Ordinance No. 7922 passed on first reading would propose to the voters a tax with the following elements:

- The tax would not sunset.
- Between January 1, 2020 and December 31, 2029, all of the 0.15 cent tax would be dedicated to fund transportation construction and services such as maintenance of pavement, construction of transportation infrastructure, transit service and other transportation purposes.
- Beginning January 1, 2030, all of the 0.15 cent tax would be dedicated to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes.

ATTACHMENTS:

Attachment A – Emergency Ordinance No. 7922

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ORDINANCE NO. 7922

AN EMERGENCY ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, THE QUESTION OF, WITHOUT RAISING ADDITIONAL TAXES, SHALL THE EXISTING 0.15 CENT CITY SALES AND USE TAX APPROVED BY THE VOTERS BY ORDINANCE NO. 7301, BE EXTENDED BEYOND THE CURRENT EXPIRATION DATE OF DECEMBER 31, 2019 UNTIL DECEMBER 31, 2039, WITH 100 PERCENT OF THE REVENUES COLLECTED TO FUND TRANSPORTATION CONSTRUCTION AND SERVICES, SUCH AS MAINTENANCE OF PAVEMENT, CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE, TRANSIT SERVICE AND OTHER TRANSPORTATION PURPOSES UNTIL DECEMBER 31, 2029 AND BEGINNING JANUARY 1, 2030, 100 PERCENT OF THE REVENUES COLLECTED TO FUND SERVICES SUCH AS FIRE, POLICE, LIBRARIES, PARKS, RECREATION, HUMAN SERVICES AND OTHER GENERAL FUND PURPOSES AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The 0.15 cent sales and use tax was approved by voters on Nov. 5, 2002 pursuant to Ordinance No.7301, with an expiration date of December 31, 2019, which tax provides funds for the acquisition and preservation of open space land as defined in Section 170 of the Charter of the City of Boulder;

B. The electorate should consider authorizing City Council to continue the collection of a 0.15 cents on each dollar sales and use tax from its present expiration date of December 31, 2019 ~~to December 31, 2029~~ and from January 1, 2020 through December 31, 2029 for all revenue to be used to fund transportation construction and services without limitation, such as maintenance of pavement, construction of transportation infrastructure, transit service and other transportation purposes and thereafter for all revenue to be used to fund such services as fire, police, libraries parks, recreation, human services and other general fund purposes;

C. It is appropriate for voters to approve the continued collection, retention and expenditure of the full tax proceeds and any related earnings from this portion of the sales and use tax; and

D. The purposes that will be served by the continued collection of the tax are critical for the continued provision of essential transportation and general fund purposes;

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

Section 1. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 5, 2013.

Section 2. At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of authorizing the City Council, by duly passed ordinance, to amend that portion of Section 3-2-5, "Rate of Tax," B.R.C. 1981, that pertains to the 0.15 cent on the dollar sales and use tax that is currently set to expire at midnight on December 31, 2019, by extending the tax beyond its current sunset date and from January 1, 2020 through~~to~~ December 31, 2029 with all of the funds dedicated to transportation construction and services such as maintenance of pavement, construction of transportation infrastructure, transit service and other transportation purposes and thereafter for all revenue to be used to fund such services as fire, police, libraries, parks, recreation, human services and other general fund purposes.

The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

BALLOT QUESTION NO. _____

Sales and Use Tax Extension

Without raising additional taxes, shall the existing 0.15 cent city sales and use tax approved by the voters by Ordinance No. 7301, be extended beyond the current expiration date of December 31, 2019 until December 31, 2039, with 100 percent of the revenues collected to fund transportation construction and services, such as maintenance of pavement, construction of transportation infrastructure, transit service and other transportation purposes until December 31, 2029

and beginning January 1, 2030, 100 percent of the revenues collected to fund services such as fire, police, libraries, parks, recreation, human services and other general fund purposes?

FOR THE MEASURE ____ AGAINST THE MEASURE ____

Section 3. If the ballot measure passes, effective January 1, 2014, Subsection 3-2-5(c) B.R.C. 1981, is amended to read:

(Note – the language which has been underlined would be added and the language that has been lined out would be omitted from the section if this ordinance is approved by the electors.):

3-2-5 Rate of Tax.

…

(c) Of said amount, 0.25 percent shall be deemed a parks and recreation tax, which tax shall expire at 12:00 midnight on December 31, 2035; 0.33 percent shall be deemed an open space tax, which tax shall expire at 12:00 midnight on December 31, 2018; 0.15 percent shall be deemed a general sales and use tax; 0.15 percent shall be deemed an open space tax, ~~which tax shall expire~~ at 12:00 midnight on December 31, 2019 the tax shall be deemed a transportation tax and at 12:00 midnight on December 31, 2029, the tax shall be deemed a general sales and use tax; and, beginning on January 1, 2005, 0.15 percent shall be deemed a general sales and use tax, which tax shall expire at 12:00 midnight on December 31, 2024. As each tax expires, the aggregate tax shall be reduced accordingly.

Section 4. If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed, and the City Council authorized to make amendments to the Boulder Revised Code, 1981, to implement this measure.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this ordinance.

Section 6. The officers of the City are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the City.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance. The tax established by this measure is intended to be authorized under any lawful means of taxation, including license taxation pursuant to City of Boulder Charter section 122.

Section 8. 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 9. 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.

Section 10. The City Council finds that this ordinance is necessary for the preservation of the public peace, health, or property. The City Council amended the ordinance on second reading. This ordinance includes a ballot measure. Emergency passage is necessary to allow time for this matter to be placed on the November 5, 2013 ballot.

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY this 5th day of August 2013.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this 20th day of August 2013.

_____
Mayor

Attest:

_____
City Clerk

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE: Consideration of a motion to accept the Boulder Police Master Plan, approve the Boulder Valley Comprehensive Plan (BVCP) Police Master Plan Summary, and amend the BVCP Urban Service Criteria and Standards for Urban Police Protection.

PRESENTER/S
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Mark Beckner, Police Chief
Dave Hayes, Deputy Police Chief
Greg Testa, Deputy Police Chief
Joanna Crean, Public Works Project Coordinator

EXECUTIVE SUMMARY

The core mission of the Boulder Police Department (BPD) is to work with the community of Boulder to provide a safe and secure city through education, enforcement and investigative services. The purpose of this item is to seek acceptance from City Council of the updated Police Master Plan, approval of the Boulder Valley Comprehensive Plan (BVCP) Police Master Plan Summary, and amend the BVCP Urban Service Criteria and Standards for Urban Police Protection.

Originally developed in 1996 and revised in 2001, the Police Master Plan is being updated to better reflect current and emerging trends, which include an increasing population and changing demographics; a rise in the number of calls for service; changing community expectations; advances in technology and communication and the use of technology to investigate crimes; and requirements for court evidence. The updated Police Master Plan is being restructured within the context of the Sustainability Framework to reflect the BVCP and the city's approach to Priority Based Budgeting. The Master Plan is intended to guide the BPD for the next five-to-seven years in addressing the business operations of police service delivery in a manner that meets the community's standards and sustainability goals. A complete copy of the Police Master Plan is included as **Attachment A.**

The Planning Board reviewed and recommended City Council acceptance of the Police Master Plan by unanimous vote on July 25, 2013.

RECOMMENDATION

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

Motion to accept the Boulder Police Master Plan, approve the Boulder Valley Comprehensive Plan (BVCP) Police Master Plan Summary, and amend the BVCP Urban Service Criteria and Standards for Urban Police Protection.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Police enforce the laws that help maintain a safe community for businesses to operate. The Boulder Police Department (BPD) provides support to keep the community safe from crime and improve quality of life concerns so that Boulder remains an attractive place to live, work and recreate.
- Environmental – BPD's use of alternative modes of transportation such as foot patrols, bicycle patrols and alternative fuel vehicles helps promote renewable fuels and reduces emission impacts. Also related to the environment is preparing for natural disasters, such as floods and wildfires. When a natural disaster occurs, police are involved in crowd control, providing public safety, directing traffic and organizing search teams.
- Social – BPD protects people, homes and businesses by delivering services equitably and fairly and helps to provide a predictable sense of safety and security. By working in partnership with the community, BPD can increase its effectiveness in solving community problems, reducing crime and making neighborhoods safer and more attractive.

OTHER IMPACTS

- Fiscal – Implementation of the Police Master Plan will take place over a number of years. BPD anticipates incorporating new initiatives into the future budget processes as city resources allow. For example, upgrading technology in order to improve response times and increase efficiency will be considered as part of a future budget process.
- Staff time – Implementation of elements of the Police Master Plan may require additional staff resources. For example, a phased in approach to add sworn officers and civilian staff members has been submitted for consideration as part of the 2014 budget process.

BOARD AND COMMISSION FEEDBACK

The city's Planning Board discussed the Police Master Plan at its July 25, 2013 meeting and recommended acceptance (4-0, **B. Bowen, A. Brockett, L. May** absent) of the Police Master Plan to City Council. Planning Board also approved (4-0) the proposed BVCP

Police Master Plan Summary and revisions to the BVCP Urban Service Criteria and Standards for Urban Police Protection.

PUBLIC PROCESS

Opportunities for public input included public hearings at the Planning Board meeting on July 25, 2013 and City Council meeting on August 20, 2013. In addition, from the summer of 2009 through 2010, focus group meetings were conducted with internal workgroups, external stakeholders, and the general public to obtain feedback about community concerns, as well as current and future police services. In 2011, an online survey was developed to solicit further information from the general public.

BACKGROUND

The BVCP provides the overall policy framework for departmental master planning including a general statement of the community's long-term desired future. Departmental and system master plans take the goals and policies of the BVCP and provide specific guidance for delivering city services. In 1996, BPD completed its first Master Plan, which was later revised in 2001. The BPD Master Plan is now being updated to better reflect current and emerging trends. The updated BPD Master Plan is being restructured within the context of the Sustainability Framework to reflect both the BVCP and the city's approach to Priority Based Budgeting.

As part of the master plan update process, BPD completed a workload and staffing analysis known as the Staffing and Deployment Assessment (Assessment) in June 2012. The Assessment recommendations were presented to City Council on April 30, 2013. Since the Assessment was completed, many recommendations have been implemented or are in the process of being implemented. Other recommendations are being brought forward as part of the 2014 budget process and the BPD Master Plan update. Information related to the Assessment as well as the BPD Master Plan update process can be found at: www.bouldercolorado.gov/police > "BPD Master Plan."

On May 28, 2013, a City Council dinner discussion was held in order to provide them with an update on the status of the Police Master Plan and obtain feedback on the proposed strategies and initiatives to address the provision of police services. City Council's feedback was then incorporated into the final Police Master Plan.

ANALYSIS

The Police Master Plan is the City of Boulder's five-to-seven-year plan to support public safety services by building on BPD's strengths, addressing existing deficiencies and defining a future course that ensures continued high-quality and cost-effective law enforcement services. This update to the Police Master Plan takes into consideration current and emerging trends that impact the future of police response, including an increasing population and changing demographics; a rise in the number of calls for service; changing community expectations; advances in technology and communication and the use of technology to investigate crimes; and requirements for court evidence.

Attachment A provides the Police Master Plan in detail. Included in this section are some of the key areas from the Police Master Plan.

Sustainability Framework

The Sustainability Framework is a tool for departmental master planning to help ensure that each plan aligns with and advances the goals and priorities of the City Council and community. The categories of the framework build upon the BVCP and the city's Priority Based Budgeting (PBB) approach. Both the BVCP and PBB were developed with community input processes and are used to guide long-term decision making as well as the city's annual budget prioritization process. The Sustainability Framework was first used in the Fire Master Plan and it has evolved as part of the Police Master Plan process. The framework will continue to evolve as it is applied in subsequent master plan efforts.

BPD Strategies and Initiatives

As part of the master plan update process, BPD developed a number of strategies and initiatives within the context of the Sustainability Framework to address the provision of police services. For each Sustainability Framework category area, the BPD's strategy is identified along with initiatives or action items to more strategically provide police services while meeting current and anticipated future community needs. While the initiatives are under a specific sustainability category, the initiatives often impact multiple areas. Details of each initiative are included in **Attachment A**, beginning on page 15 and summarized in a table on pages 28 and 29.

Investment Priorities and Implementation

In accordance with the city's business planning methodology, the Police Master Plan proposes three spending plans which focus on supporting programs that have strong community support:

- **Fiscally Constrained** plan based on 2013 budget allocations *($31,747,022 ongoing*),
- **Action** plan that assumes an increase in revenue to the department through the budget process based on the proposed initiatives (estimated *$1,507,703 ongoing; estimated $4,720,605 one-time),* and
- **Vision** plan, which is not fiscally constrained in any way (*$6,350,000 one-time).*

BPD receives over 99 percent of its funding from the General Fund with the vast majority spent on personnel and fixed expenses. Implementation of the Police Master Plan will take place over a number of years to even out budgetary and other impacts. BPD is already moving ahead with many of the recommendations in the master plan that do not require additional funding or staff. In the future, BPD will incorporate new initiatives into the planning and budget processes as city resources allow. With this master plan as a guide, BPD will use the city's Priority Based Budgeting approach to develop annual budget requests. Progress will be reviewed and accomplishments reflected as part of the

annual budget process. Every effort will be made to ensure that BPD efforts reflect City Council and community goals.

BVCP URBAN SERVICE CRITERIA AND STANDARDS

The BVCP urban services standards set the benchmark for providing a full range of urban services in the Boulder Valley. These standards are intended to be minimum requirements or thresholds for facilities and services that must be delivered to existing urban development, or new development and redevelopment to be considered adequate. The service standards for key urban services are evaluated and revised in master planning processes to ensure the thresholds and measurements are current and appropriate measures of service delivery.

BPD is currently meeting the majority of the BVCP urban service criteria and standards. The BVCP urban service criterion currently calls for BPD to respond to: "any potentially life-threatening police emergency normally within four and a half minutes from the time the call for assistance is received by the Communications center (however, the range for that average within the established city shall not exceed six minutes)." BPD feels that the police response to true emergency situations is meeting the standard. However, the data captured through the computer aided dispatch (CAD) system includes both emergency and non-emergency response to Priority One[1] calls. As a result the average response from the time a call was received to the arrival of an officer has increased from 2:15 to 6:28 minutes. The increase is mostly due to changes in tracking time, improvements in record keeping, and partly related to the fact that there are fewer officers available to respond. BPD has recently implemented a new CAD system that allows for better tracking of calls for service both in terms of time that calls are received, entered into the system, dispatched, and officers arrive as well as more easily extracted data such as number, type and details for calls for service handled by a particular officer. The new CAD system also assigns emergency or Priority One calls by closest unit using a Global Positioning System (GPS) feature rather than a dispatcher assigning these calls based solely on district assignment, which should improve police response time. After additional data has been collected using the new CAD system, BPD will further evaluate opportunities for improvement in response times. In addition, BPD is requesting additional staff resources as part of the 2014 budget process to increase officer availability.

BPD recommends one change to the BVCP Urban Police Protection Service Criteria and Standards as shown underlined below:

Adding to the "Location and Adequacy of Equipment and Facilities" that the location of patrol districts also be based on crime rates and neighborhoods/geography. BPD utilizes contemporary standards in calls for service and crime rates in order to determine the most efficient distribution of officers. Police departments focus on where the crime is located rather than on an "even" distribution of response times in order to use resources in the

[1] "Priority One Calls" includes calls that require the immediate presence of a law enforcement officer in order to protect individuals from injury or life-threatening situations, or other emergency situations which require and depend upon an immediate response.

most cost effective and efficient manner. BPD proposes adding "crime rates and neighborhoods/geography" to the standard for locating patrol districts.

> (4) Location and Adequacy of Equipment and Facilities
>
> (a) Ensure the availability and maintenance of police equipment, particularly that affecting officer safety.
>
> (b) Locate patrol districts based on crime rates and geography/neighborhoods so that they are within an average four and a half minute emergency response time 24 hours per day.

These revisions to the BVCP Urban Service Criteria and Standards for Urban Police Protection have been approved by Planning Board on July 25, 2013. If approved by City Council, these revisions will be incorporated into the BVCP document.

MASTER PLAN SUMMARY

The following updated summary of the Police Master Plan for the BVCP is recommended for approval:

> ***Police***
>
> *The Boulder Police Department (BPD) provides both service and safety and has adopted a philosophical shift from a traditional 911-driven, purely reactive approach to an emphasis on community-based, prevention-oriented police services. The department defines its fundamental responsibilities as the following:*
>
> - *Enforcing laws and preserving public safety and order;*
> - *Reducing crime and disorder through prevention and intervention;*
> - *Responding to community needs through partnerships and joint problem-solving;*
> - *Investigating and reporting serious and non-serious crimes for prosecution;*
> - *Providing information and service referrals; and*
> - *Managing and administering departmental operations.*

This updated summary has been approved by Planning Board on July 25, 2013. If approved by City Council, this summary will be incorporated into the BVCP document.

NEXT STEPS

Upon City Council acceptance, the Police Master Plan implementation will take place over a number of years to even out budgetary impacts. BPD anticipates incorporating new initiatives into the future budget processes as city resources allow.

ATTACHMENTS

A – Boulder Police Master Plan

Boulder Police Department

2013 MASTER PLAN

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Executive Summary

One of the foundations of a community's ability to go about its daily life is the basic feeling of safety. Governments at all levels share this responsibility. The core mission of the Boulder Police Department (BPD) is to work with the community of Boulder to provide a safe and secure city through education, enforcement and investigative services. Sworn officers and non-commissioned, civilian personnel take pride in their commitment to uphold the law, maintain peace, and strive toward the city's vision of "service excellence for an inspired future."

With a 2013 budget of $31.7 million, 173 sworn officers and 104 civilian employees, BPD provides a broad spectrum of law enforcement services including responding to both emergency and non-emergency calls for service, crime prevention, investigations, traffic enforcement, animal control and code enforcement. BPD serves the community by building partnerships to address crime and crime-related problems. This is sometimes referred to as a community-oriented or community policing philosophy.

As with all city master plans, the Police Master Plan takes its overall policy direction from the Boulder Valley Comprehensive Plan (BVCP). Specifically, the goals and policies of the BVCP

provide guidance for delivering city services. The Police Master Plan is the City of Boulder's five-to-seven year plan to guide the business operations of police service delivery in a manner that meets the community's standards and sustainability goals. Originally developed in 1996 and revised in 2001, the Police Master Plan is being updated to better reflect current and emerging trends, which include an increasing population and changing demographics; a rise in the number of calls for service; changing community expectations; advances in technology and communication and the use of technology to investigate crimes; and requirements for court evidence. The 2013 Police Master Plan moves the BPD towards the vision of being a leading edge police department, with state-of-the-art technology, well-trained officers and staff, up-to-date equipment and sufficient work space needed to provide the best service possible to the community.

Recommendations: Strategies and Initiatives

BPD developed a number of strategies within the context of the Sustainability Framework to address the provision of emergency and non-emergency services. The categories of the Sustainability Framework build upon the BVCP and the city's Priority Based Budgeting (PBB) approach: two key initiatives that define long-term community goals and priorities. The Sustainability Framework is a tool to help ensure that each departmental master plan aligns with and

advances the goals and priorities of the City Council and community. For each Sustainability Framework category area, the BPD's strategy is identified along with initiatives. (For more details on the Sustainability Framework category areas see Chapter Three, beginning on page 11.) Each strategy is supported by specific initiatives: (For more details see Chapter Four, beginning on page 15.)

Safe Community – Adjust service delivery to meet new community expectations while maintaining basic public safety. **Sample initiatives include:** Evaluate additional options to handle requests for service **and** phase-in additional sworn officers and civilian staff over five years to provide more time for community policing activities and proactive enforcement.

Healthy and Socially Thriving Community – Provide a safety net of services, early intervention and prevention to meet critical human service needs. Sample initiatives include: Refine "community policing" approach and develop future strategies to further support livable neighborhoods and vibrant business districts and continue to build better relationships with community groups which are often disengaged.

Livable Community -Ensure public safety services support evolving urban areas and that urban areas support crime prevention. **Sample initiatives include:** Evaluate Neighborhood Impact Team and apply lessons learned to future approaches to public safety **and** support collaboration on area plans and development review projects.

Accessible & Connected Community – Ensure safety for all modes of travel and efficiency for emergency response. **Sample initiatives include:** Continue to utilize alternative modes of transportation such as foot patrols, bicycle patrols and energy efficient vehicles in response **and** leverage technology to monitor traffic, identify safety issues, and improve enforcement capabilities.

Environmentally Sustainable Community – Reduce energy consumption and emissions by focusing on zero waste and energy efficiency initiatives **and** improve preparedness for natural disasters, such as floods and wildfires. **Sample initiatives include:** Improve BPD's environmental sustainability efforts through recycling and composting **and** expand Field Guide for Flood Response to include all hazards.

Economically Vital Community– Provide a high level of policing services ensuring safety and security in the community. **Sample initiatives include:** Continue to plan and develop safe procedures for the increasing number of special events **and** maintain commercial crime prevention efforts through education, enforcement, and investigation.

Good Governance – Use resources more efficiently and effectively to provide professional police services to the community. **Sample initiatives include:** Develop a strategic approach to better meet the changing demands of technology in the areas of forensics, criminal investigation, communication, and data collection **and** establish a strategic funding plan for maintenance and replacement of BPD capital assets, including facilities, vehicles, and all technology needs.

Investment Priorities and Funding Options

BPD receives over 99 percent of its funding from the General Fund with the vast majority spent on personnel costs. More than 80 percent of BPD spending falls into the highest scoring quartile of all programs when scored through the city's Priority Based Budgeting approach. In accordance with the city's business planning methodology, the master plan proposes three spending plans: a Fiscally Constrained plan

based on 2013 budget targets, an Action Plan that assumes an increase in revenue to the department and a Vision Plan which is fiscally unconstrained but can help provide policy guidance by illustrating the ultimate goals of the community. All plans focus on supporting priority programs and those that have strong community support. (For more details see Chapter Five, beginning on page 31.)

Performance Measures

Performance measures are used to monitor service and progress toward the master plan strategies. Historically, police effectiveness has been measured by crime statistics, response times and some rough guidelines about the appropriate number of officers per 1,000 residents. BPD also includes victim feedback, District Attorney's Office feedback, benchmark community comparison data, and community input in evaluating performance. Overall, BPD is doing well in the areas of solving crimes (clearance rates), reflecting community diversity and other values, training, and holding employees accountable to high standards. Over the last 15 years, BPD has worked toward greater professionalism in meeting the mission of working with the community to provide service and safety. Nationally, Boulder has a lower crime rate compared to other similar cities. An area for improvement is in average response from the time a call was received to the arrival of an officer for Priority One calls. The response time has increased which is mostly due to changes in tracking time, improvements in record keeping, and partly related to the fact that there are fewer officers available to respond. Implementation of technological improvements will assist in more accurate data collection and BPD will further evaluate opportunities for improvement in response time standards. (For more details see Chapter Six, beginning on page 35.)

Implementation and Next Steps

With the adoption of this master plan, BPD commits to the initiatives outlined in the fiscally constrained plan (within the existing budget) and to actively pursue the funding and resource leveraging needed to implement the action and vision plans. As a result, implementation of the Police Master Plan will take place over a number of years to spread out budgetary and other impacts. BPD is already moving ahead with many of the recommendations in the master plan, specifically within the fiscally constrained plan, that do not require additional funding or staff. With this master plan as a guide, BPD will use the city's Priority Based Budgeting approach to develop annual budget requests. Progress will be reviewed and accomplishments reflected as part of the annual budget process. Every effort will be made to ensure that BPD efforts complement City Council and community goals. (For more details see Chapter Seven, beginning on page 39.)

Introduction

What is the Boulder Police Master Plan?

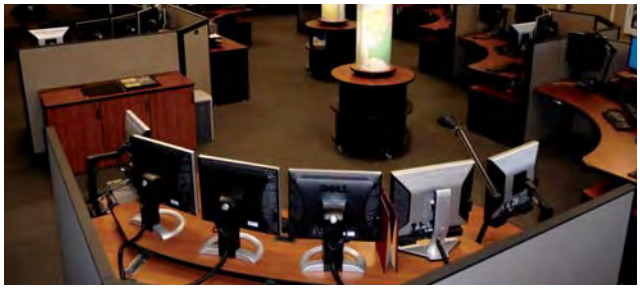
The Police Master Plan is the City of Boulder's five-to-seven year plan to support public safety services by building on the Boulder Police Department's (BPD) strengths, addressing existing deficiencies and defining a future course that ensures continued high-quality and cost-effective law enforcement services.

Originally developed in 1996 and revised in 2001, the Police Master Plan is being updated to better reflect current and emerging trends, which include an increasing population and changing demographics; a rise in the number of calls for service; changing community expectations; advances in technology and communication and the use of technology to investigate crimes; and requirements for court evidence. The Master Plan is intended to guide the BPD for the next five to seven years in addressing the business operations of police service delivery in a manner that meets the community's standards and sustainability goals.

Major Accomplishments since 2001

Since the last master plan was accepted by City Council in 2001, BPD has:

✓ Built a state-of-the-art firearms range and a new training facility that has become a regional center for specialized training for the North Central Region.
✓ Developed and implemented the City of Boulder Police/Fire Communications Center.



✓ Reviewed and revised department policies to reflect contemporary standards such as creating a policy to provide additional direction on appropriate discretion for prohibiting racial profiling.
✓ Developed and implemented a new Code Enforcement Unit and a new Animal Control Unit.
✓ Increased inclusiveness through the use of "leadership teams" and advisement committees within the organization. As a result, BPD now provides basic and advanced Spanish language instruction to employees.
✓ Built a state-of-the art computer forensics lab staffed with a certified computer forensic detective.
✓ Enhanced traffic safety with the use of photo enforcement. Accidents caused by drivers running red-lights have been reduced by 57 percent and red-light violations by 65 percent.

CHAPTER ONE

How does the Master Plan fit into Citywide Planning Efforts?

The Boulder Valley Comprehensive Plan (BVCP) provides the overall policy framework, including a general statement of the community's long-term desired future. Departmental master plans take the goals and policies of the BVCP and provide specific guidance for delivering city services. Master plans establish detailed policies, priorities, service standards, facility, capital and system needs and budgeting for the delivery of services.

The updated Police Master Plan is being restructured within the context of the Sustainability Framework, which is a tool built upon the BVCP policy areas and the city's Priority Based Budgeting approach. The goal of the Sustainability Framework is to help ensure that each master plan aligns with and advances the goals and priorities of the City Council and community. The Sustainability Framework consists of seven category areas which provide the context to develop strategies and initiatives to continue to improve service to the Boulder community.

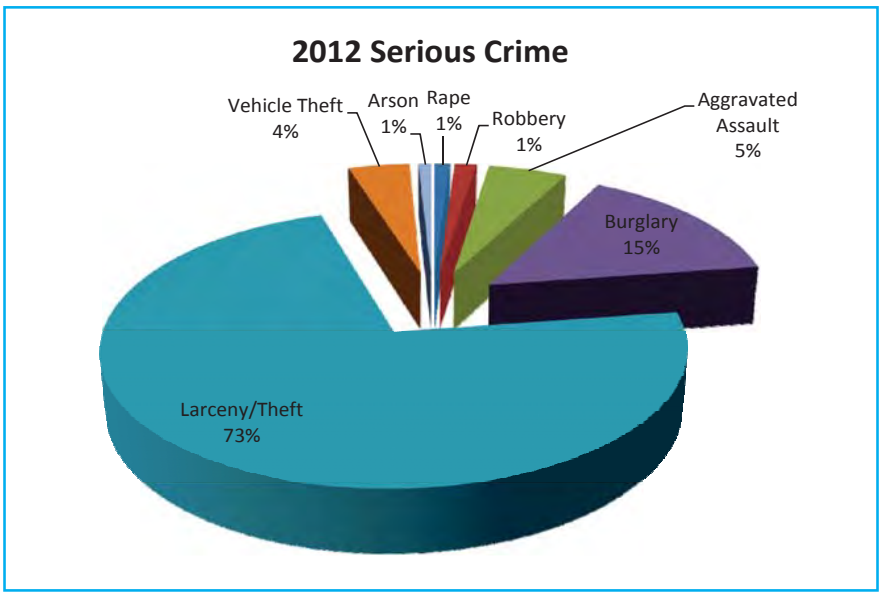
This master plan evaluates the Police Protection Urban Service Criteria and Standards outlined in the BVCP. It recommends strategies for protecting the public safety while responding to growth and it discusses areas where the department intends to comply with recognized best practices.

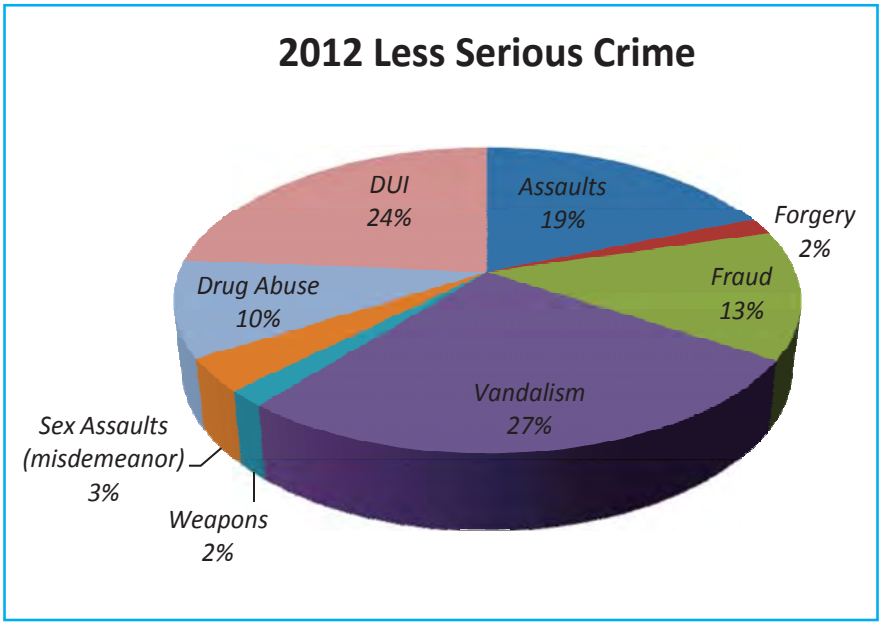
How does the Master Plan affect daily life in Boulder?

The master plan defines a future course for providing high-quality and cost-effective public safety services through education, enforcement and investigative services. It also reflects the department's intent to continue to improve public safety services, which will benefit everyone who lives, works and plays in Boulder.

Department Anniversary

In 2003 the police department celebrated its 125th anniversary





Master Plan Development

In the fall of 2008, the second revision of the master plan began with the formation of a Master Plan Committee (MPC), which was comprised of commissioned and non-commissioned employees who were tasked with focusing on enhancing BPD's ability to provide services to the community. Several teams from the MPC were assigned to explore topics in the areas of administration, recruitment and training, technology, work flow and business practices, and environmental sustainability. From the summer of 2009 through 2010, focus group meetings were conducted with internal workgroups, external stakeholders, and the general public to obtain feedback about community concerns, as well as current and future police services. In 2011, an online survey was developed to solicit further information from the general public. In June 2012, an outside consultant completed a workload and staffing analysis known as the Staffing and Deployment Assessment. Using input from the focus group meetings, online community survey, the Staffing and Deployment Assessment, and reviewing population and demographic trends, a number of strategies and initiatives have been developed as part of the master plan update.

History of the Boulder Police Department

In February of 1878, a newly formed Boulder City Council drafted an ordinance "to provide for the organization of the police of the town." Marshal William Debord and one or two other men were charged with keeping the peace. Prior to this, law enforcement came under the jurisdiction of several Boulder County sheriffs and a series of constables. The city streets were made of dirt, and only a few laws had been passed. Marshals (later chiefs) were appointed by the mayor or city manager based more on their personal relationship with the mayor than on their professional abilities. Crime was rarely serious and involved prostitution, disorderly conduct and alcohol abuse. In the mid-1900's, changes came in the way of automobiles and telephones, and with these changes came an emphasis on finding a credible police chief. Claude Head was hired in 1923, when written rules and policies were established in the city. Boulder's oldest unsolved murder occurred when 45-year-old Officer Elmer Cobb was shot and killed on his way to work. At the time, people speculated that he knew too much about local bootlegging operations, and paid for that knowledge with his life. In 1949, Myron Teegarden was appointed as chief. His administration was in charge during a time that coincided with municipal growth: the City of Boulder nearly doubled in population in the 1950's. Officers conducted foot and vehicle patrols equipped with two-way radios for quick communications and rapid response to calls. Technological advances grew through the 1970's and 1980's. Computers opened up a new world of reporting, information gathering and information retrieval. Training requirements increased as the need for highly-skilled officers grew. As the population expanded, so did the crime rate. A new approach called community-oriented policing was developed that focused on working closely with the community to solve problems. This approach was fully adopted in the 1990's. Since then, the Boulder Police Department (BPD) has become a leader in developing community partnerships and working directly with community members to address crime. New technologies have changed the face of crime and the way it is solved, and BPD continues to strive for its goals of excellence in community service and ensuring public safety.

Mission and Vision

Vision for the Boulder Police Department	Boulder Police Department Core Mission
To provide service excellence for an inspired future by being a leading edge police department, with state-of-the-art technology, well-trained officers and staff, up-to-date equipment and sufficient work space needed to provide the best service possible to the community.	Working with the community to provide service and safety.

Overview of Current Operations

BPD provides safety, education, enforcement and investigative services to the City of Boulder. The police department employs 173 commissioned officers, including the chief and deputy chiefs, and 104 civilian employees, including 86 support staff and 18 non-commissioned enforcement personnel (code enforcement, animal control, accident report specialists and photo radar enforcement). With a 2013 budget of $31.7 million, BPD responds to emergency and non-emergency calls for service including natural disasters and provides the following services:

- Enforcing state criminal statutes and city ordinances as well as protecting United States and Colorado constitutional rights;
- Conducting criminal investigations and managing evidence and property information related to cases;
- Partnering with the community to address crime and civil disorder problems;
- Providing public safety and crime prevention education for the community;
- Managing public safety at special events like the Bolder Boulder;
- Operating the police and fire communications (dispatch) center;
- Conducting traffic and driving while under the influence (DUI) enforcement as well as investigating traffic accidents;
- Providing victim services, animal control, code enforcement, and photo radar enforcement.

Organizationally, the police department is structured into two main divisions: Operations Division and Support and Staff Services Division. The Operations Division consists primarily of patrol and investigations by commissioned officers. The division is responsible for enforcement and investigative functions through four primary sections, including:

- Traffic and Administration;
- Watch I (day shift patrol);
- Watch II and III (afternoon and evening patrol); and
- Investigations (detectives).

The Support and Staff Services Division basically provides all the support to the Operations Division, maintains the internal operations of the department, and provides non-enforcement services to the public. The primary sections of this division include:

- Records, Property and Evidence;
- Training;
- Communications (dispatch);
- Finance and Personnel;
- Photo Radar; and
- Building Operations and Maintenance.

The department currently operates with a fleet of 105 vehicles. This includes motorcycles and vehicles for patrol, traffic, animal control and code enforcement. The department also maintains a number of unmarked cars used by administration, detectives and building maintenance.

BPD Values

- Customer service
- Respect
- Integrity
- Collaboration
- Innovation

Relationship Building

BPD fosters community relationships in many different ways, such as:

➜ Placing School Resource Officers in schools to promote safety and cultivate relationships with students and administrators and offer threat mitigation training.

➜ Participating on the CU/City Oversight Committee which addresses alcohol issues and other problems associated with the university, its sororities and fraternities.

➜ Serving as liaisons to groups and organizations, such as: adult protection, Alcohol Recovery Center, Attention Homes, Blue Sky Bridge, child protection, domestic violence, neighborhood and Latino groups, homeless shelter, mental health and the Safehouse.

➜ Attending HOA meetings to provide dog-related information.

Number of Officers on patrol

Normally, 8 officers are on patrol or shift per time period. Police is staffed 24 hours a day, seven days a week.

To maintain proficiency in a wide variety of police services, the department conducts a broad range of training. Mandatory courses include an extensive firearms program encompassing qualifications and tactical training, rifle and shotgun clinics and mandatory and voluntary skills development sessions. Officers attend skills training programs several times a year which include water rescue, riot training, vehicle tactics and rapid emergency deployment blocks. Defensive tactics training includes areas such as hand skills, ground fighting and hands-on weapon retention. Officers are re-certified in areas like first-aid, CPR and Computer Voice Stress Analysis (CVSA). In addition, officers are encouraged to complete voluntary training such as Spanish classes, bike classes, stress management, interview and interrogation courses.

Philosophy

Public safety and crime prevention are the department's top priorities. City-provided police service is designed to protect the public through education, prevention, response, enforcement, and investigative services. BPD provides both service and safety and has adopted a philosophical shift from a traditional 911-driven, purely reactive approach to an emphasis on community-based, prevention-oriented police services. Often referred to as community-oriented policing, the BPD believes in building partnerships with the community to work on solving crime and crime-related problems. One primary goal of this approach is to reduce crime and disorder by carefully examining the characteristics of problems in neighborhoods and then applying appropriate problem-solving remedies. To be successful, this effort should engage many different groups within the city including neighborhood alliances, local schools, human service agencies, church groups and members of the business community.

Summary of BPD Programs

BPD defines its fundamental responsibilities as the following:

➜ Enforcing laws and preserving public safety and order;

➜ Reducing crime and disorder through prevention and intervention;

➜ Responding to community needs through partnerships and joint problem-solving;

➜ Investigating and reporting serious and non-serious crimes for prosecution;

➜ Providing information and service referrals; and

➜ Managing and administering departmental operations.

Trends, Community Needs and Sustainability Framework

As part of the master plan development, key demographic trends, crime statistics, and community demands that have implications for the Boulder Police Department (BPD) were identified as emerging trends.

TRENDS: Factors Driving the Need for Change
Based on the key demographic trends, crime statistics, and changing conditions in the community, BPD considers the following factors as having important implications for the future of police response.

- **Increase in Population and Changes in Demographics** – The City of Boulder's 2013 population is estimated at 99,716, with projections indicating an increase to 114,000 by 2035. This figure could be even higher as the University of Colorado – with a current enrollment of approximately 30,000 students – projects an additional 11,000 students by 2030. Boulder's Latino population nearly doubled between 1990 and 2000, increasing to eight percent. Trends indicate this will continue. Boulder's population is aging, and the county's population of age 60 and over is expected to nearly double by 2020.

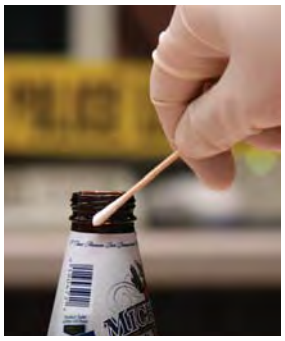
- **Increase in the Number of Calls for Service** – There continues to be a long-term upward trend in calls for service. In an analysis of calls for service data[1] from 2011 to 2012 there is an increase of 3.9 percent in calls. Based on historical information, there is a prediction of an approximately three percent upward trend in calls for service over the next six years.

- **New Issues and Changing Community** Expectations – Over the years, BPD has shifted from a traditional 911-driven, purely reactive approach to one that emphasizes community engagement, crime prevention, and maintaining Boulder's high quality of life. Police departments are increasingly drawn into difficult social and community

[1]*Calls for service data is tracked in the Computer Aided Dispatch (CAD) system. The city has recently implemented a new CAD system with improved data collection. As a result, data prior to 2011 includes different information and was not used in this analysis.*

problems that do not align with traditional perspectives of law enforcement. For example, the BPD faces demands to manage public spaces like the municipal campus, the Boulder Creek path, and the streets of University Hill because of behaviors and lifestyle choices that disrupt others' enjoyment of public space or otherwise negatively impact the quality of life, but do not result in dangerous criminal activity. The department also responds regularly to calls related to medical needs, mental health issues, substance abuse issues, and family and domestic problems. During the economic downturn and prolonged recovery, the police department is one of the few government entities accessible 24 hours/seven days-a-week.

- **Advances in Technology and Changes in Communication** – Law enforcement agencies around the country are dealing with rapidly evolving technologies designed to improve the efficiency of police work and the ability to solve crimes. Many of these new technologies are now integral to standard operating practices, and expected by both the community and the criminal justice system. The cost of staying current with this technology has increased over time as improvements are made and new technology emerges. In addition, police departments must address the different ways people communicate, including cell phones, computers, texting and various types of social media. This includes the community demand for greater access and availability of more information, quickly and in various ways.



- **Use of Technology in Crimes and Requirements for Court Evidence** – Police departments must plan for the use of new technologies in the commission of crimes like fraud, cybercrime, internet child pornography, and identity theft. With the rapid advances in forensic science, police departments and prosecutors are under greater scrutiny when presenting evidence in court. Juries increasingly demand better evidence, better reporting and more thorough investigations. Police departments must be prepared to handle these greater demands with more specialized services to support the complexity of the analysis.

COMMUNITY NEEDS: Sustainability Framework

As part of the master plan update, BPD evaluated the community needs within the context of the Sustainability Framework. The Sustainability Framework is a tool to help ensure that each departmental master plan aligns with and advances the wide range of goals and priorities of the City Council and community. The categories of the Sustainability Framework build upon the Boulder Valley Comprehensive Plan (BVCP) and the city's Priority Based Budgeting (PBB) approach: two key initiatives that define long-term community goals and priorities. Both the BVCP and PBB were developed from extensive community input processes and are used to guide long-term decision making as well as the city's annual budget process.

The seven category areas of the Sustainability Framework are listed below. The categories provide the context to develop strategies and initiatives to continue to better serve the Boulder community, as outlined in Chapter 4.

Safe Community – ***When the City of Boulder***....enforces the law and protects residents and property from physical harm; and fosters a climate of safety and social inclusiveness....***then it will be a Safe Community***. BPD's strategy to create a Safe Community is to adjust service delivery to meet new community expectations while maintaining basic public safety.

Healthy and Socially Thriving Community – ***When the City of Boulder***....supports the physical and mental well-being of its community members; cultivates a wide-range of recreational, cultural, educational, and social opportunities; fosters inclusion, embraces diversity and respects human rights....***then it will be a Healthy and Socially Thriving Community.*** BPD's strategy to support a Healthy and Socially Thriving Community is to provide a safety net of services, early intervention and prevention to meet critical human service needs.

Livable Community – ***When the City of Boulder***....sustains and enhances a compact development pattern with appropriate densities and mix of uses that provides convenient access to daily needs for people of all ages and abilities; supports a diversity of housing and employment options for vibrant and livable neighborhoods and business districts; and maintains abundant and accessible public gathering spaces....***then it will be a Livable Community.*** BPD's strategy to achieve a Livable Community is to ensure public safety services support the evolving urban areas.

Accessible & Connected Community – ***When the City of Boulder***....maintains and develops a balanced transportation system that supports all modes of travel; maintains a safe system and shifts trips away from single-occupant vehicles; and provides open access to information, encourages innovation, enhances communication and promotes community engagement....***then it will be an Accessible and Connected Community.*** BPD's strategy to achieve an Accessible and Connected Community is to ensure safety for all modes of travel and efficiency for emergency response.

Environmentally Sustainable Community – ***When the City of Boulder***....promotes an ecologically balanced community; prevents and mitigates threats to the environment; and ensures the efficient use of energy resources ...***then it will be an Environmentally Sustainable Community.*** BPD's strategy to contribute to an Environmentally Sustainable Community is to reduce energy consumption and emissions by focusing on zero waste and energy efficiency initiatives and to improve preparedness for natural disasters, such as floods and wildfires.

Economically Vital Community – ***When the City of Boulder***....develops and maintains a healthy, resilient economy and maintains high levels of services and amenities....***then it will be an Economically Vital Community.*** BPD's strategy to contribute to the community's Economic Vitality is to provide a high level of policing services ensuring safety and security in the community.

Good Governance – ***When the City of Boulder***....models stewardship of the financial, human, information and physical assets of the community; supports strategic decision making with timely, reliable and accurate data and analysis; and enhances and facilitates transparency, accuracy, efficiency, effectiveness and quality customer service....***then it will have provided Good Governance.*** BPD's strategy to provide Good Governance is to use resources more efficiently and effectively to provide professional police services to the community.

Recommendations

Strategies and Initiatives

BPD strives toward service excellence by working with the community to provide service and safety. As part of the master plan update, BPD developed a number of strategies within the context of the Sustainability Framework to address the provision of police services. The Sustainability Framework is a tool to help ensure that each departmental master plan aligns with and advances the goals and priorities of the City Council and community.

For each Sustainability Framework category area, the BPD's strategy is identified along with initiatives or action items to more strategically provide police services while meeting current and anticipated future community needs. While the initiatives described in this section are under a specific category, they often impact multiple areas as reflected in the summary table on pages 28 and 29.

Safe Community – Adjust service delivery to meet new community expectations while maintaining basic public safety.

BPD protects people, homes and businesses by delivering services equitably and fairly and helps to provide a predictable sense of safety and security. By working in partnership with the community, BPD can increase its effectiveness in solving community problems, reducing crime and making neighborhoods safer and more attractive. BPD needs to adjust service delivery in order to meet the needs of the community. Through efficiencies and differential response strategies, BPD anticipates increasing the time for officers to engage in proactive problem solving. Key initiatives in this area include:

- **Evaluate additional options to handle requests for service.** Having multiple options for addressing requests for police response allows the department to provide tailored service to members of the community while potentially delivering cost savings to the city. BPD has an ongoing education campaign to inform the community of options for service including on-line reporting. When community members call regarding non-emergency events, dispatchers educate community members about on-line information and reporting options. However, it is the city's policy that police respond in person if a caller wants to see an officer. BPD will continue to evaluate additional options to handle requests for service such as enhancing on-line reporting capabilities and adjusting, as appropriate, the prioritization of calls for service.

CHAPTER FOUR

- **Implement a change in BPD's policy to reduce the amount of time spent responding to false alarms.** Boulder's current intrusion alarm ordinance is focused on registering the alarm with the city. BPD's alarm response policy requires an attempt to verify an alarm prior to calling police. Even so, BPD responded to 1,907 false alarms in 2012 using approximately 375 hours or the equivalent of nine weeks of staff time. The effect of this policy is that the police department supports private alarm companies by providing the response to alarms on which private businesses earn a profit. BPD receives no funding for providing this service. For these reasons, some police departments have discontinued responding to burglar alarms. BPD is changing the city's policy to require actual verification of a break-in (i.e., strict verification) prior to calling police. This will eliminate responses to false alarms and has been successful in other communities. This change will only apply to burglar alarms and will not change BPD's response to robbery alarms (banks) or personal help alarms that are triggered by individuals.

- **Phase-in additional sworn officers and civilian staff over five years to provide more time for community policing activities and proactive enforcement.** Currently, BPD has enough staffing to meet average standards for calls per officer and response times. However, this does not necessarily take into account the type of policing provided by BPD, including proactive enforcement on the University Hill, downtown, and Pearl Street Mall. In order to enhance the department's ability to provide direct services to the community, BPD is expanding the combination of sworn officers and civilian staff. Civilian employees can be hired, at lower salaries than those earned by sworn officers, to do some work currently done by officers. However, the benefits of this approach need to be evaluated against the fact that the use of civilian staffing limits how those resources can be used in the department. Therefore, BPD proposes phasing in an additional eight sworn officers and four civilian staff members over the next five years. The civilian staff will provide additional report specialist capabilities, including responding to some calls for service that do not require police officers. Appropriate staffing of the BPD will continue to be evaluated within the context of meeting current and future needs of the community

- **Adapt to changing needs and requirements in enforcing alcohol and marijuana**. BPD has a two-person team dedicated to alcohol and medical marijuana enforcement and inspection. Depending on the outcome of the state statue and local ordinance discussions related to recreational marijuana, BPD will adapt and change the enforcement and inspection approach, as necessary. To enforce the current city

code with respect to marijuana establishments, the city created a cross-organizational team that conducts joint inspections of marijuana establishments. Recently, BPD partnered with the City Attorney's Office, City Clerk's Office and Boulder Fire Department to develop a plan for a similar approach for alcohol enforcement. In addition, BPD is taking a strategic approach to overconsumption of alcohol by devoting more time to problem liquor licensed establishments and investigating abiding establishments less frequently. BPD also participates in the CU/City Oversight committee which addresses alcohol issues and other problems associated with the university. BPD will continue to make adjustments to alcohol and marijuana enforcement and inspections in order to adapt to new regulations and changing needs in the community.

Healthy and Socially Thriving Community – Provide a safety net of services, early intervention and prevention to meet critical human service needs.

BPD is increasingly called upon for non-emergency matters; the need for these responses is often related to quality of life issues or social problems that rarely rise to a criminal level. While the types of social problems vary, it typically includes mental health, domestic/ family intervention and juvenile delinquency. As a result, many opportunities exist for collaboration between police officers, social service agencies and social workers. BPD will continue to build on these partnerships as well as strengthen the relationships with other community groups. Key initiatives in this area include:

- **Strengthen partnerships with social service providers to meet critical human service needs.** Due to the nature of the work, police often encounter individuals who need assistance beyond public safety services. Police frequently refer individuals to social service programs for additional support. BPD will build upon the existing partnerships with the social service programs provided in the community. BPD will also continue to be proactively involved in intervention and prevention programs, such as family and child advocacy, mentoring at-risk youth and pairing officers with low income public housing developments (Adopt-a-Site). In addition, BPD will continue to coordinate community outreach projects for disenfranchised community members and underprivileged, such as community liaison officers, the Safety First program, and participation in the Share-A-Gift program. All of these efforts are designed to strengthen the safety net services for those in need which ultimately supports the well-being of the community.

- **Refine "community policing" approach and develop future strategies to further support livable neighborhoods and vibrant business districts.** "Community policing" is a philosophy and commitment to working in partnership with the community. This involves more than just responding to calls for service. It requires time for officers to spend developing relationships with community members to work together to find solutions to community problems. BPD has long practiced the philosophy of "community policing." For example, BPD mentors at-risk youth, provides School Resource Officers, and pairs officers with fraternities and sororities (Adopt-a-Frat). A focus group comprised of community and department members will be formed in the fall of 2013 to discuss the "community policing" philosophy and what it means in Boulder. Information from the focus group discussions will be used as a guide in developing future strategies for 2014 and beyond. These efforts are designed to focus and clearly articulate the direction for BPD in terms of community policing and service to the community.

- **Continue to build better relationships with community groups which are often disengaged.** BPD works to build relationships with the community, focusing efforts on those who sometimes feel disengaged from the police department, including the Latino, elderly and other minority populations. One area of concern, especially within the Latino community, is deportation. Latino residents who may be in the US illegally are afraid to report crimes out of fear they may be deported. BPD actively encourages victims to report crime and treats everyone with the same respect and customer service regardless of their citizenship status. In April 2013, BPD was publicly recognized and thanked by the Boulder County District Attorney for work on behalf of victims of fraud related to immigration papers. Engaging every group is important in creating a safe environment for all members of the community.

Livable Community – Ensure public safety services support evolving urban areas and that urban areas support crime prevention.

With more development or redevelopment comes more activity, which can increase the need for police services. As the City of Boulder moves toward more compact development there is an impact on public safety services. In areas with more multi-housing or business complexes, it is harder for police to locate the exact address when someone calls for service. In a building with many tenants and a secure entrance, it can be difficult for police to enter the building to respond to a community complaint or request for assistance. These are some of the challenges that BPD needs to address when responding in a community that is evolving with more urban areas. As staffing and resources allow, smaller geographical areas will be covered on bike and foot patrols which will allow more visibility and connection with the community. BPD will also continue to be involved with evaluating and planning for changes so that building types, uses and programs can be designed for active spaces that are safe. Key initiatives in this area include:

- **Evaluate Neighborhood Impact Team and apply lessons learned to future approaches to public safety.** To address community concerns about public safety, the Neighborhood Impact Team was implemented to provide greater visibility in the downtown core area, while creating personal relationships with residents and businesses to solve crime and to address quality of life issues.

The Neighborhood Impact Team combines University Hill officers, swing shift (5 p.m. to 3 a.m.) officers from the Pearl Street Mall and additional district officers to ultimately comprise a team of 12 officers and two sergeants. The team's area of responsibility is the University Hill and Pearl Street Mall corridor, and the downtown campus, and includes increased foot and bike patrols with additional police presence on the Boulder Creek Path. The success of the Neighborhood Impact Team will be evaluated and any lessons learned will be applied to future public safety approaches in high visibility areas.

- **Support collaboration on area plans and development review projects.** As areas of the community undergo redevelopment that increases density, improves connections and creates livable public spaces, BPD will partner with other city departments during planning, engineering, design and review of plans and projects to ensure that redeveloped areas become quality places with adequate infrastructure and access by emergency responders. For example, the Boulder Civic Area is a visionary "community driven" project which

aims to rethink and evolve the downtown's most expansive public space. BPD closely monitors this part of downtown due to the number of community members who visit the area, including a large transient and homeless population. As a result, BPD will be involved in the process in order to balance the changes in the downtown with preserving public safety and order.

- **Evaluate size and design of police facilities for effectiveness and efficiency.** BPD has three facilities – one primary location at the Public Safety Building (1805 33rd St.) and two annexes, one on University Hill (13th and College) and one on the Pearl Street Mall (Pearl St. and 15th St.). The Public Safety Building has been used by BPD since 1989, and the annexes have been used for 10 to 20 years, depending on the location. The annex on University Hill is used only for staff (either Neighborhood Impact Team members or other officers) who need to complete office work and need telephone and computer access. The Pearl St. Mall annex is open to the public, and offers two civilian staff members who take reports, two code enforcement officers and the code enforcement supervisor. Annex employees help community members file reports, get fingerprinted, and often provide local directions. The Public Safety Building is the main police facility and offers full services to the public during the week, including seeing an officer, filing a crime or accident report, getting fingerprinted, etc. The building also includes training rooms, firearms range, locker and workout rooms, a communications center, Colorado Bureau of Investigation DNA lab, and all of the department's administrative offices. The Public Safety Building, along with many of the other city's existing facilities, is undersized based on existing standards. Through the Facilities and Asset Management (FAM) Division, a citywide space analysis will be completed with the initial focus on the downtown, due to the Civic Area project, in the fourth quarter of 2013. The remainder of the citywide analysis will be completed, including the Public Safety Building, as part of the FAM Master Plan update in 2014.

- **Protect and ensure quality urban environment through code enforcement.** The City of Boulder Code Enforcement Unit focuses on nuisance-oriented problems and quality-of-life issues including scattered trash, overgrown weeds and snow that hasn't been removed within the 24-hour time limit. In October 2011, code enforcement duties were transferred from the Public Works Department to BPD to provide a more focused approach to enforcement. With the BPD Code Enforcement Unit, the approach has changed to 24 hour/ 7 day-a-week access to staff, a decrease in response time, more structure in the process and reporting, and more dedicated resources designed to improve customer service. The Code Enforcement team manages issues citywide, but makes

frequent trips to high-complaint neighborhoods like University Hill. Many complaints are received about trash concerns which are often animal-created, and the team tries to educate residents about ways to deter wildlife. The first priority is education about the problem and helping to identify solutions. BPD will continue to use code enforcement to help to ensure quality-of-life issues are handled efficiently and effectively.

Accessible and Connected Community – Ensure safety for all modes of travel and efficiency for emergency response. BPD is committed to preserving and enhancing the safe and balanced transportation system that the community expects. Maintaining safety in Boulder's multi-modal transportation system will require continued traffic enforcement, educational efforts for drivers, pedestrians, and cyclists, and support for transportation planning and engineering efforts to make all modes of travel safe in the community.

BPD is also a user of the transportation system and therefore has responsibilities to both help shape the system and adapt to it. In addition to its traditional safe and fast vehicular response, BPD uses alternative modes, such as foot and bike patrols, to help connect with the community and reduce environmental impacts. BPD also takes advantage of new technologies like alternative fuel vehicles to reduce the city's carbon footprint. Key initiatives in this area include:

- **Address traffic safety through education and enforcement.** While Boulder encourages more bicycle and pedestrian traffic, it is important to ensure that all participants in the community's transportation system - pedestrians, bicyclists and drivers - practice safe travel behavior. BPD assists in addressing traffic safety through education and enforcement. For instance, the city recently adopted a new crosswalk safety ordinance. BPD assisted the Transportation Division with education and outreach efforts regarding bike and pedestrian safety at crosswalks. This was accomplished through public announcements, warnings as well as enforcement. Similarly, BPD assists in educating the community about using bike lights when riding at night before actively enforcing the ordinance. Officers pass out bike light coupons to offenders during a warning period. BPD also supports the national campaign to educate drivers of the dangers of texting and driving. BPD's approach is to educate the community and then proactively enforce to ensure all modes of travel are safe.

- **Continue to utilize alternative modes of transportation such as foot patrols, bicycle patrols and energy efficient vehicles in response.** As is the case across the city organization, BPD uses alternative modes of transportation such as foot patrols, bicycle patrols and alternative fuel vehicles. Demands for police presence and concerns over safety in key districts, such as University Hill and Boulder Creek Path, increases the need for foot and bicycle patrols to raise visibility and address concerns about the transient population, alcohol issues, and safety. BPD will continue to identify opportunities to further expand the alternative modes while also balancing the need for officer safety, enforcement capabilities, equipment needs, response capabilities, and prisoner transport. As part of the city's

climate commitment goals, 90 percent of newly purchased vehicles must be alternatively fueled. Currently, of the 108 police vehicles, 62 percent are alternative fuel vehicles, including hybrid or E85 (ethanol fuel blend). The lower percent is due to the fact that some emergency equipment is either not available in alternative fuel models or it is not a viable option given the needed equipment. BPD will continue to evaluate future vehicle purchases for alternative fuel options.

- **Leverage technology to monitor traffic, identify safety issues, and improve enforcement capabilities.** As part of the traffic safety program, BPD and the Transportation Division have added photo radar enforcement to some neighborhoods and school zones, and have installed photo red lights at some high-traffic intersections. Photo radar is an automated camera system used to enforce speed limits. It is operated in an unmarked vehicle by a specially-trained police employee. The photo red light systems are installed at key Boulder intersections that have a high number of collisions. Running red lights is one of the most frequent causes of accidents at intersections in Boulder. Photo safety technologies have proven to be effective, have been in use for more than 30 years, and are used in more than 45 countries. The goal is to reduce speeding on a variety of streets in Boulder and to reduce red light infractions. BPD will continue to coordinate with the Transportation Division to share data on traffic intersections and to evaluate current and future technological options to further improve safety and enforcement capabilities.

Environmentally Sustainable Community – Reduce energy consumption and emissions by focusing on zero waste and energy efficiency initiatives within the department; and **Improve preparedness for natural disasters, such as floods and wildfires.**

BPD participates in the ongoing city program to conserve energy, reduce greenhouse gas (GHG) emissions, use renewable energy, reduce waste and limit toxins in the environment. BPD's use of alternative fuel vehicles helps promote renewable fuels and reduces emission impacts.

Natural disasters, such as floods, tornadoes and fires, all cause specific damage and chaos. A strong police presence in these situations can help ease victims' fears and help prevent others from taking advantage of the disaster situation. When a natural disaster occurs, police are involved in crowd control, providing public safety, directing traffic, and organizing search teams. Preventing and mitigating threats to the community from natural disasters involves planning, preparation, equipment, and training. Key initiatives in this area include:

- **Continue to use Leadership in Energy and Environmental Design (LEED) targets for facility development.** BPD's main facility, the Public Safety Building, and both of its annexes, have received energy-efficient lighting and weatherization upgrades as part of the city's Energy Performance Contract. This includes replacing fixtures with energy efficient lighting and new light switches, a new HVAC system, boilers, water heaters, roof, sprinkler system and water conserving measures. Any future expansion or remodeling of the Public Safety Building will include LEED targets as supported across the city organization.

- **Improve BPD's environmental sustainability efforts through recycling and composting.** As part of the city's climate action plan, BPD is working on ways to improve recycling and composting efforts as well as considering a time-table to reach a goal of zero waste. As part of these efforts, BPD will install more three-in-one waste stations (which include recycling, compost, and trash receptacles) in facilities along with providing training about what items are compostable and recyclable. The recycling and composting data will be tracked and evaluated to ensure improved efforts. In addition, part of BPD's recycling efforts includes collecting soda cans by the Citizen's Police Academy Alumni[2] and bringing them to the recycling center. Seized

[2]Citizen's Police Academy is offered to City of Boulder and Boulder County residents to learn about police operations and philosophy one night per week for approximately 10 weeks. The Citizen's Police Academy Alumni is a small group of academy graduates who continue to meet on a regular basis and volunteer their time, and sometimes money, to BPD.

or found kegs are also returned to liquor stores. Proceeds from both of these efforts go towards the bomb squad program. BPD also contributes to the city's reuse efforts by donating used bullet resistant vests and uniforms to a number of smaller police departments including, Native American police departments located on federal reservations. BPD has also donated two-way radios that no longer work on the city's radio infrastructure to smaller police departments as well as to volunteer fire departments.

- **Continue to follow a scheduling plan to reduce commuting**. BPD follows a scheduling plan that reduces employee commuting by allowing employees to work ten-hour days, four days a week. This plan was originally implemented several years ago, but it has only recently been expanded throughout the department. As work requirements have allowed, BPD has supported staff changing to the ten-hour day, four days per week schedule. For each employee who takes advantage, two commuting trips per week are saved. Of the approximately 275 BPD employees, only 18 live within the city limits. The expansion of the ten-hour days, four days per week schedule throughout the BPD has resulted in a reduction of fuel consumption and GHG emissions. BPD plans to continue the current schedule and evaluate in the future if there are other opportunities to reduce employee commuting.

- **Continue to collaborate and coordinate with other city departments, Office of Emergency Management, Boulder County Sheriff's Office and other service providers in preparing for threats to the community.** BPD works collaboratively with other departments, agencies, and the community to minimize the risks to life and property, while maintaining the ability to provide emergency police services. For instance, BPD works closely with the City of Boulder/Boulder County Office of Emergency Management (Boulder OEM). The Boulder OEM coordinates with local, state, and federal partners to facilitate planning and response to emergency situations. A commander is dedicated as a Boulder OEM liaison during any natural disaster, and participates in the planning and development of responses. In the event of a large-scale natural disaster, all police department members would be expected to assist including all non-commissioned personnel, patrol, traffic, detectives, dispatch and administration. BPD completes regular training exercises with the Boulder County Sheriff's Office and at times, the University of Colorado–Police Department. The city's SWAT and bomb teams also train with the Boulder County Sheriff's Office and the Longmont Police Department on large-scale crowd management and crime-related events. BPD is always working to continually improve coordination with other agencies through training exercises, simulated drills, and by incorporating areas that are identified as needing improvement.

- **Purchase new Incident Command Vehicle to update response capability and improve critical incident response.** BPD has special equipment that may be used for critical incidents such as natural disasters, major criminal events, situations involving numerous casualties, or events requiring a large number of resources. The Incident Command Vehicle (ICV) is used to provide a private and secure area where command staff can strategize and deal with critical situations at the site of an event for prolonged periods of time. The current vehicle is 13 years old and, was designed based on

the needs at the time. BPD needs have changed due to an increased focus on collaboration with other agencies and the nature of events that need to be managed. A new ICV would provide the necessary interior space configuration for conducting briefings, while also accommodating the need for dispatch to coordinate other activities from the same vehicle with new radio and Computer Aided Dispatch technology. Updating BPD's response capability will improve critical incident response, which is important in a community that is considered the number one flash flood risk in the state of Colorado.

- **Expand Field Guide for Flood Response to include all hazards.** Mitigation, prevention, training and property planning are the best ways to efficiently and effectively handle incidents of mass destruction, including wildland fires and floods. In conjunction with the Boulder Fire-Rescue Department and the University of Colorado Police Department, BPD authors the City of Boulder Field Guide for Flood Response (Field Guide) to analyze the potential for floods and the impact they would have on the community. The guide is designed for police officers and fire fighters to use to establish the priorities for protecting life, property and critical infrastructure and is updated yearly. Currently, the Field Guide is focused on flood response, but BPD is in the process of expanding the document to include all-hazards response such as wildland fires.

Economically Vital Community – Provide a high level of policing services ensuring safety and security in the community. Police enforce the laws that allow businesses to run smoothly. In general, police act to create an environment/situation where people are treated fairly and their rights are protected – that is they feel and are safe. As part of this effort, BPD works to maintain high levels of public safety, promoting a healthy, resilient economy for the City of Boulder. BPD will continue to provide support to keep the community safe and free of crime so Boulder remains an attractive place to live, work and recreate. Key initiatives in this area include:

- **Continue to plan and develop safe procedures for the increasing number of special events.** A special event is an activity or event held on or in City of Boulder property and/or facilities where a concern for the protection of participants, users and/or property exists. The City of Boulder provides for a variety of special events that contribute to the individual, social, economic and environmental health and well-being of the community. Since Boulder is considered a popular place to live and work, it is not surprising that the number of special events has grown over the years. Each event is unique, which means that each event requires a different approach to manage safety. BPD will continue to develop plans to manage the events in a safe manner, which often includes coordinating traffic, crowd control, escape routes, and other appropriate measures.

- **Maintain commercial crime prevention efforts through education, enforcement, and investigation.** BPD is actively involved in providing crime

prevention tips and trainings to the business community and schools. For instance, BPD has conducted approximately ten security assessments in 2012. In addition, BPD completed numerous safety presentations, including at least 24 site visits, with security reviews of both businesses and schools. BPD has also offered trainings on shoplifting to local businesses, including banks. By working directly with the business community on crime prevention and education, BPD assists companies to develop, promote, and operate a safe work environment. BPD will continue to work with companies to provide basic crime prevention advice to reduce the occurrence and cost of crime to business and the wider community.

- **Continue efforts with local schools on "threat mitigation" education to improve safety.** "Threat mitigation" refers to educating school personnel on how to make the school safer by practicing lock-down drills, assessing threats, identifying at-risk students, and supporting anti-bullying programs. Supporting a safe environment in the schools contributes to students' learning and growing, as well as providing a sense of security which helps to attract people and businesses to the community. BPD is committed to providing service, counseling, and education to Boulder's youth. BPD has five School Resource Officers (SRO's) who are assigned to 11 high schools and

middle schools in the Boulder Valley School District. SRO's train monthly to hone their skills on tactical movement, room clearing and evacuations. Two Active Harmful Event trainings occur twice a year, with participation by with school administration and faculty. The Cops in the Classroom program will continue to be offered upon request to elementary schools. This is a program designed to educate children on a variety of issues such as drug and alcohol usage, peer pressure, self-esteem, etc. The program is also designed to build relationships between children and police officers in a non-threatening environment. BPD will continue these efforts to support the local schools and improve safety in the community.

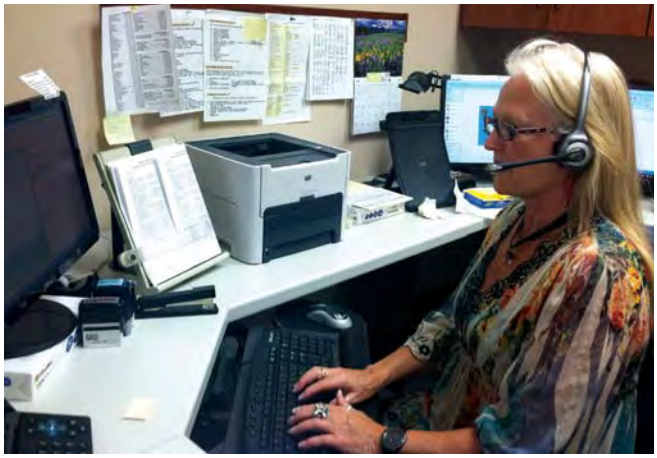
Good Governance – Use resources more efficiently and effectively to provide professional police services to the community.

BPD strives to enforce the laws and preserve public safety and order in a highly effective and efficient manner. In doing so, BPD must balance the community needs with the proper use of resources to gain efficiencies. This is done through strategic assignment of personnel, effective use of technology and advances in communication, and partnerships with other agencies such as the Boulder County Sheriff's Department and the Colorado Bureau of Investigation. Maintaining state-of-the-art equipment, contemporary policies and procedures, and sufficient training are all crucial toward keeping the community as safe as possible. Key initiatives related to good governance include:

- **Facilitate cooperation and partnerships with other jurisdictions and agencies to share resources and improve efficiencies.** BPD seeks partnership opportunities that will help increase resource availability, save money, or increase efficiencies. Examples of recent partnerships include the new

Colorado Bureau of Investigation (CBI) DNA lab, and the Boulder County Regional Bomb Squad. BPD created a partnership with CBI for a regional DNA lab located in the city's Public Safety Building. In exchange for the city's monetary contribution toward this project BPD, as well as other law enforcement agencies in Boulder County, will receive priority for DNA cases submitted to CBI. BPD also created an intergovernmental agreement to combine the city's Bomb Response Team with Boulder County and Longmont to form a regional bomb squad. This regionalization has improved our response capability for the entire county without increasing costs. BPD will continue to explore additional opportunities to partner with other jurisdictions to share limited resources and improve overall efficiencies.

- **Develop a strategic approach to better meet the changing demands of technology in the areas of forensics, criminal investigation, communication, and data collection.** As improvements in technology and forensics continue to advance in the fight against crime, BPD must keep current in the use of technology and forensic techniques available to law enforcement to protect the community. This includes improving BPD's Records Management System (RMS) and communication capabilities through such means as upgrading the radio infrastructure, providing cell phones to personnel, and enhancing the mobile report writing capabilities. Fully using appropriate technology is a significant "force-multiplier" in that it simplifies operations and enhances service delivery. BPD has created an IT Police Technical Team (PTT) to coordinate upgrades of software and technology so the department can remain current with contemporary standards. This is a team of technology-trained employees



who will help identify technology needs and establish priorities, as well as collaboratively solve technology issues department-wide. In addition, two positions have been added through re-allocation to provide cross training and greater coordination of technology support.

- **Establish a strategic funding plan for maintenance and replacement of BPD capital assets, including facilities, vehicles, and all technology needs.** Similar to other city departments, BPD contributes annually to fleet and equipment replacement, ongoing operations and maintenance, and major maintenance/facility renovation and replacement for the Public Safety Building. However, BPD has not had a full funding plan for the replacement of all the technologies used by the department, such as the Records Management System, communications equipment, and mobile data computers (BPD currently contributes about 21 percent of the needed costs for replacement of the mobile data computers). The cost of staying current with the rapidly evolving technology has increased over time as improvements are made and new technology emerges. For instance, BPD currently pays the majority of the costs related to the city's radio infrastructure out of the department's general fund budget. Much of this equipment is old and will need to be replaced in 3-5 years both because of age, and because of narrow banding currently slated for 2018. In a recent Capital Improvement Project (CIP) request BPD estimated this cost at $1.5 million. The city is exploring whether to create an on-going internal service fund to help pay for some or all of these costs, starting in 2015. For all of police technology needs, BPD, in collaboration with IT and Finance, will create and maintain a forward-looking funding plan for maintenance and replacement. This will be done in conjunction with the assessment of technological needs, the gap between what is needed and what we currently have, and a prioritized approach to coordinate technology maintenance and replacement across the department.

- **Continue to adapt policies and procedures to reflect best practices to enhance operations and management of the police department.** In order to further professional development it is important to remain current on new standards and practices in the policing community. BPD accomplishes this through continued education programs, including attending training

seminars and conferences, on a yearly basis. BPD also subscribes, and at times contributes articles, to monthly police publications through the International Association of Police Chiefs and the Police Executive Research Forum. Beginning in the late 1990's, BPD participates in the Benchmark Cities, which is a group of approximately 28 police departments in cities of similar size and demographics which value sharing information, and using that information to improve services and efficiencies. Each year, the Benchmark Cities compare and contrast data, policies and approaches to issues and then meet to discuss the information. Learning from the Benchmark Cities, as well as participating in professional development and keeping abreast of current policing development through relevant publications all contribute to implementing best practices to enhance operations and management of the BPD.

- **Hire a commander to manage new or expanded units in the department.** BPD has operated with one less commander position since re-organization approximately 15 years ago. BPD has grown over the past 15 years and new responsibilities have been added (Animal Control, Code Enforcement, Marijuana Enforcement, additional special events) without a corresponding increase in management staff. The addition of another commander position will allow BPD to more equitably distribute the management workload, provide more effective management, help improve accountability, improve adherence to performance standards, and thus increase public safety.

- **Maintain contemporary and professionally recommended training standards.** As is the case with many police departments, a significant portion of the budget is dedicated to personnel (e.g., 90 percent of the BPD's budget is personnel costs). Continuing to invest in the primary asset of the police department -- the staff -- through appropriate training is critical. BPD training instructors are certified in areas of expertise and sent to refresher or advanced training as needed. Each Boulder police officer receives continuing education training every year to ensure peak performance for the community. BPD uses a training sergeant to coordinate training with patrol and other work groups across the department. In an effort to remain current, BPD will continue to maintain the professionally recommended training standards across the department.

SUSTAINABILITY CATEGORIES		
STRATEGY *Red X indicates the primary sustainability category that relates to the initiative.*		
INITIATIVES	Community Policing	Refine "community policing" approach and develop future strategies to further support livable neighborhoods and vibrant business districts.
		Evaluate Neighborhood Impact Team and apply lessons learned to future approaches to public safety.
		Adapt to changing needs and requirements in enforcing alcohol and marijuana.
	Technology	Leverage technology to monitor traffic, identify safety issues, and improve enforcement capabilities.
		Develop a strategic approach to better meet the changing demands of technology in the areas of forensics, criminal investigation, communication, and data collection.
	Responding to Calls for Service	Evaluate additional options to handle requests for service.
		Implement a change in BPD's policy to reduce the amount of time spent responding to false alarms.
	Physical Planning/Urban Design	Support collaboration on area plans and development review projects.
		Evaluate size and design of police facilities for effectiveness and efficiency.
		Protecting and ensuring quality urban environment through code enforcement.
		Continue to plan and develop safe procedures for the increasing number of special events.
	Environmental	Continue to utilize alternative modes of transportation such as foot patrols, bicycle patrols and energy efficient vehicles in response.
		Continue to use Leadership in Energy and Environmental Design (LEED) targets for facility development.
		Improve BPD's environmental sustainability efforts through recycling and composting.
	Public Outreach and Education	Strengthen partnerships with social service providers to meet critical human service needs.
		Continue to build better relationships with community groups which are often disengaged.
		Address traffic safety through education and enforcement.
		Maintain commercial crime prevention efforts through education, enforcement, and investigation.
		Continue efforts with local schools on "threat mitigation" education to improve safety.
	Personnel - Staffing - Training	Phase-in additional sworn officers and civilian staff over five years to provide more time for community policing activities and proactive enforcement.
		Continue to follow a scheduling plan to reduce commuting.
		Expand Field Guide for Flood Response to include all-hazards.
		Hire a commander to manage new or expanded units in the department.
		Maintain contemporary and professionally recommended training standards.
	General - Management	Continue to collaborate and coordinate with other city departments, Office of Emergency Management, Boulder County Sheriff's Office and other service providers in preparing for threats to the community.
		Purchase new Incident Command Vehicle to update response capability and improve critical incident response.
		Facilitate cooperation and partnerships with other jurisdictions and agencies to share resources and improve efficiencies.
		Establish a strategic funding plan for maintenance and replacement of BPD capital assets, including facilities, vehicles, and all technology needs.
		Continue to adapt policies and procedures to reflect best practices to enhance operations and management of the police department.

	Safe Community	Healthy and Socially Thriving Community	Livable Community	Accessible and Connected Community	Environmentally Sustainable Community	Economically Vital Community	Good Governance
	Adjust service delivery to meet new community expectations while maintaining basic public safety.	Provide a safety net of services, early intervention and prevention to meet critical human service needs.	Ensure public safety services support evolving urban areas and that urban areas support crime prevention.	Ensure safety for all modes of travel and efficiency for emergency response.	Reduce energy consumption and emissions by focusing on zero waste and energy efficiency initiatives. Improve preparedness for natural disasters	Provide a high level of policing services ensuring safety and security in the community.	Use resources more efficiently and effectively to provide professional police services to the community.
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Investment Priorities and Funding Options

BPD receives its funding for personnel costs and non-personnel expenditures from the General Fund, with the vast majority of money spent on personnel costs. With a 2013 budget of $31.7 million, BPD receives over 99 percent from the General Fund and less than 1 percent from other sources including grants (approximately $80,000 per year) and asset forfeiture[3] money (less than $50,000 in 2012). Personnel expenses account for 86 percent ($27,213,347) of the total budget, and fixed expenses such as utilities and replacement fund contributions account for 5 percent ($1,619,410). This leaves 9 percent ($2,914,265) to pay for the daily operational expenses of the department.

As a General Fund department with a majority of its annual appropriation allocated to personnel and fixed expenses, there is little opportunity to enhance existing programs through re-allocation. Specific new appropriation from either the General Fund or other city revenue sources is required for new programs and capital needs.

Departmental master planning is focused on aligning the design of departmental operations, programs, and annual spending plans with stated community priorities. This update to the Police Master Plan uses the Sustainability Framework

[3]*Asset forfeiture is money awarded to the Boulder Police Department as a result of seizures from drug cases in which Boulder police officers were part of the enforcement effort. BPD occasionally gets some forfeiture money, however, the percentage for local law enforcement is becoming less and less since it now only comes from cases that are prosecuted federally.*

described in Chapter 4 and the city's Priority Based Budgeting (PBB) to ensure that planned activities are supporting community priorities and are funded in accordance with those priorities.

PBB is the iterative process of prioritizing city programs in terms of their influence on achieving defined "results" which are the high level, overarching objectives that represent the priorities of City Council and the community. PBB results were defined as part of the 2011 budget process through an extensive community process. One of PBB's primary objectives is to ensure that, through sound fiscal planning, the city achieves an ongoing financial balance between the amount of funding available and the cost of providing services and programs. Because crime prevention (safety), emergency response, traffic enforcement and criminal investigation are generally high priorities for the community, the bulk of BPD spending (over 80 percent) scores in the top 25 percent of all community programs (first quartile) administered by the city. These high scores are largely a result of very strong alignment with the Safe Community result within the PBB approach. (See Sidebar on Page 33.)

Funding Plans

In 2006, the city introduced a business plan approach that required each department to imagine a future without increased revenues. This approach acknowledged a tough fiscal reality and led to a continual rebalancing of priorities and expenditures. The result was a tiered spending plan based on three scenarios, each reflecting different assumptions about available resources: **FISCALLY CONSTRAINED**, **ACTION** and **VISION**.

City of Boulder Recent Revenue History

1998:

- 0.15 percent Public Safety Tax was passed to dedicate funds to public safety, including paying for additional officer positions and equipment. The estimated annual revenue increase is $3.4 million. Dedicate tax sunset at the end of 2004.

2008:

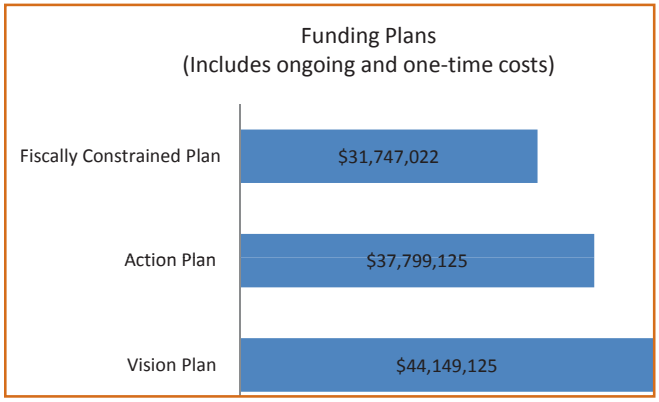
- "Retention of Property Taxes" was passed to pay for necessary city purposes and services. The estimated annual revenue increase for the General Fund is $1.2 million.

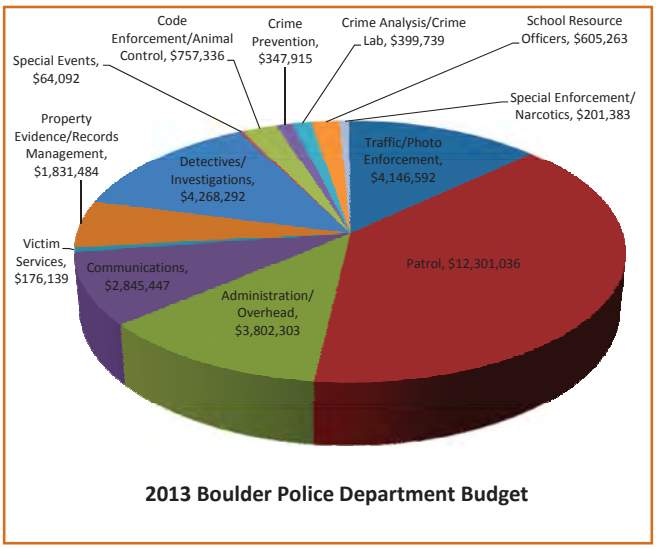
- The indefinite extension on the existing General Fund 0.38 percent City Sales and Use Tax was passed. While not a new revenue source, it generates about $9.7 million annual for the General Fund.

2009: 0.15 percent Sales and Use Tax extension was passed. While not a new revenue source, it generates about $3.8 million annually for the General Fund.

2011: Ballet Item 2A passed, allowing the city to use existing revenue to bond for approximately $49 million in needed capital maintenance and improvements. Specifically, for BPD, this provides $1.07 million towards the following projects:

- Upgrading Records Management System
- Adding In-Car Video Systems
- Replacing Bomb Robot
- Improving Radio Infrastructure
- Building New DNA Lab (in partnership with Colorado Bureau of Investigation)





The **FISCALLY CONSTRAINED** plan is a prioritized or reprioritized service plan within existing budget targets. The intention of this funding plan is to refocus and make the most of existing resources. The department's goal in this area is to maintain services. Initiatives in the Police Master Plan considered for the Fiscally Constrained Funding Plan are those that are mostly procedural or operational changes that require limited or no funding to accomplish.

The **ACTION** plan delineates the "next step" of service or facility expansion that should be taken when increased funding is available. It assumes increased funding and enhances existing programs or begins new programs. Police Master Plan initiatives listed under Action Plan add new positions, upgrade BPD to state-of-the-art technology, and fund maintenance and replacement of all BPD capital assets including technology needs. The Action Plan requires additional operational and capital funding. BPD, in coordination with the City Manager and the city's Chief Financial Officer, will evaluate and analyze potential sources of additional revenue, including but not limited to capital bond funding, grants and existing or new taxes.

The **VISION** plan is the complete set of services and facilities desired by the community when funding is available or there are alternative proposals to fund them. It is fiscally unconstrained but can help provide policy guidance by illustrating the ultimate goals of the community. It is a long-range view to address future needs and deficiencies. In the Police Master Plan, the initiative in the Vision Plan addresses aging and undersized facilities to make improvements in operational effectiveness.

All three funding plans focus on supporting priority programs and those that have strong community support. This will be an ongoing process to check future initiatives against current budget priorities to ensure that the city allocates funding to areas that have been broadly embraced as community priorities. More specifically, it ensures that the largest amounts of funding will be matched to the highest priorities.

A Safe Community will be achieved when the City of Boulder...

...Enforces the law, taking into account the needs of individuals and community values;
...Plans for and provides timely and effective response to calls;
...Fosters a climate of safety for individuals in homes, businesses, neighborhoods and public places;
...Encourages shared responsibility, provides education on personal and community safety and fosters an environment that is welcoming and inclusive, and;
...Provides safe and well-maintained public infrastructure, and provides adequate and appropriate regulation of public/private development and resources.

FUNDING PLANS	INITIATIVES	SUSTAINABILITY CATEGORIES
VISION	Evaluate size and design of police facilities for effectiveness and efficiency.	
ACTION	Develop a strategic approach to better meet the changing demands of technology in the areas of forensics, criminal investigation, communication, and data collection.	
ACTION	Phase-in additional sworn officers and civilian staff over five years to provide more time for community policing activities and proactive enforcement.	
ACTION	Hire a commander to manage new or expanded units in the department.	
ACTION	Purchase new Incident Command Vehicle to update response capability and improve critical incident response.	
ACTION	Establish a strategic funding plan for maintenance and replacement of BPD capital assets, including facilities, vehicles, and all technology needs.	
FISCALLY CONSTRAINED	Refine "community policing" approach and develop future strategies to further support livable neighborhoods and vibrant business district.	
FISCALLY CONSTRAINED	Evaluate a Neighborhood Impact Team and apply lessons learned to future approaches to public safety.	
FISCALLY CONSTRAINED	Leverage technology to monitor traffic, identify safety issues, and improve enforcement capabilities.	
FISCALLY CONSTRAINED	Evaluate additional options to handle requests for service.	
FISCALLY CONSTRAINED	Implement a change in BPD's policy to reduce the amount of time spent responding to false alarms.	
FISCALLY CONSTRAINED	Support collaboration on area plans and development review projects.	
FISCALLY CONSTRAINED	Protect and ensure quality urban environment through code enforcement.	
FISCALLY CONSTRAINED	Continue to plan and develop safe procedures for the increasing number of special events.	
FISCALLY CONSTRAINED	Continue to utilize alternative modes of transportation such as foot patrols, bicycle patrols, and energy efficient vehicles in response.	
FISCALLY CONSTRAINED	Continue to use Leadership in Energy and Environmental Design (LEED) targets for facility development.	
FISCALLY CONSTRAINED	Improve BPD's environmental sustainability efforts through recycling and composting.	
FISCALLY CONSTRAINED	Strengthen partnerships with social service providers to meet critical human service needs.	
FISCALLY CONSTRAINED	Continue to build better relationships with community groups which are often disengaged.	
FISCALLY CONSTRAINED	Address traffic safety through education and enforcement.	
FISCALLY CONSTRAINED	Maintain commercial crime prevention efforts through education, enforcement, and investigation.	
FISCALLY CONSTRAINED	Continue efforts with local schools on "threat mitigation" education to improve safety.	
FISCALLY CONSTRAINED	Continue to follow a scheduling plan to reduce commuting.	
FISCALLY CONSTRAINED	Expand Field Guide for Flood Responses to include all-hazards.	
FISCALLY CONSTRAINED	Maintain contemporary and professionally recommended training standards.	
FISCALLY CONSTRAINED	Continue to collaborate and coordinate with other city departments, Office of Emergency Management, Boulder County Sheriff's Office, and other service providers in preparing for threats to the community.	
FISCALLY CONSTRAINED	Facilitate cooperation and partnerships with other jurisdictions and agencies to share resources and improve efficiencies.	
FISCALLY CONSTRAINED	Adapt to changing needs and requirements in enforcing alcohol and marijuana.	
FISCALLY CONSTRAINED	Continue to adapt policies and procedures to reflect best practices to enhance operations and management of the police department.	

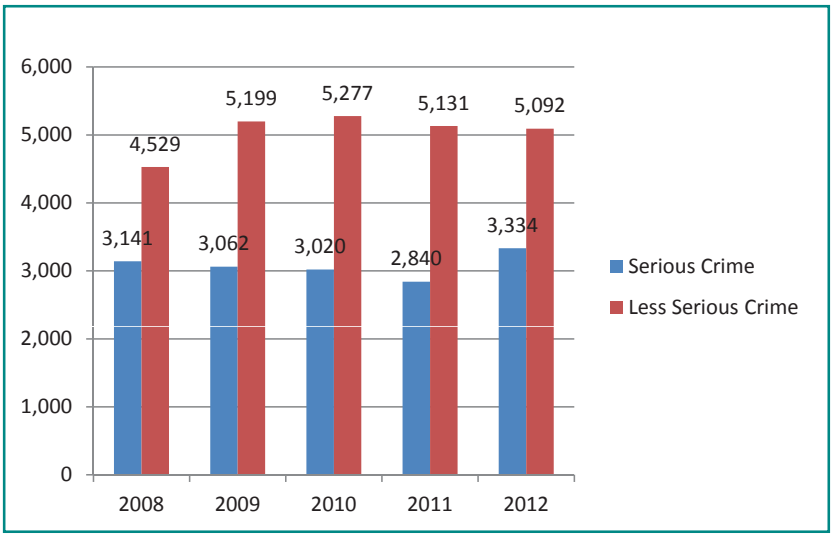
Performance Measures

Performance measurement allows public officials, department managers and community members to evaluate the effectiveness and quality of public services. Performance measures are used by federal, state and local governments to respond to increasing demands for accountability and greater interest from public officials concerned with evaluating program effectiveness and allocating resources. Historically, police effectiveness has been measured by crime statistics, response times and some rough guidelines about the appropriate number of officers per 1,000 residents. BPD also includes victim feedback, District Attorney's Office feedback, benchmark community comparison data and community input in evaluating performance and perception of safety.

Crime Statistics

Based on the last five years of data, BPD is continuing to respond to an average of approximately 3,000 serious and 5,000 less serious crime cases per year. Serious crimes include murder, rape, robbery, aggravated assault, burglary and theft while less serious crimes include assault, forgery, vandalism, drug abuse offenses, DUI and disorderly conduct. Nationally, Boulder has a lower crime rate compared to other similar cities. Over the last five years, traffic enforcement has averaged approximately 16,500 summonses (includes accidents and non-accidents) per year and an average of 3,200 accidents per year.

Embedded within both the serious and less serious crime statistics (depending on the case) are family crimes. While family crime rates have remained relatively steady over the last four years, the number of cases being investigated by detectives has increased dramatically. This is due to a change in handling family crimes to improve service and effectiveness. Every case not solved by an immediate arrest is assigned to a detective for investigation. Some of the cases with an immediate arrest are also assigned to a detective to complete additional follow-up for prosecution. This change has resulted in a 354 percent increase over four years in the number of family crime cases handled



The top three causes of traffic accidents in the city are failure to avoid interfering with vehicle ahead, inattentive driving and improper backing.

CHAPTER SIX

by detectives. Fifty-one cases were investigated in 2009, versus 232 cases in 2012. Of those 232 cases, 58 were felonies, 155 were misdemeanors, and 19 were classified as incidents.

Response Time Standards

Average response from the time a call was received to the arrival of an officer for Priority One[4] calls has increased from 2:15 to 6:28. The increase is mostly due to changes in tracking time, improvements in record keeping, and partly related to the fact that there are fewer officers available to respond. BPD has recently implemented a new computer aided dispatch (CAD) system that allows for better tracking of calls for service both in terms of time that calls are received, entered into the system, dispatched, and officers arrive as well as more easily extracted data such as number, type and details for calls for service handled by a particular officer. The new CAD system also assigns emergency or Priority One calls by closest unit using a Global Positioning System (GPS) feature rather than a dispatcher assigning these calls based solely on district assignment, which should improve police response time. Implementation of these technological improvements will assist in more accurate data collection and increased utilization of data in the management of BPD.

The BVCP currently calls for BPD to respond to: "any potentially life-threatening police emergency normally within four and a half minutes from the time the call for assistance is received by the Communications center (however, the range for that average within the established city shall not exceed six minutes)." After additional data has been collected using the new CAD system, BPD will further evaluate opportunities for improvement in response times.

Comparison to Benchmark Communities

Another useful performance measure is the comparison of various data against police agencies of similar size and makeup. BPD is part of the Benchmark City Survey, which was originally developed in 1997

2012 Benchmark City Comparison

	Boulder	Average
Population	99,069	142,980
Budget	29.6 million	34.5 million
Citizens per Officer	573	707
Calls per Officer	349	344
Part I Crimes*/1,000 residents	31	34
Part I Crimes* Cleared	32 percent	24 percent
DUI arrests/1,000 residents	7	4

*(*Part I Crimes include aggravated assault, battery, arson, auto theft, burglary, homicide, rape, robbery and felony theft.)*

[4] *"Priority One Calls" includes calls that require the immediate presence of a law enforcement officer in order to protect individuals from injury or life-threatening situations, or other emergency situations which require and depend upon an immediate response.*

Calls for Service			
	Total*	Calls per Officer	Officers/1000 residents
2008	58,870	344	1.74
2009	59,428	348	1.74
2010	58,892	344	1.75
2011	61,372	357	1.75
2012	60,443	349	1.75

**Total calls for service do not include about 30,000 additional contacts that are generated each year by officers, such as traffic stops, on-site arrests and pedestrian contacts.*

by a core group of police chiefs from around the country to establish a measurement tool to ensure departments are providing the best service possible within their respective communities. Annually, the benchmark cities complete a survey which allows participating agencies to compare themselves across a wide variety of criteria. In comparison to the benchmark cities, Boulder typically has shorter response times; is within the average range for number of serious crimes; and is above average in the number of officers per resident. In areas such as alcohol enforcement, women in policing, number of calls per officer and clearance rates[5], Boulder is at or near the top in leading the benchmark cities.

Community and Victim Feedback

In addition, BPD conducts random customer service surveys of people who have been contacted by a police officer as a result of a 911 or non-emergency phone call. Approximately seventy people are contacted each month and asked to rate how they feel their call was handled and the quality of their interaction with both the dispatcher and officer. Survey participants also answer brief, open-ended questions that address their perception of the department, professionalism, courtesy, and overall awareness of issues facing the community. The detective section also conducts monthly customer service surveys, with an annual goal of at least 20 percent of the surveys completed in Spanish.

How are we doing?

Overall, BPD is doing well in the areas of solving crimes (clearance rates), reflecting community diversity and other values, training, and holding employees accountable to high standards. Over the last 15 years, BPD has worked toward greater professionalism in meeting the mission of working with the community to provide service and safety.

The 2011 Boulder Community Survey indicated that ratings of feelings of safety from violent crime dropped somewhat in 2011 compared to 2007 (went from a rating of 83 to 78, using a 100-point scale with 0=very unsafe to 100=very safe). However, this rating was above the national benchmark and higher than had been observed in several previous implementations of the survey. The rating of safety from property crimes remained stable from 2007 to 2011 (69 to 68), and was higher than the national benchmark. About one in ten respondents reported they had dialed 9-1-1 in the past year, similar to the proportion in 2007. Safety ratings varied across the sub-communities. Overall, men and respondents ages 35 to 54 tended to feel safer from potential threats than women and the youngest and oldest respondents. Discrimination due to background or personal characteristics was rated lower by Hispanic respondents, respondents of other races and non-students.

Another community survey will be completed in 2014 and information collected, along with other customer feedback, crime statistics and comparison to other communities' data, will continue to be evaluated in the ongoing assessment of police effectiveness. The performance measures will also continue to be evaluated as part of the annual citywide budget process.

[5]Clearance rate is a percentage as compared to reported crimes or previous year's clearance rates. An investigation (traffic or criminal) is "cleared" when an arrest is made, the complaint is found to be false or baseless, the victim drops the case, or the offender dies.

Implementation and Next Steps

With the adoption of this master plan, BPD commits to the initiatives outlined in the fiscally constrained plan (within the existing budget) and to actively pursue the funding and resource leveraging needed to implement the action and vision plans. As a result, implementation of the Police Master Plan will take place over a number of years to spread out budgetary and other impacts. BPD is already moving ahead with many of the recommendations in the master plan, specifically within the fiscally constrained plan, that do not require additional funding or staff. Examples include forming focus groups to discuss the "community policing" philosophy and what it means in Boulder; expanding the Field Guide to Flood Response to include all hazards; and evaluating the Neighborhood Impact Team in order to apply lessons learned to future approaches in public safety.

In the future, BPD will incorporate new initiatives into the planning and budget processes as city resources allow. Examples include phasing in additional sworn officers and civilian staff members (submitted for consideration as part of the 2014 budget process); upgrading technology in order to improve response times and increase efficiency; replacing the mobile command post for emergency response; and expanding the Public Safety Building to better accommodate staffing and technology needs.

With this master plan as a guide, BPD will use the city's Priority Based Budgeting approach to develop annual budget requests. Progress will be reviewed and accomplishments reflected as part of the annual budget process. Performance measures will be used to monitor service and progress toward the master plan strategies. Every effort will be made to ensure that BPD efforts align with City Council and community goals.

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE Consideration of a motion to adopt a resolution setting the ballot order for the November 5, 2013 coordinated municipal election.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Kathleen E. Haddock, Senior Assistant City Attorney
Alisa Lewis, City Clerk

EXECUTIVE SUMMARY

Council has proposed nine measures for the November 5, 2013 ballot. The measures include four tax measures, four charter amendments and a people's ordinance extending a fracking moratorium. Considering the number of measures and the diverse subject matter, it would seem appropriate for the council to suggest to the county an appropriate order for the ballot measures. Staff has drafted a proposed resolution with a suggested order. The suggested order would place the two new tax measures first as required by the Taxpayer Bill of Rights. Staff recommends that the two municipalization measures follow the tax measures. The two non-municipalization charter amendments would follow the municipalization measures. The fracking moratorium would be last.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motion:
Motion to adopt a Resolution No. _____ adopting a recommended ballot measure order as set forth in Attachment A.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

The community sustainability assessments and impacts are discussed in the agenda memoranda for each of the nine proposed measures. The proposed ballot measure order would serve to reduce voter confusion.

ANALYSIS

Staff recommends the following proposed ballot measure order:

2A	New Recreational Marijuana Tax (Ordinance 7916)
2B	New 0.15 cent Sales and Use Tax for Transportation (Ordinance 7913)
2C	Extension of 0.33 Sales and Use Tax for Open Space and General Government (Ordinance 7912)
2D	Extension of 0.15 Sales and Use Tax for Transportation and General Government (Ordinance 7922)
2E	Initiated Measure adding New Charter Section 188 (Ordinance 7919)
2F	Alternative Ballot Measure Superseding Item 2E (Ordinance 7920)
2G	Amendment to Charter Section 98 regarding Bond Sales (Ordinance 7910)
2H	Amendment to Charter Sections 74, 130, 157, 172 and 185 regarding electors (Ordinance 7914)
2I	People's Ordinance Extending a Moratorium on New Oil and Gas exploration (Ordinance 7915)

At the Council Agenda Committee meeting on August 12, 2013, the council members participating expressed an interest in changing the order. The CAC members' proposal is as follows:

2A	New Recreational Marijuana Tax (Ordinance 7916)
2B	New 0.15 cent Sales and Use Tax for Transportation (Ordinance 7913)
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2I	Initiated Measure adding New Charter Section 188 (Ordinance 7919)

Staff has attached an alternative proposed ordinance as attachment B reflecting this proposed order. The CAC proposal would place the initiated ballot measure last in the list. Council members expressed concern about placing a measure that council does not support in among a series of measures that council does support.

ATTACHMENTS

Attachment A – Proposed Resolution
Attachment B – CAC proposed resolution

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Resolution No. _____

A RESOLUTION RECOMMENDING THE BALLOT MEASURE ORDER FOR THE NOVEMBER 5, 2013 BALLOT

WHEREAS, the City of Boulder has proposed nine measures for inclusion on the November 5, 2013 ballot, including four tax measures, three charter amendments and a people's ordinance imposing a moratorium; and

WHEREAS, the Boulder City Council wishes to avoid voter confusion through the separation of related matters on the November 5, 2013 ballot; and

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

Section 1. The City of Boulder City Council hereby recommends that following order for ballot measures being considered by the voters at the November 5, 2013 general municipal election:

2A	New Recreational Marijuana Tax (Ordinance 7916)
2B	New 0.15 cent Sales and Use Tax for Transportation (Ordinance 7913)
2C	Extension of 0.33 Sales and Use Tax for Open Space and General Government (Ordinance 7912)
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2H	Amendment to Charter Sections 74, 130, 157, 172 and 185 regarding electors (Ordinance 7914)
2I	People's Ordinance Extending a Moratorium on New Oil and Gas exploration (Ordinance 7915)

.

Section 2. The City of Boulder directs the city clerk to work with the Boulder County Clerk and Recorder to arrange the city's ballot measures in the order set forth above.

APPROVED this ___ day of _____, 2013

_____
Mayor

ATTEST:

_____
City Clerk

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APPROVED this ___ day of _____, 2013

_____
Mayor

ATTEST:

_____
City Clerk

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C I T Y O F B O U L D E R
CITY COUNCIL AGENDA ITEM

MEETING DATE: Aug. 20, 2013

AGENDA TITLE: Update on Council Chambers audiovisual upgrades

PRESENTERS: Jane Brautigam, City Manager
Tom Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Patrick von Keyserling, Director of Communications
Don Ingle, Information Technology Director
Maureen Rait, Executive Director of Public Works
Joe Castro, Facilities and Fleet Manager
Glenn Magee, Facilities Design and Construction Manager

EXECUTIVE SUMMARY

This memo is to update City Council on the status of the planned project to increase usability of the Municipal Building Council Chambers, and to inform council on the feedback received from the various boards and commissions that use the space. The Council Chambers existing floor plan is **Attachment A**.

In May 2013, council was presented with a concept floor plan (**Attachment B**) intended to improve audience engagement and the audiovisual (A/V) systems. Since that time, the concept plan has been presented to eight of the 11 boards and commissions impacted by the proposed changes. Presentations to the remaining boards and commissions will be completed in late August. Construction of the project is planned to begin Nov. 15, 2013 and be completed by Jan. 10, 2014. Input received from the boards and commissions (**Attachment D**), as well as further design development regarding constructability of the project have resulted in a revised plan (**Attachment C**).

A portion of the A/V upgrades may be funded by existing cable customer fees. Through its cable franchise agreement with Comcast Cable Corp. (Comcast), the city receives funding for capital purchases to support public access, education and government (PEG) channels. The funding, currently $0.50 per customer, may not be used for operational expenses.

The city currently operates education access and government access channels. While there is not a franchise requirement on how PEG funds should be allocated among the city's PEG channels, Boulder has historically divided the funding between channels 22 and 8. This is approximately $75,000 per year for each of the channels. Sufficient PEG dollars are available to fund the cablecast-related upgrades to the Council Chambers A/V equipment.

FISCAL IMPACT

Cost estimates for the project involve approximately $190,000 in physical construction, and approximately $200,000 in technology upgrades, for a total estimated cost of $390,000. Physical changes will be funded from the Facilities and Asset Management facility replacement funds (FR&R). Cablecast-related upgrades to the Council Chambers A/V equipment will be funded from PEG ($160,000). Other technology related improvements will be funded from Equipment Replacement Fund ($40,000).

Channel 22 currently has about $400,000 available for PEG capital purchases; city-contracted managers of Education Access have not historically utilized the full PEG fee allocations. The city intends to reallocate $160,000 in PEG funds to improve the A/V equipment in Council Chambers for improved channel 8 coverage of city council meetings. In addition to the one-time costs of the technology upgrades, on-going funding from PEG dollars in the amount of $25,000 is recommended as an annual contribution to fund the future replacement of the cablecast equipment at the end of its 7-year lifecycle. The on-going replacement fund contribution requires a $25,000 annual reallocation of Education Access dollars to Government Access. Education Access allocation would be $50,000 annually to meet projected equipment needs.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Funding for this project is proposed from the 2013 Budget.

- Environmental: As with any remodel project in city facilities, zero-Volatile Organic Compound (VOC) paints, sustainable carpets, energy star appliances, and the re-use of materials will be specified. The council's current rounded desk will be re-used / modified. Current energy codes will be met or exceeded.

- Social: The planned upgrades to Council Chambers will allow study sessions occurring in the flex seating areas to be televised so more citizens can view these meetings live through Channel 8 and streaming online. Relocation of the dais closer to the audience will bring the council and boards and commissions closer to the public.

BACKGROUND

In 2011, a major remodel in the Municipal Building was completed that focused on improving public meeting spaces by increasing the size of the Fishbowl and 1777 West conference rooms, providing a meeting space in the council office, and replacing deteriorated carpet and seating in the audience portion of Council Chambers. In the Council Chambers, approximately half of the seats were replaced with flexible furniture to provide a multipurpose space. The 2011 project intentionally excluded changes to the dais to provide time to evaluate how the flexible space and dais worked together.

In May 2013, a conceptual plan (**Attachment B**) was presented to council that addressed the concerns for improved public engagement through remodeling of the space, and an A/V consultant was engaged to specify replacement equipment that would improve a number of issues currently affecting the quality of presentations and broadcasting. The general proposed changes are outlined in the May 7, 2013 Information Packet Memorandum.
The design team was tasked with soliciting feedback from the boards and commissions that utilize chambers in an effort to further inform the concept and details of the project.

Boulder Valley School District (BVSD), the contracted manager of education access channel 22 since 2012, was consulted prior to the decision to reallocate PEG dollars from channel 22 to channel 8 as a part of the renovation to the Council Chambers. BVSD agreed that sufficient dollars would remain in the education access allocation to provide for equipment replacement and maintenance of channel 22 equipment. BVSD stated that there would be no negative impact to the education access channel as a result of reallocation and anticipates a need for up to $50,000 in annual PEG fees to meet the capital needs of channel 22.

BOARD AND COMMISSION FEEDBACK

To date, presentations of the project have been made to eight of the 11 boards and commissions that regularly meet in Council Chambers, including Planning Board, Transportation Advisory Board (TAB), Board of Zoning Adjustment (BOZA), Uni-Hill Commercial Area Management Commission (UHCAMC), Landmarks Board, Downtown Management Commission (DMC), Boulder Junction Access District Joint Commission (BJADJC), and the Boulder Design Advisory Board (BDAB). The three remaining boards are the Open Space Board of Trustees, Human Relations Committee, and the Boulder Liquor Authority, which will be seeing the plan in late August.

ANALYSIS

Feedback received from boards and commissions (**Attachment D**), as well as additional investigation into the constructability of the concept plan have resulted in a revised plan (**Attachment C**). The revised plan accomplishes the basic project goals and addresses a number of design conditions including:

- Improved accessibility to the raised dais for people with disabilities, as well as improved access to the Women's Restroom;
- Provision of adequate floor space in front of the main desk for presentations;
- Screening of exit doors behind the council desk;
- Improved visibility of video screens from the council and staff desks as well as for the audience in the flex space;
- Minimized impacts to areas adjacent to Council Chambers; and
- Improved kitchenette layout

NEXT STEPS

Following additional feedback from council, the consultants will refine the design and complete the construction documents for the project, including integration of the technology systems. The project will be advertised for pubic bid, with an anticipated construction start date of Nov. 15, 2013.

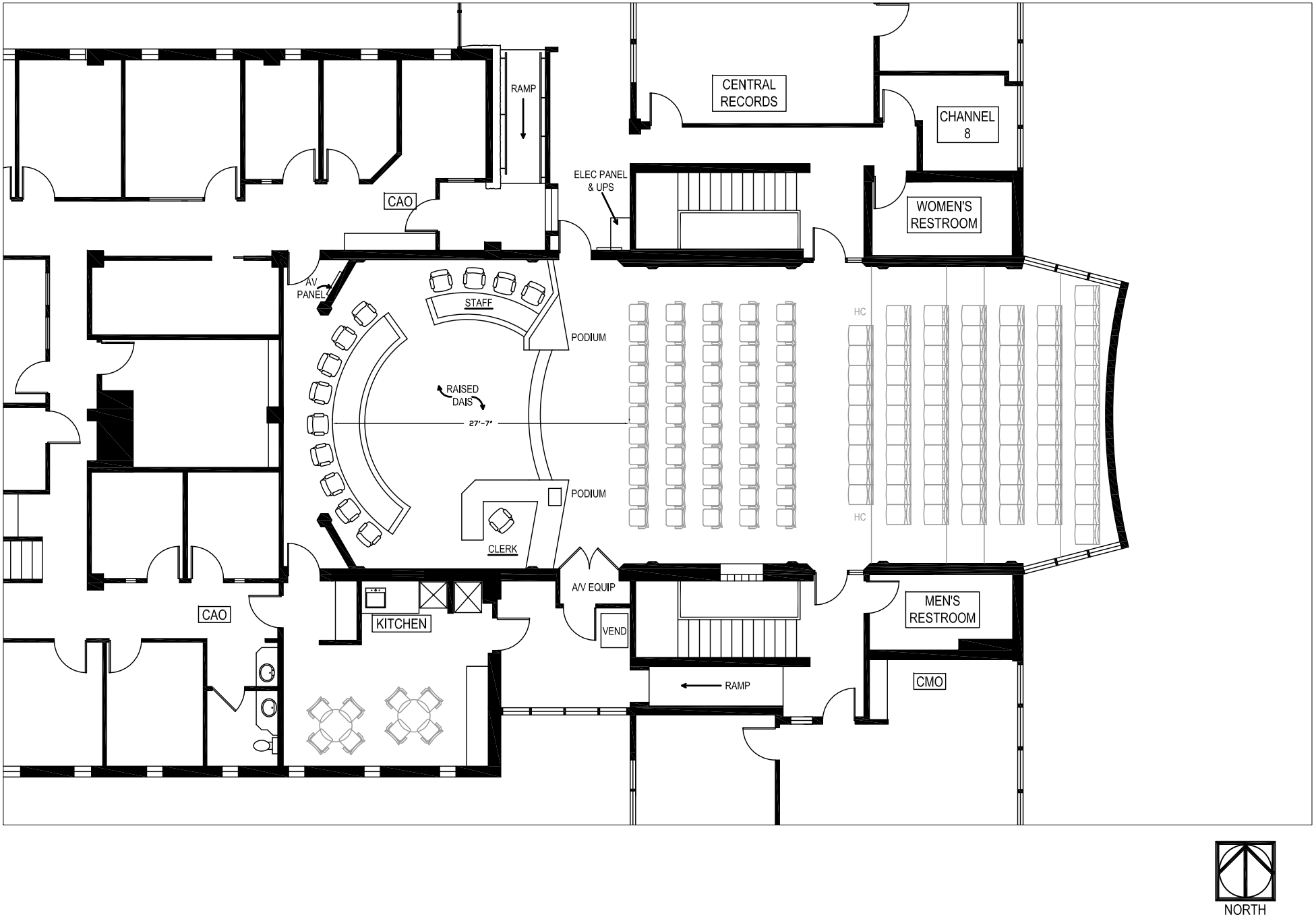
The City Council and impacted boards and commissions will be holding meetings in alternative locations during the construction period (Nov. 15, 2013 – Jan. 10, 2014). During construction, regular City Council meetings will be held in the Canyon Theater (Main Boulder Public Library). The alternative regular meeting location for the City Council will be in the Library Auditorium to maintain Channel 8 broadcasts, and study sessions will be held at the West Senior Center.

Glenn Magee, FAM Design and Construction Manager, will be the contact for the project.

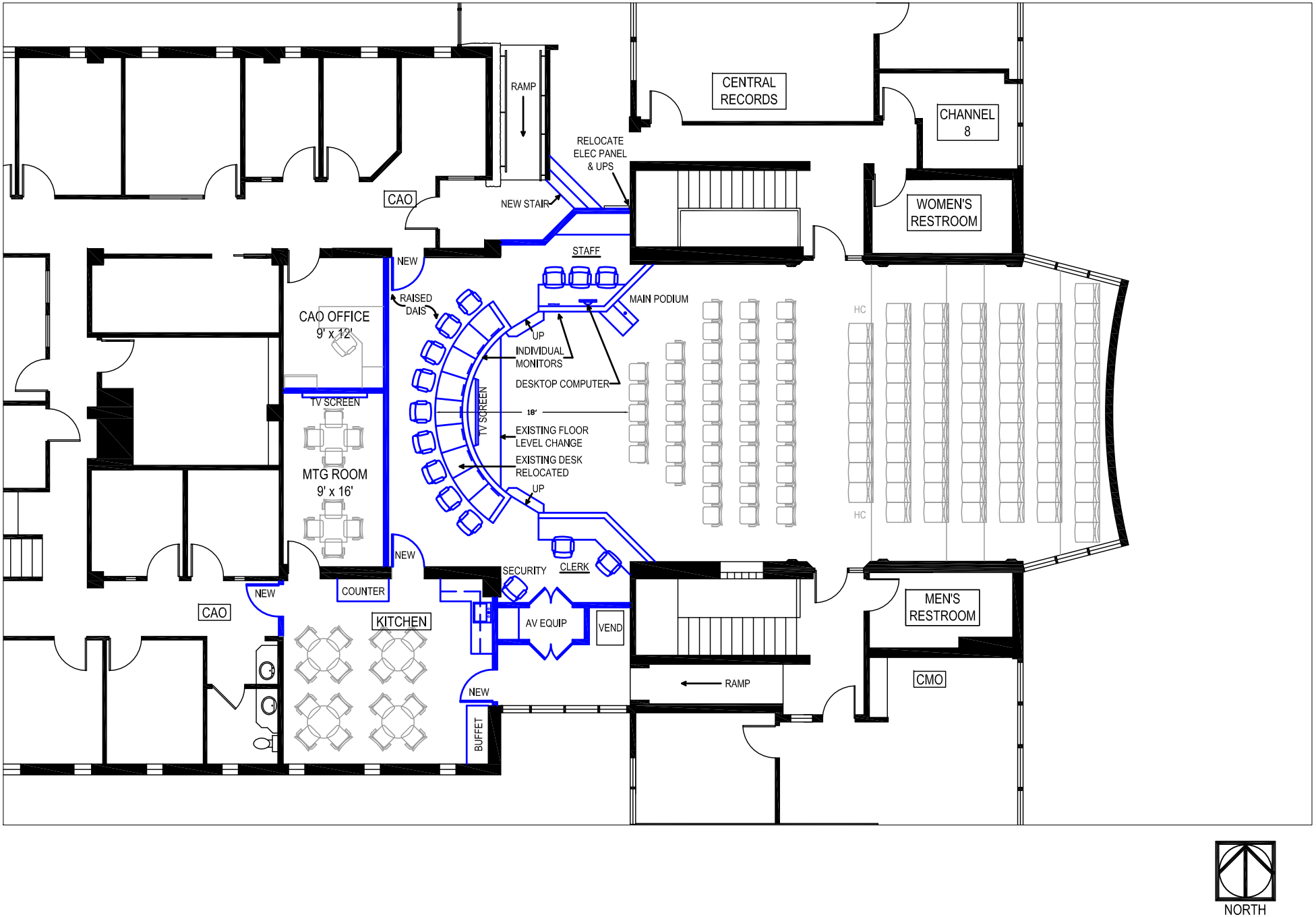
ATTACHMENTS

- **A.** Existing floor plan
- **B.** Concept design
- **C.** Revised design
- **D.** Board and commission input

ATTACHMENT A: Council Chambers Existing Floor Plan

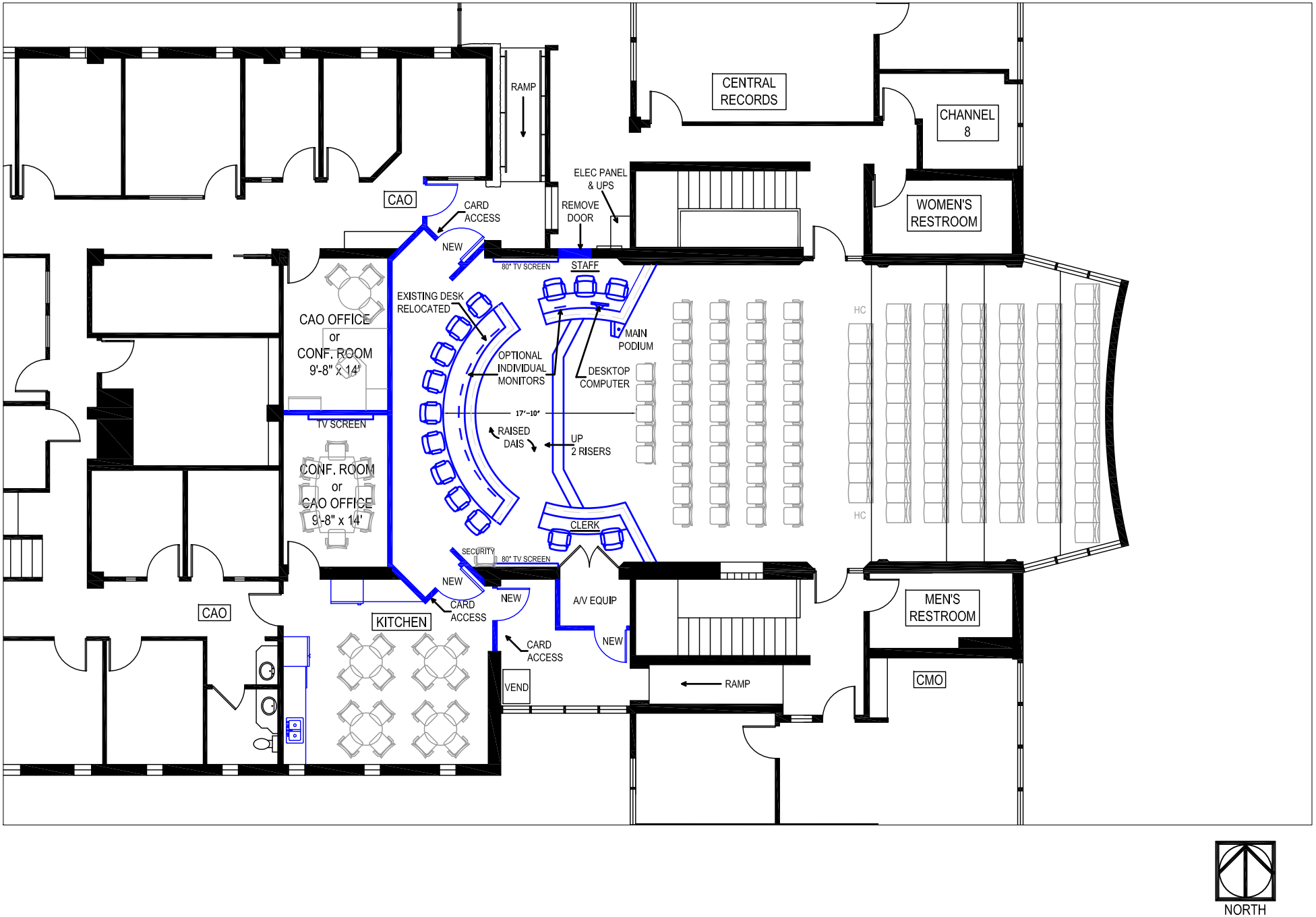


ATTACHMENT B: Council Chambers Upgrade, Proposed Concept Design Plan



NORTH

ATTACHMENT C: Council Chambers Upgrade, Revised Concept Plan



NORTH

ATTACHMENT D: Council Chambers Upgrade - Board and Commission Comments

Planning Board – June 6, 2013

- Questions about monitors on council desk: - what will be the content displayed? Concerns that with new monitors there will not be room for other items such as laptops and notebooks.
- Audience in front rows needs better visual access to monitor screens.
- Comments received from Planning staff:-
    - Reducing seating at staff desk from four to three will be problematic. (Response - additional staff seating can be placed temporarily along north wall).
    - Can an emergency escape door be integrated behind the north staff desk area? (Response – emergency egress is through south doors behind council seats).
    - The podium in front of the north staff desk is awkward and should be in a more central location. (Response – Police prefer north podium for security reasons – see also BDAB comment).
    - Reduction of audience seating will make contentious meetings even more cramped. (Response – the new plan results in the net loss of five flex seats. Overflow seating is available in the main floor lobby).

Transportation Advisory Board – July 8, 2013

- Can accessibility for people with disabilities be provided to the raised section of the dais? Assure that adequate accessibility clearances are provided. (Response – clearance minimums of 36" is now provided behind council seats).

Boulder Design Advisory Board – July 10, 2013

- General agreement with plan
- Agreement that podium to the north is better than in the center because the presenter can feel intimidated if standing directly in front of council.

Board of Zoning Adjustment – July 11, 2013

- Concerns that monitors on main desk will be too crowded with not enough room for personal computers.
- Suggest that there be two podiums – one on each side
- Suggest that a large screen for front audience viewing be placed on walls beside / behind council seats

University Hill Commercial Area Management Commission - July 17, 2013

- Suggest docking stations / connections for individual iPads or computers at council desk but not built-in monitors.
- Are there any opportunities for virtual meeting participation such as absentee voting?

Landmarks Board – July 18, 2013

- North staff desk space is too small.
- Suggest extending raised dais section to the east

- Is there any way to provide a door to the common area of the north side for access to Women's restroom? It is awkward to have to leave from the rear of the space into the lunchroom then walk through chambers to get to north side.
- Like the idea of the built-in monitors at main desk or some other connectivity for personal laptops.

Downtown Management Commission – August 5, 2013 –

- Look into improving ambient lighting in audience – when at council desk the audience is dim and it is hard to see them.
- Wheelchair access to dais should be improved.

Boulder Junction Access District – August 7, 2013

- Suggest docking stations / connections for individual iPads or computers at council desk but not built-in monitors.
- Improve lighting in flex space

Open Space Board of Trustees – August 14, 2013 - will present findings at August 20 Council meeting

Human Relations Commission – August 19, 2013 - will present findings at August 20 Council meeting

Boulder Liquor Authority – August 21, 2013 - will present findings at August 20 Council meeting

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: August 20, 2013

AGENDA TITLE - Consideration of a motion regarding 2013 performance evaluations, and performance based salary adjustments for the City Manager, City Attorney, and Municipal Judge.

PRESENTER/S
Lisa Morzel and Tim Plass, City Council Employee Evaluation Committee

EXECUTIVE SUMMARY
Based on performance ratings and salary preferences expressed by the City Council, the evaluation committee is bringing to the Council a motion regarding 2013 performance evaluations and performance based salary adjustments for the City Manager, City Attorney, and Municipal Judge for the evaluation period of July 1, 2012 to July 1, 2013. In addition to performance evaluations, other factors considered in determining these recommendations include the employee's compensation compared to the labor market for similar positions, performance pay increases for other city employees and the city's financial health and future outlook.

The City Council has given the City Manager an exceptionally high performance rating and the Evaluation Committee recommends a 2.8% performance increase that would increase the manager's annual salary by $5,672 from $ 202,560 to $208,232.

The City Council has given the City Attorney an exceptionally high performance rating and the Evaluation Committee recommends a 3.0 % performance increase that would increase the attorney's annual salary by $5,437 from $181,229 to $186,666.

The City Council has given the Municipal Judge an exceptionally high performance rating and the Evaluation Committee recommends a 3.0% performance increase that would increase the judge's annual salary by $3,932 from $131,075 to $135,007.

EVALUATION COMMITTEE RECOMMENDATION

Suggested Motion Language:
Based on performance ratings and the 2013 Base Pay Increase Ballot, City Council awards a pay increase of $5,672 (2.8 % of base salary) to the City Manager's base salary, a pay increase of $5,437 (3.0 % of base salary) to the City Attorney's base salary, and a pay increase of $3,932 (3.0 % of base salary) to the Municipal Judge's base salary, these increases are retroactive to June 24, 2013.

OTHER IMPACTS

Fiscal: should Council choose to provide performance based salary adjustments, the cost for each 1% of salary granted as a performance increase would be $2,026 for the City Manager, $1,812 for the City Attorney, and $1,311 for the Municipal Judge. The increases would be retroactive to June 24, 2013 which is the beginning of the pay period in which the City Council Employees' common review date of July 1, 2013. Attached is the 2013 Base Pay Increase Ballot that Council used to recommend if increases should be given.

Staff time: approximately 40 hours to support the Council Employee Evaluation Process. In addition, Mountain States Employers Council, the consultant that assisted with the Council Employee Evaluation, charged $4883.00.

ANALYSIS

Each year the City Council considers granting a performance pay increase to its Council employees based upon an evaluation procedure the City Council adopted in 1998. Each Council member rates the performance of each employee on nine to ten performance and job specific factors. Based on the ratings, each Council member then indicates her/his preference for a performance pay increase for each employee (see Attachment A). If a majority of Council members support granting a performance pay increase, then that is the motion that the evaluation committee brings to Council. This year, the same voting methodology of Council members was followed for the consideration of the performance based salary adjustment for the Council employees.

Council's decision on whether to grant performance based increases to salary includes consideration of superior performance in the previous year and the city's financial health. In weighing performance and market-based adjustments to base pay, Council assesses their employees' compensation compared to the labor market for similar positions (see Attachment B), the city's financial health and future outlook, and performance pay increases for other city employees. The city's 2013 Merit Matrix (see Attachment C) for management/non-union employees specifies target salary increase ranges for city employees. Those who exceed or fully meet high expectations and are currently in the middle to top third of their salary range distribution are typically given 2% to 5% increases. The average salary increase in 2013 was 2.5%.

The City Manager received very high marks in all categories. The salary comparisons indicate that her salary is in middle to top third of the range of city managers of comparable cities, when considering the total compensation of other managers and the likelihood that there will be 2013 salary increases for those managers as well. As in past years, council members voted by ballot on a salary increase for the City Manager. The

median value increase from that ballot was 2.8% and this is the increase that is therefore recommended by the committee.

The analysis for the City Attorney is much the same as for the City Manager. He too received very high marks in all categories, and his salary is in the middle to top third of the range of city attorneys of comparable cities. As in past years, council members voted by ballot on a salary increase for the City Attorney. The median value increase from that ballot was 3% and this is the increase that is therefore recommended by the committee.

The Municipal Judge received exceptionally high performance ratings from the council, and her salary is in the middle to top third of the range of municipal judges. As in past years, council members voted by ballot on a salary increase for the Municipal Judge. The median value increase from that ballot was 3% and this is the increase that is therefore recommended by the committee.

Approved By:
Lisa Morzel
Tim Plass
Council Employee Evaluation Committee

ATTACHMENTS

A. 2013 Base Pay Increase Ballot
B. 2013 Market Survey Council Employees
C. 2013 Management/Non-union Merit Matrix

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City of Boulder – Council Employee

2013 Base Pay Increase Ballot

Current Annual Salary:	City Attorney -	$181,230
Current Annual Salary:	Municipal Judge -	$131,075
Current Annual Salary:	City Manager -	$202,560

QUESTIONS FOR 2013:

1) Shall increases in base pay be authorized for Council employees in 2013?

   Please check one of the boxes to the right. ☐ YES ☐ NO

2) If increases in base pay are granted, what is your recommended amount? Please indicate an amount for each employee.

% of Pay	City Attorney	Municipal Judge	City Manager
1%	$1,812	$1,311	$2,026
2%	$3,625	$2,622	$4,051
3%	$5,437	$3,932	$6,077
4%	$7,249	$5,243	$8,102
5%	$9,062	$6,554	$10,128
6%	$10,874	$7,865	$12,154
7%	$12,686	$9,175	$14,179
Other: _____	Other: _____	Other:_____	Other: _____

Comments:

_____

_____

_____

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City Manager Salaries - June - 2013

Organization	Population	Annual Actual Salary	Date of Last Pay Increase	City Paid Deferred Comp.	Annual Car Allowance	Annual Bonus Amount	Total Comp.*	# of Employees Managed	Years in Current Position
Arvada	107,700	$191,170	n/a	$0	$4,800	$0	$195,970	675	1.75
Aurora	332,354	$186,849	1/1/13	$18,000	Car	$0	$204,849	2,550	2
Colorado Springs	436,000	No Match**							
Denver	634,265	No Match							
Fort Collins	143,986	$207,063	01/07/13	$26,918	$9,000	$0	$242,981	1,276	8
Greeley	95,000	$170,000	3/1/13	$0	$6,000	$0	$176,000	859	7.75
Lakewood	144,406	$201,323	3/31/13	$23,000	$9,724	$0	$234,047	1,842	4
Longmont	87,850	$178,500	4/15/13	$10,000	$5,000	$4,375	$197,875	812	1
Loveland	67,581	$171,558	12/14/12	$0	$6,000	$0	$177,558	707	2.8
Thornton	121,499	$212,158	12/30/12	$42,856	$6,600	$0	$261,614	808	28
Westminster	106,114	$196,759	1/1/13	$23,000	$9,000	$0	$228,759	1,839	12
	Average Salary:	**$190,598**					**$213,295**		
Boulder	103,650	**$202,560**	6/25/12	$0	$0	$0	**$202,560**	1,229	4.7

*Total Compensation - includes salary, deferred compensation, car allowance and bonus. (Aurora - excludes value of car)
**Colorado Springs - No longer has a City Manager; now has a strong-mayor form of government.

Note 1: "City Paid Deferred Comp." refers to compensation deferred into the future for certain employees beyond that provided to all employees (such as PERA). For example, the City pays 13.7% of employees' salaries toward a pension and the employee pays 8%. If the City chooses to pay the employee portion for selected employees (8%) that would be considered additional, deferred compensation for the employee. Since the City contributes 13.7% towards all employees, that amount is not considered deferred compensation.

Note 2: Housing allowances are not a common practice among the cities surveyed.

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2013 Merit Matrix - Management/Non-union

Performance Distribution	Salary Range Distribution			
	Lower Third	Middle Third	Upper Third	At/Over Max.
Exceeds Our High Expectations	6.5%	5.0%	3.5%	Up to 2.0% Bonus
Fully Meets Our High Expectations	3.5%	2.5%	2.0%	Up to 2.0% Bonus
Meets Core Responsibilities	2.5%	2.0%	0.0%	0.0%
Does Not Meet Expectations	0.0%	0%	0%	0%

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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.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously clean between members of boards and members of council, like expressing ideas to board members on things coming before the Board, and carefully disclose or recuse themselves when they're 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, the a 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 response 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 goal committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each goal 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.

Approved by Council 10/19/04

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2013
Study Session Calendar

Date	Topic	Time	Televised	Location	Contacts	Materials Due
Key	**Tentative Item**					
Key	**Event Before 5 PM**					
Key	**Dinner**					
08/13/13	Dinner: Historic Preservation Plan (Tentative)	5-6 PM	NO	Chambers	Melinda Melton/Susan Richstone	08/01/13
08/13/13	CIP	6-7 PM	YES	Chambers	Bob Eichem	08/01/13
08/13/13	Regional Transportation Issues	7-8 PM	YES	Chambers	Tracy Winfree	08/01/13
08/13/13	TMP Update Check-In: Complete Streets Focus Area and Transit State of the System report	8-9 PM	NO	Chambers	Randall Rutsch Laurel Olsen-Horen	08/15/13
08/27/13						08/15/13
09/10/13	Recommended Budget #1	6-9 PM	YES	Chambers	Bob Eichem	08/29/13
09/24/13	Recommended Budget #2	6-8 PM	NO	Chambers	Bob Eichem Mark Gershman Cecil Fenio	09/12/13
09/24/13	Economic Sustainability Strategy	8-9 PM	NO	Chambers	Melinda Melton/Susan Richstone	09/12/13
12/10/13	Hold for CMO					11/29/13

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September 3, 2013 Preliminary: 8/21 :: Final 8/28	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
Consent					
1st Reading Landmark Designation for 2205 Broadway					James Hewat/Melinda Melton
4th Reading to adopt Ordinance 7832 for Congregate Care Facilities		Yes	No	No	Marie Zuzack/Melinda Melton
1st reading proposed Hogan-Pancost annexation and request to vacate portion of right-of-way (Resolution and Ordinance)		Yes	No	Required 30 days before hearing	Karl Guiler/Melinda Melton
Study Session Summary for Boulder's Climate Commitment		No	No		Brett KenCairn/Melinda Melton
Study Session Summary for Civic Area Plan		No	No		Lesli Ellis/Melinda Melton
2nd reading deed of vacation to vacate a public easement at 6655 Lookout Road		Yes	No		Sloane Walbert/Melinda Melton
1st Reading - Adding a new chapter 6-16 Recreational Marijuana, and adding a new section 4-20-67 Recreational Marijuana Businesses		Yes	No		Kathy Haddock/Christy Hardin
PUBLIC HEARINGS:					
2nd Reading Landmark Designation 3015 Kalmia Avenue	15 Min.	No	Yes		James Hewat/Melinda Melton
2nd Reading ICC 2012 Building/Energy Code (& SmartRegs changes)	1 Hour	Yes			David Thacker
Civic Area Plan Adoption	2 Hours	No	Yes	necessary for adoption of the plan according to schedule	Lesli Ellis
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

September 17, 2013 Preliminary: 9/4 :: Final 9/11	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
Declaration for Colorado Companies to Watch	10 Min				Liz Hanson
CONSENT:					
ERTL Acquisition, 1st Reading					Jim Schmidt, Cecil Fenio
Study Session Summary - Aug. 13					
First Reading Hazardous Materials Management IGA with Boulder County	20 Mins.	Yes		Time sensitive	Bret Linenfelser/Laurel Olsen-Horen
PUBLIC HEARINGS:					
Parks and Recreation Master Plan	1 hour		10 min.		Kirk Kincannon
2nd Reading - Adding a new chapter 6-16 Recreational Marijuana, and adding a new section 4-20-67 Recreational Marijuana Businesses	1 Hour	Yes	No		Kathy Haddock/Christy Hardin
2nd Reading Critical Facilities and Lodging Facilities Ordinance	1 Hour	Yes	10 Mins.		Laurel Olsen-Horen/Annie Noble/Bob Harberg
MATTERS FROM CITY MANAGER:					
Ironman update - 2015 and Beyond	30 Min.				CMO
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

October 1, 2013 Preliminary: 9/18 :: Final 9/25	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
Consent					
First Reading, Electric Assist Bicycles Pilot Demo Project		Yes			Marni Ratzel/Laurel Olsen-Horen
First reading of amended ordinances regarding Voice and Sight Control evidence tags		Yes		Moved from August Meeting Dates	Eric Stone/Cecil Fenio
Motion amending the Benson Annexation agreement		No			Chandler Van Schaak/Melinda Melton
2nd Reading Hazardous Materials Management IGA with Boulder County		Yes		Time sensitive	Bret Linenfelser/Laurel Olsen-Horen
500 Foot Rule & use Definitions/ BLA Structural Changes		Yes			Joanna Crean
First Reading ordinance amending the New Hire Fire and Police Money Purchase Plan		No			Elena Lazarevska/Bob Eichem
5th Reading to adopt Ordinance 7832 for Congregate Care Facilities		Yes			Marie Zuzack/Melinda Melton
Public Hearing					
2nd Reading Landmark Designation for 2205 Broadway	20 Min	No	Yes		James Hewat/Melinda Melton
ERTL Acquisition, 2nd Reading	30 Min.	No	10 Min.		Jim Schmidt, Cecil Fenio
Public Hearing on the proposed 2014 City of Boulder Budget first reading: adopting 2014 budget, establishing the property tax mill levies, appropriating money, amending chapters 3-8, 3-9 and 4-20 of BRC to change certain fees	2 Hours	No	30 Min.		Elena Lazarevska/Bob Eichem
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

October 3, 2013 Preliminary: 9/18 :: Final 9/25	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
PUBLIC HEARINGS:					
2nd reading proposed Hogan-Pancost Annexation and request to vacate portion of right-of-way	4 Hours	Yes	Yes	Scheduled per CAC	Karl Guiler/Melinda Melton
October 8, 2013 Preliminary: 9/26 :: Final 10/2	**Est. time**	**CAO to Prepare Ord.?**	**Power Point**	**Timing Issues/ Comments**	**Contact**
CONSENT:					
PUBLIC HEARINGS:					
Second reading of amended ordinances regarding Voice and Sight Control evidence tags	2.5 Hours	Yes		Moved from August Meeting Dates	Eric Stone/Cecil Fenio
USAPCC Boulder Venue Proposal	1 Hour				CMO
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

October 15, 2013 Preliminary: 10/2 :: Final 10/9	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
CONSENT:					
Second reading of an ordinance amending the New Hire Fire and Police Money Purchase Plan					Elena/Lazarevska/Bob Eichem
PUBLIC HEARINGS: All Budget Items Will be Heard as One Public Hearing					
2014 Budget Items	2 Hours	No			Elena Lazarevska/Bob Eichem
2nd reading Alcohol: 500 Foot Rule & use Definitions/ BLA Structural Changes	2 Hours	yes			Joana Crean ext 3038
MATTERS FROM CITY MANAGER:					
Economic Sustainability Strategy	30 Min.	No	10 Min.	None	Melinda Melton/Susan Richstone
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

October 22, 2013 Preliminary: 10/10 :: Final 10/16	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
CONSENT:					
PUBLIC HEARINGS:					
If necessary: 3rd Reading Voice and Sight Control Ordinance					Eric Stone/Cecil Fenio
2nd Reading, Electric Assist Bicycles Pilot Demo Project	3 Hours	Yes			Marni Ratzel/Laurel Olsen-Horen
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

October 29, 2013 Preliminary: 10/17 :: Final 10/24	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
CONSENT:					
PUBLIC HEARINGS:					
If necessary: Consideration of items relating to the 2014 budget				Only if required	Elena Lazarevska/Bob Eichem
If necessary: 3rd Reading Alcohol Changes (500 Foot Rule and BLA Structure)		Yes			Joanna Crean
MATTERS FROM CITY MANAGER:					
AMPS Update	1 Hour				Ruth Weiss/Molly Winter
Development of a Comprehensive Housing Strategy	1 Hour				Eric Ameigh/Alyssa Ostrander
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

November 12, 2013 Preliminary: 10/31 :: Final 11/6	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
Platform of Mayor and Mayor Pro Tem	1 Hour				
Consent					
First reading of an emergency ordinance BRC Supplement 118		Yes		Quarterly	Tom Carr/Laurel Hamilton
First Reading Three NPP Expansions (in east Ridge/Pennsylvania, Mapleton, Whittier zones) and One Street Removal (in Fairview NPP zone)		Yes			Ruth Weiss/Eric Guenther
Public Hearing					
Hold for CMO					
MATTERS FROM CITY MANAGER:					
Hold for CMO					
MATTERS FROM CITY ATTORNEY:					
Hold for CMO					
MATTERS FROM MAYOR AND MEMBERS:					
Hold for CMO					
CALL-UPS:					
Hold for CMO					

November 19, 2013 10 AM Special Meeting Oath of Office	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
Certification of Election Results and Oath of Office for new members					Alisa Darrow/Alisa Lewis

November 19, 2013 Preliminary: 11/6 :: Final 11/13	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
CONSENT:					
1st Reading Food Vehicle Follow Up to April 16, 2013 IP		Yes			Ruth Weiss/Lane Landrith
Boulder Municipal Airport Construction Lease		No			Laurel Olsen-Horen/Tim Head
First Reading of the Second Adjustment to Base Ordinance		No			Elena Lazarevska/Bob Eichem
PUBLIC HEARINGS:					
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

December 3, 2013 Preliminary: 11/20 :: Final 11/27	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
Consent					
Second asjustment to Base - CAGID Resolution				On the agenda right after 2nd reading of adj. to base	Elena Lazarevska/Bob Eichem
Second Reading of Second Adjustment to Base of the 2013 Budget		No	No	None	Elena Lazarevska/Bob Eichem
Public Hearing					
Second Reading Three NPP Expansions (in east Ridge/Pennsylvania, Mapleton, Whittier zones) and One Street Removal (in Fairview NPP zone)	15 min.	Yes			Ruth Weiss/Eric Guenther
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

December 17, 2013 Preliminary: 12/4 :: Final 12/11	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
CONSENT:					
PUBLIC HEARINGS:					
Tentative: 2nd Reading Food Vehicle Follow Up to April 16, 2013 IP		Yes			Ruth Weiss/Lane Landrith
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

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.

<u>Next Tier Priorities:</u>

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
▪ 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	▪ 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	▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session	▪ 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
▪ 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: o Launch of 2013 program priorities o Upgrades in City Buildings – employee education and outreach project (IP) ▪ Disposable Bag Fee – implementation plan and revised budget (IP) ▪ Transportation Master Plan (TMP) –	▪ 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	▪ 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	▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency o 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)			

GOAL: Affordable Housing

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
▪ 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	▪ Comprehensive Housing Strategy o Stakeholder engagement process o Study Session	▪ Comprehensive Housing Strategy issues - stakeholder engagement process	▪ Comprehensive Housing Strategy issues - stakeholder engagement process

GOAL: Civic Area Plan

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
▪ Board and community input ▪ Council participation in Ideas Competition	▪ Council direction on preferred option(s) and strategies ▪ Draft plan o Development o Community input o Study Session ▪ Municipal Space Study Final Report	▪ Boulder Civic Area vision and plan o Study session o Public hearings on adoption	

NEXT TIER PRIORITIES

GOAL: University Hill Revitalization

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
▪ 2013 action priorities confirmed by Council at January retreat ▪ Hill Residential Service District – update ▪ Innovation District - update	▪ Action on other priorities ▪ Hill Residential Service District – 1st reading of petition	▪ Capital infrastructure improvements for the residential and commercial areas – consider during CIP process	

GOAL: Addressing Homelessness

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
▪ 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	▪ 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)	▪ Analysis and recommendations regarding banning panhandling on street corners	▪ Ten Year Plan to Address Homelessness – progress update (IP)

GOAL: Boulder Junction Implementation

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
▪ 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)	▪ Update on potential policy issues related to key public improvements and city owned site (as needed)	▪ 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
▪ 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: o Hogan Pancost – annexation and site review o Wonderland Creek Townhouses – potential call up o 28th and Canyon (Eads/ Golden Buff) – potential call up o Landmark Lofts II (970 28th Street) – potential call up ▪ East Arapahoe Study – potential action on limited zoning changes ▪ Economic Sustainable Strategies –	▪ 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	▪ 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: o Blue Spruce Auto (4403 Broadway) – potential call up o Boulder Outlook Hotel Redevelopment (800 28th Street) – potential call up o Colorado Building Parking Lot (1301 Walnut) - ordinances o 1000 Alpine – potential call up o 3085 Bluff – potential call up o 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	▪ 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: o 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

study session ▪ 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	▪ OSMP natural resources – overarching policy issues o Temporal Regulations o Penalties for violations o Multi-modal access and parking opportunities o 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	session or dinner discussion ▪ 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	on remaining topics ▪ Urban Wildlife – Consideration of Wildlife Protection Ordinance ▪ Water budgets – commercial, industrial and institutional – consideration of changes

▪ 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			

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

CITY COUNCIL
ACCOMPLISHMENTS – 1ST AND 2ND QUARTER 2012

TOP PRIORITIES:

GOAL: BOULDER'S ENERGY FUTURE

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS
▪ Hiring of Executive Director for Energy Strategy and Electric Utility Development ▪ Retention of FERC and acquisition legal counsel ▪ Initial work in developing appraisal of distribution system and preparing legal strategy ▪ Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling ▪ Active participation at the PUC to advance Boulder's energy goals and protect community interests ▪ Boulder Canyon Hydroelectric Facility Agreement: City Council authorized the dedication of easements to Public Service Company of Colorado to facilitate upgrades to the city's Boulder Canyon Hydroelectric Facility.

GOAL: CLIMATE ACTION PLAN

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS
▪ Third party review and evaluation of CAP tax funded programs to date ▪ Preparation of November 2012 CAP tax ballot options for Council consideration ▪ Initial steps to develop and refine a new Climate Action Framework consisting a renewed climate action commitment, five-year goals, annual targets, integration with appropriate master plans and city operations, and new reporting tools ▪ Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan) ▪ Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan) ▪ Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.) ▪ Energy Efficiency Upgrades in City Facilities - (a) Energy Performance Contract (EPC) – Phase III; (b) Lease purchase financing for energy conservation measures; and (c) Energy improvements, lease amendments, and payments. - Implemented the third phase of Energy Performance Contracts (EPC) for city facilities, including the installation of another 347 kilowatts of solar photovoltaic

at the Municipal Service Center buildings, Fleet Services, OSMP Annex and The Dairy Center for the Arts.

- Energy Efficiency Upgrades in City Facilities – Employee Education and Outreach Project (Information Packet) - A staff team participated in three workshops with McKinstry, the city's Energy Performance Contractor, to help develop a new PowerED energy education and outreach program for employees. Program development will continue with other city staff focus groups through the end of December 2012.

GOAL: AFFORDABLE HOUSING

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Added 12 new permanently affordable homes to inventory
- Affordable housing agreement for Gunbarrel Town Center
- Affordable Housing Program Work plan - Council Consideration and Direction; new initiatives identified
- Analysis completed of affordable housing distribution
- Completed funding of major renovations to improve housing quality and economic sustainability of three BHP properties
- Development of voluntary affordable housing agreement for Depot Square project
- Inclusionary Housing Rental Policies – Council Consideration and Direction
- Thistle Community Housing completing fire sprinklers in all of its properties

GOAL: CIVIC CENTER MASTER PLAN

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Development of interdepartmental project team and approach; project goals and objectives; and public engagement strategy (reviewed at joint Planning Board / City Council study session in April)
- Detailed design of community visioning process and articulation of key project assumptions (reviewed with Council at June 12 study session)
- Preparation of baseline materials and launch of public engagement in July.
- The Municipal Space Study contract was awarded to StudioTerra on March 23. FAM and the consultants are interviewing city departments and conducting research on industry trends and standards for office space. Preliminary results of the space study, as it relates to the Civic Center Master Plan, will be presented at the July 31 study session.

NEXT TIER PRIORITIES:

GOAL: UNIVERSITY HILL REVITALIZATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Zoning change: Business Main Street (BMS) boundary to coincide with the University Hill General Improvement District boundary; rezoning of UHGID lots to BMS zoning (approved by Planning Board; scheduled for Council consideration in August)
- Continued work of the Hill Ownership Group to develop a comprehensive revitalization strategy.
- In coordination with a volunteer, stakeholder committee completed a proposal for a Residential Service District which includes: boundaries, scope of services, proposed budget, proposed governance structure, agreements for financial participation by tax-exempt sororities and fraternities, and a timeline for a 2013 Petition and Election process.
- Landmarking of Flatirons Theater building (and associated building renovation)
- 955 Broadway (Acacia Fraternity site redevelopment)

GOAL: ADDRESSING HOMELESSNESS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Council Consideration and Direction on: 1175 Lee Hill Project; added 31 permanent housing units for chronically homeless, disabled adults
- Continued Homeless Service Provider Coordination Project to develop action plans for case management, outreach and service coordination
- Continued implementation of Ten year Plan to Address Homelessness

GOAL: BOULDER JUNCTION IMPLEMENTATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Developed and implemented a funding strategy to finance the acquisition of 100 parking spaces by the Boulder Junction Access District – Parking (BJAD-P) in the Depot Square parking garage including a Lease/Purchase Agreement between BJAD-P and the developer, and a City of Boulder/BJAD-P Cooperation Agreement
- Developed a strategy to manage parking in the parking structure through technology and a management agreement among the

users. The arrangement provides for parking spaces to be paid, unbundled, and shared in a manner to meet the needs of the various users of Depot Square (hotel, residential, RTD) and general parking in BJAD-P spaces. Agreement was reached with RTD regarding short term and long term parking management strategies given their current legislative mandate.

- Finalized the ownership structure for five different owners to coordinate management of their units and common areas through a Condominium Declaration for the Depot Square project
- Finalized a renovation agreement and lease consistent with guiding principles with Pedersen Development Corporation for the Depot
- Finalized legal agreements for joint public/private development of Depot Square (RTD facility, shared parking, affordable housing, hotel, public space and rehabilitation of historic depot
- Approved changes to the Transportation Network Plan in support of the Transit Village Area Plan (TVAP)
- Revised Street Design for Pearl Parkway and Connections Plan Revisions (adopted by Council January 17)
- Consistent with the TVAP connections plan and along with private redevelopment, a number of capital improvements are underway, including the installation of underground power lines, preparations for installing a traffic signal at Junction Place and Pearl Parkway, and portions of the Pearl Parkway multi-way boulevard
- Consistent with the TVAP connections plan, design work continues for the bridge over Goose Creek and the multi-use path on the north side of Pearl Parkway between 30th Street and Foothills Parkway
- Received a Federal Hazard Elimination Program grant award through the Colorado Department of Transportation (CDOT) that will allow installation of a traffic signal at 29th Street and Valmont Road, improving safety and implementing improvements identified in the Transit Village Area Plan (TVAP) (project will begin in 2014)
- Completion of engineering and building construction plan review for a 319 unit residential development at 3100 Pearl and the RTD Depot Square transit-oriented development

GOAL: OTHER CITY GOALS AND WORK PLAN ITEMS

FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS

CAPITAL ITEMS

- Anemone Trails (new) – design work completed
- Arapahoe Avenue (Folsom to 30th) - Multimodal Improvements Project Completed construction on the Arapahoe Avenue multi-use path project. The remaining street resurfacing and landscaping work will be completed in 2012.
- Boulder Creek and South Boulder Creek – restoration of grassland and riparian areas continued
- Broadway (Euclid to 18th) - Transportation Improvements Project - Made progress on the Broadway (Euclid to 18th) Transportation Improvements Project. 16th Street opened the first week of May and the Broadway underpass and the four lanes on Broadway (two in each direction) are scheduled for completion by early July.
- Broke ground in January for a new multi-use path on the south side of Baseline, connecting U.S. 36 and the Bear Creek Underpass, including a pedestrian crossing for Baseline Road at Canyon Creek. Completion of the multi-use path on the west end is underway through a redevelopment project.
- Completed a new sidewalk along Gillaspie Drive, connecting Greenbriar Boulevard and Juilliard Street connecting to Fairview High School
- Completed the course bunker renovation/playability project at Flatirons Golf Course by installing 19 new sand bunkers
- Continued work at Valmont City Park, including additional construction at Valmont Bike Park; outreach and design for Valmont Dog Park; and design and construction of the interim disc golf course
- Facility ADA Compliance - An Americans with Disabilities Act (ADA) consultant completed comprehensive ADA assessments for the Park Central and Municipal buildings. Costs for the recommendations are being identified and prioritized, with other buildings planned for assessment.
- Green Bear Trail Re-route – work in progress with one section completed and opened to public
- Gregory Canyon Trailhead Site Plan – initial site plan design work began
- Homestead Trail Re-route – work in progress with one section completed and opened to public
- Library Facility Upgrades and Enhancements (New Children's Library and New Teen Space): The selection of a design firm is underway
- Linden Avenue Sidewalk Project (Safe Routes to School) - Completed a Safe Routes to School Project, providing a sidewalk on the north side of Linden Avenue between Fourth Street and Broadway.
- New Wildland Fire Facilities - Responses to the request for qualifications (RFQ) for facility designs were received on May 11. Requests for proposals (RFP) to be sent in early June
- Organic farming – agricultural contract written for 47 acres

- Replaced traffic signal incandescent lamps with sustainable, energy-saving light-emitting diode (LED) lamps
- Sanitas Stone Hut Repair – hut was reinforced and stonework repaired
- South Boulder Creek West Trailhead – Parking areas for cars and horse trailers completed and open to public; working through permit process for outhouse and kiosk installations; interpretive signs in production
- South Boulder Recreation Center - The contaminated sub floors from the gymnasium, racquetball court, and Pilates room have been removed and are expected to be replaced with new wood floors by early June 2012.
- Street repair expanded efforts – began the first of three years

OTHER SIGNIFICANT ACTIONS[1]

- Boulder B-cycle station at the North Boulder Recreation Center sponsored
- Boulder Community Hospital Expansion Rezoning
- BVCP: Area II study results and potential next steps (IP to City Council in July)
- BVCP Comprehensive Rezoning (scheduled for council consideration in August)
- BVCP 2010 Major Update: planning reserve policy changes (study session discussion with Council on May 29; Council and County Commissioner dinner discussion on June 14)
- Boulder Reservoir Master Plan completed
- Boulder Valley School District Faculty and Staff Eco Pass Program Expansion - Continued partnership with the Boulder Valley School District (BVSD) to expand the BVSD faculty and staff Eco Pass program.
- Chautauqua Stewardship Framework: Draft and Next Steps
- City Website Redesign Kickoff **-** Kicked off redesign with Vision Internet and the City of Arvada. Gathered a list of key stakeholders and surveyed them regarding elements the new website should contain.
- Code enforcement - reallocation of resources to the Boulder Police Department was fully implemented to ensure efficient and effective service delivery
- Community and Environmental Assessment Process (CEAP) for flood mitigation and transportation improvements along Fourmile Canyon Creek, near Crest View Elementary School completed, including a City Council call-up opportunity.
- Compatible Development implementation - annual report to Council
- Congregate Care code changes (pending further consideration based on Council direction)
- Constituent Relationship Management (CRM) procurement effort **-** Designed and implemented a staff engagement and procurement initiative to implement a new CRM application resulting in the unanimous selection of Government Outreach. Vendor contract negotiations are currently underway. This initiative is designed to significantly improve our customers' ability to request, track and ultimately receive more timely and effective services while providing staff with automated tools to better

manage these requests.

- Disposable Bag Reduction Ordinance: research and options presented to Council on May 15; work on nexus study underway
- Draft Fire-Rescue Master Plan completed and approved by Planning Board.
- Economic Sustainability Strategy: phase one study of primary employer space needs underway; presentation of results to Council scheduled for August
- Elks neighborhood park planning, outreach and design continued with construction and completion in 2013
- Family Resource Center opened at Manhattan Middle School in partnership with Boulder County Housing and Human Services
- FasTracks' Northwest Rail Plan - Approved guiding principles for developing and designing a hybrid approach to FasTracks' Northwest Rail Plan.
- Fire Master Plan – Council feedback on strategies (April 3, 2012); Planning Board recommendation for acceptance (May 17, 2012); Scheduled for Council consideration (June 19, 2012)
- Heather wood Trail Intergovernmental Agreement (IGA) - City Council authorized the signing of an intergovernmental agreement (IGA) with Boulder County related to the maintenance of a trail that crosses the Wastewater Treatment Facility property.
- Integrated Pest Management Policy Revision and Program Direction (Council provided direction on May 1)
- Landmarking of First Christian Church building (950 28th Street)
- Locomotive #30 narrow gauge historic cosmetic restoration completed
- Mesa Memorial Park design and development initiated
- Mosquito control annual report (Completed report on the IPM web site – link will be provided to council with first weekly mosquito report in June)
- Named number 3 on list of best cities for bicycling by *Bicycling Magazine*, in part due to the Valmont Bike Park and new path connections made possible by the capital improvement bond
- New Transportation Safety Ordinances - Approved ordinance changes to improve transportation safety in the city and initiated education and enforcement efforts to support the ordinance changes
- Organic turf and landscape bed program at six park locations launched
- Received a Safe Routes to School Grant to install a traffic signal at South Boulder Road and Manhattan Drive to create a safe crossing for middle school students taking transit, riding, or walking to and from school.
- RH-2 Zone District Changes (scheduled for council consideration in August)
- *Safe Streets Boulder* report published in February.
- SmartRegs - Continued the successful implementation of SmartRegs and the pilot program for rental housing licensing enforcement. The backlog of rental license compliance cases is almost entirely eliminated.
- Transportation Report on Progress, *Transportation to Sustain a Community* published in February.
- Valmont Butte – VCUP implementation commenced; excavation work began on April 4 with both the tribe-designated native cultural monitor and the city's archaeologist consultant present.

- Veterans and active duty military personnel recreation pass program developed

Key:

ADA = Americans with Disabilities Act
BHP = Boulder Housing Partners
BVSD = Boulder Valley School District
BMS = Business Main Street
CAP = Climate Action Plan
CDOT = Colorado Department of Transportation
EPC = Energy Performance Contract
EET = Education Excise Tax
FAM = Facilities and Asset Management (City Division)
FERC = Federal Energy Regulatory Commission
IGA = Inter-governmental Agreement
IP = Information Packet
OSMP = Open Space/ Mountain Parks Department
PUC = Colorado Public Utilities Commission
RFP = Request for Proposals
RFQ = Request for Qualifications
RTD = Regional Transportation District
TVAP = Transit Village Area Plan
UHGID = University Hill General Improvement District
VCUP = Colorado Voluntary Cleanup Program

COUNCIL MEMBERS

Matthew Appelbaum	Mayor
Lisa Morzel	Mayor Pro Tem
Suzy Ageton	Council Member
KC Becker	Council Member
Macon Cowles	Council Member
Suzanne Jones	Council Member
George Karakehian	Council Member
Tim Plass	Council Member
Ken Wilson	Council Member

COUNCIL EMPLOYEES

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

KEY STAFF

Bob Eichem	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Community Planning + Sustainability - Executive Director
Paul J. Fetherston	Deputy City Manager
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Energy Strategy and Electric Utility Development Executive Director
Larry Donner	Fire Chief
Mary Ann Weideman	Housing, Assistant City Manager for Human Resources (Acting) Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
Valerie Maginnis	Library and Arts Director
Lynne C. Reynolds	Municipal Court Administrator
Michael Patton	Open Space and Mountain Parks Director
Kirk Kincannon	Parks and Recreation Director
Mark Beckner	Police Chief
Maureen Rait	Public Works - Executive Director
Tracy Winfree	Transportation Director
Jeff Arthur	Utilities Director

2013 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass
Boulder County Consortium of Cities	Karakehian, Wilson (alt)
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Becker, Jones (Alternate)
Housing Authority (Boulder Housing Partners)	Ageton
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum
Resource Conservation Advisory Board	Plass, Morzel (at large seat)
Rocky Flats Stewardship	Morzel, Plass (1st alternate), Castillo (2nd alternate)
University of Colorado (CU) / City Oversight	Wilson, Jones, Karakehian
US36 Mayors and Commission Coalition	Appelbaum, Ageton (alternate)
US36 Commuting Solutions	Ageton, Karakehian (alternate)
Urban Drainage and Flood Control District	Morzel

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Cowles, Becker (alternate)
Boulder Convention and Visitors Bureau	Becker, Plass (alternate)
Dairy Center for the Arts	Karakehian
Downtown Business Improvement District Board	Plass, Jones

INTERNAL CITY COMMITTEES

Audit Committee	Morzel, Becker, Cowles
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	Becker (appointed through 2015)
Charter Committee	Morzel, Cowles, Ageton, Karakehian
Civic Use Pad/ 9th and Canyon	Morzel, Jones, Becker
Council Budget Action Plan Committee	Ageton, Becker, Plass
Evaluation Committee	Karakehian, Morzel
Legislative Committee	Ageton, Karakehian, Wilson, Jones

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llasa, Tibet	Ageton
Dushanbe, Tajikistan	Karakehian
Yamagata, Japan	Wilson
Mante, Mexico	Plass
Yateras, Cuba	Cowles
Sister City Sub-Committee	Morzel, Cowles

TO: Members of Council
FROM: Dianne Marshall, City Clerk's Office
DATE: August 20, 2013
SUBJECT: Information Packet

1. **Call Ups**
   A. Renaming of Canyon Park to Emma Martinez Park
   B. Vacation of a 9,201 square foot public utility easement located on the property at 4990 Moorhead Avenue (ADR2013-00077).
   C. Site Review, no. LUR2013-00021, for the construction of a 45-unit residential development comprised of 41 townhome style units and four single-family detached units on an approximately five-acre site located at the northeast corner of Kalmia Avenue and 28th Street. The site is zoned Residential Medium-1.

2. **Internal Information Item**
   A. Update on Homeless Issues and Boulder County Ten-Year Plan to Address Homelessness Progress
   B. Update on Regional Trail Connections

3. **Boards and Commissions**
   A. Library Commission – August 7, 2013

4. **Declarations**
   None.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Kirk W. Kincannon, Director, Parks and Recreation
Sarah DeSouza, Senior Manager
Carl Castillo, Policy Advisor
Sandra Llanes, Assistant City Attorney III

Date: August 20, 2013

Subject: Call Up: Renaming of Canyon Park to Emma Martinez Park

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EXECUTIVE SUMMARY

Earlier this year, an application was submitted to the city requesting that Canyon Park, located at Canyon Boulevard and 21st Street, be renamed to Emma Martinez Park. Ms. Emma Martinez was a passionate advocate for minority populations in Boulder in the 1950s and 60s.

Pursuant to the city's Policy on Commemorative Naming of City Facilities (**Attachment A**), a naming committee was convened, and staff reviewed the application and conducted independent research on the claims made in the application. This matter was also presented to the Parks and Recreation Advisory Board (PRAB), which subsequently recommended approval of the proposal with a unanimous vote. Upon that recommendation, which was supported by the naming committee, the city manager approved the proposal on July 26.

Pursuant to the Commemorative Naming Policy, council is being provided with an opportunity to review and reconsider the city manager's decision. Accordingly, if council would like to reconsider this decision, it is asked to do so by the Aug. 20 council meeting. If the decision is allowed to stand, a rededication ceremony and community event will be scheduled at the park sometime in early fall of this year.

FISCAL IMPACT

The cost associated with renaming the park is $1,500 and is limited to the creation of a new park sign. The Parks and Recreation Department ("the department") has identified funding in its 2013 budget to cover these costs. In conjunction with the park renaming, the department is exploring the installation of interpretive signs throughout the park to capture the rich history of Emma Martinez and minority populations in Boulder.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Social: The area around Canyon Park has a rich history involving minority populations in Boulder. Since the 1960,s this park has served an integral role in the lives of the Hispanic and African American residents of Boulder. Not only has the park served as a place for play, but it was also the location where training and community outreach/advocacy occurred several decades ago. During the 1960s and 70s, Emma Martinez was a well respected advocate for the Hispanic and under-represented community who resided near the park. She passionately lobbied for the development of the park that was eventually to become Canyon Park.

BACKGROUND

In December 2010, the City of Boulder adopted a Policy on Commemorative Naming of City Facilities (the "Commemorative Naming Policy"). The purpose of the policy is to allow, in appropriate circumstances, the naming or renaming of facilities, owned and operated by the city, in commemoration of persons that have made unusually significant contributions to the city.

Earlier this year, the department was contacted by Mr. Phil Hernandez and Mr. Euvaldo Valdez who requested the city's consideration in renaming Canyon Park, located at Canyon Boulevard and 21st Street, to Emma Martinez Park. A formal commemorative naming application was then submitted to the city in March 2013 (**Attachment B**). Special attention should be given to the significant letters of endorsement that are attached to the application along with the enclosed biography of Emma Martinez.

Pursuant to the Commemorative Naming Policy, a naming committee was convened comprised of Sarah DeSouza for the Parks and Recreation Department, Sandra Llanes for the City Attorney's Office and Carl Castillo for the City Manager's Office. The committee reviewed the application and gathered and reviewed additional information that independently corroborated the claims made in the application that Emma Martinez had made unusually significant contributions to the City of Boulder and is worthy of commemoration. Staff then prepared this matter for review by PRAB. Mr. Euvaldo Valdez and Mr. Phil Hernandez attended the April 22, 2013 PRAB meeting and spoke on behalf of the application. PRAB subsequently adopted a unanimous recommendation to approve the naming proposal as seen in the meeting minutes (**Attachment C**). The naming committee submitted its favorable recommendation to the city manager for her consideration. The city manager subsequently approved the naming committee's recommendation and, pursuant to the city's Policy on Commemorative Naming of City Facilities, is providing the City Council an opportunity to reconsider that decision if it so chooses.

ANALYSIS

A review of the city's historical records reveals the following history of Canyon Park including the role Ms. Emma Martinez played in the establishment of the park:

- In 1946, after World War II, the City of Boulder and the Boulder Valley School District (BVSD) responded to an influx of returning soldiers attending the University of Boulder under the G.I. Bill by building 20 Quonset apartments on two empty acres of school land at 21st and Water streets (now Canyon Boulevard).

- In the 1950s, the city got out of the housing business partly due to the end of the G.I. rush, and partly because area land owners complained that the city should not compete with private enterprise.

- In the 1950s, Mrs. Emma Martinez, a community activist, and other residents of the area requested that the two acres be converted to a park since the area was open, tree-shaded and grassy. Playground equipment had already been installed on the site for the university students' children.

- In 1968, a Daily Camera article (**Attachment D**) reported Mrs. Emma Martinez's continued interest in converting the site to a park.

- Prior to development as a park, the area was high density housing with limited recreational opportunities. A low income senior housing project was located adjacent to the property.

- In 1968, the City of Boulder entered into a three year (renewable) $1/year lease and option to purchase of the property located at Canyon Boulevard and 21st Street to be used as a city park. The property owner, BVSD, had owned the land since 1915. The unofficial or "working name" for the property when acquired by the city, was "Canyon Boulevard Park" or "Quonset Park."

- No formal process was undertaken to officially name Canyon Park. Instead, the informal, working name of the park became its name.

- The park site was regarded by city planners as a revitalization project that would provide open space relief in a high density area and be of benefit to all existing projects in the surrounding area.

- When acquired, the property was regarded as the largest undeveloped block of land left in the neighborhood and was expected to have the effect of providing a site of the highest quality environmental preservation.

- Additionally, an analysis of the property at the time of acquisition suggested that there were no known groups opposing this project. Use had proven very popular especially among the low income and minority groups.

- A July 1968 memo (**Attachment E**) from city staffer Larry N. Blick cites Ms. Martinez's role with the Office of Economic Opportunity and her role as a representative and advocate for residents of the area near the Canyon site.

- In 1968, Ms. Martinez wrote to City Manager Ted Tedesco (**Attachment F**) thanking City Council and staff for acquiring the land at 21st and Canyon for the purpose of building a neighborhood park. In her handwritten letter, she outlines suggestions of what children and parents would like to see in the park.

- The 1968 lease agreement references three Quonset huts on the property and specifies that one of the huts would be maintained on the leased premises by the city for use as a neighborhood center.

- Historical documents cite that the Office of Economic Opportunity used one of the Quonset Huts for a neighborhood center while others were used for adult education classes and storage. Documents indicate that classes in parent preschool education, tailoring, advanced dressmaking, plumber apprentice program, intermediate sewing, creative stitchery and furniture upholstery were offered in the Quonset huts.

- A 1969 lease agreement between the City of Boulder and Boulder County permits Project Head Start to erect a restraining fence around the (Canyon Park) property. Documents also indicate the Project Head Start leased a property at 1951 Canyon Park for program needs.

- In 1972, the city applied for and received a $130,000 grant from the United States Department of Housing and Urban Development to assist with the purchase of the site and the relocation of impacted families. The application indicated that the Canyon Park area contained a high percentage of low income families as well as elderly people.

- In 1974, the property was purchased from BVSD for $150,000.

- In a letter dated July 13, 1977, the director of Community Action Program (CAP) thanked the city for the use of the Quonset facilities located at 2045 Canyon Boulevard and stated, "Your contribution in way of Neighborhood Community Center Space is a reflection of the many youth and weatherization opportunities which we were able to provide to Boulder's low-income community through the Quonset Facility."

- On-site Quonset Huts were used until 1977 by the Boulder County Community Action Program's Winterization Program Eco-Cycle and Renaissance Press. In 1978, the Quonset huts were moved to the city's Pearl Street maintenance compound to use for storage of materials and plans.

NEXT STEPS

In anticipation of council's consideration of this item, staff has been working with the applicants to secure tentative dates for a rededication ceremony. The dates being considered are September 28 or October 12. An event committee consisting of city staff and community members would be put together to plan this event, with an invitation to the council and the community to attend in the event.

Attachments:

A. Policy on Commemorative Naming of City Facilities
B. Canyon Park Renaming Application: Emma Martinez Park
C. PRAB Minutes – April 22, 2013
D. Daily Camera Article (May 18, 1968): *Quonsets To Playground: New Park Area Sought For Canyon Boulevard*
E. Internal Staff Memo: Design of Canyon Park (July 18, 1968)
F. Letter to City Manager Ted Tedesco From Ms. Emma Martinez (July 24, 1968)

CITY OF BOULDER
***
POLICIES, PROCEDURES AND GUIDELINES

Policy on Commemorative Naming of City Facilities **EFFECTIVE DATE:**

December 1, 2010

Jane S. Brautigam

Jane S. Brautigam, City Manager

I. POLICY

It is the policy of the City of Boulder ("City") to allow, in appropriate circumstances, the naming or renaming of facilities, owned and operated by the City, in commemoration of persons that have made unusually significant contributions to the City. This allowance extends to facilities that are owned by the City but leased to, and used by, another entity.

II. PURPOSE

City facilities are built and maintained at public expense and for the purpose of carrying out city business. The naming of such facilities can have long lasting implications and raise political, legal and equity concerns both within the City organization and with the public at large. The purpose of this policy is to attempt to anticipate these concerns and to provide a uniform, transparent and citywide process for addressing them.

III. SCOPE

A. **Policy Limited to Naming in Response to Commemoration of Persons** - The scope of this policy does not extend to other practices of naming city facilities, including:

1) Naming of facilities in response to sponsorship (addressed in *Policy on Sponsorship Naming of City Facilities*).

2) Naming for purposes of public identification (i.e., "North Boulder Park" and "East Boulder Recreation Center"), or

3) Naming after landmarks, including naming after local resources, geographic feature, or identifiable community characteristics.

4) Naming after past or present owners of the property, property donors, or after the name historically used for identification of the property.

B. **Applicability of Existing Department Policies** - Some City departments, including the Parks and Recreation and Community Planning and Sustainability, have policies and procedures already in place that guide the consideration of naming of City facilities within their purview. To the extent that such policies incorporate requirements that are at least as strict as this policy, including specific adherence to all five procedural steps outlined in Section VI of this policy, such department-specific policies shall continue to take precedence over this policy and be the sole documents to be adhered to with regard to naming.

III. DEFINITIONS

The following terms are used in this policy:

Commemorative: The term "commemorative" or "commemoration," as used herein, refers to the practice of naming a facility to honor persons who have over an extended period of time: demonstrated excellence, courage or exceptional service to the citizens of the City, the State of Colorado or the nation; provided extensive community service; worked to foster equality and reduce discrimination; made a significant financial donation or in-kind contribution to a City facility with such contribution significantly benefiting the community that the facility serves (i.e. the facility may not have otherwise been possible without the financial assistance), or who have; historical significance to the community, the City of Boulder, the State of Colorado or the nation.

Donation: The term "donation" describes financial or in-kind contributions that are made without restrictions on how the money or resources are to be used and without expectation of reciprocal benefit by the donee. When a contribution is made with a clear expectation that an obligation is created or that the recipient will provide something of value in return, the contribution is considered a "sponsorship," not a donation.

Facility: The term "facility, as used herein, means any City-owned land and buildings, and any features affixed to the land including components of the property such as rooms, parks, fields, trails, shelters and other components of the facility. The term "facility," however, does not extend to city streets, alleys or amenities such as trees, benches and fountains.

Person – The term "person," as used herein, refers to any living or deceased human being. It does not extend to the name of any organization, including but not limited to, a business, sole proprietorship, partnership, or corporation.

IV. CITY RETENTION OF RIGHT TO RENAME

The City retains the right to rename facilities at any time.

V. LIMITATIONS

A city facility cannot be named or renamed:

A. After an elected or appointed City official, or family member thereof, that is currently serving, at the time of application or consideration of such application.

Employees who have questions concerning the interpretation or application of this policy are directed to contact the City Manager or his/her designee.

VIII. EXCEPTIONS/CHANGE

These guidelines may be reviewed and changed at any time.

IX. CITY MANAGER DESIGNEE

December 1, 2010 - Carl Castillo, Policy Advisor

Commemorative naming immediately after termination of a city official's terms of service, while not prohibited, is discouraged.

B. After a currently employed City staff member or volunteer, that is currently employed or volunteering, at the time of application or consideration of such application. Commemorative naming immediately after termination of a city staff member's employment, or volunteer's tenure, while not prohibited, is discouraged. Furthermore, commemorative naming for former City staff members is not appropriate when based only on tenure or performance of normal job duties.

C. After a person which has a quasi-judicial matter pending, or expected to be pending, before the City at the time of application or consideration of such application.

VI. PROCEDURES

Step 1 Consideration for naming or renaming of a City facility begins with the completion of a Commemorative Naming Application

Step 2 The proponent of the naming/renaming will be required to solicit and summarize feedback from impacted stakeholders in order to capture controversies associated with the proposal. Depending on the nature of the facility and whether the proposed name would replace a previous commemorative name, this process could include extensive outreach to nearby property owners or constituency groups associated with the facility.

Step 3 The Commemorative Naming Application, along with a summary of public comment, must then be submitted to the City Manager's Office for consideration.

Step 4 The application will first be reviewed by the **city's naming committee**; a standing committee created by this policy composed of representatives from the City Manager's and City Attorney's Office, along with a representative of the facility to be named. The focus of the committee's work can include developing a recommendation for the City Manager's consideration and documenting that recommendation.

Step 5 After reviewing all information provided, the City Manager will make a determination on whether to approve or disapprove the naming proposal. The city manager will then submit his or her decision, along with all supporting documentation, to the city council in a Weekly Information Packet (WIP) as a call-up item that allows council the ability to reconsider the city manager's decision. Until council has had that opportunity, a decision on the naming or renaming shall not be considered final.

VII. CONSTRUCTION AND INTERPRETATION

March 2, 2013

To whom it may concern:

Regarding: **Canyon Park**

The Hispanic Community of the City of Boulder, past and present, respectfully request that the name of **Canyon Park** be changed to: **EMMA MARTINEZ PARK.**

A search of the archives for the City of Boulder regretfully reveal very little about the presence of a viable and clearly identifiable Hispanic Community living and contributing to the identity of and history of the City. It is as if we came, and lived here but left no," footprints". This egregious oversight on the part of City civic leaders, elected officials, media and historians can be corrected to a significant degree by now recognizing that Boulder's documented history is seriously incomplete without mention of the ethnic communities that have resided in Boulder over the years.

Those of us whose Hispanic families were among the earliest to reside in the City of Boulder and made their living in the mining, agricultural, and service industries recognize that our families were attracted to Boulder for the same reasons that other residents came and established themselves as contributing members of the community; yet, very little is known about our historical presence. We continue to live in Boulder and open our arms to the most recent arrivals into our community.

Emma Martinez is a member of one of the earliest Hispanic families to establish themselves in Boulder. She lived, studied, married and worked in the neighborhood bounded by 17th Street, 24th Street (Folsom Street), Arapahoe Avenue and Bluff Street. When the Quonset huts that were located on the site of the present day Canyon Park were vacated with the intent of making that site available for development, she, with the support of the Hispanic residents of the area, salvaged the playground equipment for use by the neighborhood children and later successfully petitioned the City to convert the site into a Children's Park. Years later, when the City changed the name of the street adjacent to the park from Water Street to Canyon Blvd and made plans to widen the street she protested plans to narrow the sidewalks from the conventional width to a narrower width that would have made it unsafe for the many Hispanic children that used that route as they walked to school daily. City planners had failed to take children's safety into account in drafting their plans. Emma Martinez served unselfishly during the 1960's and early 70's on numerous City and County Citizen's Boards. She was often the lone voice on these boards advocating for the poor, the elderly and the minority communities. These examples are only a small part of the many efforts that Emma Martinez made toward making Boulder a more inclusive community.

Further testimony by other proponents and supporters of this request will confirm the selfless contributions of Emma Martinez and her role as a representative of our Hispanic Community.

Making this symbolic change in the name of one of Boulder's most visible and centrally located community park will establish and convey the message that Boulder is indeed a place for everyone.

Please give our request your every consideration.

Euvaldo Valdez

Philip Hernandez

Commemorative Naming Application

After reviewing the city's "Policy on Commemorative Naming of City Facilities," we, the undersigned respectfully submit this application on behalf of the Hispanic Community of Boulder, past and present.

Facility Subject to Request: Canyon Park

Proposed Name Change: Emma Martinez Park

Applicant: Phil Hernandez and Euvaldo Valdez; On behalf of the Hispanic Community of Boulder

Relationship to Proposed Name Change: None

Stakeholder Support / Opposition: Please see attached documents (7)

1. **Goss /Grove Neighborhood Association**
2. **Albert Ramirez, Professor Emeritus, C.U.**
3. **Native American Rights Fund**
4. **Loyd Throne, Past Executive Director, BCEOC**
5. **Hank Adami, BCEOC Board Chair, (1960's)**
6. **Latino Coalition of Boulder County**
7. **Marcella Diaz, Career Development Instructor (1960's)**

Supporting documentation: Please see attached biographical sketch. In preparing this application an extensive search of the public records of the Boulder Daily Camera, Boulder Public Library, and the Carnegie Historical Library was made. Few articles were found that document the presence of an identifiable and viable Hispanic Community in Boulder; today and in the past. However, the anecdotal comments in the support letters of this application clearly confirm that Emma Martinez, in both her private and public life, was focused on community service and the elimination of discrimination as a way of way of fostering equality among the several ethnic communities in Boulder.

Phil Hernandez	**Euvaldo Valdez**
1742 Quince	**7281 Cardinal Lane**
Boulder, Colorado 80304	**Niwot, Colorado 80503**
(303) 445-0903	**303-530-7490**
baspnh@Comcast.net	valdezev@msn.com

Emma Gomez Martinez

A Biographical Sketch

The Martinez family moved to Boulder in the early 1930's. They chose Boulder because of less racial discrimination than in the surrounding communities in Boulder County and for better educational and employment opportunities for their children. In the early 1950's John, one of the sons of a family of eleven siblings, met and married **Emma Gomez** who had lived in Boulder County since 1929.

Emma Martinez and her husband John moved into Boulder in 1952. As a young, newly married, couple they came for the same reasons many other young couples did; to pursue opportunities other communities did not offer. They moved in at 2040 Water Street, in a neighborhood that included several other Hispanic families; some of which had been in Boulder since the 1920's. Across Water Street, which was a dirt road with a railroad running along the middle was a small transitional residential community composed of eight to ten quonset huts used as married student housing (two families per Quonset) by the University of Colorado.

As a young energetic housewife and mother and her supportive husband, Emma and John were welcomed by the other Hispanic families. Emma, although she had only a high school education, soon assumed the role of spokesperson for the Hispanic Community in Boulder and became the primary advocate when issues needed to be addressed with the City of Boulder, Boulder County, and the law enforcement agencies that served the City of Boulder. When the University of Colorado no longer needed the Quonset Village they traded the land to the School District that existed at that time. Thus began a several year challenge to preserve the property and keep it from being developed for either residential or commercial use. Emma Martinez was at the forefront of that effort.

Each summer the School District would send a crew to remove the swing sets, slides and merry- go-round that remained at one end of the quonsets. Each year Emma would cross the street and convince the workmen not to remove the only playground equipment that the neighborhood children had to play on. The School District consented although they provided no maintenance for the property. At various times during the summer months Emma and other parents would organize the neighborhood children into a, "clean-up crew" and clean up the only park and play area to which they had access. During the late 50's and early 60's the quonset huts were occupied by several non-profit agencies and were progressively removed until, in the mid 60's, only three remained. The property, that Emma continued to visualize as a community park remained in a state of disrepair with only the clean-up work that the neighborhood children would periodically do under the guidance of Emma and other parents.

In the late 60's construction began on a wider thoroughfare into Boulder Canyon with the new route being Water Street from 28th Street into the mouth of Boulder Canyon. The new Boulevard was to be named Canyon Boulevard. During the construction several parents at the west end of this project realized that the sidewalks along the north side of the new street were being poured as a 24 inch sidewalk. The parents approached Emma, as a reliable and credible advocate, and requested that she

carry the concern to the project manager. Emma researched the construction plans and discovered that the plans called for a much wider, conventional width sidewalk. She approached the Construction Supervisor with the concerns of the community that the more narrow sidewalks presented a danger to the neighborhood children who used this walkway daily to get to either Lincoln or Whittier Elementary Schools and /or to Casey Jr. High. As a result the earlier pour was removed and the rest of the sidewalk was poured at the required width. The sidewalk remains the Southern Boundary of Canyon Park.

In 1965 Emma was named to the first Board of Directors for the **Office of Economic Opportunity;** our nations earliest efforts in the war on poverty Because of her unique knowledge of the Goss /Grove neighborhood she convinced the OEO Board to establish their center in the Quonset Hut property. Emma knew poverty, having worked in the local beet fields, a Boulder laundry and as a hotel maid, and was easily able to identify with the residents of this Core Boulder neighborhood. She focused her work on behalf of all residents of the neighborhood but was uniquely qualified to advocate for the Hispanic Community. She spoke the language of the community, was trusted by them and knew them personally. Among the amenities that she advocated for was the dedication of the property, seemingly useless to any government entity, as a community park.

In 1971 the Martinez Family moved to 2978 Loma Place in the Palo Park subdivision. However, she continued her daily presence at the property soon to be Canyon Park. Emma had been hired as the Program Coordinator and Boulder Center Director and Assistant Boulder County Director for the **Office of Economic Opportunity** that now occupied two of the three remaining Quonset Huts on the property. Working in her position as liaison to the Boulder City Manager's Office she was able to propose and successfully advocate to have the property at 2045 Canyon Boulevard dedicated as a community park. The property had, by this time, come under the ownership of the City of Boulder. Thus, Canyon Park, the dream and vision of many residents of Boulder became a reality.

A recent survey of the archives and literature of the City and County of Boulder reveal a serious lack of any mention of the presence of a viable and identifiable Hispanic Community living and contributing to the identity and history of the City of Boulder. Having been a primary proponent for a city Park to benefit the children of the city of Boulder, it is now entirely fitting that the Park be renamed: **Emma Martinez Park.**

Throughout the many years of involvement in the public affairs of the City of Boulder Emma recognized and assumed her civic responsibilities through service on numerous Boards and Commissions for the City and County of Boulder. She also encouraged other members of the Hispanic Community to participate under her mentorship.

Boards and Commissions in which Emma served during her extensive tenure of public service are:

1. Boulder Housing Authority; Board Member during the formative years of this agency

2. Boulder County Community Service Advisory Council
3. Boulder County Social Service and Child Welfare Agency
4. Boulder County Juvenile Services Division
5. Boulder Valley Public Schools Vocational-Technical Center Advisory Board
6. Office of Economic Opportunity; Charter Member, Chairperson of County Board of Directors; served as appointed liaison to Boulder City Manager
7. Boulder Human Relations Commission; husband served as chairman
8. Latin American Education Foundation; State Board Member
9. Mexican Americans of Boulder County United; Charter Member
10. St. Thomas Aquinas Housing Corporation; Developed Alvarado Village Subsidized Housing
11. YMCA Boulder

During her service on these Boards and Commissions Emma was often the lone voice for the poor and disenfranchised of our Community.

Native American Rights Fund

1506 Broadway, Boulder, Colorado 80302-6296
(303) 447-8760 FAX (303) 443-7776
www.narf.org

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Peter M. Pino, *Pueblo of Zia*

March 5, 2013

To Whom It May Concern:

RE: Re-naming of Canyon Park

The Native American Rights Fund lends its support to the Boulder Hispanic community in their efforts to rename Canyon Park to Emma Martinez Park. For far too long, the contributions of Boulder's Native American, Hispanic and African American communities have been largely ignored. Our communities have had individuals who devoted their lives in making Boulder a better and more inclusive place to live for all peoples – Emma Martinez was one of those individuals. These communities still work tirelessly to continue these legacies.

The Native American Rights Fund has been a part of the Boulder community since 1970 and several of our staff members remember well what the now Canyon Park area was like and the efforts of Emma Martinez to get the City of Boulder to recognize its Hispanic community.

Once again, it would be a service to all Boulder residents to rename Canyon Park in honor of Emma Martinez.

Sincerely,

Ray Ramirez
Corporate Secretary

NATIONAL SUPPORT COMMITTEE

Randy Bardwell, *Pechanga Band of Luiseño Mission Indians* • Katrina McCormick Barnes • Jaime Barrientes, *Grande Traverse Band of Ottawa and Chippewa Indians* • John Bevan • Wallace Coffey, *Comanche* • Ada Deer, *Menominee* • Harvey A. Dennenberg • Lucille A. Echohawk, *Pawnee* • Jane Fonda • James Garner • Eric Ginsburg • Jeff Ginsburg • Rodney Grant, *Omaha* • Chris E. McNeil, Jr., *Tlingit-Nisga'a* • Billy Mills, *Oglala Lakota* • Amado Peña, Jr., *Yaqui Chicano* • Wayne Ross • Nancy Starling-Ross, Mark Rudick • Pam Rudick • Ernie Stevens, Jr., *Wisconsin Oneida* • Andrew Teller, *Isleta Pueblo* Verna Teller, *Isleta Pueblo* • Richard Trudell, *Santee Sioux* • Rebecca Tsosie, *Pascua Yaqui* • Tso-Nah, *Shoshone Bannock* • Alice Unger • Rt. Rev. William C. Wantland, *Seminole* • W. Richard West, *Southern Cheyenne* • Randy Willis, *Oglala Lakota* • Teresa Willis, *Umatilla* • Mary Wynne, *Rosebud Sioux* •

GOSS GROVE
NEIGHBORHOOD ASSOCIATION

Jane Brautigam, City Manager
City of Boulder
1777 Broadway
Boulder, CO 80302

Dear Ms. Brautigam;

The Goss-Grove Neighborhood Association membership enthusiastically supports the renaming of Canyon Park for Emma Gomez Martinez, a distinguished former resident of our neighborhood. We have voted to do this not only in recognition of her achievements as a citizen of Boulder but also because she is a wonderful representative of the history of Hispanic life in Boulder.

For the majority of the 20th century, most of Boulder's Hispanics and African-Americans lived in our neighborhood. We are pleased that the African-American influence here has begun to be recognized by the historical designation of the Flowers family home on Goss Street. Now we can recognize the Hispanic influence in the neighborhood by the renaming of the park.

Emma Martinez is the perfect person to represent this Hispanic history. Her remarkable life as a community organizer began with her efforts, over several years, to save this very piece of land as a park. Her effectiveness and demeanor in this campaign earned her such widespread respect that she was able to become an advocate for people in the larger community. The city recognized her voice by appointing her to numerous boards.

We have made this decision carefully. We have discussed Emma's life at two official Goss-Grove meetings and we heard from Goss-Grove oldtimers who remember her activities, a few of whom still live in the neighborhood. Also, several of us visited the programs and displays of the Boulder Latino Families Project at the Boulder Public Library. The vote to support the renaming was unanimous at a well-attended meeting.

We the current residents of the neighborhood believe that this park naming would well honor the heritage of our neighborhood and its unique place in the history of Boulder through the recognition of an admirable citizen.

Sincerely,

Jenny Devaud and Stephen Haydel, Co-chairs, Goss-Grove Neighborhood Association

15TH CANYON FOLSOM ARAPAHOE

Jane Brautigam, Boulder City Manager February 26, 2013
City of Boulder
1777 Broadway
Boulder, Colorado 80302

Dear Ms. Brautigam,

It is with great pleasure and enthusiasm that I write this letter of support on behalf of the Hispanic Community of Boulder's application to change the name of Canyon Park to Emma Martinez Park. I first came to Boulder in 1971, as a faculty member in the psychology department, University of Colorado at Boulder. It was a time of social and civil unrest across this country – reflecting the concerns of the anti-Vietnam war movement, the civil rights movement, the women's movement, and the Chicano student movement. The city of Boulder, in many ways, was the epicenter in the state of Colorado for all these movements of social justice.

Sometimes, in the grand scheme of things, it is easy to forget that it is the common, ordinary individuals who are the ones who do extraordinary things, just by being who they are, by their commitment to their community and to those who often are unseen and unheard. It is easy to forget that these individuals are a part of a history and of a culture that itself is often unseen and unheard. Yet, if not for such a person or if not for such a community, we would not be who we are and how we are today. In Boulder, Emma Martinez is such a person, and Boulder Hispanics are such a community. In honoring one person, we are honoring the broader community that is such a vital part of Boulder history.

As I look at the names of the city parks that we Boulderites enjoy, I note that a number of them are named after prominent and significant individuals representing diverse communities and backgrounds. Just to name a few, we have such parks in the names of Arleigh Burke, Darwin Andrews, Ann Armstrong, Campbell Robertson, Eben Fine, and Harlow Platts. It is time – no, it is past time – that we acknowledge the numerous contributions that the Hispanic community has made to the state of Colorado, and specifically, to the City of Boulder.

Respectfully,

Albert Ramirez,
Professor Emeritus, Ethnic Studies and Psychology
University of Colorado at Boulder

Ms. Jane Brautigam
City Manager,
City of Boulder,
1777 Broadway,
Boulder, Colorado 80302

Dear Ms. Brautigam:

I am writing to strongly support the Hispanic Community request to rename the present day "Canyon Park" to the "Emma Martinez Park".

While truly a great City in the forefront of many environmental, social and economic issues (and my home for many years) , Boulder has yet to distinguish itself by recognizing and identifying the historic and meaningful contributions of the Hispanic community. I fear that many of the residents of Boulder may not be aware of these contributions which would be a disservice to all.

As a former California Department State Director appointed by the Governor, a Federal Supervisor that funded many human services in the western United States and the Executive Director of multimillion dollar human service agencies in Colorado and California I have seldom met a person more deserving of this honor than Emma Martinez. Her contributions should be honored.

Before the present day Canyon Boulevard was a busy thoroughfare lined by condos, rentals and business there were small homes on the blocks adjacent to the Park. Many of these homes were owned by moderate income Hispanic families. The Martinez family lived in one of these homes.

Emma was an activist fighting for human justice, a provider of human services to those in need and an inspiration to all that knew her. The long forgotten Boulder County Economic Opportunity Council (BCEOC) of the 1960's was the provider and originator of many human services in Boulder that we now take for granted. These included youth services, job creation, outreach and counseling to the disadvantaged and, of course, HeadStart and HeadStart FollowThrough (the first in the U.S.).

It is in this context Emma convinced the City to allow her to use the quonsets at the Park as a central location to provide needed services to those in need.

The list of services provided at this location by Emma and a volunteer staff are too numerous to list but suffice it to say they made a difference in the lives of countless Boulder residents who had no alternatives in the 60's. The Park became a neighborhood service center at a time when human services were far and few in between.

Additionally Emma was the Deputy Director of the BCEOC and then became it's Director for many years further adding to her human service legacy.

I can think of no higher honor than to rename Canyon Park after the person that provided so much hope to those in need at the location.

Thank you for your consideration in this matter. If I may be of any further assistance in this matter please do not hesitate to call upon me.

Sincerely,

Lloyd Throne
lthrone1@gmail.com

Ms. Jane Brautigam
Boulder City Manager
Madam;
I have been ask to contact you , by the Martinez family, concerning the application to rename the park on Canyon Boulevard to Emma Martinez Park.

I knew Emma through my involvement with the OEO program in Boulder County in the 60" s and 70" s. I was a member of the executive board, and later as chairman of the board for several years. In that position, I worked closely with Emma, and was impressed with her dedication to her work, both to the program, and the community of Boulder County. She was always available for help no matter what time the community called with a problem.

She taught me a lot of the obstacles the Chicano community faced in their daily life, and tried to guide us in our task in trying to change the mind set of the count at large. The citizens from that time will remember the hurdles we faced. Without the help Emma provided,(along with Lloyd Throne), I doubt you folks would not have the community you have now.

With out the Emma's guidance and advice, I doubt we would have been able accomplish what we did.

I would ask you, please look closely, at the application, and hope you agree Emma is entitled to the honor for the work I was involved in, and also her lifelong work with the community.

Thank you very much.
HankAdami

1879N.13st

Laramie, Wy

82072

December 4, 2012

To: Whom It May Concern
Purpose of Letter: This letter is in support of naming a Boulder park after Emma Martinez

From: Marcella Diaz
261 Skylark Drive
Lafayette, Co 80026

The war on poverty had begun in Boulder, CO in the mid 1960's. The university of Colorado had recruited a substantial number of Hispanics. Boulder had launched the federally funded Head Start Program which was introduced at Lincoln Elementary School in 1968 and later Follow Through which was intended to be an extension of the Head Start Program. The Office of Economic Opportunity (OEO) would be the oversight agency. This office was located on Canyon Boulevard formerly named Water Street.

The Office of Economic Opportunity served as an access as well a response to the educational challenges educators in Boulder were facing. Along with meeting the needs and challenges of minority children came a need to meet special needs of minority and other community adults.

The Quonset hut where the Office of Economic was located became a place where Adult Basic Education classes, which were funded through Boulder Valley Schools, were held. The location proved an ideal place to hold those classes during 1970 till about 1973, as it was centrally located to meet the needs of minority people in the area who would be attending those classes. Some of the adults were wives of the migrant families recruited to CU and who lived in university housing not far from there and others were from the community in general and lived in the low income area in town.

In fact response was so positive that additional classes were soon needed. Classes in Science, Social Studies, English as a Second Language, Citizenship, survival classes for foreigners, then later General High School Equivalency (GED) classes were the additions. Private tutoring sessions in Spanish as a Second Language were also held there, requested by the teachers and volunteers who assisted with classes.

Minorities attending those classes were Hispanics and Native Americans who were parents of Head Start and Follow Through children. Others were adults dependant on Social Services and who were part of the Work Incentive Program (WIN). Some of these adults, as a result of what they learned, and upon completion of their goals, were able to find employment and others were eventually able get off welfare.

As the instructor in charge of the above mentioned classes it has been my pleasure to recall the encouragement and support Emma gave me, the students, instructors, volunteers and the community in general, throughout the time those facilities were utilized for the educational advancement of the people of the Boulder community.

I'm sure many lives were changed in positive way through the positive learning environment she encouraged.

Marcella Diaz

Latino Task Force
of Boulder County

February 22, 2013

The Latino Taskforce of Boulder County is very proud to submit this letter of support to the City of Boulder and urge you to change the name of Canyon Park to Emma Martinez Park. There is a perception from the general community that Latino's do not become involved in the community. Emma Martinez is truly a role model for engaging in the community and helping others. It is very important that all sectors of the community have a visible marker of a Latina such as Emma Martinez, whose good work has benefited all sectors of our community. It is extremely important for the Latino community to see a visible landmark such Emma Martinez Park to inspire and make them feel valued in the community which they call home.

We encourage you to be courageous and show that a large segment of the City of Boulder community are valued and considered an asset. The Latino Taskforce of Boulder County, would like to thank you for your time and effort in this matter. We look forward to an invitation to the official name change gathering for the Emma Martinez Park.

If you have any other questions feel free to contact me at my cell 303 709-6372 or via email at ramicr@hotmail.com. Thank you for considering our letter support.

Sincerely,

Carmen Ramirez

Mission: *The Latino Task Force will facilitate appropriate initiatives and opportunities that will enrich the economic, educational, political, and cultural lives of the Boulder County Latino community.*

Board of Directors: *Carmen Ramirez-President, Nick Robles-Vice Chair, Lenny Sigwarth-Treasurer, Dalia Dorta ,Ricardo Garcia, Kena Gutteridge,Marta Moreno, Tony Shockency,Christina Suarez, Mary Vigil*

2090 Heron Ct., Longmont, CO 80501 **www.thelatinotaskforce.org**

City of Boulder
Parks and Recreation Advisory Board
West Senior Center Creekside Room
909 W. Arapahoe Ave
April 22, 2013
Summary Meeting Minutes

To listen to the Parks and Recreation Advisory Board meetings in detail, please go to the following link: www.boulderparks-rec.org

Board Present:
Michelle Estrella, Rick Thayer, Myriah Conroy, Kelly Wyatt, Mike Conroy, Mike Guzek, Marty Gorce

Staff Present:
Kirk Kincannon, Jeff Dillon, Alice Guthrie, Sarah DeSouza, Sally Dieterich, Jeff Haley, Jennifer Bray, Alison Rhodes, Stacy Cole, Mike Eubank, Catherine Williams

The meeting was called to order at 6:02 p.m.

I. APPROVAL OF AGENDA

The agenda was approved.

II. ELECTION OF OFFICERS

Estrella nominated Thayer for board chair. Wyatt seconded the motion. There were no other nominations. The motion passed unanimously, 7-0.

Conroy (Myriah) nominated Conroy (Mike) for board vice chair. Wyatt seconded the motion. There were no other nominations. The motion passed unanimously, 7-0.

Kelly Wyatt and Marty Gorce were introduced as newly appointed PRAB members. Wyatt was given the oath of office on April 3, 2013 and Gorce was given the oath of office on April 16, 2013 by Parks and Recreation Advisory Board secretary Sally Dieterich.

III. FUTURE BOARD ITEMS AND TOURS

Kincannon provided the following timeline update on future board items:

- 5/20/13 PRAB master plan public hearing
- 5/20/13 PRAB meeting – Mobile food vending
- 5/20/13 PRAB meeting – July 4 event planning
- 5/20/13 PRAB meeting – Civic area update
- 5/20/13 PRAB meeting – Cyclocross update
- 6/24 PRAB meeting – Pottery lab RFI and RFP update
- 6/24/13 PRAB meeting – Department master plan 2nd public hearing
- 5/28/13 Council study session – Department master plan – 8 to 9 p.m.

- 8/27/13 Council study session – Department master plan – 7:30 to 9:00 p.m.
- 9/17/13 Council meeting – Department master plan public hearing

IV. PUBLIC PARTICIPATION

Public participation was opened.

John Bird, resident, representing the Professional Disc Golf Assn., thanked staff for the disc golf course at Valmont City Park. He asked that disc golf be included on department surveys and requested more funding for course upkeep.

Public participation was closed.

V. CONSENT AGENDA

A. Approval of minutes from March 18, 2012.

The minutes from March 18, 2012 were approved as amended.

B. Informational Items

1. Park Development Update

Written updates on these items were provided to the Board as part of the packet materials. Board Chair Thayer explained that these items are informational items that require no Board action or discussion. If the Board prefers more detailed information or discussion, that item would be moved to Agenda Item VI, Items for Discussion/Information.

VI. ITEMS FOR ACTION

There were no Items for Action.

VII. ITEMS FOR DISCUSSION/INFORMATION

A. Request to Rename Canyon Park to Emma Martinez Park

DeSouza spoke on this item, indicating that the department received a request from Phil Hernandez and Euvaldo Valdez to rename Canyon Park, located at Canyon Blvd. and 21st St., to Emma Martinez Park. She added that a formal application was submitted to the city in March 2013. In advance of this request being presented to the city manager, PRAB was asked for their support of the proposal.

Conroy (Myriah) made the following motion:
That PRAB support the renaming of Canyon Park to Emma Martinez Park.

Conroy (Mike) seconded the motion.

The motion passed unanimously, 7-0.

B. Master Plan Draft Plan

Rhodes provided a short verbal update on the master plan and timeline next steps:

- 5/20/13 PRAB meeting – first public hearing
- 5/27/13 City council study session
- 6/24/13 PRAB meeting – Second public hearing
- 7/25/13 Planning board meeting – Public hearing and plan recommendation
- 8/27/13 City council study session
- 9/17/13 City council meeting Public hearing and acceptance

VIII. MATTERS FROM THE DEPARTMENT

A. Valmont City Park Update

Kincannon presented a brief verbal update on this item. He said that the existing metal building (poultry barn) has become a safety/health hazard, so the department is going to council with an adjustment to base (approximately $150,000) for dismantling the metal portion of the building, then proceeding with the planning process and possible development of a partnership for building re-use.

Eubank provided a brief verbal update on program activity at Valmont Bike Park. He said that cycling groups are coming from around the world, partnering with cycling groups is increasing and CU is becoming involved. He added that the bike park is considered to be a state of the art facility for industry standards.

B. Boulder Reservoir/Coot Lake Seasonal Wildlife Closures

Information on this item was provided as a written update.

C. Boulder Reservoir 4th of July Proposal

Kincannon said that staff has been working with police, fire and the Boulder County sheriff's office to propose a programmatic change regarding alcohol use on the 4th of July. He added that this item will come to PRAB at the May meeting as an information/discussion item.

D. Civic Area Update

Dillon provided a timeline update on the status of this item:

- 5/6/13 – Public meeting scheduled
- 5/20/13 – Civic Area representatives have requested to present at PRAB meeting to receive PRAB input
- 5/23/13 – Possible group board meeting/open house to receive input
- 8/13 – Civic Area group to present recommendation to council

Guthrie announced the YSI Art Show opening reception to be held May 2, 2013 from 5-7 p.m. at the North Boulder Recreation Center.

IX. MATTERS FROM BOARD MEMBERS

Conroy (Mike) announced that he is stepping down as PRAB representative for the PLAY Foundation. He added that if any PRAB members are interested to contact him.

The PRAB appointed Estrella to assume the vacant position of representative to the Greenways Advisory Committee (GAC).

X. NEXT BOARD MEETING: May 20, 2013

XI. ADJOURN

The meeting adjourned at 8:40 p.m.

APPROVED BY PARKS AND RECREATION ADVISORY BOARD

Rick Thayer
Board Chair

Attest:

Sally Dieterich
Recording Secretary

Attachment D

Quonsets To Playground?

New Park Area Sought For Canyon Boulevard

Susan Martinez . . . wants a place to play.

By BILL BRAND
Daily Camera Staff

IF THERE IS any one reason why city dwellers move to the suburbs and beyond it is for space: to give the kids some room to play.

For certainly, one of the curses of city living is a lack of places for children to play.

Even here in Boulder, a city long noted for leadership in urban affairs, there are problems. One of them is two acres of idle school land on Canyon Boulevard at 20th Street.

Why is it idle?

Probably no one can be blamed for this p 'em. But it exists. Its antecedent stretch backward at least to 1946. Its roots are grounded in benevolence and concern.

In 1946, the country was just emerging from World War II, and GI's by th ousands, bolstered by the GI Bil Rights, descended on Boulder to attend the University of Colorado.

ONE BIG problem was housing for married students.

The City of Boulder and the Boulder School District solved part of the problem by erecting 20 quonset apartments on two empty acres of school land at 21st and Water Street (now Canyon Blvd.).

The apartments were rented to students for $35 a month, utilities included. Which was fine.

Ten years later the city got out of the housing business, partly because the big GI rush had ended, and partially because area landowners complained that the city should not compete with private enterprise.

It was at this point that Mrs. John Martinez and other residents of the area entered the picture.

Why not convert those two acres into a park, they asked. The space was open, tree-shaded and grassy. There was playground equipment already installed for the University students' children on the site.

THE CLOSEST parks were blocks away and the area teemed with children.

Twelve years later Mrs. Martinez is still asking the same questions. In the meantime the quonsets have degenerated into junk-ridden eye sores, used mostly for storage.

In the intervening years, the playground equipment has been moved elsewhere until now only a rusty whirly-go-round and one swing set remain.

The grass i ostly weeds now and branches h er the area.

Canyon Boulevard, a divided throughway, has replaced the old Water Street, and plush apartment buildings are sprouting everywhere.

The Office Economic Opportunity uses one of the rusty quonsets for a neighborhood center. Another has been used for adult education classes and another for storage.

But the bulk of the two acre lot stands idle.

TWO LEVELS of government are currently negotiating the future of the area, the City of Boulder, and Boulder Valley School District.

Boulder City Manager Ted Tedesco says the city wants to lease or at least use the land for a park.

"The site is potentially one of the best for a park we have in the city. We don't want to take the land forever," Tedesco adds. "We would just rather see it developed as a park than have it stand idle."

Acting Boulder Valley School Superintendent Dr. Richard Fawley looks at the problem a different way.

"The property belonged to the old Boulder School District Three," he explains. "Because of that if we sell the land to anybody the money would have to be used to retire School District Three bonds.

"Now the area there is zoned for apartments, and it makes the land potentially valuable."

ONE ESTIMATE, he said, was $80,000 for the plot. It is the opinion of the Boulder Valley school administration that the land is too valuable to give away. School bonds and tax revenues are just too hard to come by to give land away.

"We can't sell it and we can't give it away," Dr. Fawley said. "So the logical thing is to trade those two acres for land ewhere else. We have no plans to use this ground, and we would be willing to trade the city for land somewhere else.

"In fact," he said, "we would rather trade with th ity than with a private or comm al party."

The people in the area might think the school administration is being mercenary, he added. But he pointed out that he feels the administration must be responsible to the entire school district.

"We have two alternatives," Dr. Fawley said. "We can just turn the land over to the city and let them put a park on it. But then, we would be losing revenue. And when we need land for a school somewhere else we would have to levy taxes to buy it.

"THE SECOND alternative is to attempt to realize some exchange value out of the property. We feel the city has at its disposal more sources of revenue to buy parcels of land which could be used in exchange.

"The city feels it should be allowed to go ahead and put in a park, then negotiate. The administration feels we should work out details first, then allow the city to build a park there.

"What we are afraid of is that once the land becomes a park, it will remain a park. You know — once a park — always a park."

Dr. Fawley added that he felt the school district is not insisting on a dollar for dollar exchange, but rather some sort of happy medium.

Tedesco, meanwhile, points out that a special school board-city council committee has been working with the problem for months.

"We've got memorandums up to here," Tedesco said. "It's a classic case."

DWAIN MILLER, Boulder Park and Recreation directo ays the site is potentially a good one for a park.

"The kids in that area need a park," he said. "In fact, they maybe even need it more than kids in wealthier areas do," he ded.

Kids there are less olved in things like the Little League and Boy Scouts, he said.

Miller explained that a supervised summer playground at a grade school in the area has a higher participation rate than playgrounds do in more affluent areas.

Miller said that if the city gets use of the ground, it would install an irrigation system, grass the area and install park equipment for younger children.

Mrs. Martinez and other area residents, however, point out that the site has stood vacant for 10 years and still nothing has been done.

"THERE ARE 100 kids within easy walking distance of this place," she said. "The school board says this is school property and they can't do anything. The city hasn't been able to do anything.

"And last week they took two of the last three swing sets away."

Mrs. John Martinez . . . "vacant lots should be a park."

Empty quonsets and weeds dominate school land in the 2000 block of Canyon Blvd.

AGENDA ITEM # VII-A PAGE 20

July 24, 1968

Mr Ted Tedisco
City Manager
Boulder, Colo

Dear Mr Tedisco,

I want to express my heartfelt gratitude to you, Mayor Kenecht and all the members of the Boulder City Council. Also to your most considerate and capable staff. For aquiring the area at 30th and Canyon for a neighborhood park.

I know I speak in behalf of all peoples who will enjoy the park in years to come.

Thank you for making it possible to use the "grants for Community action programs" that are so essentials, offering the opportunity for involvement to all sectors of the community including the poor.

For citizens to find new hope and be encouraged to continue their efforts to build a better life for themselves.

AGENDA ITEM # VII-A, PAGE 21

Sincerely,
Mrs Emma Martinez

Park plan

Attachment D

I'm enclosing some suggestions that children and parents would like to see in this park.

On the west side near Canyon Blvd. playground equipment for small children. We would like to see equipment like the one at the Lafayette City park.

On the north end picnic tables and a small shelter (west side).

Removing utility poles, swing set and old merry go-round from center of the park. This would leave a good area for base ball, basket ball and soccer games.

On the east side along with the Quonsets could there be basket ball courts? We would like to keep older kids on east side. The 3rd Quonset will be used by teenagers this fall.

Could we have good lighting. This area is so dark.

Thank you for your consideration

Emma Martinez
2045 Canyon Blvd

AGENDA ITEM # VII-A, PAGE 22

Attachment F

File Canyon Park

MEMORANDUM

July 18, 1968

TO: Dwain Miller

FROM: Larry N. Blick

SUBJECT: Design of Canyon Park

At the meeting of July 16, the City Council expressed an interest that the design of the two-acre park site at 19th and Canyon Boulevard be unique and possibly a model park. The Council would like to see the total design plan for the area.

The Council also expressed an interest that the various service clubs in the community have an opportunity to participate in funding the development of the park.

Mr. Alex Warner, who has been active in promoting the use of the site as a park and who has carried petitions encouraging the School Board to permit the City to use the site as a park, has volunteered to contact the various service clubs in the City requesting that they participate in developing the park site. In order for him to do this, he should have a copy of the total design for the site.

From talking to Emma Martinez, it is possible that the people in the area would like to have something different than a unique and "model" park. A model park, they fear, would attract many visitors from other parts of town. I advised her that we would appreciate the Office of Economic Opportunity sending to the City Manager a letter, after consultation with the people in the area, expressing their views concerning what the park should be used for, how it should be designed, and what types of equipment would be desirable. During the design stages, it would be advisable for us to observe how the people in the area use the site and to present our proposals to them.

We should attempt to have a design for the park completed by the August 6 Council meeting.

cc: City Manager
Planning Director

AGENDA ITEM # VII-A PAGE 23

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
Charles Ferro, Development Review Manager
Sloane Walbert, Associate Planner

Date: August 12, 2013

Subject: Call-Up Item: Vacation of a 9,201 square foot public utility easement located on the property at 4990 Moorhead Avenue (ADR2013-00077).

EXECUTIVE SUMMARY:

The applicant requests vacation of an existing twenty five-foot utility easement located at 4990 Moorhead Avenue (refer to **Attachment D** for exact location). The easement was dedicated to the City of Boulder as a Grant of Easement, recorded March 29, 2012, in association with a Boulder Housing Partners permanently affordable senior housing project at this location. However, the existing utility easement was modified to accommodate a shift in the location of a water meter pit and to accommodate the overhang of eaves on the southwest side of the building. There is no public need for the utility easement to be vacated because a separate 9,155 square foot easement has been dedicated for public utilities that serve the property (Rec. no. 03331506). The proposed vacation was approved by staff on July 30, 2013. There is one scheduled City Council meeting on August 20th within the 30 day call-up period.

CODE REQUIREMENTS:

Pursuant to the procedures for easement vacations set forth in subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of a 9,201 square foot utility easement. The date of final staff approval of the easement vacation was July 30, 2013 (refer to **Attachment E**, *Notice of Disposition*). This vacation does not require approval through ordinance based on the following criteria:

- It has never been open to the public; and
- It has never carried regular vehicular or pedestrian traffic.

The vacation will be effective 30 days later on August 29, 2013 unless the approval is called up by City Council.

FISCAL IMPACTS:
None identified.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

- Economic: None identified.
- Environmental: None identified.
- Social: None identified.

BACKGROUND:
The subject property is located west of and adjacent to Moorhead Avenue, north of Table Mesa Drive, in a Residential - High 5 (RH-5) zone district (refer to **Attachment A**, *Vicinity Map*). A permanently affordable senior residential development was approved on the subject property in early 2011. The Hi Mar development will consist of one residential building with 59 permanently affordable units, to be accessed by a private drive from Moorhead Avenue. The property is encumbered by a twenty five-foot utility easement, which runs southwest for approximately 350 feet along the project's private drive (please refer to **Attachment B**, *Site Plan*). The subject easement was dedicated to accommodate a sanitary sewer line, water main, fire hydrant, and water meter pit for the new development. However, during review it was discovered that the roof overhang/eaves on the southwest corner of the building encroached into the subject easement. Per section 8-6-3 of the Boulder Revised Code, 1981 no portion of a structure may be located within, under, above or upon a public easement.

In order to address this issue, the water meter pit was relocated and a new utility easement was dedicated to accommodate all public utilities outside of the area of encroachment by the roof overhang (see Reception no. 03331506). The housing development is under construction and there are currently no encroachments into the subject easement. Given that there is no public need for the easement for which it was intended, failure to vacate the requested portion of easement would cause hardship to the property owner by limiting the development potential of the property.

ANALYSIS:
Staff finds the proposed vacation of the existing twenty five-foot utility easement consistent with the standard set forth in subsection (b) of section 8-6-10, "*Vacation of Public Easements*", B.R.C. 1981. All agencies having an interest in the easement have indicated that no need exists, at present or in the future, for that portion of the easement to be vacated. Staff has determined that no public need exists for the portion of easement to be vacated due to the fact that a separate easement has been dedicated for public utilities on the property.

No vacation of a public easement shall be approved unless the approving agency finds that:

✓ 1. Change is not contrary to the public interest.

✓ 2. All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose.

✓ 3. Consistent with the Comprehensive Plan and Land Use Regulations.

✓ a. Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or

The subject utility easement was dedicated in 2012 in association with the review of a Boulder Housing Partners senior housing development at this location (Rec. no. 03212745). Since this time it was discovered that the easement must to be modified to accommodate the overhang of eaves on the southwest corner of the building (see TEC2013-00026). A separate public utility easement has been dedicated to address these issues and there is no public need for the easement to be vacated.

N/A b. Would provide a greater public benefit than retaining the property in its present status.

PUBLIC COMMENT AND PROCESS:

Notice of the vacation will be advertised in the Daily Camera within the 30 day call up period. Staff has received no written or verbal comments adverse to the vacation.

NEXT STEPS:

If the requested vacation is not called up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacation is called up, and subsequently denied, the applicant will be limited to development on the property outside of the easement area.

ATTACHMENTS:

Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Deed of Vacation
Attachment D: Exhibit A
Attachment E: Notice of Disposition

US
HWY 36
Easement to be vacated
4990 Moorhead Ave
MOORHEAD AVE
TABLE MESA DRIVE

EXIST 8" SAN SEWER (TYP)
UTILIZE EXISTING WATER METER FOR SITE IRRIGATION METER
CONNECT TO EXISTING SS MH DOME AND REPOUR INTERIOR CONC BASE
CLEANOUT
CONNECT TO EXIST WATER MAIN 6"x6" TAPPING TEE W/ 6" GV & TB
6" PRIVATE SANITARY SERVICE
EXIST 8" WATER MAIN (TYP)
MOORHEAD AVENUE
CLEANOUT
PVC SANITARY SERVICE
EXISTING FH ASSY
PROTECT EXIST POLE (TYP)
BUILDING
6" PVC WATER
FH ASSY
3" WATER METER
3" DIP DOMESTIC WATER SERVICE
6" DIP FIRE SERVICE
6" DIP WATER
SCALE IN FEET

For Administrative Purposes Only
Address: 4990 Moorhead Ave.
Case No. ADR2013-00077

DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the subservient land, in a manner prescribed by Subsection 8-6-10(b), B.R.C. 1981, a utility easement previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Reception No. 03212745 on the 29th day of March, 2012, located at 4990 Moorhead Avenue and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The within easement vacation and release of said easement shall extend only to the portion and the type of easement specifically vacated. The within vacation is not to be construed as vacating any rights-of-way or easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 2013, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By:_____
Jane S. Brautigam,
City Manager

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

_____
Date

EXHIBIT "A"

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 SOUTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT TO BE VACATED AS RECORDED AT RECEPTION NO. 03212745 IN THE RECORDS OF BOULDER COUNTY, OVER AND ACROSS A PORTION OF LAND, LOCATED IN THE SOUTHWEST QUARTER, SECTION 4, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY CORNER OF LOT 16, BLOCK 1, REPLAT OF BLOCK B AND THE NORTHEASTERLY PART OF BLOCK C IN THE WILLIAM MARTIN HOMESTEAD ADDITION, IN SAID CITY, COUNTY AND STATE, PER PLAT RECORDED MARCH 17, 1960 AT RECEPTION NO. 648939, IN THE OFFICE OF THE CLERK AND RECORDER OF SAID COUNTY, WHENCE THE SOUTHEASTERLY LINE OF SAID BLOCK 1 BEARS, SOUTH 36°59'30" WEST, WITH ALL BEARINGS HEREIN BEING REFERENCED TO SAID EASTERLY LINE, SAID MOST EASTERLY CORNER ALSO BEING ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF MOORHEAD AVENUE;

THENCE CONTINUING ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY THE FOLLOWING 3 COURSES:

1) ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, SOUTH 53°00'30" EAST, 32.24 FEET TO THE POINT OF BEGINNING;

2) SOUTH 53°00'30" EAST, 2.62 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 265.00 FEET;

3) SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°50'44", AN ARC LENGTH OF 22.41 FEET;

THENCE DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY, NON-TANGENT TO SAID CURVE, SOUTH 36°59'30" WEST, 228.18 FEET;

THENCE SOUTH 53°00'30" EAST, 14.50 FEET;

THENCE SOUTH 36°59'30" WEST, 26.03 FEET;

THENCE NORTH 53°00'30" WEST, 14.50 FEET;

THENCE SOUTH 36°59'30" WEST, 98.06 FEET;

THENCE NORTH 53°00'30" WEST, 25.00 FEET;

THENCE NORTH 36°59'30" EAST, 353.22 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 9,201 SQ. FT. OR 0.211 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

5/02/13

JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS, INC.

FSI JOB NO. 13-61,277

JOB NUMBER: 13-61,277
DRAWN BY: B. LUND
DATE: MAY 2, 2013

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

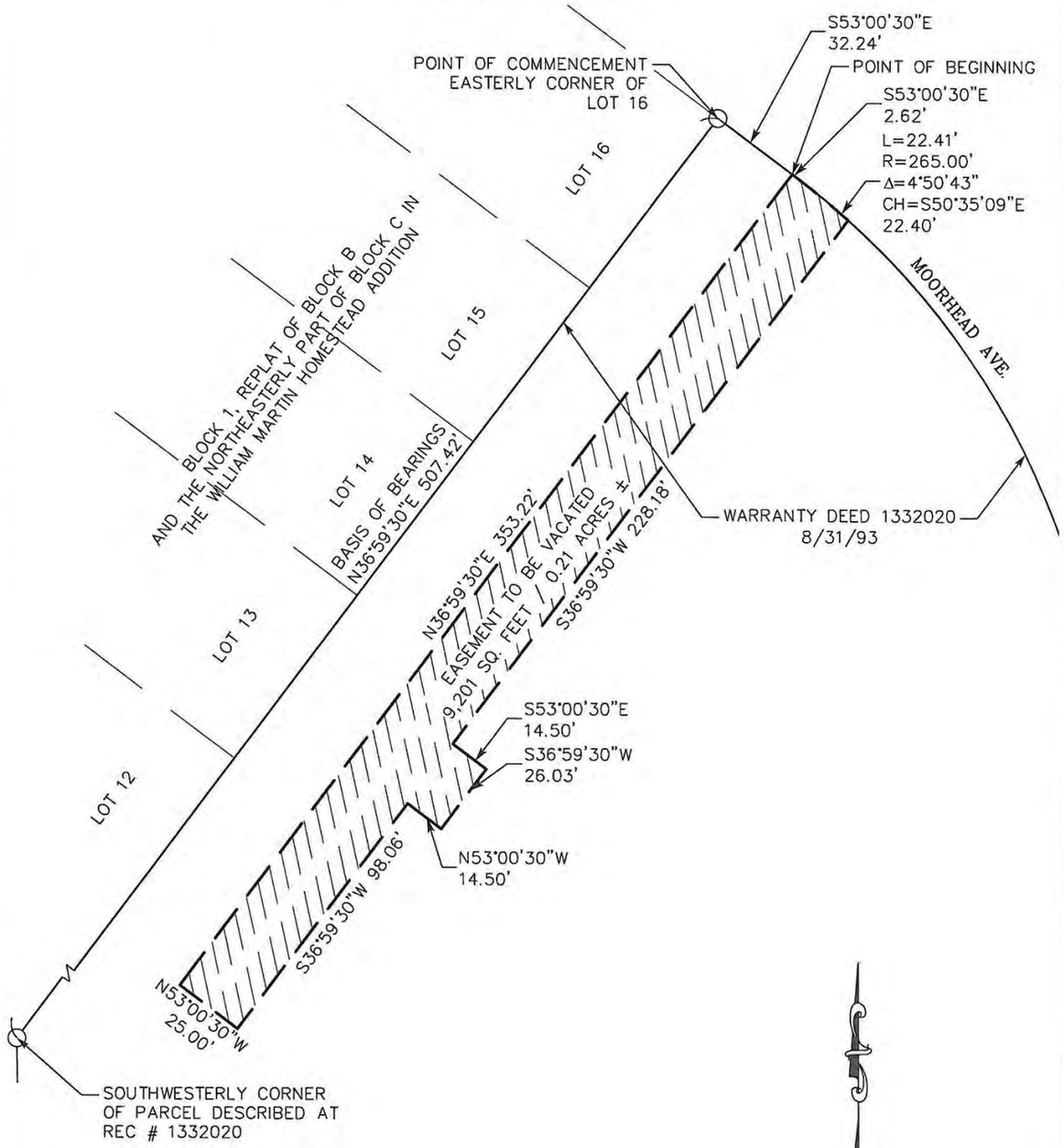
Flatirons, Inc.
Surveying, Engineering & Geomatics
3825 IRIS AVE, STE 395
BOULDER, CO 80301
PH: (303) 443-7001
FAX: (303) 443-9830
www.FlatironsInc.com

BY:BLUND FILE:61277-DESC-C13.DWG DATE:5/2/2013 2:24 PM

EXHIBIT "A"

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE

50 0 25 50

(IN FEET)
1 inch = 50 ft.

JOB NUMBER: 13-61,277
DRAWN BY: B. LUND
DATE: MAY 2, 2013

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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BY:BLUND FILE:61277-DESC-C13.DWG DATE:5/2/2013 2:25 PM

CITY OF BOULDER
Community Planning and 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

ADMINISTRATIVE REVIEW
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

DECISION:	Approved
DATE:	July 30, 2013
REQUEST TYPE:	Vacation/Easement
ADDRESS:	4990 Moorhead Ave.
APPLICANT:	Jeff Dawson, STUDIO at Morgan Creek
CASE #:	ADR2013-00077
LEGAL DESCRIPTION:	See Exhibit A

DESCRIPTION: UTILITY EASEMENT VACATION to vacate a 9,201 square foot utility easement located on the property at 4990 Moorhead Avenue. The subject utility easement was dedicated in association with the review of a Boulder Housing Partners senior housing development at this location (High Mar site).

FINAL DECISION STANDARDS:
Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981. This approval does not constitute building permit approval.

This approval is limited to the vacation of a 9,201 square foot utility easement, previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Reception No. 03212745 on March 29, 2012.

No public need exists for the portion of easement to be vacated because a new easement has been dedicated to the City of Boulder for utility services on the property. The easement was modified to accommodate a shift in the location of a water meter pit and eaves overhang on the north side of the building (Reception No. 03331506).

INFORMATIONAL COMMENTS:
Pursuant to section 8-6-10(b), B.R.C. 1981, approval of an easement vacation "is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the City within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation."

This decision is final and may not be appealed. A new request may be considered only as a new application.

Approved By: S Walbert
Sloane Walbert, Planning Department

EXHIBIT A

LEGAL DESCRIPTION FOR HIGH MAR REDEVELOPMENT: 4990 MOORHEAD AVENUE, BOULDER, COLORADO

A TRACT OF LAND IN THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH P.M.,

DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 4, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH P.M.; THENCE N 89°34'10" EAST, A DISTANCE OF 520.00 FEET ALONG THE SOUTH LINE OF SAID SECTION 4 TO THE TRUE POINT OF BEGINNING;THENCE NORTH 00°25'50" WEST AT RIGHT ANGLES TO THE SOUTH LINE OF SAID SECTION 4 A DISTANCE OF 175.77 FEET; THENCE NORTH 36°59'30" EAST, A DISTANCE OF 507.42 FEET;THENCE SOUTH 53°00'30" EAST, A DISTANCE OF 34.86 FEET TO A POINT OF CURVE RIGHT;THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 249.18 FEET, SAID CURVE HAVING A DELTA OF 52°34'40" RIGHT, A RADIUS OF 265.00 FEET AND TANGENTS OF 130.91 FEET, TO A POINT OF TANGENT;THENCE SOUTH 00°25'50" EAST, A DISTANCE OF 347.11 FEET AT RIGHT ANGLES TO THE SOUTH LINE OF SAID SECTION 4 TO A POINT ON THE SOUTH LINE OF SAID SECTION 4;THENCE SOUTH 89°34'10" WEST, A DISTANCE OF 440 FEET ALONG THE SOUTH LINE OF SAID SECTION 4 TO THE TRUE POINT OF BEGINNING,EXCEPT THOSE PORTIONS OF THE ABOVE DESCRIBED TRACT AS CONVEYED TO REGINALD L. HOWARDS IN DEEDS RECORDED JULY 29, 1971 ON FILM 739 AS RECEPTION NOS. 984407 AND 984408, COUNTY OF BOULDER, STATE OF COLORADO.

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
Charles Ferro, Development Review Manager
Jessica Vaughn, Planner I

Date: August 8, 2013

Subject: Call-Up Item: **Site Review**, no. LUR2013-00021, for the construction of a 45-unit residential development comprised of 41 townhome style units and four single-family detached units on an approximately five-acre site located at the northeast corner of Kalmia Avenue and 28th Street. The site is zoned Residential Medium-1.

EXECUTIVE SUMMARY

On August 1, 2013, Planning Board approved 6-0 (A. Brockett absent) the subject application with the conditions found in the disposition of approval, provided as **Attachment A**.

The applicant's proposal is for the development of an approximately five-acre site located at the northeast corner of Kalmia Avenue and 28th Street with 45 residential units comprised of 41 townhome-style units to be located on the west side of Paso del Prado and four permanently affordable single-family detached units that are to be located adjacent to the Sale Lake and Palo Park neighborhoods on the east side of Paso del Prado.

The proposal also includes enhanced pedestrian connectivity through the provision of two several multi-use path connections through the project site to the Wonderland Creek multi-use path. Open space is provided in excess of what is required (135,000 square feet) with roughly 75 percent of the project site remaining as useable open space (160,145 square feet).

Generally, the architectural concept includes two-story buildings with flat roofs and a modern building design. Given the highly visible location of the project site along a multi-use path on the west and street frontages on both the east and south sides, the project site has multiple frontages. Buildings are oriented toward the street by locating building entries, front porches and additional glazing along the street facing facades as well as utilizing pedestrian scale architectural features

and materials at the pedestrian level, including stone and awnings, adding to the pedestrian interest at the street.

Land Use Code modifications requested as part of the development proposal include:

- Front yard for principal structures from 20 feet to five feet;
- Front yard for parking from 20 feet to 10 feet;
- Rear yard for principal structures from 20 feet to 15 feet; and
- Freestanding sign setback from 28th Street and Kalmia Avenue from 10 feet to 0 feet.

Refer to **Attachment B** for the applicant's proposed plan set.

The board's approval is subject to a 30-day call-up period by City Council. The staff memorandum to the Planning Board, Planning Board audio and other related background materials, including the staff analysis of the Site Review criteria are available on the city website at the web link provided above. City Council may call-up the application within the 30-day call-up period which expires on **Tuesday, Sept. 3, 2013**.

City Council is scheduled to consider this application for call-up at its **August 20, 2013** public meeting.

FISCAL IMPACT

Staff Time: The application has been processed through the provisions of a standard review process and is within normal staff work plans.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

Economic: None identified.

Environmental: Unique to the project site is the Wonderland Creek and an approximately 120-foot wetland buffer located on the western half of the project site along with the 100-year and 500-year floodplains and high hazard flood zone. In order to mitigate and limit impacts to the natural resources present on the project site, the applicant has limited development on the western portion of the property.

Social: None identified.

BACKGROUND

Site Context. The project site, roughly five acres in size, is located at the northeast corner of the intersection of 28th Street and Kalmia Avenue just west of the Sale Lake, Palo Park and Kalmia Estates neighborhoods. Development immediately adjacent to the project site is primarily single-family detached residential to the east, including the Sale Lake (within city limits) and Palo Park (unincorporated Boulder County) neighborhoods with the exception of the Manor Care

residential care facility to the north and multi-family attached units, including the Aspen Grove Condominiums and The Boulders Apartments to the south.

Unique to the project site is the Wonderland Creek Greenway which is comprised of a multi-use path, an approximately 120-foot wetland buffer both located on the western half of the project site along with the 100-year and 500-year floodplains and high hazard flood zone.

Figure 1: Vicinity Map

Figure 2: Zoning Map

The project site is zoned Residential Medium-1 (RM-1) which is defined as:

"*Medium density residential areas which have been or are to be primarily used for attached residential development, where each unit generally has direct access to ground level, and where complementary uses may be permitted under certain conditions*" (section 9-5-2(c)(1)(C), B.R.C. 1981).

Immediately adjacent to the project site on three sides, north, south and west is RM-1 zoning while Residential Low-2 is adjacent on the east as well as unincorporated Boulder County on the northeast. Existing development surrounding the project site ranges in density from 2.4 dwelling units per acre in the Sale Lake neighborhood located directly to the east (zoned RL-2) of the project site up to 21.8 dwelling units per acre in the Pendleton Square neighborhood (zoned RH-4) located across 28th Street to the southwest of the project site. The development proposal, comprised of 45 units, has a density of roughly nine dwelling units per acre, which is fewer units and less density than would be permitted by-right in the RM-1 zone district, 73, at a density of 14 dwelling units per acre.

ANALYSIS

On balance, the development proposal was found to be consistent with the goals and intent of the Boulder Valley Comprehensive Plan (BVCP) and Site Review criteria. In addition, the development proposal was found to be consistent with the zoning and the BVCP land use designation densities as well as the general character of the existing single-family detached development immediately adjacent to the project site.

Relevant goals and policies in the BVCP, including policies 7.06 *(Mixture of Housing Types)*, 7.09 (*Housing for a Full Range of Households)*, and 7.10 *(Balancing Housing Supply with Employment Base)*, provide support for development that contributes to providing a diverse mix of housing types for a full-range of households as well as balancing the housing supply with the

employment base. Similarly, the development proposal consistent with BVCP policies 2.15 (Compatibility of Adjacent Land Uses), 2.21 (Commitment to a Walkable and Accessible City), 2.23 (Trail Corridors/Linkages) and 2.37 (Enhanced Design for Private Sector Projects) related to compatibility of adjacent land uses and utilizing a site layout that creates a building forward design, vibrant and active streetscapes, improving pedestrian connectivity, providing high quality, useable on-site open spaces, maintaining views to the west and minimizing surface parking.

Refer to **Attachment C** for the complete Site Review criteria analysis.

Planning Board Hearing. The proposed Site Review was discussed at the board's August 1, 2013 public hearing where the Planning Board unanimously approved the subject Site Review request with a vote of 6-0 (A. Brockett absent). As part of the board's discussion, concern was expressed with regard to the location of the bike parking being provided, in terms of its dispersal throughout the development.

To address the concerns expressed related to bike parking, a friendly amendment was made my M. Young to require the Applicant to redistribute the outdoor visitor bike parking so as to provide the spaces in more convenient places for visitors to the site.

Overall, the board found that the project site was an appropriate location for the proposed development in terms of:

- Density and providing a transition between the existing surrounding development and the project site;
- Providing open space in excess of what is required in a variety of forms that will encourage both active and passive recreational opportunities as well as enhance connectivity;
- Limiting and mitigating the impacts to the natural resources located on the project site; and
- Architecture by utilizing a building design that will contribute to creating a safe and vibrant streetscape and a material palette that is compatible with the surrounding development.

A web link to the minutes and audio of the hearing can be found here.

ATTACHMENTS:

A. Notice of Disposition dated August 1, 2013.
B. Approved Plans.
C. Site Review Criteria Analysis.

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 August 1, 2013 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:	**WONDERLAND CREEK TOWNHOMES**
DESCRIPTION:	**Site Review**, No. LUR2013-00021, for the construction of a 45-unit residential development comprised of 41 townhome style units and four single-family detached units on an approximately five-acre site located at the northeast corner of Kalmia Avenue and 28th Street. The site is zoned Residential Medium-1. Land Use Code modifications approved through the Site Review process include: • Front yard setback for principal structures from 20 feet to five feet; • Front yard setback for parking from 20 feet to 10 feet; and • Rear yard setback for principal structures from 20 feet to 15 feet. • Freestanding sign setback from 28th Street and Kalmia Avenue from 10 feet to 0 feet.
LOCATION:	**Northeast corner of 28th St and Kalmia Av**
COOR:	**N06W04**
LEGAL DESCRIPTION:	**Lot 2, Manor Care Subdivision, City of Boulder, County of Boulder, State of Colorado**
APPLICANT:	**STEPHEN SPARN**
OWNER:	**WCT LLC**
APPLICATION:	**Site Review, LUR2013-00021**
ZONING:	**Residential Medium-1 (RM-1)**
CASE MANAGER:	**Jessica Vaughn**
VESTED PROPERTY RIGHT:	**NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

This decision may be called up before the City Council on or before **September 3, 2013.** 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 MUST BE SUBMITTED TO THE PLANNING DEPARTMENT, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINTY (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 August 1, 2013 the Planning Board Approved with Conditions the request with the following motion:

On a motion by **J. Putnam**, seconded by **S. Weaver**, the Planning Board voted 6-0 (**A. Brockett** absent) to approve Site Review case no. LUR#2013-00021, incorporating the staff memorandum and the attached analysis of site review criteria as findings of fact and subject to the recommended conditions of approval as found in the staff memorandum.

Friendly amendment by **M. Young** to require the Applicant to redistribute the outdoor visitor bike parking so as to provide the spaces in more convenient places for visitors to the site. Friendly amendment was accepted by **J. Putnam**.

CONDITIONS OF APPROVAL

1. The Applicant shall be responsible for ensuring that the **development shall be in compliance with all approved plans** dated June 17, 2013 and July 12, 2013 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 building permit, the Applicant shall submit a Technical Document Review application for the following items, subject to the approval of the City Manager:

   a. **Final architectural plans**, including material samples and colors, to insure compliance with the intent of this approval and compatibility with the surrounding area. The architectural intent shown on the approved plans dated June 17, 2013 and July 12, 2013 are acceptable. Planning staff will review plans to assure that the architectural intent is performed.

   b. A **final site plan** which includes detailed floor plans and section drawings. The Applicant shall revise the site plan to include and shall construct a path and low water crossing to provide a safe and convenient connection for the residents of the property to the open space area in the south-west corner of the property, or the Applicant shall ensure, by participating in a City project, that such a safe and convenient connection is provided across Wonderland Creek at a time and in a location and form that is acceptable to the Director of Public Works. The Applicant shall redistribute the outdoor visitor bike parking so as to provide the spaces in more convenient places for visitors to the site.

   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.

   e. **Final transportation plans** meeting the City of Boulder Design and Construction Standards and CDOT Access Code Standards, for all transportation improvements. These plans must include, but are not limited to: street plan and profile drawings, street cross-sectional drawings, signage and striping plans in conformance with Manual on Uniform Traffic Control Devices (MUTCD) standards, transportation detail drawings, geotechnical soils report, and pavement analysis.

   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. The Applicant shall remove the Russian Olive trees located on and adjacent to the project site pursuant to the approved plans dated June 17, 2013 and July 12, 2013.

   g. A **detailed outdoor lighting plan** showing location, size, and intensity of illumination units, indicating compliance with section 9-9-16, B.R.C.1981.

   h. A **detailed shadow analysis** to ensure compliance with the City's solar access requirements

of section 9-9-17, B.R.C.

3. Prior to building permit, the Applicant shall **dedicate to the City, at no cost, all easements proposed to be dedicated on the Easement Exhibit** (Sheet C-4 of the approved plans) of the approved plans, in accordance with the City of Boulder Design and Construction Standards, as part of Technical Document Review applications. The form and final location of the easements shall be subject to the approval of the City Manager. The Applicant shall dedicate to the City, at no cost, any additional easements that are necessary to complete the construction of and maintain the required slope for the improvements along Kalmia Avenue listed in Condition 4 below.

4. The Applicant shall construct or install and/or ensure, by participating in a city project, the construction or installation of the following public improvements at a time and in a location and form that is acceptable to the Director of Public Works and in conformance with the City of Boulder Design and Construction Standards:

   a. A **5-foot bike lane and curb and gutter** along the north side of Kalmia Avenue.

   b. An **8-foot landscape strip and 5-foot detached sidewalk** along the north side of Kalmia Avenue.

   c. An **8-foot landscape strip and 5-foot detached sidewalk** along both sides of the project site's frontage on Paseo del Prado.

   d. A **speed bump** on Links Drive.

   e. A **10-foot multi-use path** connector from Paseo del Prado to Kalmia Avenue.

5. Prior to building permit, the Applicant shall submit a **financial guarantee**, in a form acceptable to the Director of Public Works, in an amount equal to the cost of providing eco-passes to the residents of the development for three years after the issuance of a certificate of occupancy as proposed in the Applicant's Transportation Demand Management (TDM) plan.

By: David Driskell/by SR

David Driskell, Secretary of the Planning Board

Wonderland Creek Townhomes

Site Plan Review

Project Team

Owner
WCT LLC.
P.O. Box 79
Boulder, CO 80306

Contact: Scott Woodard
Email: fltproperties@comcast.net

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Contact: Stephen Sparn
Email: SSparn@sparn.com

Contact: Leonard Thomas
Email: LThomas@sparn.com

Habitat for Humanity Architect
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Landscape Architect
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Email: Carol@studioterra.net

Civil Engineer
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Boulder, CO 80301
(303)443-7001

Contact: Curt Parker

Traffic Engineer
LSC Transportation Consultants, Inc.
1889 York Street
Denver, CO 80206
(303)333-1105

Contact: Christopher McGranahan, P.E.

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C-3 Utility Connection Plan
C-4 Easement Exhibit
C-5 Kalmia Ave. Cross Sections
DR-1 Drainage Exhibit (Major Basins)
DR-2 Drainage Exhibit (Sub-Basins)

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L2.0 Amenity Area Enlargement and Images
L3.0 Criteria, Details, Plants
L4.0 Tree Inventory Map

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A5.0 Architectural Materials

Architectural - Habitat for Humanity

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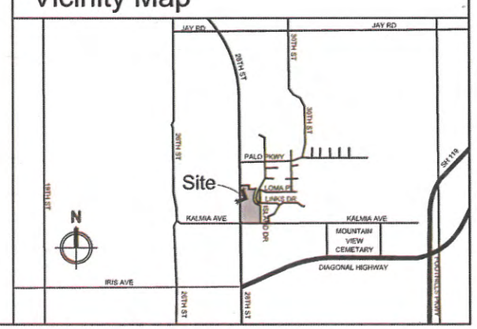
HH2.0 Habitat for Humanity Elevations
HH3.0 Habitat for Humanity Character Perspectives

Vicinity Map



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Wonderland Creek Townhomes
Lot 2 Manor Care Subdivision - Boulder, Colorado 80301

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Drawing Issue	Date
Site Plan Review	3/18/2013
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013
S.P.R. Resubmittal 3	7/12/2013

Seal

Cover Sheet

CS1.0

Thursday, July 18, 2013 6:18 PM P:\SSA Projects\1315 - Woodard\CAD\ACTIVE DRAWING\DRAWING FILES\SHEETS\CS-WOODARD-24X36.dwg

CONTEXT MAP
NOT TO SCALE

Legal Description

Lot 3, Manor Care Subdivision, City of Boulder, County of Boulder, State of Colorado

Project Description

45 unit residential housing project comprised of 41 townhomes and 4 single family residences.
The project includes 8 multifamily buildings and 4 single family homes.

Project Data

Address:	Northeast Corner of 28th Street & Kalmia Avenue
Property Size:	5.093 acres
Existing Use:	Vacant Land
Comp Plan Designation:	MR (Medium Density Residential, 6-14 DU/acre)
Building Code:	2012 International Residential Code Boulder Revised Code Title 9 Land Use Code
City of Boulder Zoning:	RM-1 (Medium Density Residential - 1)
Proposed Use:	Rental Townhome Project
Solar Access Area:	II (25' Solar Fence)
Allowable Building Height:	35'
Proposed Max Building Height:	29'
Number of Stories:	1-2

Density

Townhomes:	35 - Two Bedroom Units 6 - Three Bedroom Units 41 Total Dwelling Units
Habitat for Humanity: Single Family	4 - Three Bedroom Units 4 Total Dwelling Units
	Total Dwelling Units: 45

Parking Requirements

Required:

Townhomes:	35 - Two Bedroom Units x 1.5 = 52 6 - Three Bedroom Units x 2.0 = 12 64 Required
Habitat for Humanity: Single Family	4 - Three Bedroom Homes x 1.0 = 4 4 Required
	Total Required: 68

Provided:

Townhomes:	40 - Garages 20 - Small Spaces 4 - Handicap Spaces 64 Total
Habitat for Humanity: Single Family	3 - Open Spaces 1 - Handicap Space 4 Total
	Total Spaces Provided: 68

Bicycle Required:

10% of Required Vehicle Parking

Total Required: 6

Bicycle Provided:

Townhomes:	16 (8 Bike Racks)
Habitat for Humanity: Single Family	6 (3 Bike Racks)
	Total Provided: 22

Open Space Required:	45 units x 3,000 SF = 135,000 SF
Open Space Provided:	135,029 SF - Landscape 11,616 SF - Hardscape 13,500 SF - ROW Landscape 160,145 SF - Total Open Space Provided (118% of required)

Floor Area

Townhomes

Unit Type	Number of Units	Total
Two Bedroom (accessible)	1	686 SF
Two Bedroom East Unit	10	11,473 SF
Two Bedroom West Unit	24	26,942 SF
Three Bedroom East Unit	2	2,534 SF
Three Bedroom West Unit	4	5,341 SF
Totals	**41**	**46,476 SF**

Habitat for Humanity Single Family Residences

Homes	Number of Units	Total
1, 2 & 3	3	4,011 SF
4	1	1,203 SF
Totals	**4**	**5,214 SF**

Total Project Floor Area: 54,690 SF

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Seal

Project Data

CS1.1

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ALTA/ACSM LAND TITLE SURVEY

LOT 2, MANOR CARE SUBDIVISION, LOCATED IN THE NW QUARTER OF SECTION 20, TOWNSHIP 1N, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 1

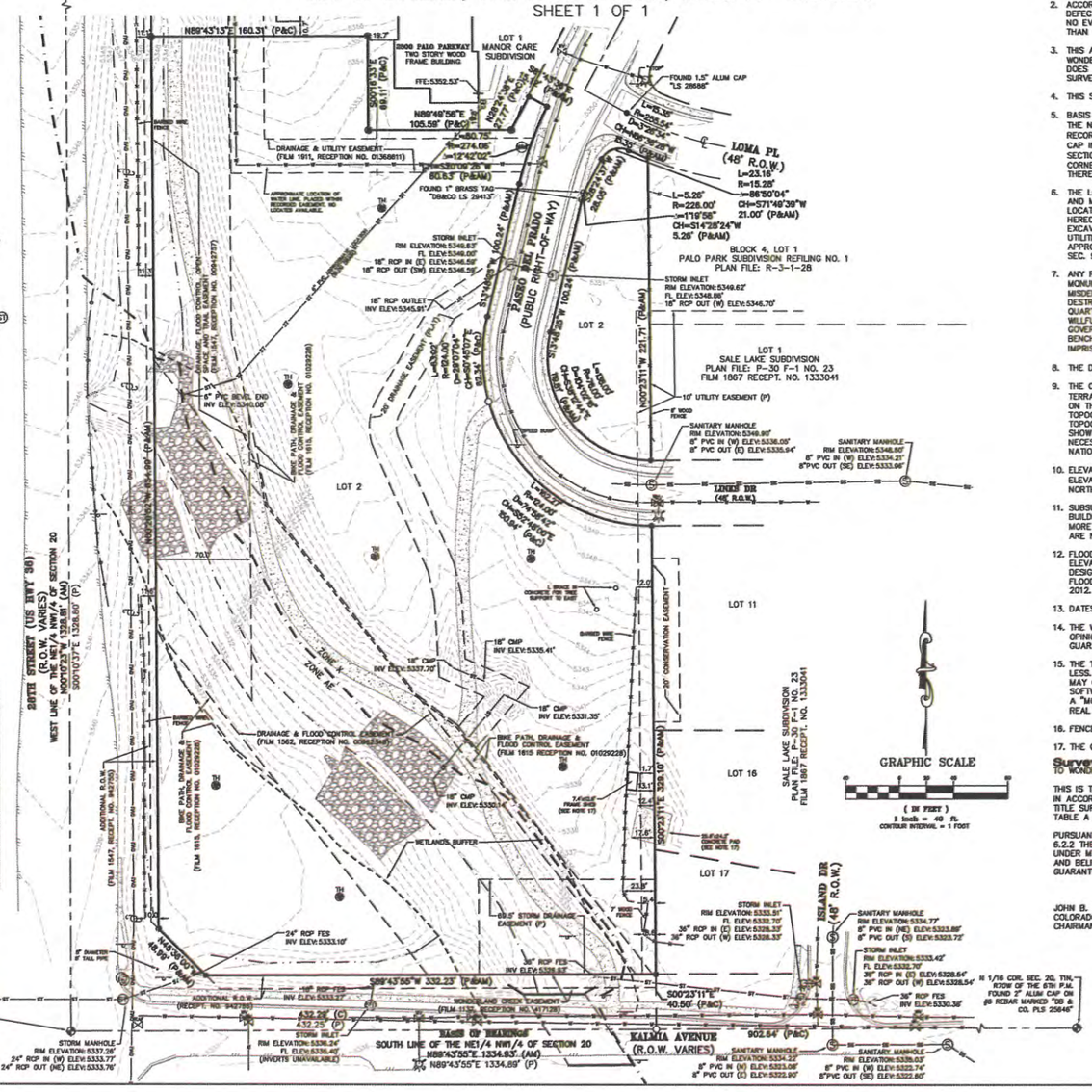
NW COR. NE 1/4, NW 1/4 SEC. 20 T1N, R 70W OF THE 6TH P.M. FOUND 3 1/4" ALUM CAP MARKED: "DB & CO. PLS 29413" IN MONUMENT BOX.

Parcel Description
(PROVIDED BY CLIENT)

LOT 2, MANOR CARE SUBDIVISION, LOCATED IN THE NW QUARTER OF SECTION 20, TOWNSHIP 1N, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

Legend

- FOUND ALIQUOT MONUMENT AS DESCRIBED
- FOUND 2" ALUM CAP "DB&CO LS 29413" UNLESS OTHERWISE DESCRIBED HEREON
- FOUND BRASS TAG AS DESCRIBED
- FOUND BENCHMARK AS DESCRIBED
- SET #5 REBAR WITH 1 1/2" ALUMINUM CAP "FLATIRONS SURV 16406"
- CALCULATED POSITION (NOT FOUND OR SET)
- (AM) AS MEASURED AT TIME OF SURVEY
- (P) AS PER THE PLAT OF MANOR CARE SUBDIVISION, REC NO. 2961645
- (C) CALCULATED FROM RECORD AND AS MEASURED INFORMATION
- CONCRETE
- EDGE OF ASPHALT
- FENCE
- SIGN
- WATER VALVE
- WATER METER
- FIRE HYDRANT
- SANITARY SEWER LINE
- SANITARY SEWER MANHOLE
- CLEANOUT
- STORM DRAINAGE LINE
- STORM DRAINAGE MANHOLE (STORM MANHOLE RIM ELEVATION:5345.01' INV ELEVATION:5337.87')
- ELECTRICAL VAULT
- TRAFFIC LIGHT
- OVERHEAD UTILITY LINE
- UTILITY POLE
- TRAFFIC VALVE
- LOCATION OF FINISHED FLOOR
- CENTERLINE
- TEST HOLE
- EASEMENT BOUNDARIES
- FEMA 100-YEAR FLOODPLAIN DELINEATION
- WATER LINE
- RIP RAP
- SWALE
- GUARDRAIL



Vicinity Map
NOT TO SCALE

Depositing Certificate
SUBMITTED TO BOULDER COUNTY LAND USE FOR RECORDING

ON THIS _____ DAY OF _____, 20___.

Notes

1. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT AND DOES NOT CONSTITUTE A TITLE SEARCH BY FLATIRONS, INC. TO DETERMINE TITLE OR EASEMENTS OF RECORD. THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS THAT WERE VISIBLE AT THE TIME OF MAKING THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND-USE REGULATIONS, AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
2. ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
3. THIS ALTA/ACSM LAND TITLE SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF WONDERLAND CREEK TOWNHOMES, LLC, NAMED IN THE STATEMENT HEREON. SAID STATEMENT DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS STATEMENT BY THE SURVEYOR NAMING SAID PERSON.
4. THIS SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF SURVEYOR.
5. BASIS OF BEARINGS: A BEARING OF N89°43'55"E ALONG THE SOUTH LINE OF THE NE 1/4 OF THE NW 1/4 OF SECTION 20 AS SHOWN ON THE PLAT OF MANOR CARE SUBDIVISION, AS RECORDED IN BOULDER COUNTY AT RECEPTION NO. 2961845, BETWEEN A FOUND 2 1/2" ALUM CAP IN RANGE BOX MARKED "FSI LS 16406" AT THE SW CORNER OF THE NE 1/4 NW 1/4 OF SECTION 20 AND A FOUND 2" ALUM CAP MARKED "DB & CO LS 25646" AT THE N 1/16 CORNER OF SECTION 20 AS SHOWN HEREON. ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
6. THE LOCATIONS FOR UNDERGROUND UTILITIES ARE BASED UPON VISIBLE SURFACE EVIDENCE AND MAPS PROVIDED BY THE APPROPRIATE UTILITY COMPANIES AND MUNICIPALITIES. LOCATIONS OF UNDERGROUND UTILITIES AND STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES AND STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES AND STRUCTURES. ALL UNDERGROUND UTILITIES MUST BE FIELD LOCATED BY THE APPROPRIATE AGENCY OR UTILITY COMPANY PRIOR TO ANY EXCAVATION, PURSUANT TO C.R.S. SEC. 9-1.5-103.
7. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508. WHOEVER WILLFULLY DESTROYS, DEFACES, CHANGES, OR REMOVES TO ANOTHER PLACE ANY SECTION CORNER, QUARTER-SECTION CORNER, OR MEANDER POST, ON ANY GOVERNMENT LINE OF SURVEY, OR WILLFULLY CUTS DOWN ANY WITNESS TREE OR ANY TREE BLAZED TO MARK THE LINE OF A GOVERNMENT SURVEY, OR WILLFULLY DEFACES, CHANGES, OR REMOVES ANY MONUMENT OR BENCH MARK OF ANY GOVERNMENT SURVEY, SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BOTH. 18 U.S.C. § 1858 (2009).
8. THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
9. THE CONTOURS REPRESENTED HEREON WERE INTERPOLATED BY AUTOCAD CIVIL 3D (DIGITAL TERRAIN MODELING) SOFTWARE BETWEEN ACTUAL MEASURED SPOT ELEVATIONS. DEPENDING ON THE DISTANCE FROM A MEASURED SPOT ELEVATION AND LOCAL VARIATIONS IN TOPOGRAPHY, THE CONTOUR SHOWN MAY NOT BE AN EXACT REPRESENTATION OF THE SITE TOPOGRAPHY. THE PURPOSE OF THIS TOPOGRAPHIC MAP IS FOR SITE EVALUATION AND TO SHOW SURFACE DRAINAGE FEATURES. ADDITIONAL TOPOGRAPHIC OBSERVATIONS MAY BE NECESSARY IN SPECIFIC AREAS OF DESIGN. TOPOGRAPHY SHOWN HEREON COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS.
10. ELEVATIONS BASED ON CITY OF BOULDER BENCHMARK "T-440-4," WITH A PUBLISHED ELEVATION OF 5338.41 FEET (NAVD88), BEING A CHISELED CROSS LOCATED AT THE NORTHWEST CORNER OF 28TH ST AND KALMIA AVENUE..
11. SUBSURFACE BUILDINGS, IMPROVEMENTS OR STRUCTURES ARE NOT NECESSARILY SHOWN. BUILDINGS AND OTHER IMPROVEMENTS OR STRUCTURES ON ADJACENT PROPERTIES THAT ARE MORE THAN FIVE (5) FEET FROM ANY OF THE PROPERTY LINES OF THE SUBJECT PROPERTY ARE NOT NECESSARILY SHOWN.
12. FLOOD INFORMATION: THE SUBJECT PROPERTY IS LOCATED IN ZONE AE, WHERE BASE FLOOD ELEVATIONS BASED ON THE 100-YEAR FLOOD EVENT ARE GIVEN, AND ZONE X WHICH DESIGNATES AREAS OUTSIDE OF THE 500-YEAR FLOOD EVENT ACCORDING TO THE FEMA FLOOD INSURANCE RATE MAP; COMMUNITY-PANEL NO. 080024-0392 J, DATED DECEMBER 18, 2012. FLOOD INFORMATION IS SUBJECT TO CHANGE.
13. DATES OF FIELD WORK: NOVEMBER 6-8, 2012
14. THE WORD "CERTIFY" AS SHOWN AND USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS OF THIS SURVEY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED.
15. THE TOTAL AREA OF THE SUBJECT PROPERTY IS 221,855 SQ. FT. OR 5.093 ACRES, MORE OR LESS. AREA AS SHOWN HEREON IS A RESULTANT FACTOR, NOT A DETERMINATIVE FACTOR, AND MAY CHANGE SIGNIFICANTLY WITH MINOR VARIATIONS IN FIELD MEASUREMENTS OR THE SOFTWARE USED TO PERFORM THE CALCULATIONS. FOR THIS REASON, THE AREA IS SHOWN AS A "MORE OR LESS" FIGURE, AND IS NOT TO BE RELIED UPON AS AN ACCURATE FACTOR FOR REAL ESTATE SALES PURPOSES.
16. FENCES ARE NOT COINCIDENT WITH THE LOT LINES AS SHOWN HEREON.
17. THE CONCRETE PAD AND SHED EXTENDS ACROSS EASTERLY LINE AS SHOWN HEREON.

Surveyor's Certificate
TO WONDERLAND CREEK TOWNHOMES, LLC:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEM 1 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON NOVEMBER 6-8, 2012.

PURSUANT TO COLORADO STATE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS RULE 6.2.2 THE UNDERSIGNED FURTHER CERTIFIES THAT THIS MAP OR PLAT WAS PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE, IS ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND IS NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED.

JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN & CEO, FLATIRONS, INC.

FSI JOB NO. 12-100,442

ALTA/ACSM LAND TITLE SURVEY PREPARED FOR Wonderland Creek Townhomes, LLC SHEET 1 OF 1		
DRAWN BY: C. STONE	Flatirons, Inc. Surveying, Engineering & Geomatics	
DATE: JANUARY 23, 2013	3825 IRIS AVE, STE 385 BOULDER, CO 80301 PH: (303) 443-7001 FAX: (303) 443-9930	655 FOURTH AVE LONGMONT, CO 80501 PH: (303) 776-1733 FAX: (303) 776-4356
FSI JOB NO. 12-100,442	www.Flatironsinc.com	INT: DATE: REVISIONS: CHECKED BY: KJC/NBV/EYB

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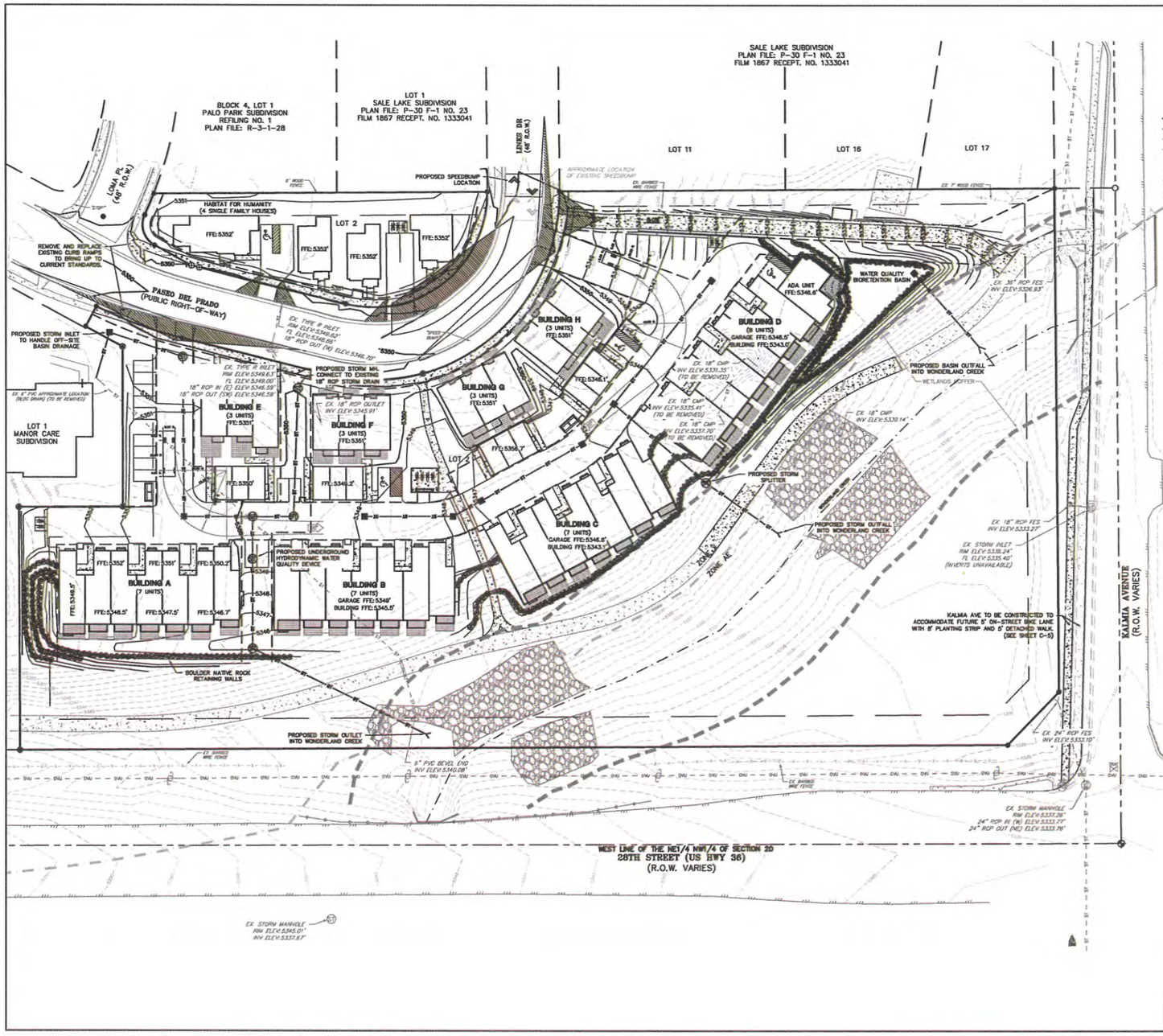

Legend

EXISTING	ABBR.	DESCRIPTION	PROPOSED
	PL	PROPERTY LINE	
		ADJACENT PROP. LINE	
	ESMT	EASEMENT LINE	
	SEC	SECTION LINE	
	CL	CENTERLINE	
		FLOODPLAIN LIMITS	
	EOA	EDGE OF ASPHALT	
		CURB AND GUTTER	
		CURB & GUTTER (CATCH)	
		CURB & GUTTER (SPILL)	
	CONC	CONCRETE	
		5-FT CONTOUR LINE	5025
		1-FT CONTOUR LINE	5021
	LOG	LIMITS OF GRADING	
	WL	WATER LINE	
		BEND WITH THRUST BLOCK	
		TEE WITH THRUST BLOCK	
	GV	GATE VALVE	
	FH	FIRE HYDRANT	
	WM	WATER METER	
	FL	FLOW LINE	
	ST	STORM SEWER LINE	
	STMH	STORM SEWER MANHOLE	
		TYPE C AREA INLET	
	RD	ROOF DRAIN	
	FES	FLARED END SECTION	
	INV	INVERT	
	SS	SANITARY SEWER LINE	
	SAMH	SANITARY SEWER MANHOLE	
		SANITARY SEWER SERVICE	
	CO	CLEANOUT	
	OVU	OVERHEAD UTILITY LINE	
	PP	UTILITY POLE	
	GUY	GUY WIRE	
	EM	ELECTRIC MANHOLE	
		TRANSFORMER	
	TRAFF	TRAFFIC SIGNAL	
	LT	LIGHT POLE	
	TL	TRAFFIC VALVE	
	FNC	FENCE	
		SIGN	
		BUILDING OVERHANG	
		TRASH ENCLOSURE	
		MAILBOX	
		BIORETENTION BASIN LIMITS	
		BOULDER NATIVE ROCK RETAINING WALLS	
		PORCH	
		BICYCLE U-RACK	

NOTES

1. REFER TO DRAINAGE REPORT FOR ADDITIONAL INFORMATION REGARDING GRADING DESIGN.

GRAPHIC SCALE

(IN FEET)
1 inch = 30 ft.

Flatirons, Inc.
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JOB NUMBER: 13-100,442
DATE: 03.18.13
DESIGNED BY: C. PARKER
DRAWN BY: C.STONE
CHECKED BY: CDP/KC
APPROVED BY: CDP

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S.P.R Resubmittal 3	7/12/2013

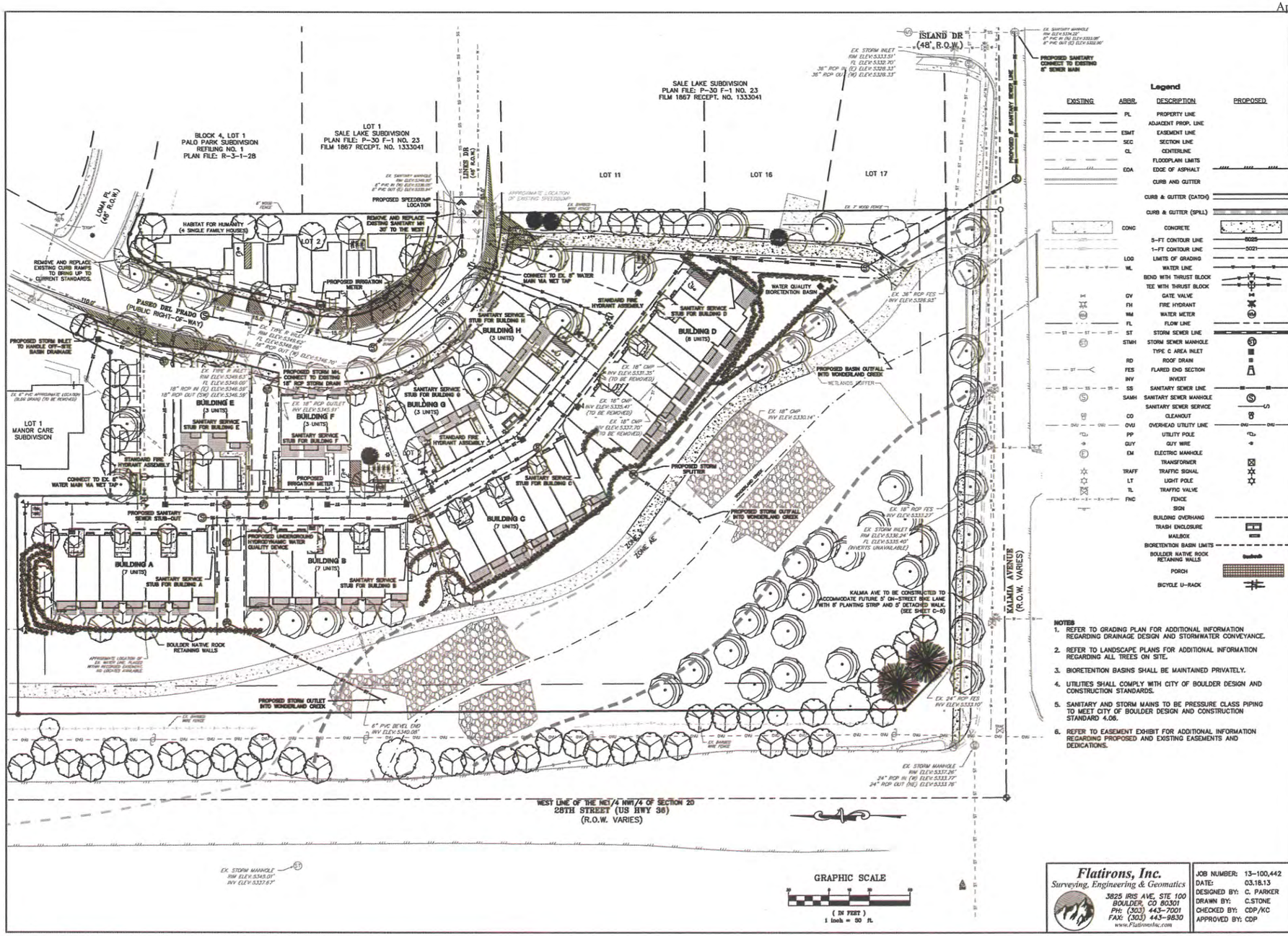
SITE PLAN REVIEW

NOT FOR CONSTRUCTION

Seal

PRELIMINARY STORMWATER & GRADING PLAN

C-2



Legend

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	RD	ROOF DRAIN	
	FES	FLARED END SECTION	
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		SANITARY SEWER SERVICE	
	CO	CLEANOUT	
	OVU	OVERHEAD UTILITY LINE	
	PP	UTILITY POLE	
	GUY	GUY WIRE	
	EM	ELECTRIC MANHOLE	
		TRANSFORMER	
	TRAFF	TRAFFIC SIGNAL	
	LT	LIGHT POLE	
	TL	TRAFFIC VALVE	
	FNC	FENCE	
		SIGN	
		BUILDING OVERHANG	
		TRASH ENCLOSURE	
		MAILBOX	
		BIORETENTION BASIN LIMITS	
		BOULDER NATIVE ROCK RETAINING WALLS	
		PORCH	
		BICYCLE U-RACK	

NOTES

1. REFER TO GRADING PLAN FOR ADDITIONAL INFORMATION REGARDING DRAINAGE DESIGN AND STORMWATER CONVEYANCE.
2. REFER TO LANDSCAPE PLANS FOR ADDITIONAL INFORMATION REGARDING ALL TREES ON SITE.
3. BIORETENTION BASINS SHALL BE MAINTAINED PRIVATELY.
4. UTILITIES SHALL COMPLY WITH CITY OF BOULDER DESIGN AND CONSTRUCTION STANDARDS.
5. SANITARY AND STORM MAINS TO BE PRESSURE CLASS PIPING TO MEET CITY OF BOULDER DESIGN AND CONSTRUCTION STANDARD 4.06.
6. REFER TO EASEMENT EXHIBIT FOR ADDITIONAL INFORMATION REGARDING PROPOSED AND EXISTING EASEMENTS AND DEDICATIONS.

Flatirons, Inc.
Surveying, Engineering & Geomatics
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FAX: (303) 443-9630
www.FlatironsInc.com

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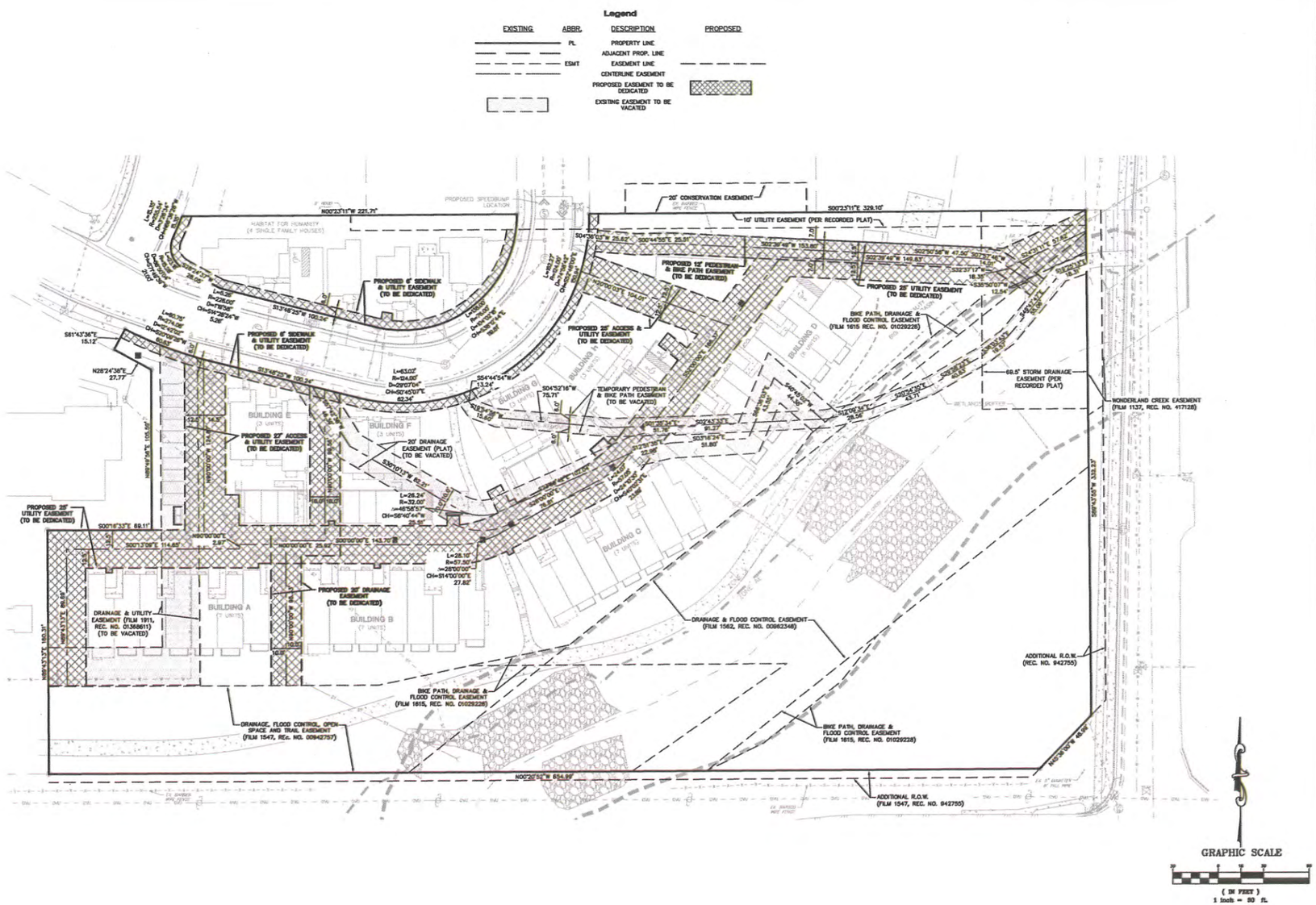
SITE PLAN REVIEW

NOT FOR CONSTRUCTION

Seal

UTILITY CONNECTION PLAN

C-3



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Wonderland Creek Townhomes

Lot 2 Manor Care Subdivision - Boulder, Colorado 80301

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S.P.R Resubmittal	5/2/2013
S.P.R Resubmittal 2	6/17/2013

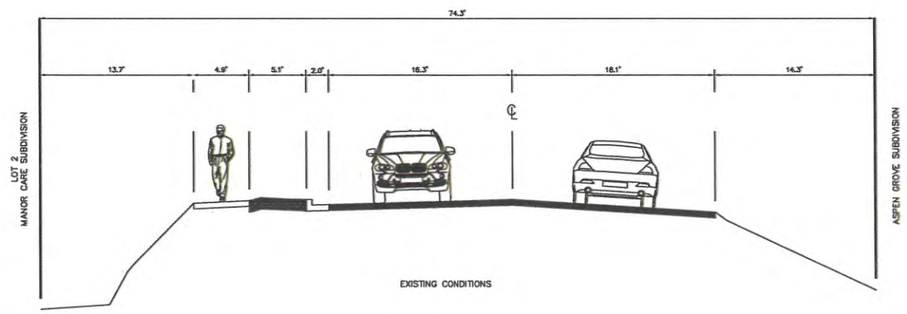
SITE PLAN REVIEW
NOT FOR CONSTRUCTION
Seal

EASEMENT EXHIBIT

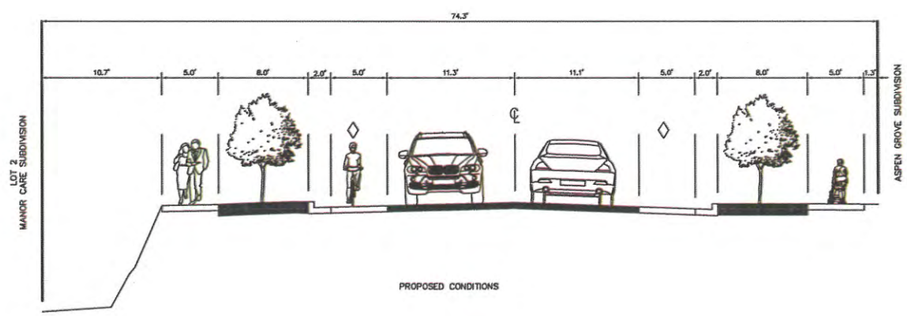
C-4

KALMIA AVENUE CROSS SECTIONS

(NOT TO SCALE)



EXISTING CONDITIONS



PROPOSED CONDITIONS

NOTES
1. CROSS SECTION SHOWN IS 200 FT EAST OF 28TH ST INTERSECTION.

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JOB NUMBER:	13-100,442
DATE:	03.18.13
DESIGNED BY:	C. PARKER
DRAWN BY:	C.STONE
CHECKED BY:	CDP/KC
APPROVED BY:	CDP

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Site Plan Review	3/18/2013
S.P.R Resubmittal	5/2/2013
S.P.R Resubmittal 2	6/17/2013

SITE PLAN REVIEW
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Seal

KALMIA AVE CROSS SECTIONS

C-5

EXISTING DRAINAGE SYSTEM

EXISTING SUB-BASIN RUNOFF SUMMARY

BASIN	DESIGN POINT	AREA (ac)	C_2	C_5	C_{100}	Q_2 (CFS)	Q_5 (CFS)	Q_{100} (CFS)
os1	2	1.875	0.49	0.53	0.68	2.6	4.0	9.4
os2	1	0.794	0.66	0.68	0.79	1.8	2.5	5.5
os3	4	0.242	0.34	0.40	0.60	0.3	0.5	1.3
os4	3	1.119	0.25	0.33	0.57	0.7	1.3	4.3

EXISTING MAJOR BASIN RUNOFF SUMMARY

BASIN	DESIGN POINT	AREA (ac)	C_2	C_5	C_{100}	Q_2 (CFS)	Q_5 (CFS)	Q_{100} (CFS)
X-1	i	8.11	0.25	0.33	0.57	4.7	8.7	28.0

GRAPHIC SCALE

(IN FEET)
1 inch = 50 ft.

Legend

- 5000 — EXISTING CONTOURS
- 5000 — PROPOSED CONTOURS
- PROPERTY LINE
- EXISTING MAJOR BASIN BOUNDARY
- EXISTING OFF-SITE MINOR BASIN BOUNDARY
- 100-YEAR FLOODPLAIN LIMITS
- DRAINAGE FLOW ARROW

1 DESIGN POINT

A — DENOTES SUB-BASIN DESCRIPTION
A DENOTES BASIN ID
X.XX DENOTES BASIN AREA (ACRES)
.YY DENOTES 5-YR COEFFICIENT
.ZZ DENOTES 100-YR COEFFICIENT
WW DENOTES % IMPERVIOUS

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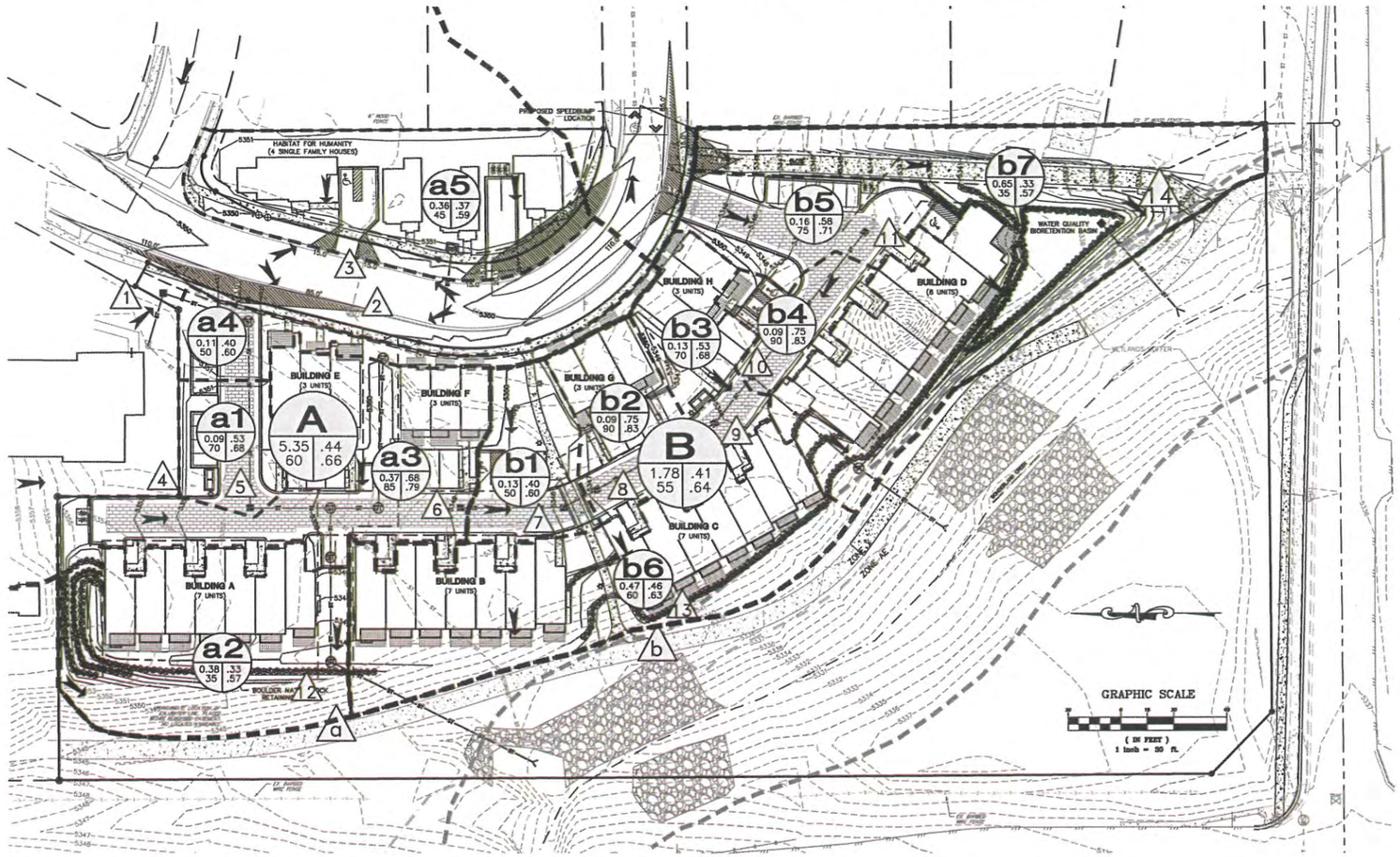
DRAINAGE EXHIBIT (MAJOR BASINS)

DR-1

PROPOSED DRAINAGE SYSTEM



PROPOSED SUB-BASIN RUNOFF SUMMARY

BASIN	DESIGN POINT	AREA (ac)	C_2	C_5	C_{100}	Q_2 (CFS)	Q_5 (CFS)	Q_{100} (CFS)
a1	5	0.094	0.49	0.53	0.68	0.2	0.2	0.5
a2	12	0.383	0.25	0.33	0.57	0.3	0.6	2.0
a3	6	0.369	0.68	0.68	0.79	0.9	1.2	2.7
a4	2	0.104	0.34	0.40	0.60	0.1	0.2	0.6
a5	3	0.358	0.31	0.37	0.59	0.4	0.6	1.8
b1	7	0.130	0.34	0.40	0.60	0.1	0.2	0.7
b2	8	0.145	0.73	0.75	0.83	0.4	0.5	1.1
b3	9	0.134	0.49	0.53	0.68	0.2	0.3	0.8
b4	10	0.092	0.73	0.75	0.83	0.2	0.3	0.7
b5	11	0.162	0.54	0.58	0.71	0.3	0.4	1.0
b6	13	0.470	0.41	0.46	0.63	0.6	1.0	2.5
b7	14	0.653	0.25	0.33	0.57	0.4	0.8	2.5

Legend

- EXISTING CONTOURS
- PROPOSED CONTOURS
- PROPERTY LINE
- SUB-BASIN DELINEATION
- PROPOSED MAJOR BASIN DELINEATION
- 100-YEAR FLOODPLAIN LIMITS
- FLOW ARROW

PROPOSED MAJOR BASIN RUNOFF SUMMARY

BASIN	DESIGN POINT	AREA (ac)	C_2	C_5	C_{100}	Q_2 (CFS)	Q_5 (CFS)	Q_{100} (CFS)
A	a	5.334	0.44	0.49	0.66	5.9	9.2	23.0
B	b	1.787	0.41	0.46	0.64	2.0	3.1	8.1

DESIGN POINT

DENOTES BASIN DESCRIPTION
A DENOTES BASIN ID
X.XX DENOTES BASIN AREA (ACRES)
.YY DENOTES 5-YR COEFFICIENT
.ZZ DENOTES 100-YR COEFFICIENT
WW DENOTES % IMPERVIOUS

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S.P.R Resubmittal 3	7/12/2013

SITE PLAN REVIEW
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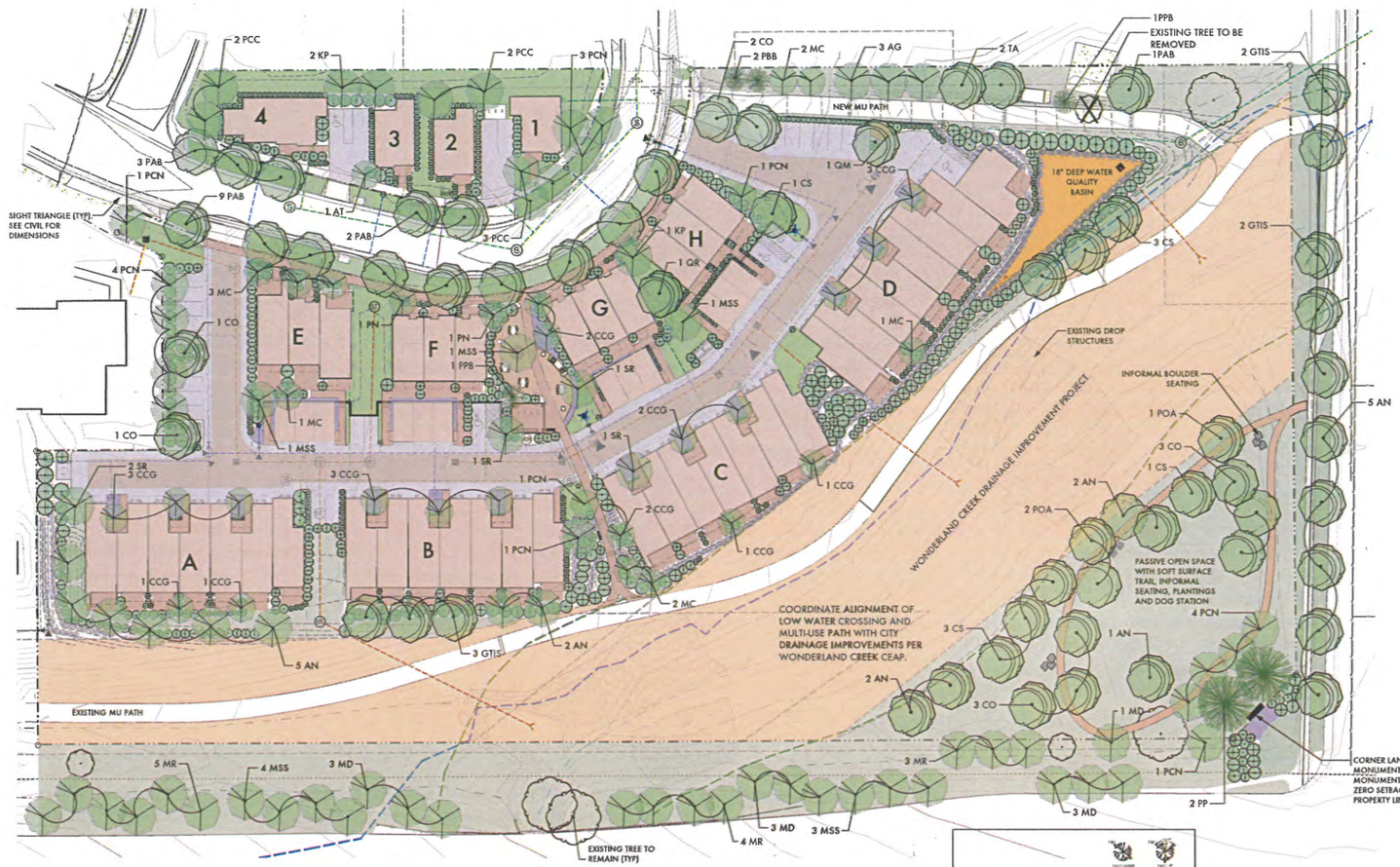
DRAINAGE EXHIBIT (SUB-BASINS)

DR-2



LEGEND

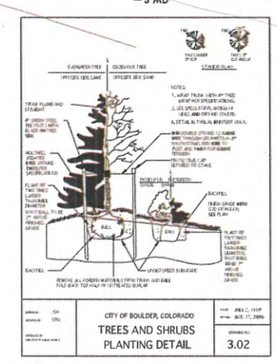
- EXISTING TREE TO REMAIN
- NEW DECIDUOUS TREE - 3" CAL
- NEW ORNAMENTAL TREE - 2.5" CAL
- NEW EVERGREEN TREE - 8 FT
- NEW SHRUB - 5 GAL
- PERENNIALS/ORNAMENTAL GRASSES
- COLORED CONCRETE WALK
- PRIVATE PATIO OR DECK
- ENHANCED PAVING IN LANE - COLORED CONCRETE OR PAVERS OR BOTH
- SOD
- NATIVE SEED - SEE SEED MIX
- BIO-RETENTION BASIN - SEE SEED MIX
- EXISTING DRAINAGE EASEMENT DUE TO PENDING CITY DRAINAGE IMPROVEMENT PROJECT, REMOVE RUSSIAN OLIVES ONLY COORDINATE F. NEW LANDSCAPE IMPROVEMENTS AND F. NE CONNECTION TO THE EXTENT POSSIBLE

PROPOSED UTILITIES

- SANITARY SEWER
- STORM SEWER
- WATER LINE

NOTES:

1. 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.
2. TREES SHALL NOT BE PLANTED CLOSER 10 FEET TO ANY PUBLIC 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.
3. 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.
4. OWNERS 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.
5. ALL SHRUB BEDS ADJACENT TO TURF AREAS SHALL BE EDGED WITH ROLLED TOP STEEL EDGER.
6. ALL SHRUB BED AREAS, PERENNIALS AND GROUNDCOVER SHALL BE MULCHED WITH A 4" LAYER OF GORILLA HAIR MULCH.
7. 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 FOUR (4) CUBIC YARDS PER 1000 SQUARE FEET OF LANDSCAPE AREA.
8. ALL LANDSCAPE (PLANT MATERIALS AND GRASS) WILL BE IRRIGATED WITH AN AUTOMATIC SYSTEM. TURF AREAS WILL HAVE A SPRAY ZONE OR SUB-SURFACE DRIP, SHRUBS AND TREES WILL HAVE A DRIP ZONE AND PERENNIALS/GROUNDCOVERS (PART OF THE DRIP ZONE) WILL HAVE MICROJET SPRAYS OR DRIP.
9. PLANTS ARE GROUPED BY WATER USE ZONE TO CONSERVE WATER.
10. CONTRACTOR SHALL VERIFY ALL MATERIAL QUANTITIES PRIOR TO INSTALLATION. ACTUAL NUMBER OF PLANT SYMBOLS SHALL HAVE PRIORITY OVER THE QUANTITY DESIGNATED.
11. REFER TO THE CITY OF BOULDER DESIGN AND CONSTRUCTION STREETSCAPING STANDARDS FOR ALL WORK WITHIN PUBLIC AREAS.
12. REFER TO THE CIVIL ENGINEER DRAWINGS FOR GRADING AND UTILITY INFORMATION.
13. REFER TO THE CITY OF BOULDER DESIGN AND CONSTRUCTION STANDARDS FOR TREE PROTECTION REQUIREMENTS.



1 TREE AND SHRUB PLANTING DETAIL

STUDIOTERRA

SCALE: 1" = 30'-0"

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Site Plan Resubmittal	6/13/2013
Site Plan Correction	7/12/2013

Seal

Landscape Plan

L1.0

2 CHARLIE TABLE - LANDSCAPE FORMS

3 CHASE PARK BENCH - LANDSCAPE FORMS

4 CHASE PARK TRASH RECEPTACLE - LANDSCAPE FORMS

5 BUILT-IN GAS GRILL AND COUNTERTOP - EXAMPLE

1 CENTRAL AMENITY AREA
Scale: 1" = 10 ft

NOTE:

DOG PARK BAG STATIONS TO BE PROVIDED IN SEVERAL LOCATIONS THROUGHOUT SITE.
DOG WASTE STATION TO BE PROVIDED AT CORNER OPEN SPACE AREA - KALMIA AND 28TH STREET

6 RAISED PLANTER WITH SEATWALL - EXAMPLES

LEGEND

- EXISTING TREE TO REMAIN
- NEW DECIDUOUS TREE - 3" CAL
- NEW ORNAMENTAL TREE - 2.5" CAL
- NEW EVERGREEN TREE - 6 FT
- NEW SHRUB - 5 GAL
- PERENNIALS/ORNAMENTAL GRASSES
- COLORED CONCRETE WALK
- PRIVATE PATIO OR DECK
- ENHANCED PAVING IN LANE - COLORED CONCRETE OR PAVERS OR BOTH
- SOD
- NATIVE SEED - SEE SEED MIX
- BIORETENTION BASIN - SEE SEED MIX
- EXISTING DRAINAGE EASEMENT DUE TO PENDING CITY DRAINAGE IMPROVEMENT PROJECT, REMOVE RUSSIAN OLIVES ONLY COORDINATE F_"TIL: LANDSCAPE IMPROVEMENTS AND F_"_LE CONNECTION TO THE EXTENT POSSIBLE

PROPOSED UTILITIES

- SANITARY SEWER
- STORM SEWER
- WATER LINE

SCALE: 1" = 30'-0"
0 15 30 60 FT
NORTH

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Site Plan Resubmittal	6/13/2013

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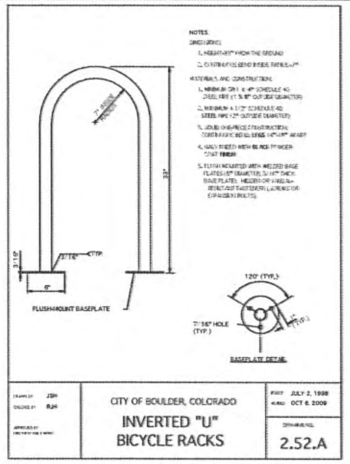
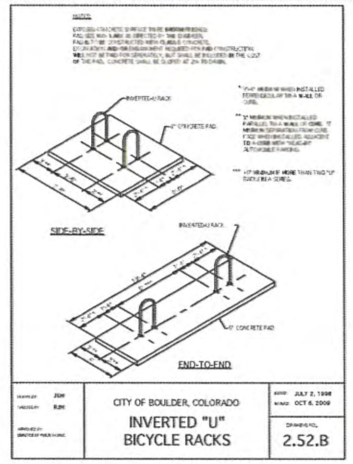
Common Amenity Area

L2.0



1 INVERTED - U BIKE RACKS
SCALE: not to scale



2 INVERTED - U BIKE RACKS - LAYOUT
SCALE: not to scale

LOT 2 TOTAL OPEN SPACE REQUIRED = 135,000 SF

OPEN SPACE PROVIDED

LANDSCAPE	135,029 SF
HARDSCAPE (ENHANCED PAVING - PATIOS, '	11,616 SF
ROW LANDSCAPE	13,500 SF
TOTAL PROVIDED (118% OF REQUIRED)	**160,145 SF**

3 OPEN SPACE PLAN
1" = 60'-0"

Table B-6. Native Seed Mix for Rain Gardens [2]

Common Name	Scientific Name	Variety	PLS[2] lbs per Acre	Ounces per Acre
Sand bluestem	Andropogon hallii	Garden	3.5	
Sideoats grama	Bouteloua curtipendula	Butte	3	
Prairie sandreed	Calamovilfa longifolia	Goshen	3	
Indian ricegrass	Oryzopsis hymenoides	Paloma	3	
Switchgrass	Panicum virgatum	Blackwell	4	
Western wheatgrass	Pascopyrum smithii	Ariba	3	
Little bluestem	Schizachyrium scoparium	Pastura	3	
Alkali sacaton	Sporobolus airoides		3	
Sand dropseed	Sporobolus cryptandrus		3	
Pasture sage[1]	Artemisia frigida			2
Blue aster[1]	Aster laevis			4
Blanket flower[1]	Gaillardia aristata			8
Prairie coneflower[1]	Ratibida columnifera			4
Purple prairieclover[1]	Dalea (Petalostemum) purpurea			4
Sub-Totals:			27.5	22
Total lbs per acre:			28.9	

[1] Wildflower seed (optional) for a more diverse and natural look.
[2] PLS = Pure Live Seed.

4 SEED MIX FOR BIO RETENTION BASIN
FROM: URBAN STORM DRAINAGE CRITERA MANUAL VOL 3

Low Grow Grass Mix

A mixture of perennial, cool season, drought tolerant, grasses suitable for areas where mowing is difficult or not desirable. It grows an average of 6-12 inches a year with normal rainfall in the Intermountain region and the Desert Southwest. This mix is a great soil stabilizer. Our wildflower mixes are very compatible with this mix.

Characteristics:
- Grows 4-12 inches tall
- Requires little to no maintenance
- Grows well in elevations up to 10,000 ft

Seeding Rate:
New Seeding
Dryland: 20-25 lbs/acre
Irrigated: 40 lbs/acre
Overseeding
Dryland: 10-15 lbs/acre
Irrigated: 20 lbs/acre

Mix contains:
30% Ephraim Crested Wheatgrass
Slightly rhizomatous bunchgrass with germination in 14-21 days.
Drought resistant and winter hardy with a deep root system making it an excellent soil binder. Crested wheatgrass is well adapted to stabilization of disturbed soils and does well on a variety of soil types.
25% Sheep Fescue
Bunchgrass with germination in 14-21 days.
Well adapted to most soil conditions and is great for soil erosion control and low maintenance mixtures.
20% Perennial Rye
Bunchgrass with germination in 5-10 days.
One of the most widely used grasses and is adaptable to a wide variety of soils and climate conditions. It has a leafy head and fine stem.
15% Chewings Fescue
Sod-forming grass with germination in 7-21 days.
Fine fescue that is shade tolerant and requires little water. Persists in dry soils and infertile soils.
10% Kentucky Bluegrass
Sod-forming grass with germination in 14-31 days.
Resistant to drought and some salinity. It is used to reclaim disturbed areas such as gravel pits, cut roads, roadsides, and mines.

Formulations & varieties are subject to change without notice

Arkansas Valley Seed, Inc.

5 NATIVE SEED MIX
FROM: URBAN STORM DRAINAGE CRITERA MANUAL VOL 3

SYM	SIZE	QUAN	BOTANICAL NAME	COMMON NAME	HEIGHT	SPREAD	WATER USE	EXPOSURE	FLOWER COLOR	SEASON
			PERENNIALS							
APV	1 GAL		AEGOPODIUM PODAGRARIA 'VARIEGATUM'	VARIEGATED BISHOP'S WEED	8-12"	1-2'	MEDIUM	FS TO SHADE	WHITE	SUMMER
AU	1"		ARCTOSTAPHYLOS UVA-URSI	KINNIKINNICK	3-8"	3-6"	LOW	FILTERED SHADE T	SOFT PINK	EARLY SPRING
CP	1 GAL		CERATOSTIGMA PLUMBAGINOIDES	PLUMBAGO	8-12"	18-24"	LOW	ADAPTABLE	BLUE	MID TO LATE SUMMER
HLB	1 GAL		HEMEROCALLIS 'LITTLE BUSINESS'	RASPBERRY DAYLILY	12-18"	12-18"	LOW	SUN	RASPBERRY	LATE SPRING TO EARLY SUMMER
HRC	1 GAL		HEMEROCALLIS 'ROCKET CITY'	ORANGE DAYLILY	3-4'	2-8'	LOW	SUN	ORANGE	EARLY TO MID-SUMMER
PQ	1 GAL		PARATHENOCISSUS QUINQUEFOLIA	VIRGINIA CREEPER	VINE	VINE	MEDIUM	SUN TO FS	N/A	N/A
PA	1 GAL		PERSICARIA AFFINIS	HIMALAYAN BORDER JEWEL	6-8"	12-18"	LOW	SUN	PINK	LATE SUMMER
SAJ	1 GAL		SEDUM 'AUTUMN JOY'	AUTUMN JOY STONECROP	10-18"	18-24"	LOW	SUN	SALMON-PINK	LATE SUMMER TO FALL
VM	1 GAL		VINCA MINOR 'BOWLES VARIETY'	BOWLES PERIWINKLE	4-6"	12-18"	LOW	ADAPTABLE	BLUE	EARLY SPRING TO MID-SUMMER
			ORNAMENTAL GRASSES							
SYM	SIZE		BOTANICAL NAME	COMMON NAME	HEIGHT	SPREAD	WATER USE	EXPOSURE	FLOWER COLOR	SEASON
CAA	5 GAL		CALAMAGROSTIS ACUTIFLORA 'AVALANCHE'	VARIEGATED FEATHER REED GRASS	3-4'	18-24"	LOW	SUN TO FS	PURPLISH-GREEN	EARLY SUMMER TO FALL
HM	1 GAL		HAKENOCHLOA MACRA 'AUREOLA'	GOLDEN JAPANESE FOREST GRASS	15-20"	12-15"	HIGH	FILTERED SHADE	N/A	N/A
MSA	5 GAL		MISCANTHUS SINENSIS 'ADAGIO'	COMPACT MAIDEN GRASS	2-3'	2-3'	MEDIUM	SUN	PINK	LATE SUMMER
MSP	5 GAL		MISCANTHUS SINENSIS PURPURASCENS	FLAME (PURPLE MAIDEN) GRASS	3-4'	2-3'	MEDIUM	SUN	BRONZE /SILVERY WHITE	LATE SUMMER
MSV	5 GAL		MISCANTHUS SINENSIS 'VARIEGATUS'	VARIEGATED MAIDEN GRASS	4-5'	2-3'	MEDIUM	SUN TO SHADE	SILVERY TO BUFF	LATE SUMMER TO EARLY FALL
MSY	5 GAL		MISCANTHUS SINENSIS 'YAKU JIMA'	YAKU JIMA MAIDEN GRASS	4-5'	2-3'	MEDIUM	SUN	CREAMY WHITE	LATE SUMMER
PAH	1 GAL		PENNISETUM ALOPECUROIDES 'HAMELN'	DWARF FOUNTAIN GRASS	12-18"	1-2'	LOW	SUN	WHITE WITH COPPER TINT	LATE SUMMER
			CONTAINER SHRUBS							
SYM	SIZE	QUAN	BOTANICAL NAME	COMMON NAME	HEIGHT	SPREAD	WATER USE	EXPOSURE	FLOWER COLOR	SEASON
AAR	5 GAL		AMELANCHIER ALNIFOLIA 'REGENT'	REGENT SERVICEBERRY	6-8'	6-8'	LOW	SUN	WHITE	MID-SPRING
BSV	5 GAL		BUXUS SEMPERVIRENS 'VARDAR VALLEY'	VARDER VALLEY BOXWOOD	3-4'	2-3'	MEDIUM	FS TO SHADE	GREEN	SPRING
CSI	5 GAL		CORNUS SERICEA 'ISANTI'	ISANTI DOGWOOD	4-6'	4-6'	MEDIUM	ADAPTABLE	WHITE	LATE SPRING TO EARLY SUMMER
CSK	5 GAL		CORNUS SERICEA 'KELSEYI'	KELSEY DWARF DOGWOOD	2-3'	2-3'	MEDIUM	FS TO SHADE	WHITE	LATE SPRING TO EARLY SUMMER
KAP	5 GAL		KOLKWITZIA AMABILIS 'PINK CLOUD'	PINK CLOUD BEAUTYBUSH	6-10'	6-10'	LOW	SUN TO FILTERED S	PINK	SPRING
LVL	5 GAL		LIGUSTRUM VULGARE 'LODENSE'	LODENSE PRIVET	3-4'	2-3'	LOW	SUN TO FS	WHITE	EARLY SUMMER
LH	5 GAL		LONICERA x 'HONEYROSE'	HONEYROSE HONEYSUCKLE	8-10'	5-10'	MEDIUM	SUN TO FILTERED S	ROSY-RED	LATE SPRING
PS	5 GAL		PHILADELPLUS SNOWBELLE	MOCKORANGE, SNOWBELLE	3-4'	3-4'	LOW	SUN	WHITE	LATE SPRING TO EARLY SUMMER
PO	5 GAL		PHYSOCARPUS OPULIFOLIUS COPPERTINA	NINEBARK, COPPERTINA	8-10'	6-10'	LOW	SUN	WHITE	SUMMER
PF	5 GAL		POTENTILLA FRUTICOSA	POTENTILLA, SHRUB	2-3'	2-3'	LOW	SUN	YELLOW	EARLY TO LATE SUMMER
PRA	5 GAL		PRUNUS AMERICANA	PLUM, AMERICAN	8-12'	10-20'	LOW	SUN	WHITE	MID TO LATE SPRING
PV	5 GAL		PRUNUS VIRGINIANA MELANOCARPA	CHOKECHERRY, NATIVE	8-12'	8-20'	LOW	SUN TO FILTERED S	WHITE	MID SPRING
PC	5 GAL		PRUNUS X CISTENA	PLUM, PURPLE LEAF	6-8'	4-6'	MEDIUM	SUN	PALE PINK	MID-SPRING
QG	5 GAL		QUERCUS GAMBELII	OAK, GAMBEL	6-12'	8-20'	VERY LOW	SUN TO FILTERED S	N/A	N/A
RAG	5 GAL		RHUS AROMATICA GRO-LOW	SUMAC, DWARF FRAGRANT	2-3'	6-8'	LOW	SUN	YELLOW	EARLY SPRING
RA	5 GAL		RIBES ALPINUM	CURRANT, ALPINE	3-6'	3-6'	LOW	SUN TO FS	YELLOWISH-GREEN	MID-SPRING
RC	5 GAL		RIBES CEREUM	CURRANT, SQUAW	2-4'	2-4'	LOW	SUN	GREENISH-WHITE	LATE SPRING
RCD	5 GAL		ROSA CAREFREE DELIGHT	CAREFREE DELIGHT ROSE	2-3'	3-6'	LOW	SUN	PINK WITH WHITE CENTER	EARLY TO LATE SUMMER
RFB	5 GAL		ROSA FOETIDA BICOLOR	ROSE, AUSTRIAN COPPER	6-8'	6-10'	LOW	SUN	YELLOW/ORANGE W/ SCARLET	LATE SPRING
RW	5 GAL		ROSA WOODSII	ROSE, NATIVE PINK	3-6'	3-6'	LOW	SUN	PINK	EARLY SUMMER
RH	5 GAL		ROSA X HARISONII	ROSE, HARISON'S YELLOW SHRUB	4-6'	4-6'	LOW	SUN	YELLOW	SUMMER
RNW	5 GAL		ROSA X NEARLY WILD	ROSE, SINGLE PINK SHRUB	2-3'	2-3'	LOW	SUN	PINK	EARLY TO LATE SUMMER
SI	5 GAL		SALIX IRRORATA	WILLOW, BLUE STEM	4-6'	4-12'	MEDIUM	SUN TO FILTERED S	YELLO-GREEN/GRAY	EARLY SPRING
SJA	5 GAL		SPIREA JAPONICA ANTHONY WATERER	SPIREA, ANTHONY WATERER	2-3'	2-4'	MEDIUM	SUN TO FS	ROSE RED	EARLY SUMMER
SNS	5 GAL		SPIREA NIPPONICA SNOWMOUND	SPIREA, SNOWMOUND	3-5'	3-5'	MEDIUM	SUN TO FS	WHITE	LATE SPRING
SA	5 GAL		SYMPHORICARPOS ALBUS	SNOWBERRY, WHITE	3-5'	3-4'	LOW	SUN TO FILTERED S	WHITE WITH PINK	EARLY SUMMER
SMP	5 GAL		SYRINGA MEYERI PALIBIN	LILAC, DWARF KOREAN	4-6'	4-6'	LOW	SUN	LAVENDER PINK	LATE SPRING
VDB	5 GAL		VIBURNUM DENTATUM BLUE MUFFIN	VIBURNUM, BLUE MUFFIN ARROWHEAD	3-5'	3-4'	MEDIUM	ADAPTABLE	WHITE	SPRING
VPT	5 GAL		VIBURNUM PLICATUM TOMENTOSUM WATANABEI	VIBURNUM, DWARF DOUBLEFILE	4-6'	6-8'	MEDIUM	SUN TO FS	WHITE	SPRING TO FALL
WFR	5 GAL		WEIGELA FLORIDA RUMBA	WEIGELA, RUMBA	2-3'	3-4'	MEDIUM	SUN TO FS	DARK RED	SUMMER
WFV	5 GAL		WEIGELA FLORIDA VARIEGATA	WEIGELA, VARIEGATED	4-6'	4-6'	MEDIUM	SUN TO FS	PINK	EARLY SUMMER
			ORNAMENTAL TREES							
SYM	SIZE	QUAN	BOTANICAL NAME	COMMON NAME	HEIGHT	SPREAD	WATER USE	EXPOSURE	FLOWER COLOR	SEASON
AT	2.5" CAL	1	ALNUS TENUIFOLIA	ALDER, THINLEAF	15-20'	15-30'	MEDIUM	SUN TO FS	REDDISH-BROWN	EARLY SPRING
AG	2.5" CAL	3	AMELANCHIER X GRANDIFLORA AUTUMN BRILLIANCE	SERVICEBERRY, AUTUMN BRILLIANCE	15-25'	15-20'	LOW	SUN	WHITE	SPRING
CCG	2.5" CAL	19	CRATAEGUS CRUS-GALLI INERMIS CRUSADER	HAWTHORN, THORNLESS COCKSPUR	12-15'	12-15'	LOW	SUN	WHITE	SPRING
KP	2.5" CAL	5	KOELREUTERIA PANICULATA	GOLDENRAIN TREE	20-25'	20-30'	LOW	SUN	YELLOW-GREEN	SPRING
MC	2.5" CAL	9	MALUS CORALBURST	CRABAPPLE, CORALBURST	12-15'	12-15'	MEDIUM	SUN	PINK-WHITE	SPRING
MD	2.5" CAL	10	MALUS DOLGO	CRABAPPLE, DOLGO	20-30'	20-30'	MEDIUM	SUN	WHITE	SPRING
MR	2.5" CAL	12	MALUS RADIANT	CRABAPPLE, RADIANT	15-20'	15-20'	MEDIUM	SUN	DEEP PINK	SPRING
MSS	2.5" CAL	10	MALUS SPRING SNOW	CRABAPPLE, SPRING SNOW	20-25'	20-25'	MEDIUM	SUN	WHITE	SPRING
PCN	2.5" CAL	16	PRUNUS CERASIFERA NEWPORT	PLUM, NEWPORT	15-20'	15-20'	MEDIUM	SUN	PINK	SPRING
PN	2.5" CAL	2	PRUNUS NIGRA PRINCESS KAY	PLUM, PRINCESS KAY CANADIAN	15-20'	10-15'	MEDIUM	SUN	WHITE	SPRING
PCC	2.5" CAL	7	PYRUS CALLERYANA CHANTICLEER	PEAR, CHANTICLEER	20-30'	15-20'	MEDIUM	SUN	WHITE	SPRING
SR	2.5" CAL	5	SYRINGA RETICULATA	LILAC, JAPANESE TREE	15-20'	15-22'	LOW	SUN TO FS	WHITE	LATE SPRING
		97								
			DECIDUOUS TREES							
SYM	SIZE	QUAN	BOTANICAL NAME	COMMON NAME	HEIGHT	SPREAD	WATER USE	EXPOSURE	FLOWER COLOR	SEASON
AN	3" CAL	17	ACER NEGUNDO SENSATION	BOXELDER, SENSATION	20-25'	25-30'	LOW	SUN	YELLOWISH-GREEN	EARLY SPRING
CS	3" CAL	8	CATALPA SPECIOSA	CATALPA WESTERN	40-60'	30-50'	LOW	FULL SUN	WHITE	LATE SPRING-EARLY SUMMER
CO	3" CAL	10	CELTIS OCCIDENTALIS	HACKBERRY, WESTERN	50-60'	40-50'	LOW	SUN	N/A	N/A
GTIS	3" CAL	6	GLEDITSIA TRIACANTHOS INERMIS SHADEMASTER	HONEYLOCUST, SHADEMASTER	40-50'	30-40'	LOW	SUN	N/A	N/A
PAB	3" CAL	15	PLATANUS X ACERIFOLIA BLOODGOOD	PLANETREE, BLOODGOOD	70-100'	65-80'	MEDIUM	SUN	N/A	N/A
POA	3" CAL	3	POPULUS ANGUSTIFOLIA	COTTONWOOD, NARROWLEAF	20-80'	30-50'	MEDIUM	SUN	N/A	N/A
QM	3" CAL	1	QUERCUS MACROCARPA	OAK, BUR	50-80'	50-80'	LOW	SUN	N/A	N/A
QR	3" CAL	1	QUERCUS ROBUR	OAK, ENGLISH	40-60'	30-40'	MEDIUM	SUN	N/A	N/A
TA	3" CAL	2	TILIA AMERICANA WANDELL	LINDEN, LEGEND AMERICAN	40-60'	30-40'	MEDIUM	SUN	PALE YELLOW	SUMMER
		68								
			EVERGREEN TREES							
SYM	SIZE	QUAN	BOTANICAL NAME	COMMON NAME	HEIGHT	SPREAD	WATER USE	EXPOSURE	FLOWER COLOR	SEASON
PP	8' HT	2	PICEA PUNGENS	SPRUCE, COLORADO	40-60'	20-30'	MEDIUM	SUN TO FS	N/A	N/A
PPS	8' HT	4	PICEA PUNGENS BABY BLUE EYES	SPRUCE, BABY BLUE EYES	20-30'	10-15'	MEDIUM	SUN	N/A	N/A
		6								

7 PRELIMINARY PLANT SCHEDULE

LANDSCAPE REQUIREMENTS

STREETSCAPE	LF	TREES REQUIRED	TREES PROVIDED	
28TH STREET	685	35	35	Smaller trees used to due to overhead powerlines
KALMIA	396	10	10	New 8 ft tree lawn allows for larger street trees to be planted
PASEO DEL PRADO - EAST SIDE	290	10	9	Additional trees are precluded due to driveways and utility conflicts
PASEO DEL PRADO - WEST SIDE	385	10	9	Additional trees are precluded due to driveways and utility conflicts
TOTAL		**65**	**63**	

SITE LANDSCAPE

TOTAL SITE AREA - 221,870

	SF	TREES REQUIRED	TREES PROVIDED	SHRUBS REQUIRED	SHRUBS PROVIDED
NET SITE AREA (NOT COVERED BY BUILDINGS OR PARKING)	125,474	84	105	418	**700 plus**

TREES PROVIDED DOES NOT INCLUDE STREET TREES
1 TREE AND 5 SHRUBS FOR EACH 1500 SF OF "NET SITE AREA"

NOTE: Dry utilities not yet shown on plan. Addition of utilities and transformers may result in a net loss of site trees but the overall count will still exceed city requirements.

6 LANDSCAPE COMPLIANCE CHARTS

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Drawing Issue	Date
Site Plan Review	3/18/2013
Site Plan Resubmittal	4/29/2013
Site Plan Resubmittal	6/13/2013

Seal

Criteria, Details, Plants

L3.0

LEGEND

- ASH
- COTTONWOOD
- CRACK WILLOW
- RUSSIAN OLIVE
- SIBERIAN ELM
- OTHER -
  COYOTE WILLOW
  CHOKECHERRY
  CRABAPPLE
  HAWTHORNE
  ROCKY MTN MAPLE
  SPRUCE

NOTE: SEE FULL TREE INVENTORY REPORT FOR SPECIES AND HEALTH ASSESSMENT OF EACH IDENTIFIED TREE.

OWNER TO REMOVE ALL RUSSIAN OLIVES.

SEE L1.0 FOR EXISTING TREES TO REMAIN.

STUDIOTERRA

SCALE: 1" = 30'-0"

0 15 30 60 FT NORTH

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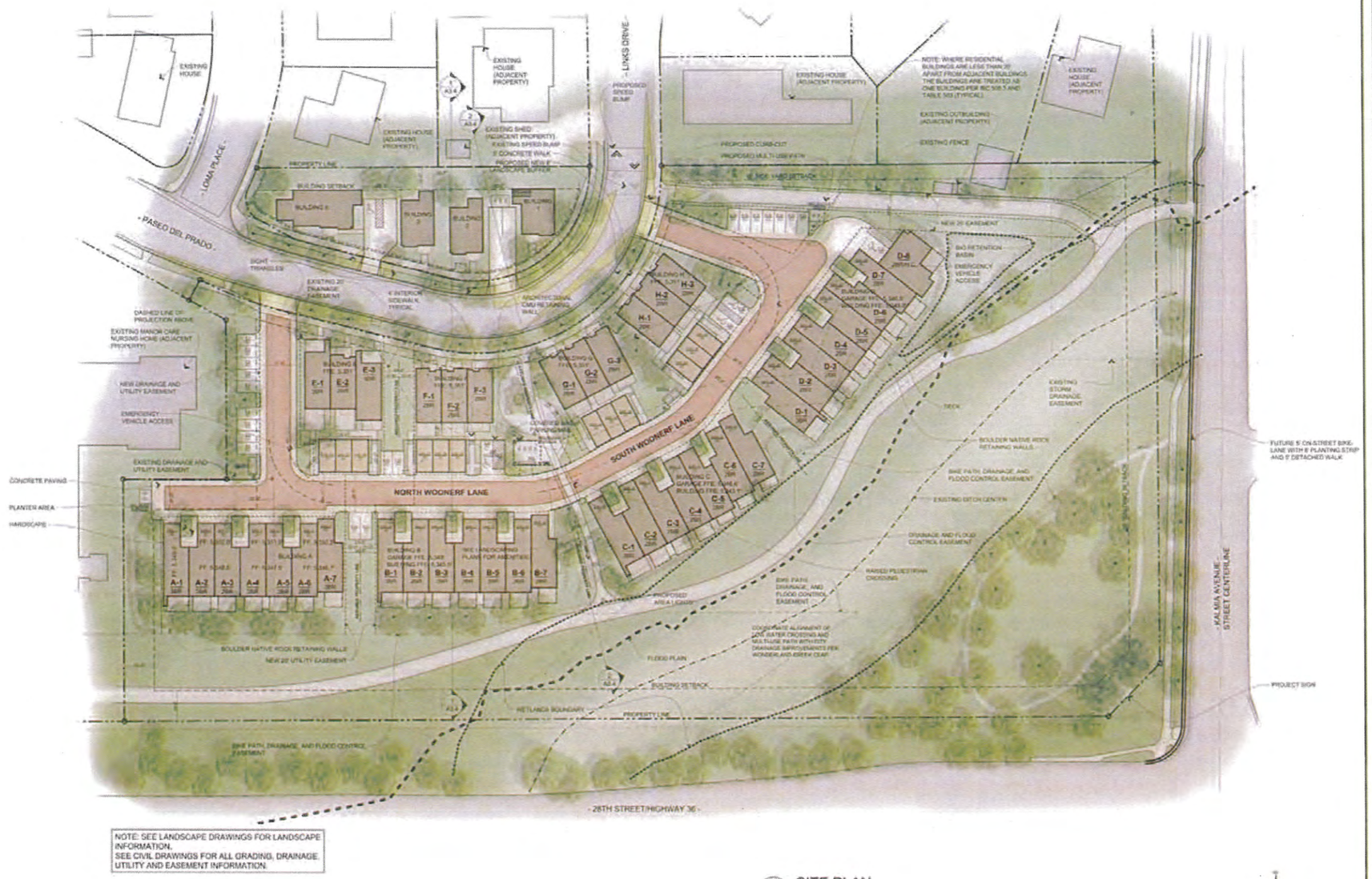
Site Plan Resubmittal	4/29/2013
Site Plan Resubmittal	6/13/2013

Seal

Tree Inventory Plan

L4.0



NOTE: SEE LANDSCAPE DRAWINGS FOR LANDSCAPE INFORMATION.
SEE CIVIL DRAWINGS FOR ALL GRADING, DRAINAGE, UTILITY AND EASEMENT INFORMATION.

1 SITE PLAN
1"=30'-0"

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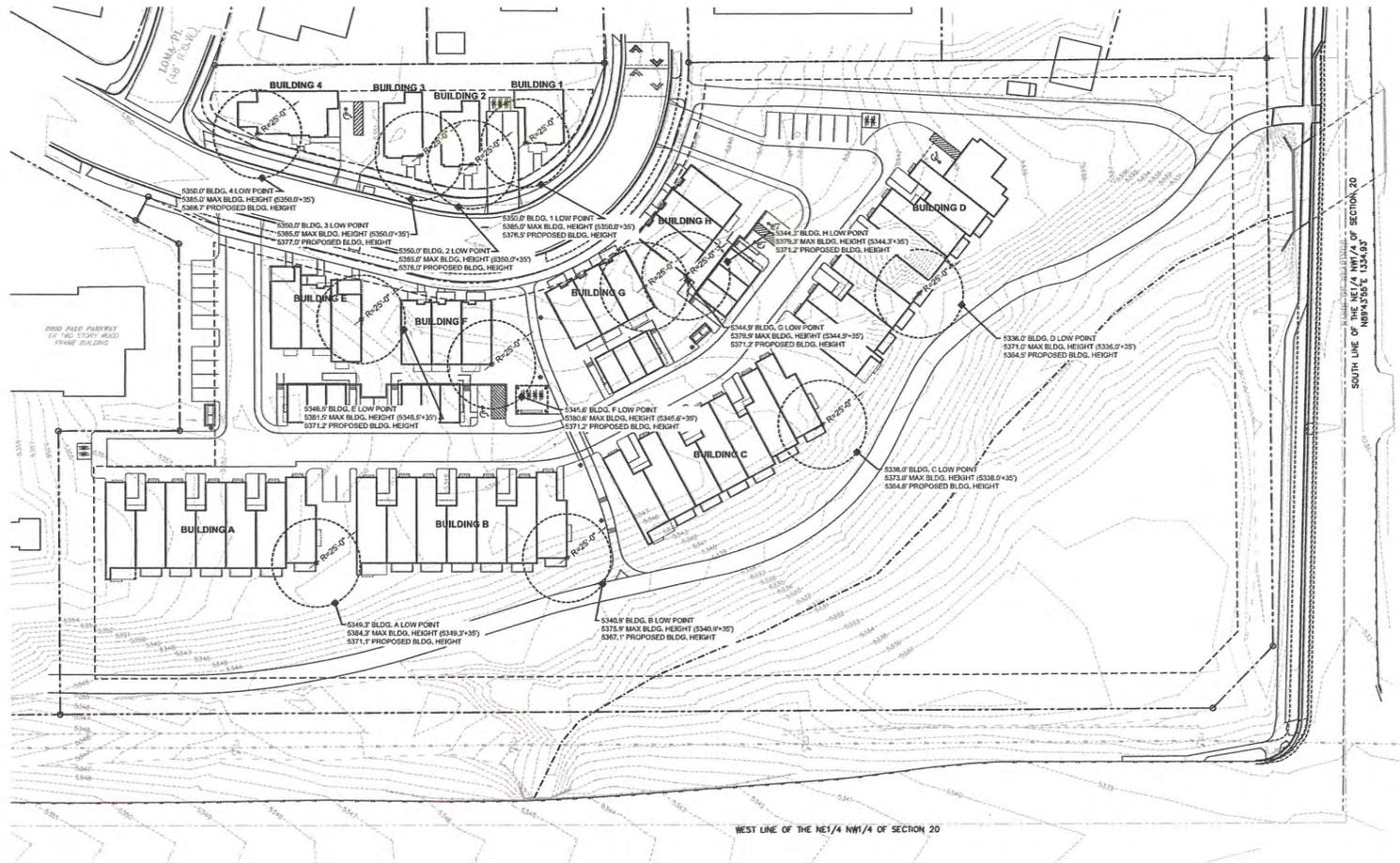
Drawing Issue	Date
Site Plan Review	3/18/2013
S.P.R. Resubmittal	6/2/2013
S.P.R. Resubmittal 2	6/17/2013
S.P.R. Resubmittal 3	7/12/2013

Site Plan

A1.0



NOTE:
RM-1 ZONING = 35 FOOT MAX. BLDG. HEIGHT ABOVE LOWEST POINT AS MEASURED PER SECTION 9-7-5 (1) OF B.R.C. 1981.

1 **MAX. BUILDING HEIGHT**
1"=30'-0"

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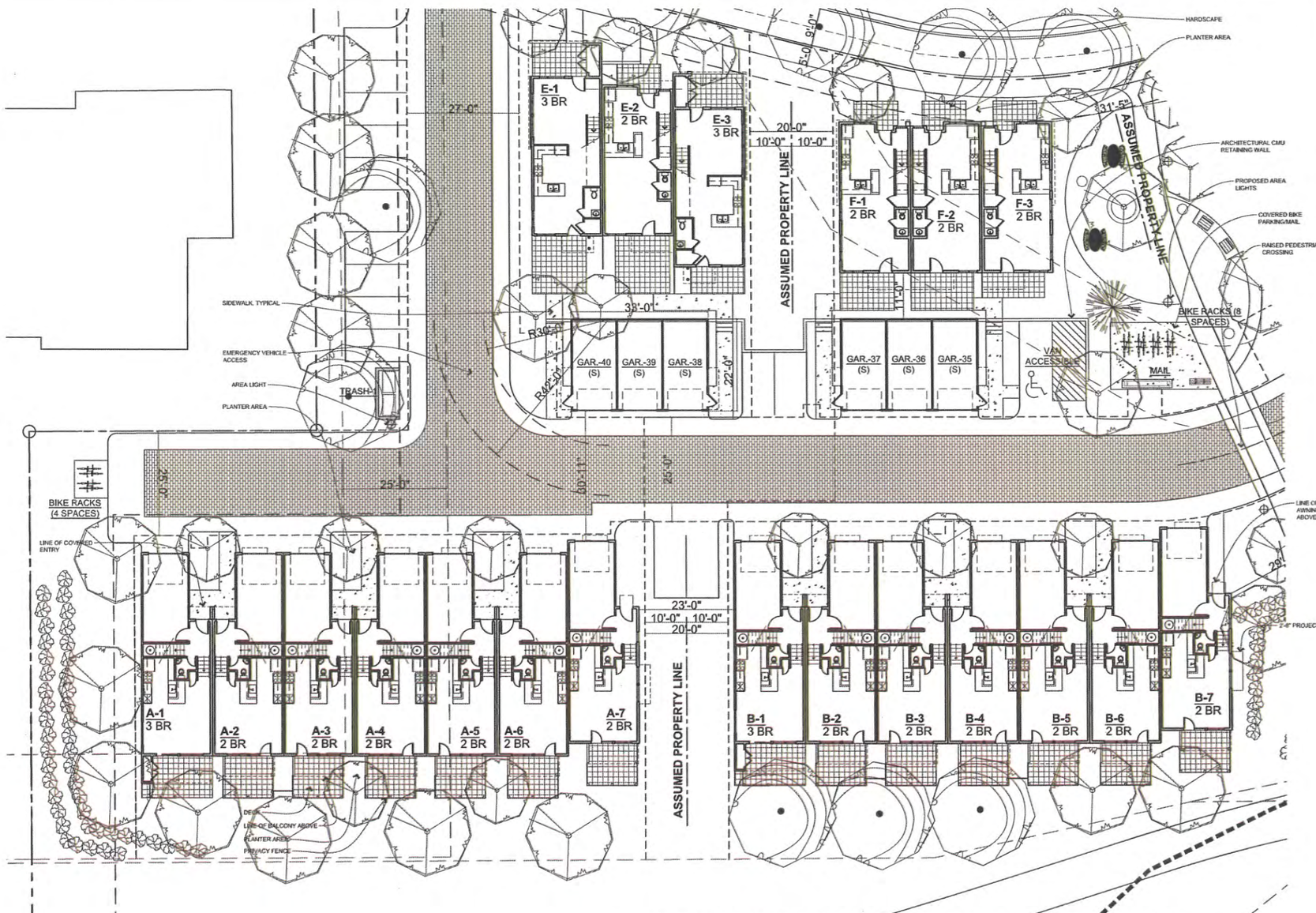
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013
S.P.R. Resubmittal 3	7/12/2013

Seal

Building Heights

A1.1

Thursday, July 18, 2013 5:55 PM P:\SSA Projects\12110 - Wonderland\CAD\ACTIVE DRAWINGS\DRAWING FILES (SHEETS)\A1.1 BUILDING HEIGHT.dwg



1 ENLARGED BUILDING PLANS - FIRST FLOOR - BUILDINGS A, B, E AND F
3/32"=1'-0"

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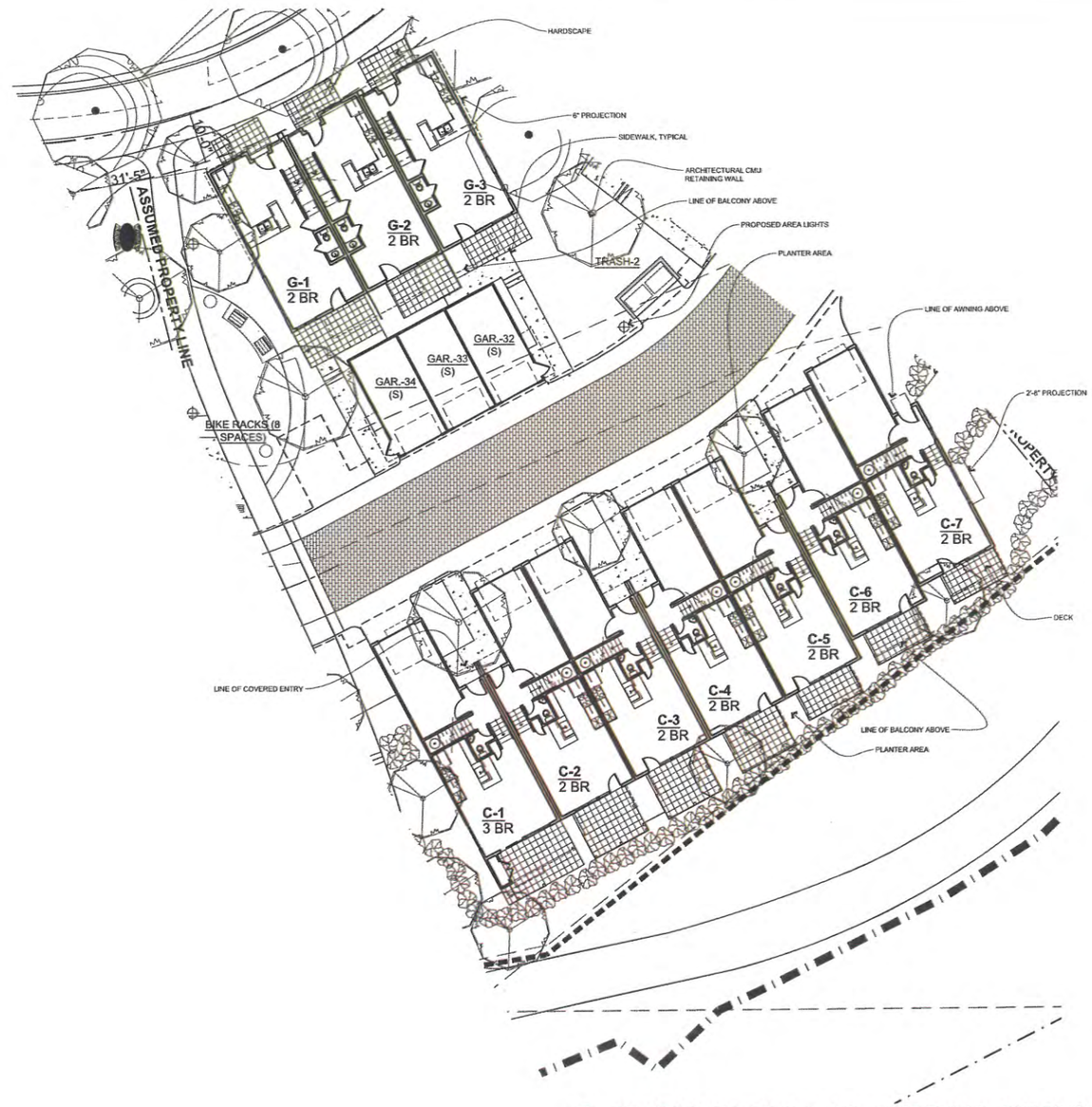
Drawing Issue	Date
Site Plan Review	3/18/2013
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013

Seal

Enlarged Building Plans
First Floor

A2.0



1 ENLARGED BUILDING PLANS - FIRST FLOOR - BUILDINGS C AND G
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Drawing Issue	Date
Site Plan Review	3/18/2013
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013

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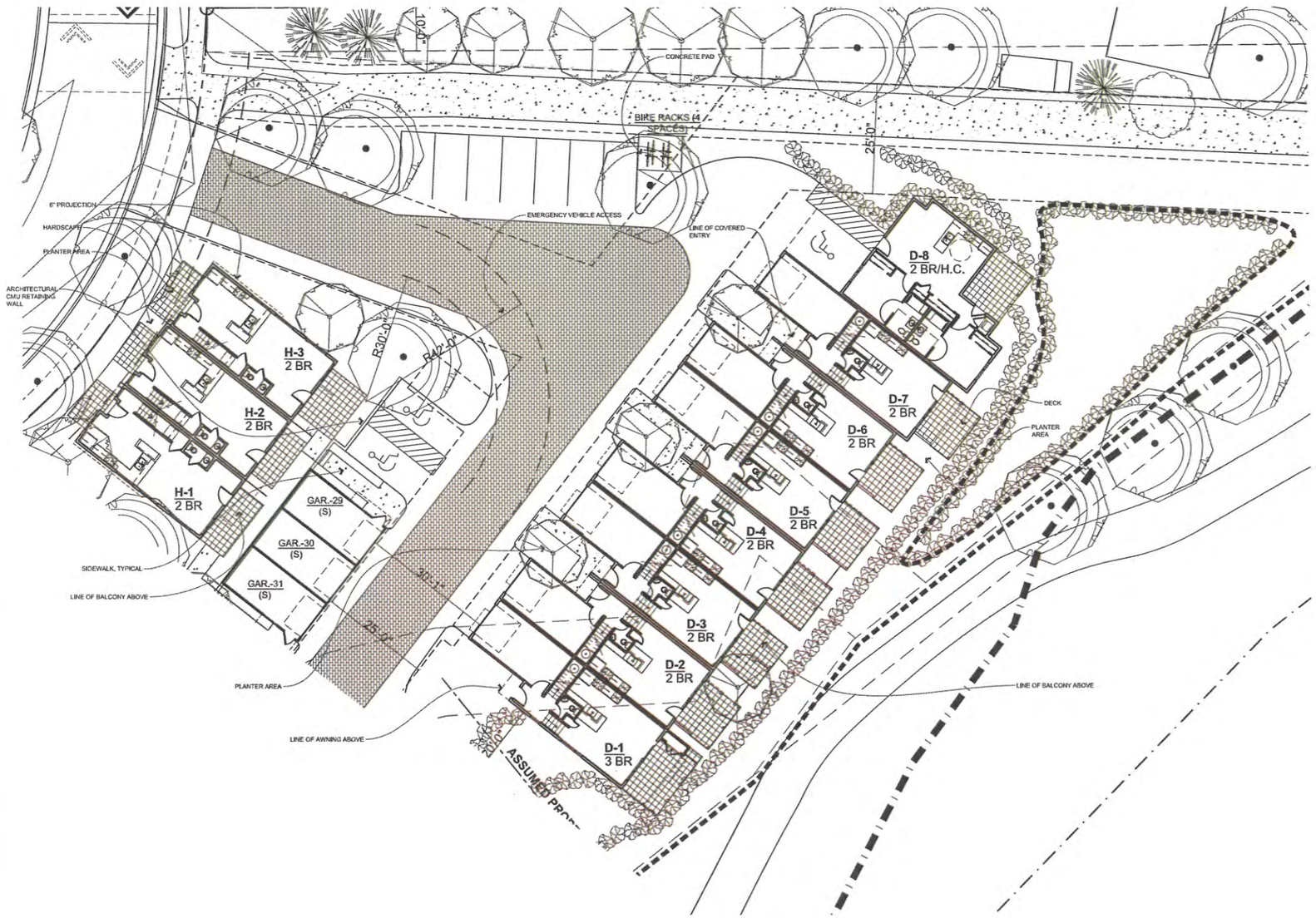
Enlarged Building Plans
First Floor

A2.1

Friday, June 14, 2013 11:17 AM P:\SSA Projects\12115 - Wonderland\CAD\ACTIVE DRAWINGS\DRAWING FILES (SHEETS)\A1.3 SITE PLAN.dwg



1 ENLARGED BUILDING PLANS - FIRST FLOOR - BUILDINGS D AND H
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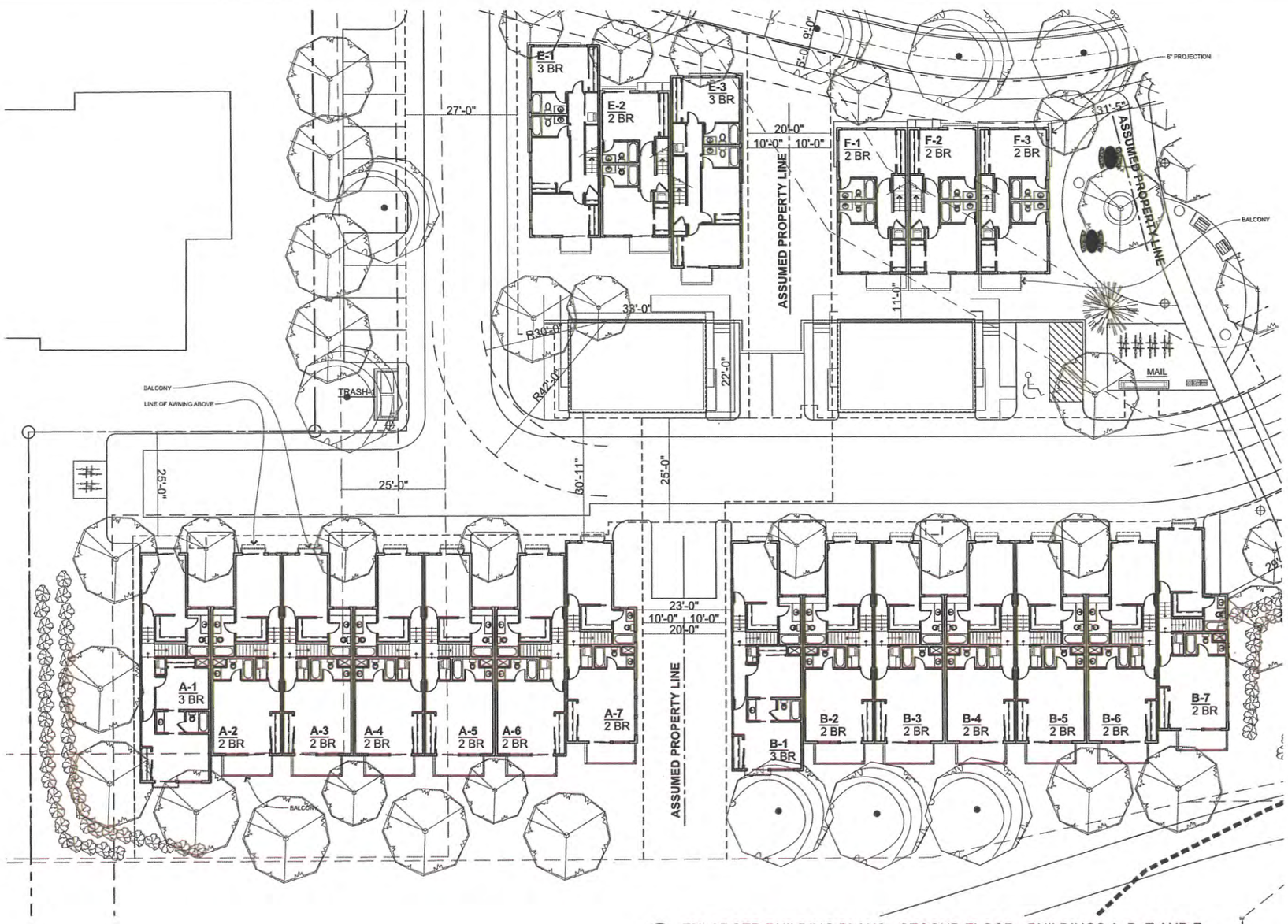
S.P.R. Resubmittal 2	6/17/2013

Seal

Enlarged Building Plans
First Floor

A2.2

Friday, June 14, 2013 11:17 AM FCSSA Projects\13115 - Wonderland\CAD\ACTIVE DRAWINGS\DRAWING FILES\SHEETS\A1.0 SITE PLAN.dwg



1 ENLARGED BUILDING PLANS - SECOND FLOOR - BUILDINGS A, B, E AND F
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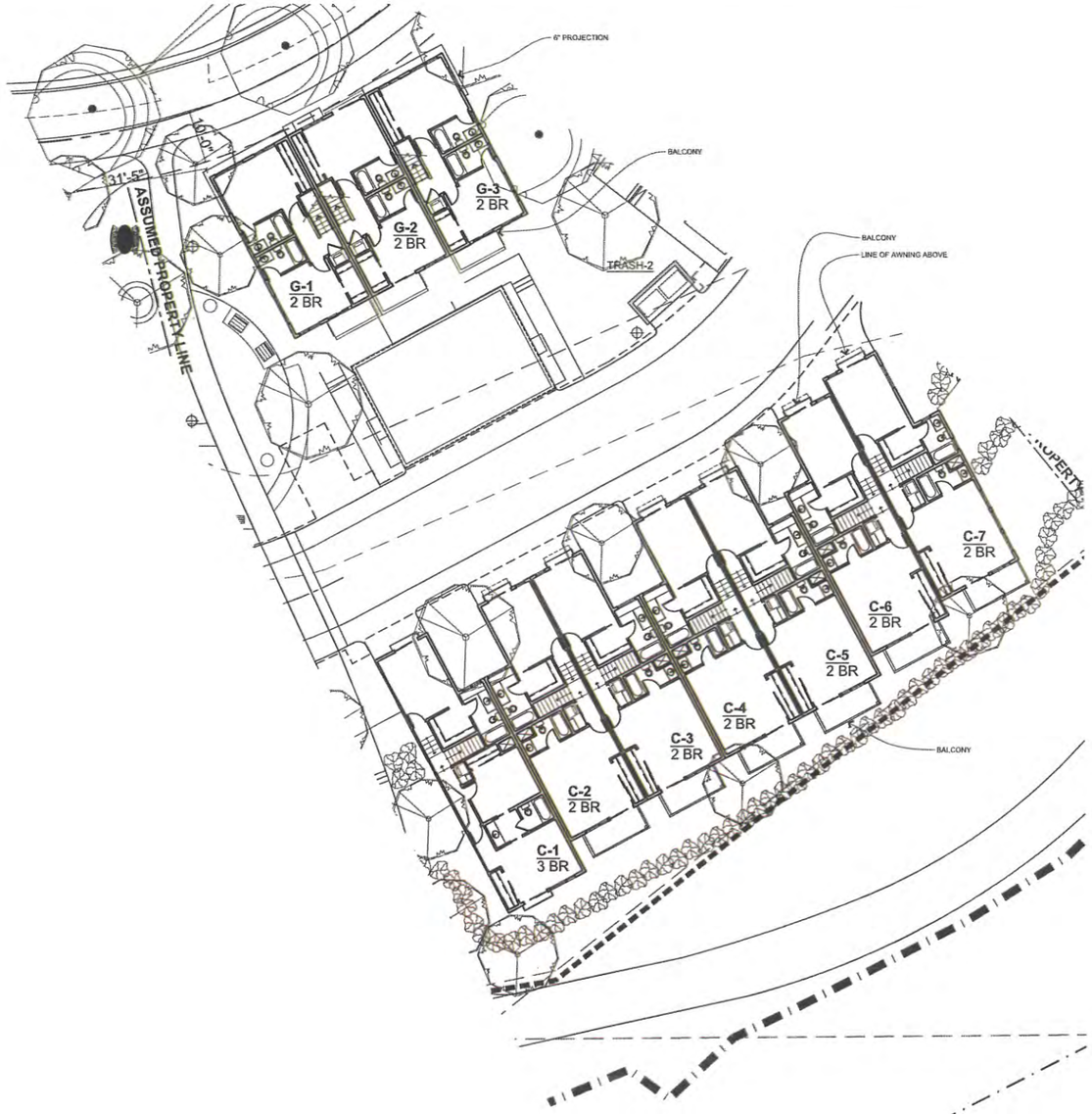
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013

Seal

Enlarged Building Plans
Second Floor

A2.3

Friday, June 14, 2013 11:17 AM P:\SSA Projects\1210 - Wonderland\CAD\ACTIVE DRAWINGS\DRAWING FILES (SHEETS)\A2.3 SITE PLAN.dwg



1 ENLARGED BUILDING PLANS - SECOND FLOOR - BUILDINGS C AND G
3/32"=1'-0"

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Seal

Enlarged Building Plans
Second Floor

A2.4

Friday, June 14, 2013 11:17 AM P:\SSA Projects\13119 - Wonderland\CAD\ACTIVE DRAWINGS\DRAWING FILES (SHEETS)\A1.0 SITE PLAN.dwg

1 ENLARGED BUILDING PLANS - SECOND FLOOR - BUILDINGS D AND H
3/32"=1'-0"

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Drawing Issue	Date
Site Plan Review	3/18/2013
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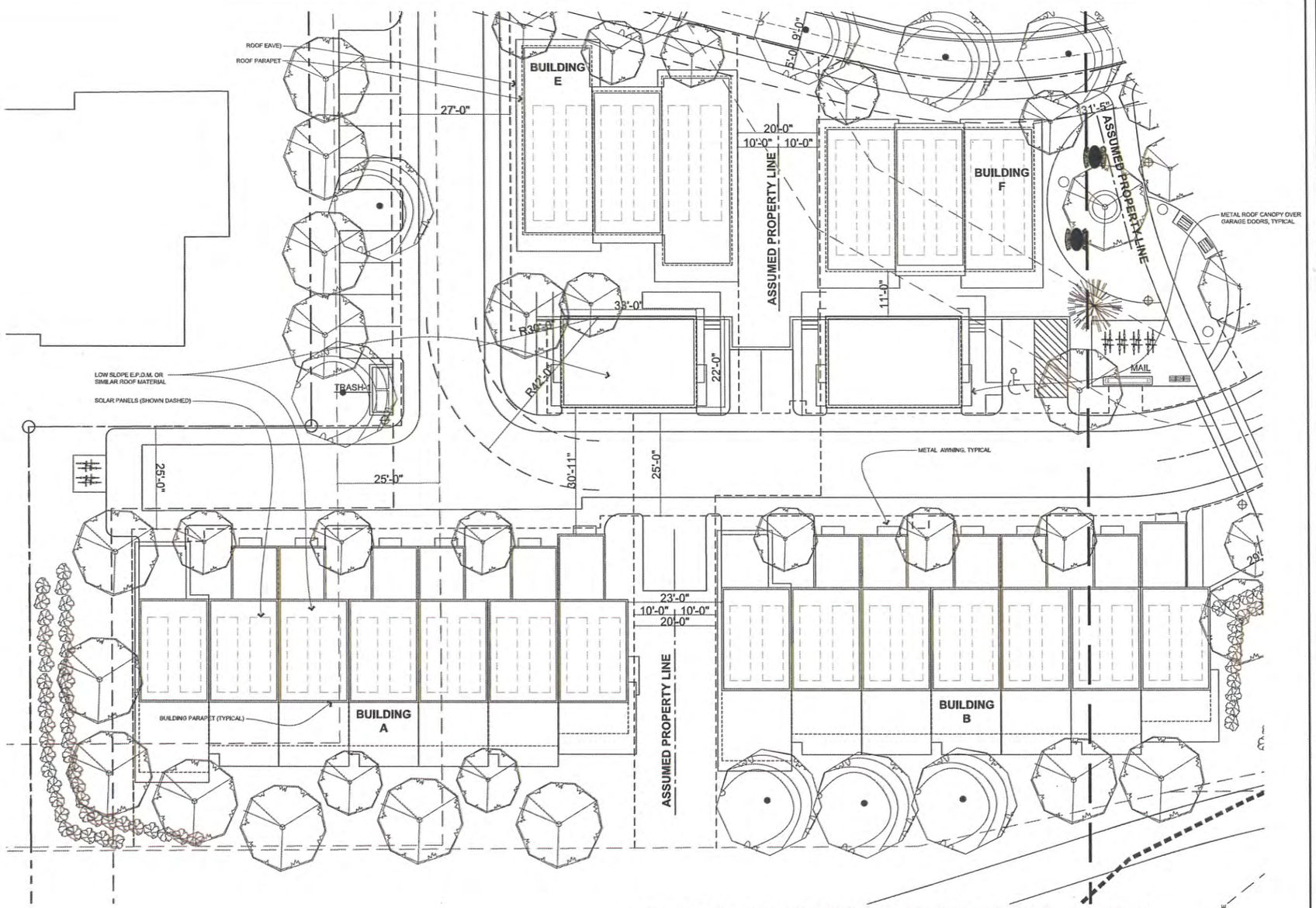
S.P.R. Resubmittal 2	6/17/2013

Seal

Enlarged Building Plans
Second Floor

A2.5



1 ENLARGED BUILDING PLANS - ROOF PLAN - BUILDINGS A, B, E AND F
3/32"=1'-0"

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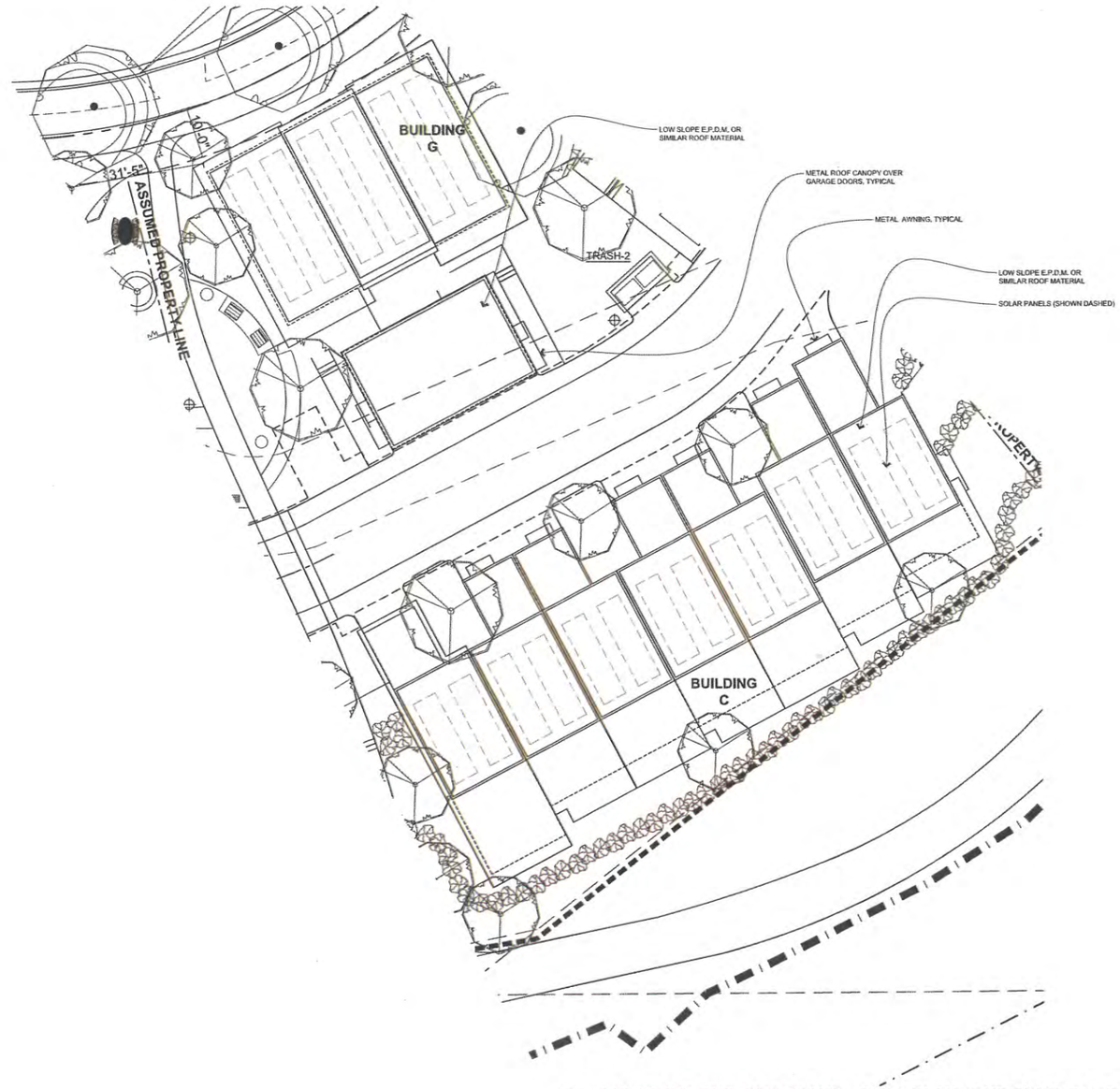
Seal

Enlarged Building Plans
Roof Plan

A2.6



1 ENLARGED BUILDING PLANS - ROOF PLAN - BUILDINGS C AND G
3/32"=1'-0"

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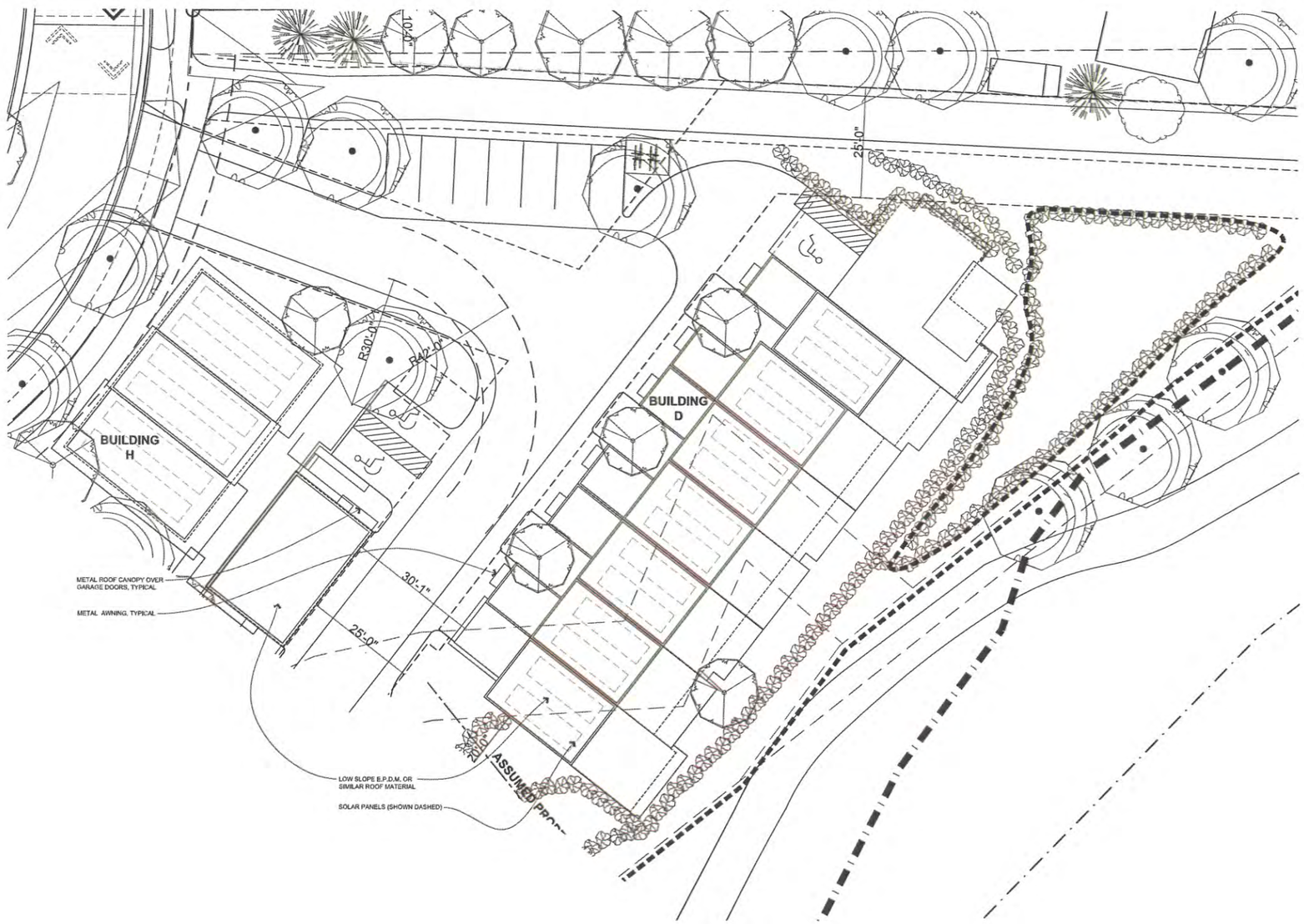
Seal

Enlarged Building Plans
Roof Plan

A2.7

Friday, June 14, 2013 11:53 AM P:\SSA Projects\13119 - Wonderland\CAD\ACTIVE DRAWINGS\DRAWING FILES (SHEETS)\A1.0 SITE PLAN.dwg



1 ENLARGED BUILDING PLANS - ROOF PLAN - BUILDINGS D AND H
3/32"=1'-0"

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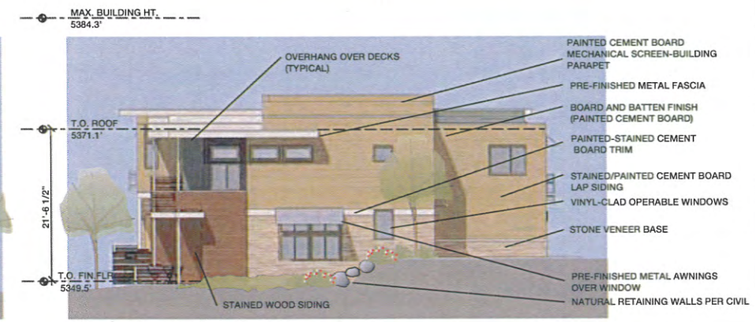
Seal

Enlarged Building Plans
Roof Plan

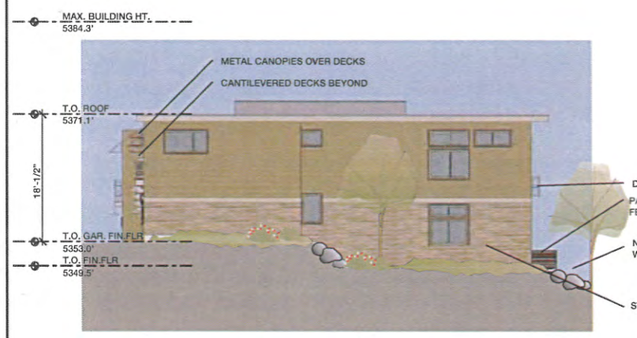
A2.8

Friday, June 14, 2013 11:18 AM P:\SGA Projects\12119 - Wonderland\CAD\ACTIVE DRAWINGS\DRAWING FILES (SHEETS)\A1.0 SITE PLAN.dwg

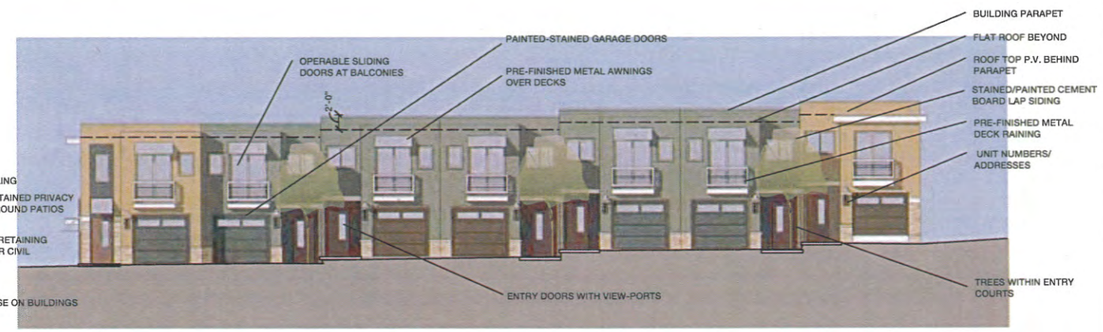
BUILDING A WEST ELEVATION
1/8"-1'-0"



BUILDING A SOUTH ELEVATION
TYPICAL "END VIEW" FOR BUILDINGS A-D 1/8"-1'-0"

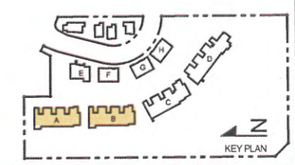


BUILDING A NORTH ELEVATION
TYPICAL "END VIEW" FOR BUILDINGS A-D 1/8"-1'-0"



BUILDING A EAST ELEVATION
1/8"-1'-0"

BUILDING B WEST ELEVATION
NOTE: SEE BUILDING A FOR TYPICAL FINISH NOTES 1/8"-1'-0"



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Drawing Issue	Date
Site Plan Review	3/18/2013
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013

Seal

Building Elevations

A3.0

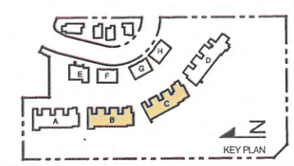
BUILDING B EAST ELEVATION
1/8"-1'-0"

BUILDING C WEST ELEVATION
1/8"-1'-0"

BUILDING C EAST ELEVATION
1/8"-1'-0"

NOTE: SEE SHEET A3.0 FOR TYPICAL EXTERIOR FINISH NOTES

SEE SHEET A3.0 FOR TYPICAL BUILDING A-D ELEVATIONS "END" CONDITIONS



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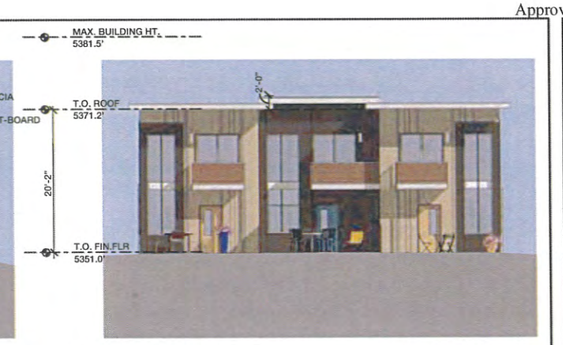
Building Elevations

A3.1

BUILDING D WEST ELEVATION
1/8"-1'-0"

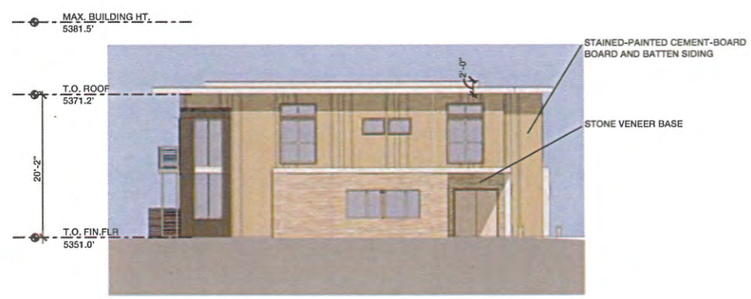


BUILDING E WEST ELEVATION
1/8"-1'-0"

BUILDING D EAST ELEVATION
1/8"-1'-0"

BUILDING E EAST (STREET) ELEVATION
1/8"-1'-0"

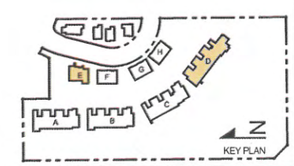
BUILDING E NORTH ELEVATION
TYPICAL "END VIEW" FOR BUILDINGS E-H 1/8"-1'-0"



BUILDING E SOUTH ELEVATION
TYPICAL "END VIEW" FOR BUILDINGS E-H 1/8"-1'-0"

NOTE: SEE SHEET A3.0 FOR TYPICAL EXTERIOR FINISH NOTES

SEE SHEET A3.0 FOR TYPICAL BUILDING A-D ELEVATIONS "END" CONDITIONS



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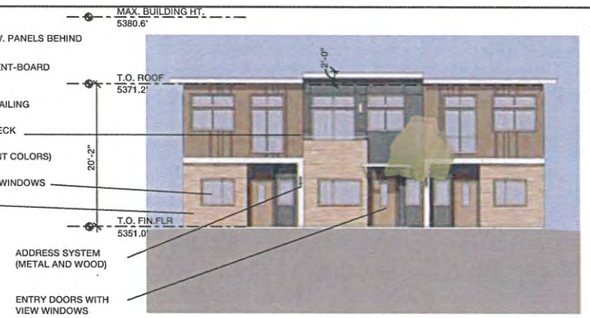
Seal

Building Elevations

A3.2

BUILDING F WEST ELEVATION
1/8"-1'-0"



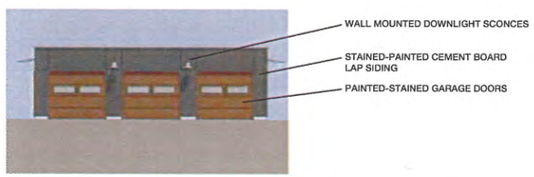
BUILDING F EAST (STREET) ELEVATION
1/8"-1'-0"

BUILDING G WEST ELEVATION
1/8"-1'-0"

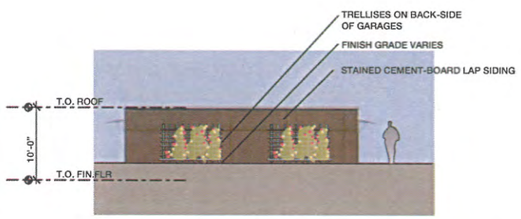
BUILDING G EAST (STREET) ELEVATION
1/8"-1'-0"

BUILDING H WEST ELEVATION
1/8"-1'-0"

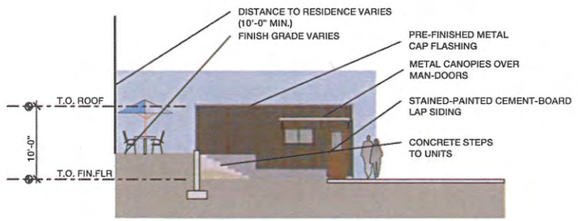
BUILDING H EAST (STREET) ELEVATION
1/8"-1'-0"



GARAGE FRONT ELEVATION (TYPICAL)
1/8"-1'-0"



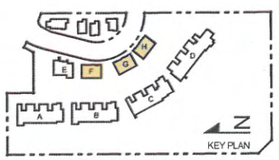
GARAGE BACK ELEVATION (TYPICAL)
1/8"-1'-0"



GARAGE SIDE ELEVATION (TYPICAL)
1/8"-1'-0"

NOTE: SEE SHEET A3.0 FOR TYPICAL EXTERIOR FINISH NOTES

SEE SHEET A3.2 FOR TYPICAL BUILDING E-H ELEVATIONS "END" CONDITIONS



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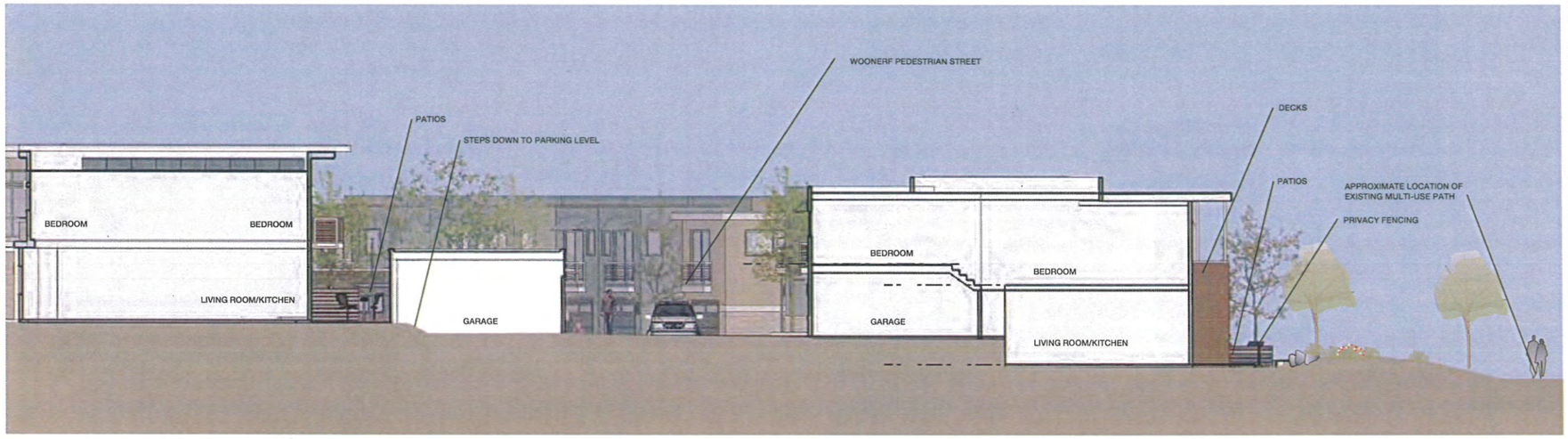
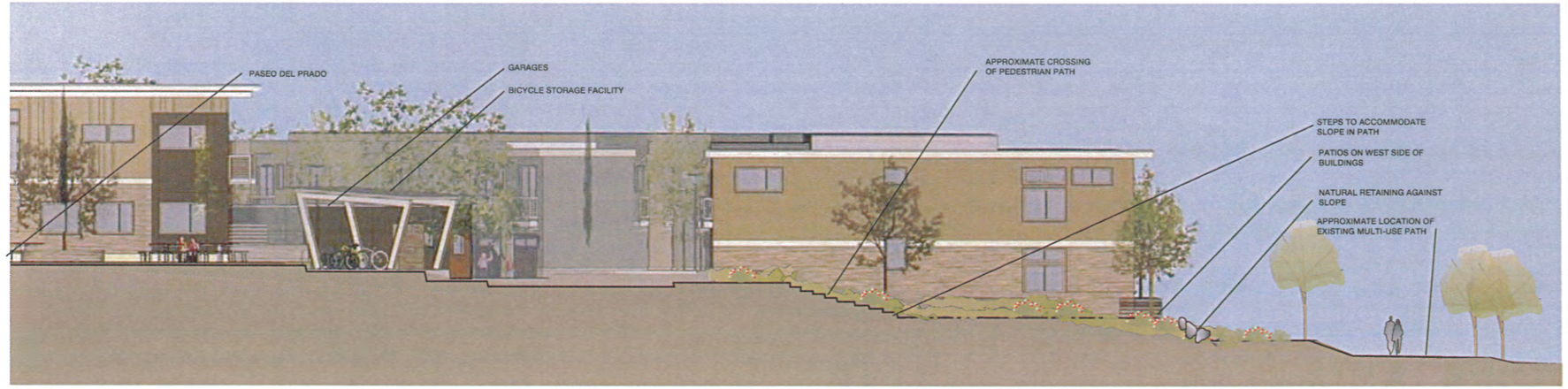
Building Elevations

A3.3



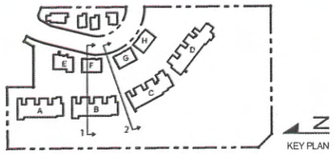
SITE SECTION-1

LOOKING SOUTH THROUGH BUILDINGS



SITE SECTION-2

LOOKING SOUTH AT PEDESTRIAN CROSSING



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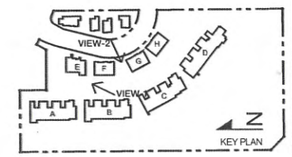
Site Sections

A3.4



PERSPECTIVE 1
VIEW OF TYPICAL PRIVATE COURTYARDS

PERSPECTIVE 2
VIEW OF PEDESTRIAN PATH THROUGH PROJECT

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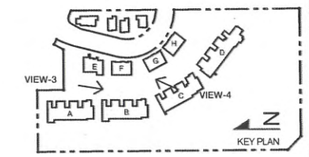
Building Elevations

A4.0



PERSPECTIVE 3

VIEW OF WOONERF LANE

PERSPECTIVE 4

VIEW OF WOONERF LANE

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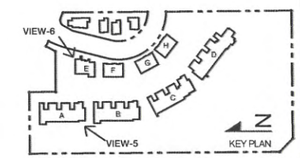
Drawing Issue	Date
Site Plan Review	3/18/2013
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013

Seal

Building Elevations

A4.1



PERSPECTIVE 5

VIEW OF TYPICAL WEST SIDE

PERSPECTIVE 6

VIEW OF PASEO DEL PRADO ENTRY

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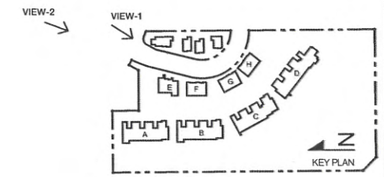
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013

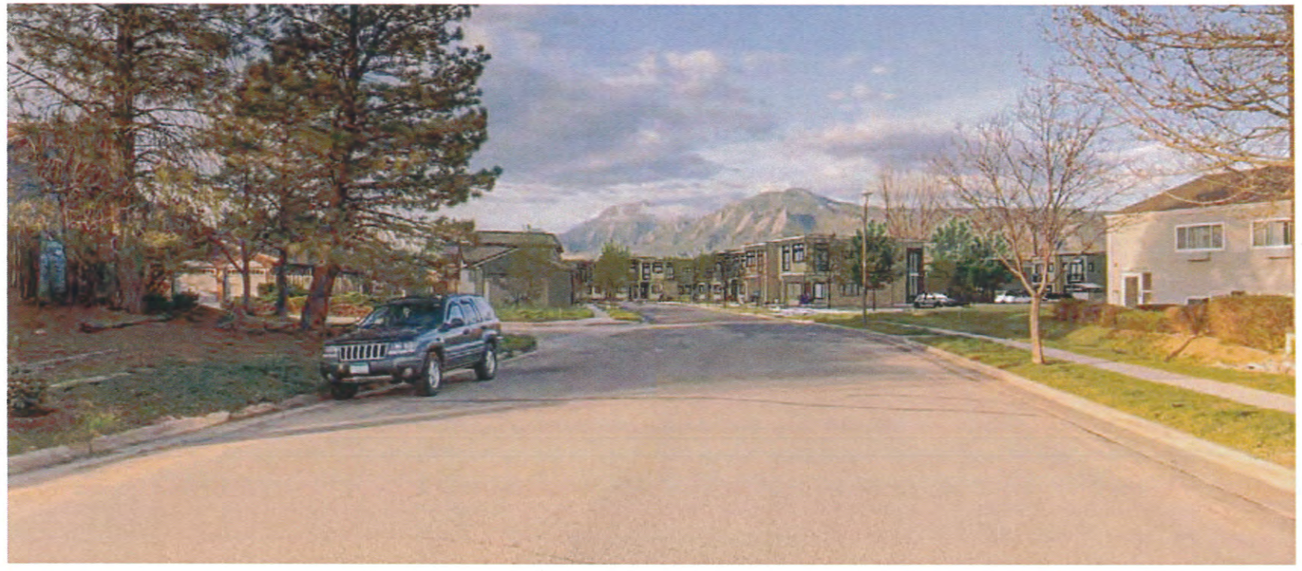
Seal

Building Elevations

A4.2



CONTEXT PERSPECTIVE 1



CONTEXT PERSPECTIVE 2

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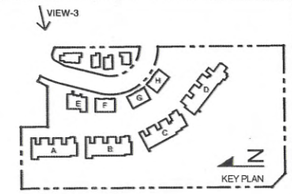
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013

Seal

Context Perspectives

A4.3



CONTEXT PERSPECTIVE 3

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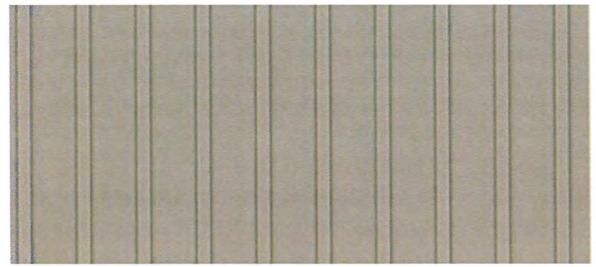
S.P.R. Resubmittal 2	6/17/2013

Seal

Context Perspectives

A4.4

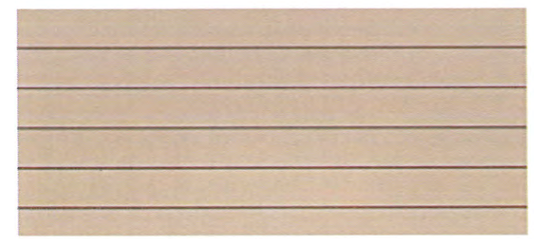
SMOOTH FINISH PAINTED CEMENT BOARD SIDING



PAINTED BOARD AND BATTEN SIDING
(BATTENS VARY IN WIDTH FOR THIS APPLICATION)

STONE BASE CLADDING

STAINED WOOD ACCENT SIDING



SMOOTH LAP SIDING

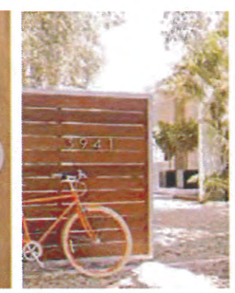
FINISHES

METAL ROOFING
(AT SOME DECK LOCATIONS
AND GARAGE DOOR LOCATIONS)

DOWNLIGHTS AT PORCH

WOOD AND GLASS DOOR

ADDRESS NUMBERS



PRIVACY FENCES

METAL RAILINGS

DETAILS

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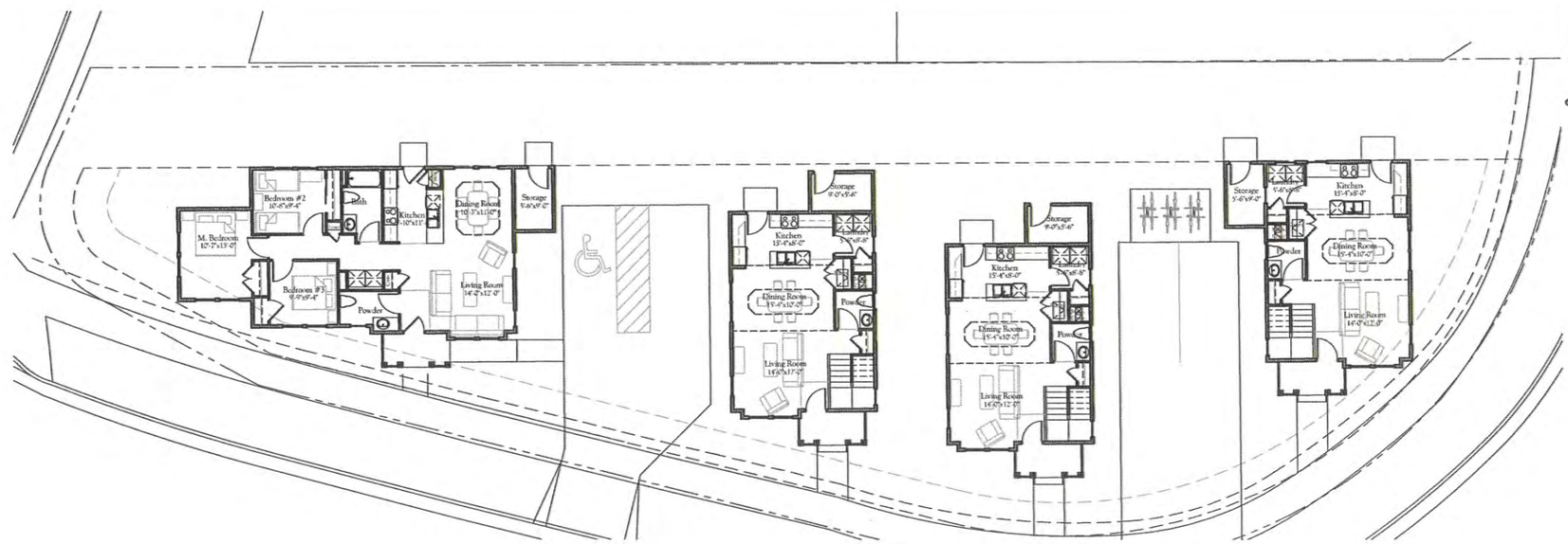
S.P.R. Resubmittal	5/2/2013
S.P.R. Resubmittal 2	6/17/2013

Seal

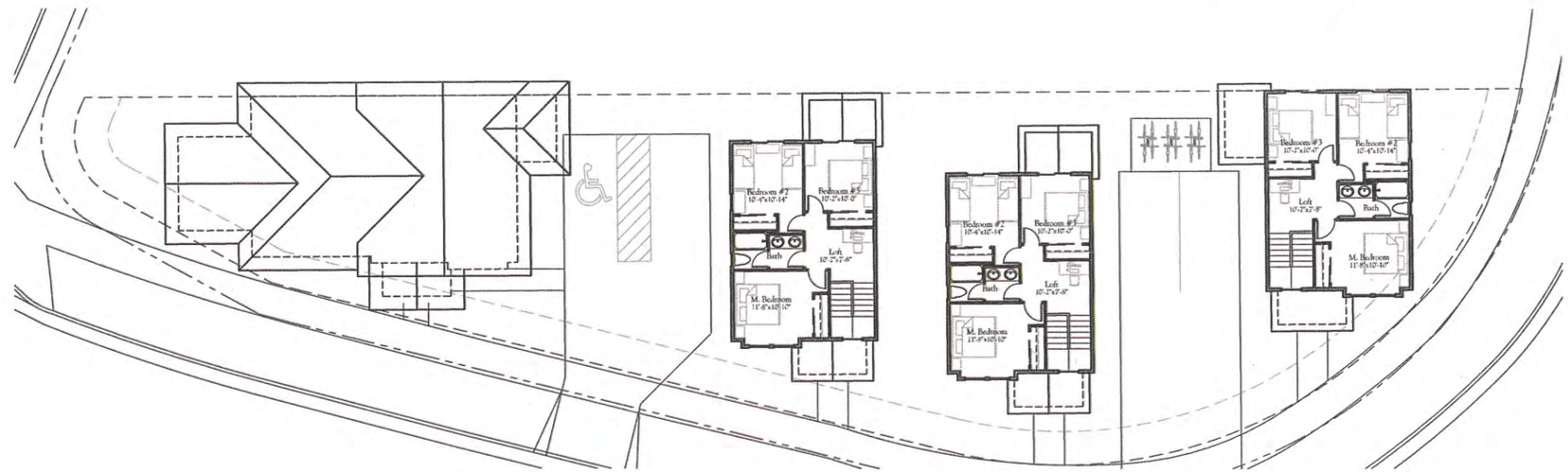
Building Elevations

A5.0

Attachment B
Approved Plans



1 Habitat For Humanity Homes
Main Floor Plans
Scale: 1/8" = 1'-0"



2 Habitat For Humanity Homes
Upper Floor Plans
Scale: 1/8" = 1'-0"

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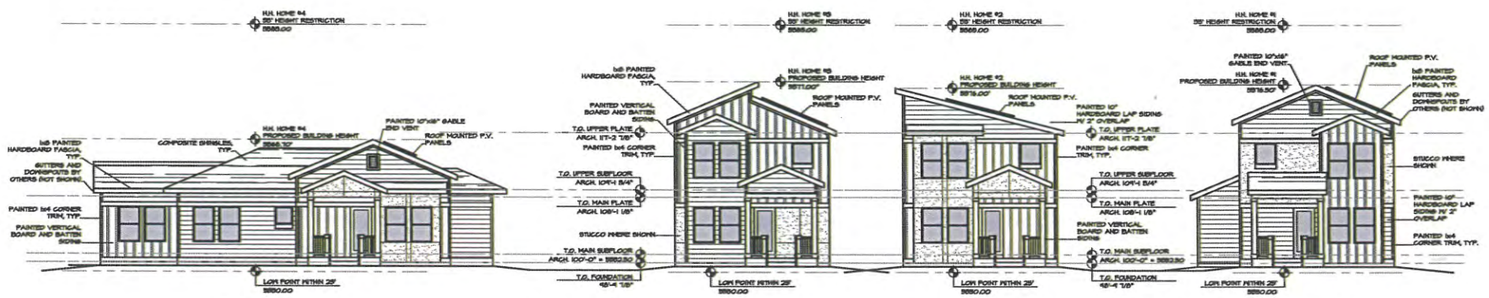
Seal

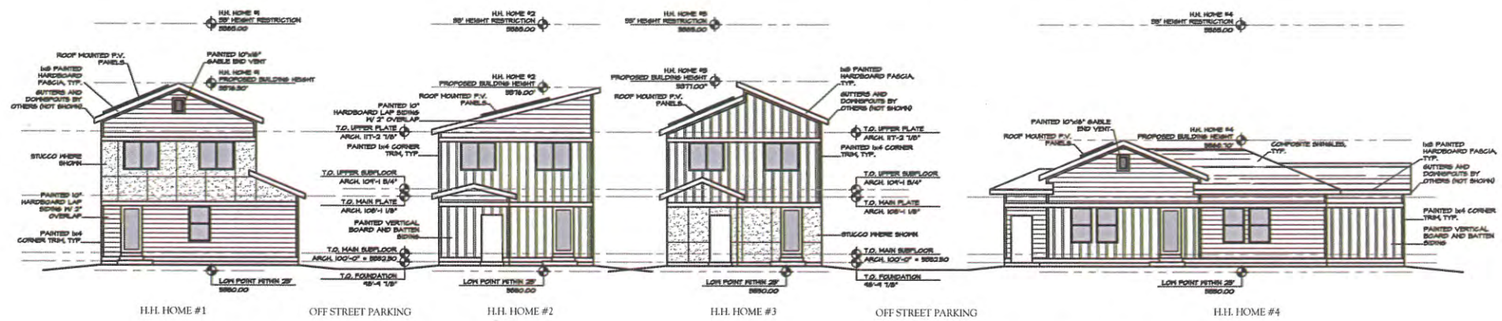
HH Floor Plans

HH1.0



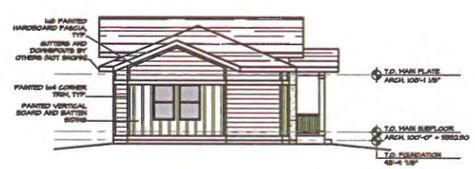
Habitat For Humanity Homes
1 Front Elevations

Scale: 1/8" = 1'-0"



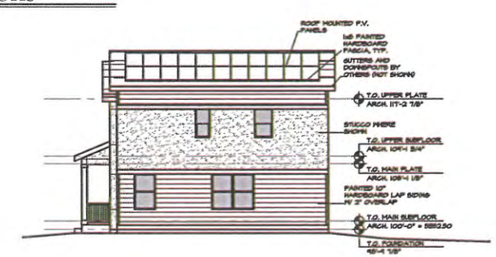
Habitat For Humanity Homes
2 Rear Elevations

Scale: 1/8" = 1'-0"



Habitat For Humanity Homes
4 House 4 North Elevation

Scale: 1/8" = 1'-0"



Habitat For Humanity Homes
3 House 1 South Elevation

Scale: 1/8" = 1'-0"

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S.P.R. Resubmittal 2	8/17/2013

Seal

HH Building Elevations

HH2.0

Habitat For Humanity Homes
2 Streetscape from West
Scale: 1/8" = 1'-0"

Habitat For Humanity Homes
1 Streetscape From Southwest
Scale: 1/8" = 1'-0"

Habitat For Humanity Homes
4 Home 3 & Home 4
Scale: 1/8" = 1'-0"

Habitat For Humanity Homes
3 Home 1 & Home 2
Scale: 1/8" = 1'-0"

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S.P.R. Resubmittal 2	6/17/2013

Seal

HH Character Perspectives

HH3.0

Case #: LUR2013-00021

Project Name: Wonderland Creek Townhomes

Date: June 26, 2013

CRITERIA FOR REVIEW

No site review application shall be approved unless the approving agency finds that:

(1) Boulder Valley Comprehensive Plan:

_Y_(A) **The proposed site plan is consistent with the land use map and the service area map and, on balance, the policies of the Boulder Valley Comprehensive Plan**.

As indicated by the map at the right, the property is designated as Residential Medium (MR) by the BVCP. As noted in the BVCP, areas designated as Residential Medium are defined as having densities of six to 14 dwelling units per acre.

The project is site is zoned Residential Medium-1 (RM-1) which is defined as:

> *"Medium density residential areas which have been or are to be primarily used for attached residential development, where each unit generally has direct access to ground level, and where complementary uses may be permitted under certain conditions" (section 9-5-2(c)(1)(C), B.R.C. 1981).*

Immediately adjacent to the project site on three sides, north, south and west is RM-1 zoning while Residential Low-2 is adjacent on the east. The project site is also adjacent to unincorporated Boulder County on the northeast where the county zoning is Suburban Residential.

The development proposal was found to be generally consistent with both the BVCP and the Site Review criteria given the modern, building forward design and general openness of the development concept. The following BVCP policies speak directly to creating a well-connected, infill development that is consistent with the surrounding development:

2.15 Compatibility of Adjacent Land Uses
2.19 Urban Open Lands
2.21 Commitment to a Walkable and Accessible City
2.23 Trail Corridors/Linkages
2.30 Sensitive Infill and Redevelopment
2.31 Design of Newly-Developing Areas
2.32 Physical Design for People
2.33 Environmentally Sensitive Urban Design
2.37 Enhanced Design for Private Sector Projects
7.06 Mixture of Housing Types
7.09 Housing for a Full Range of Households
7.10 Balancing Housing Supply with Employment Base

Overall, the development concept is generally consistent with the zoning and the BVCP land use designation densities as well as the general character of the existing single-family detached development immediately adjacent to the project site. The goals and policies in the BVCP,

including policies 7.06, 7.09, and 7.10 as mentioned above, provide support for development that contributes to providing a diverse mix of housing types for a full-range of households as well as balancing the housing supply with the employment base.

_Y_(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 three-hundred-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**:

> **_Y_(i) The density permitted in the Boulder Valley Comprehensive Plan, or**,
>
> *Areas designated as Residential Medium are defined as having densities of six to 14 dwelling units per acre. The development proposal has a density of 8.8 dwelling units per acre, which is consistent with the BVCP land use designation.*
>
> **N/A (ii) The maximum number of units that could be placed on the site without waiving or varying any of the requirements of chapter 9-8, "Intensity Standards," B.R.C. 1981**.

_Y_(C) The proposed development's success in meeting the broad range of BVCP policies considers the economic feasibility of implementation techniques require to meet other site review criteria.

As a result of the development proposal, no public amenities are required that would render the development proposal economically infeasible. All of the required public amenities will be completed as part of the construction of the proposed development, or secured with a financial guarantee, including a multi-use path connection located along the eastern property line, on-street bike lane and 8-foot detached sidewalk and 8-foot planting strip along Kalmia Avenue.

(2) 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, multi-modal transportation connectivity and its physical setting. Projects should utilize site design techniques which are consistent with the purpose of site review in subsection (a) of this section and enhance the quality of the project. In determining whether this subsection is met, the approving agency will consider the following factors:

_Y_(A) Open Space: Open space, including, without limitation, parks, recreation areas, and playgrounds:

> **_Y_(i) Useable open space is arranged to be accessible and functional and incorporates quality landscaping, a mixture of sun and shade and places to gather**;
>
> *Open space is provided in excess of what is required (3,000 square feet per dwelling unit equates to 135,000 square feet) with 160,145 square feet. As part of the open space program, the development proposal provides open space areas in a variety of forms and sizes both private and public shared spaces, including side yards, plazas, patios, decks*

and path connections through the project site as well as larger open spaces connected to the larger city-wide system. The majority of the western half of the five-acre project site is provided as open space given the location of the Wonderland Creek Greenway and multi-use path on that portion of the site. In addition, shared open space amenities are provided on the eastern portion of the site in the form of patios, gathering spaces with covered seating and BBQ area, and dog amenities.

_Y_(ii) Private open space is provided for each detached residential unit;

Each of the four detached single-family residential dwelling units has a private yard.

_Y_(iii) The project provides for the preservation of or mitigation of adverse impacts to natural features, including, without limitation, healthy long-lived trees, significant plant communities, ground and surface water, wetlands, riparian areas, drainage areas and species on the federal Endangered Species List, "Species of Special Concern in Boulder County" designated by Boulder County, or prairie dogs (Cynomys ludiovicianus), which is a species of local concern, and their habitat;

The majority of the western half of the five-acre project site is provided as open space given the location of the Wonderland Creek Greenway and multi-use path on that portion of the site. Development on the project site is limited to the eastern portion of the project site to preserve the existing wetland and creek channel amenities.

_Y_(iv) The open space provides a relief to the density, both within the project and from surrounding development;

As part of the open space program, the development proposal provides open space areas in a variety of forms and sizes, including side yards, plazas, patios and path connections through the project site, all of which provides relief to the density of the project as well as the building mass and bulk.

_Y_(v) Open space designed for active recreational purposes is of a size that it will be functionally useable and located in a safe and convenient proximity to the uses to which it is meant to serve;

The open spaces provided on site provide for a variety of both active and passive recreation opportunities, including plazas and grilling areas as well as multi-use path connections and the Wonderland Creek Greenway. In addition, the open space amenities are all accessible spaces that encourage connectivity through the site and maintain the site's visual permeability.

_Y_(vi) The open space provides a buffer to protect sensitive environmental features and natural areas; and

The existing 50-foot wetland buffer and large open space area located on the western portion of the site protect the Wonderland Creek amenity.

_Y_(vii) If possible, open space is linked to an area- or city-wide system.

Given the location of the Wonderland Creek Greenway and multi-use path on the western portion of the project site, the open space and multi-use path connections provided on the project site are connected to the larger city-wide system.

N/A (B) ***Open Space in Mixed Use Developments (Developments that contain a mix of residential and non-residential uses)***

_Y_(C) ***Landscaping***

_Y_(i) The project provides for aesthetic enhancement and a variety of plant and hard surface materials, and the selection of materials provides for a variety of colors and contrasts and the preservation or use of local native vegetation where appropriate;

The development proposal includes a variety of hard surfaces, most with enhanced paving materials and extensive landscape areas, including a centralized open space that utilizes colored concrete and is planted with perennials and ornamental grasses to provide color and contrast.

In addition, there are also extensive areas of native vegetation to reduce the water consumption and fit into the Wonderland Creek natural drainage way.

Finally, the plan materials that have been selected will provide pedestrian interest given the varying scales of plantings, adequate screening and relief to the buildings' mass and scale as well as provide year-round color.

_Y_(ii) Landscape design attempts 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;

Currently, most of the on site vegetation is invasive. All of the invasive species will be removed as part of the development proposal. The project site will be replanted with more appropriate plant materials, including native grasses, trees and shrubs.

_Y_(iii) The project provides significant amounts of plant material sized in excess of the landscaping requirements of sections 9-9-12, "Landscaping and Screening Standards" and 9-9-13, "Streetscape Design Standards," B.R.C. 1981; and

The majority of landscaping proposed, including the trees, are in excess of the size requirements, providing adequate screening and relief to building mass and scale.

_Y_(iv) The setbacks, yards, and useable open space along public rights-of-way are landscaped to provide attractive streetscapes, to enhance architectural features, and to contribute to the development of an attractive site plan.

Overall, the development proposal to remove the existing invasive species and replant the project site with plants that are more commonly found in mountain west's arid climate, the landscape plan is an improvement over the existing condition. In addition, the majority of the proposed planting are in excess of what is required which will provide relief to the buildings' mass and scale, enhance the architectural features and pedestrian interest as well as provide adequate screening.

_Y_(D) *Circulation:* Circulation, including, without limitation, the transportation system that serves the property, whether public or private and whether constructed by the developer or not:

_Y_(i) High speeds are discouraged or a physical separation between streets and the project is provided;

Recognizing that the development does not provide a connection that is part of a network plan, in order to provide through site circulation the woonerf-style shared drive is provided to create connectivity through the entire site. In doing so, unnecessary trips as a result of double backing through the north or south side of the development will be eliminated and potential pedestrian-vehicle conflicts will be minimized. In addition, a raised crossing will be provided as a safety measure and speed reduction tactic at the pedestrian crossing along the woonerf.

_Y_(ii) Potential conflicts with vehicles are minimized;

By providing a shared access drive through the site, unnecessary trips through the site will be eliminated as a result of double-backing through the site which will also result in the number of pedestrian vehicle conflicts.

_Y_(iii) Safe and convenient connections are provided that support multi-modal mobility through and between properties, accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, pedestrianways and trails;

Overall, given the project site's location at the northeast corner of 28th Street and Kalmia Avenue and along the Wonderland Creek Greenway; the site is will connected to the larger city-wide multi-modal transit systems. As part of the development proposal, the applicant is providing two connections through the project site to the Wonderland Creek multi-use path which will provide connectivity to the larger city-wide multi-use path system as well as RTD transit services provided along 28th Street corridor.

_Y_(iv) Alternatives to the automobile are 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;

As part of the development proposal, the applicant is providing two connections through the project site to the existing Wonderland Creek multi-use path providing connectivity to

both the larger city-wide multi-use path system and the transit system located along the 28th Street corridor. In addition, supporting infrastructure is also being provided as part of the development proposal, including bike parking, both short and long term bike parking opportunities.

_Y_(v) Where practical and beneficial, a significant shift away from single-occupant vehicle use to alternate modes is promoted through the use of travel demand management techniques;

Although a parking reduction request is not part of the development proposal, a Transportation Demand Management Plan has been included as part of the application materials to facilitate multi-modal transit opportunities and alleviate traffic impacts to the surrounding neighborhood. As part of the TDM program, the applicant will establish a neighborhood EcoPass program for its residents. Coupled with the proposed connections and additional bike parking being provided on site (22 provided where six are required), alternate modes of transportation will be encouraged.

_Y_(vi) On-site facilities for external linkage are provided with other modes of transportation, where applicable;

As part of the development proposal, the applicant is providing two links through the project site to the existing Wonderland Creek multi-use path that will also provide connections to both the city-wide multi-use path system and transit amenities located along the 28th Street corridor.

_Y_(vii) The amount of land devoted to the street system is minimized; and

The development proposal presents a compact urban development that concentrates development to the east side of the property. The required amount of parking is provided (68 spaces). In addition, the maximum number of compact spaces is also be utilized, 50 percent.

_Y_(viii) The project is designed for the types of traffic expected, including, without limitation, automobiles, bicycles, and pedestrians, and provides safety, separation from living areas, and control of noise and exhaust.

As part of the development proposal, the applicant is utilizing a centralized active alley 'complete street' to provide access through the project site for vehicles, bikes and pedestrians. Given the active, shared nature of an alley, speeds will be reduced naturally with the variety of activity taking place, including parking, driving, playing, as well as with a traffic calming device, including a raised crossing. In addition, trips will be reduced as a result providing connectivity through the project site by eliminating the requirement for vehicles to double back through the development minimizing pedestrian-vehicle conflicts. Since the shared alley will have garages fronting on it as well as landscaping, there will be softness and separation from the living areas.

_Y_(E) ***Parking***

_Y_(i) The project incorporates into the design of parking areas measures to provide safety, convenience, and separation of pedestrian movements from vehicular movements;

Given the shared nature of the proposed shared access drive additional measured have been taken to provide for reduced speeds, including a raised crossing and minimizing pedestrian vehicular conflicts, including the through-site design of the shared access drive. In addition, the two connections through the site to the multi-use path are design to be separate pedestrian movements completely, not only in their design, but location as well.

_Y_(ii) The design of parking areas makes efficient use of the land and uses the minimum amount of land necessary to meet the parking needs of the project;

Given the compact design of the development proposal, the parking is primarily located along a shared access drive or in garages, minimizing the surface area dedicated to parking. The parking requirements pursuant to section 9-9-6, "Parking Standards," B.R.C. 1981 are being met. A total of 68 parking spaces are required, of those a total of 50 percent may be compact.

_Y_(iii) Parking areas and lighting are designed to reduce the visual impact on the project, adjacent properties, and adjacent streets; and

Minimal lighting is located along the shared access drive and within the parking areas. A photometrical plan meeting the criteria pursuant to section 9-9-16, "Lighting, Outdoor," B.R.C. 1981 will be provided as part of the Technical Document Review.

_Y_(iv) Parking areas utilize landscaping materials to provide shade in excess of the requirements in Subsection 9-9-6 (d), "Parking Area Design Standards," and Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981.

While not surface parking lot is part of the development proposal, the surface parking areas provided utilize landscaping materials in a variety of sizes and forms that will provide screening.

_Y_(F) ***Building Design, Livability, and Relationship to the Existing or Proposed Surrounding Area***

_Y_(i) The building height, mass, scale, orientation, and configuration are compatible with the existing character of the area or the character established by an adopted plan for the area;

The project site is generally located at the northeast corner of Kalmia Avenue and 28th Streets. Immediately adjacent to the project site on three sides, north, south and west is Residential Medium-1 zoning, like the project site, while Residential Low-2 is adjacent on the east. The project site is also adjacent to unincorporated Boulder County on the northeast where the county zoning is Suburban Residential.

Generally, the uses surrounding the project site are primarily residential with a variety of one and two story large single-family detached homes and multi-family developments, including Aspen Grove condominiums and the Boulder Apartments. The anomaly, Manor Care is adjacent to the north.

The development proposal includes one and two-story single-family homes located adjacent to the existing single-family development and multi-family attached units located across Paseo del Prado. The multi-family units along Paseo del Prado were designed to have a building footprint no larger than the existing large single-family homes adjacent to the project site to the east. The proposed building architecture although simple, clean, modern building design with flat roofs, draws from a similar building material palette as the surrounding development, where stone, wood and stucco are prevalent.

Overall, the building mass, scale, materials and use are consistent with the surrounding development.

_Y_(ii) The height of buildings is in general proportion to the height of existing buildings and the proposed or projected heights of approved buildings or approved plans for the immediate area;

Within the vicinity buildings range in height and stories from single-story single-family dwellings to three or four stories as is the case with the Aspen Grove Condominiums across Kalmia Avenue, adjacent to the south. The architectural concept includes one and two story buildings not in excess of 30 feet in height.

_Y_(iii) The orientation of buildings minimizes shadows on and blocking of views from adjacent properties;

Buildings are oriented towards the street, with large side yards located between buildings in order to maintain views and site permeability. In addition, the development is stepped across the project site with single-story buildings being located adjacent to the existing single-family development on the east, minimizing shadows and viewshed impacts.

_Y_(iv) If the character of the area is identifiable, the project is made compatible by the appropriate use of color, materials, landscaping, signs, and lighting;

The proposed building architecture although simple, clean, modern building design with flat roofs, draws from a similar building material palette as the surrounding development, where stone, wood and stucco are prevalent.

_Y_(v) Projects are designed to a human scale and promote a safe and vibrant pedestrian experience through the location of building frontages along public streets, plazas, sidewalks and paths, and through the use of building elements, design details and landscape materials that include, without limitation, the location of entrances and windows, and the creation of transparency and activity at the pedestrian level;

Given the highly public location of the project site along a multi-use path on the west and a street frontage on the east, development in the project site really four frontages. The development proposal orients buildings toward the street by locating building entries, front porches and additional glazing along the street. In addition, an active alley is also provided with backyards, landscape and open space amenities. Finally, buildings are also oriented toward the multi-use path with building entries, including porches and balconies as well as additional glazing.

_Y_(vi) To the extent practical, the project provides public amenities and planned public facilities;

As part of the development proposal the applicant is providing two multi-use path connections through the site. In addition, the applicant will continue to work with staff to design and locate a low water crossing across the Wonderland Creek channel and Kalmia Avenue improvements, including an on street bike lane, detached sidewalk and planting strip. A condition of approval has been included reflecting the public improvements.

_Y_(vii) For residential projects, the project assists 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;

The development proposal includes both single-family detached and multi-family attached residential housing types, including townhome-style units. In addition, the development will include a varying level of affordability as well.

_Y_(viii) For residential projects, noise is minimized between units, between buildings, and from either on-site or off-site external sources through spacing, landscaping, and building materials;

The multi-family units with party walls will be designed to meet or exceed sound transmission requirements of the IBC.

_Y_(ix) A lighting plan is provided which augments security, energy conservation, safety, and aesthetics;

While a lighting plan has not been part of the Site Review materials, a lighting plan consistent with section 9-9-16, "Lighting, Outdoor," will be provided as part of the Technical Document Review. A condition of approval has been included reflecting such.

_Y_(x) The project incorporates the natural environment into the design and avoids, minimizes, or mitigates impacts to natural systems;

The majority of the western half of the five-acre project site is provided as open space given the location of the Wonderland Creek Greenway and multi-use path on that portion of the site. Development on the project site is limited to the eastern portion of the project site to preserve the existing wetland and creek channel amenities.

_Y_(xi) Buildings minimize or mitigate energy use; support on-site renewable energy generation and/or energy management systems; construction wastes are minimized; the project mitigates urban heat island effects; and the project reasonably mitigates or minimizes water use and impacts on water quality.

The development proposal is planned to be "a Net Zero Energy" project with respect to electrical usage of the 41 market rate units. Each unit will have an independent 3K Photovoltaic Solar system designed to provide 100% of the estimated electrical energy usage of each unit. Additionally, the units have been designed with energy efficiency in mind to reduce heating and cooling loads. A low-water usage package of plumbing fixtures has been designated for the individual townhouse units. The project is providing 119% of the required open space helping to reduce the urban heat island effects while providing permeable landscaping. The development is providing multiple best management practices to enhance and protect water quality including bio-retention basins that supplement the riparian corridor.

__Y__(xii) Exteriors or buildings present a sense of permanence through the use of authentic materials such as stone, brick, wood, metal or similar products and building material detailing;

The proposed building architecture although simple, clean, modern building design with flat roofs, draws from a similar building material palette as the surrounding development, where stone, wood and stucco are prevalent.

__Y__(xiii) Cut and fill are minimized on the site, the design of buildings conforms to the natural contours of the land, and the site design minimizes erosion, slope instability, landslide, mudflow or subsidence, and minimizes the potential threat to property caused by geological hazards;

The overall goal of the cut and fill associated with the development proposal is to restore the existing pre-development site hydrologic conditions with an emphasis on water quality and reduction of adverse impacts on the Wonderland Creek riparian corridor. It is the applicant's intention to utilize low impact development principles and practices to reduce development runoff volumes, provide water quality treatments and promote on site infiltration of stormwater.

_N/A_(xiv) In the urbanizing areas along the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the building and site design provide for a well-defined urban edge; and

_N/A_(xv) In the urbanizing areas located on the major streets shown on the map in Appendix A of this title near the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the buildings and site design establish a sense of entry and arrival to the City by creating a defined urban edge and a transition between rural and urban areas.

_Y_(G) ***Solar Siting and Construction: For the purpose of ensuring 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:***

_Y_(i) ***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**.

Large side yards are utilized to provide ample building separation to limit shading as well as the site's visual permeability. Development within proximity to the site will not shade the proposed buildings given their distance of more than 50 feet away.

_Y_(ii) ***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.

The applicant's goal is to provide a net-zero energy development. Buildings have been designed and sited to accommodate a 3KWh of solar of the roofs of the townhomes. In addition, flat roofs are being utilized to minimize the solar PV orientation.

_Y_(iii) ***Building Form:*** **The shapes of buildings are designed to maximize utilization of solar energy. Buildings shall meet the solar access protection and solar siting requirements of section 9-9-17, "Solar Access," B.R.C. 1981**.

The building design has incorporated flat roofs in the anticipation of solar energy.

_Y_(iv) ***Landscaping:*** **The shading effects of proposed landscaping on adjacent buildings are minimized**.

Although landscaping improvements are proposed in excess of the size requirements, the impacts will be minimal to adjacent buildings given the proximity of the adjacent buildings to the project site.

N/A (H) ***Additional Criteria for Poles Above the Permitted Height***

N/A (I) ***Land Use Intensity Modifications***

N/A (J) ***Additional Criteria for Floor Area Ratio Increase for Buildings in the BR-1 District***

N/A (K) ***Additional Criteria for Parking Reductions***

N/A (L) ***Additional Criteria for Off-Site Parking***

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Karen Rahn, Director, Human Services
Jeff Yegian, Acting Manager, Housing Division
Wendy Schwartz, Human Services Planning Manager
Valerie Watson, Human Services Planner

Date: Aug. 20, 2013

Subject: Information Item: Update on Homeless Issues and Boulder County Ten-Year Plan to Address Homelessness Progress

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EXECUTIVE SUMMARY

This information item provides an update on local and regional planning efforts to address homelessness, including the Boulder Homelessness Planning Group (BHPG), the alignment of city human services and housing investments with the Boulder County Ten-Year Plan to Address Homelessness (Ten-Year Plan), Metro Denver Homeless Initiative (MDHI), and highlights of the 2013 Point-in-Time Count and Survey (PIT).

The city addresses homelessness by supporting local nonprofit service providers, funding the creation and operation of housing for the homeless, and participating in regional planning efforts. Homelessness is a regional issue and countywide partners have made strides in providing permanent housing options for people who are homeless and those at risk of homelessness. Approaches to the challenges of addressing homelessness are considered in the context of city priorities, the Ten-Year Plan, federal and state policy direction, and the Human Services Master Plan.

In addition to the Ten-Year Plan, a local group, the BHPG, has been working to identify and address issues of particular concern to the City of Boulder, including service coordination, data collection, and issues of safety and the unwelcoming environment currently being experienced in the municipal campus area.

While the city and its countywide partners have made strides on housing the homeless, more permanent housing options are needed. Analysis indicates significantly more city funding is directed toward emergency shelter and support services for individuals, compared to housing and services for families, which comprise nearly half of the city's homeless population. Both are critical to addressing homelessness and basic safety. Analysis and recommendations on human services funding to the community and city priorities will be completed as part of the Human Services Strategy update, currently underway.

Investing in services and housing for the chronically homeless reduces the need for more expensive and intensive services and public investments in the long run. Consequently, one priority goal of the Ten-Year Plan is permanent supportive housing for the chronically homeless who are primarily individuals. However, transitional and affordable housing for homeless families remains a persistent need.

City council has considered issues related to homelessness in the following study sessions and council meetings:

- *April 16, 2013, Information Packet* – Denver Unauthorized Camping Ordinance
- *Oct. 30, 2012, Study Session* – Homelessness Services Update and Related Issues
- *April 17, 2012 Public Hearing* – Council approved a motion supporting the proposed Housing First Project at 1175 Lee Hill Road
- *Dec. 13, 2011 Study Session* – Housing First Programs and Related Issues Study Session
- *Dec. 6, 2011 Information Packet* – Update on Bridge House Relocation Efforts
- *March 1, 2011 Information Packet* – Youth Homelessness and Emergency Services
- *May 4, 2010 Public Hearing* - City Council approved on Second Reading a Motion to adopt Ordinance No. 7719 amending Section5-6-10 "Camping or Lodging on Public Property Without Consent," B.R.C. 1981, by Removing the Authority of the City Manager to Issue Permits for Camping on Public Property
- *Aug. 31, 2010 Information Packet* – Update on Homelessness Issues and Human Services Funding
- *April 20, 2010 Public Hearing* – Council accepted the *Boulder County Ten-Year Plan to Address Homelessness* (*Ten-Year Plan*) and Introduction, First Reading and Consideration of a Motion to Amend Section 5-6-10, "Camping or Lodging on Property Without Consent," B.R.C. 1981

FISCAL IMPACT

Staff participation in community planning to address homelessness is within the scope of the current Human Services and Housing work plans and budgets.

BACKGROUND

Local Planning Efforts - Boulder Homelessness Planning Group (BHPG)

The BHPG, comprised of the city's homeless-serving organizations, representatives of Boulder's faith community, and staff representatives of city departments (Human Services, Library, Municipal Court, Downtown University Hill Management) began meeting in June 2012. The current work of the BHPG is to develop strategies and actions to address specific community concerns about homelessness and increase the effectiveness of homeless services coordination

and data collection. The BHPG's work is within the context of the goals and strategies in the Ten-Year Plan.

During the past several months, the BHPG has been developing recommendations for the city to address community concerns of illegal and unwelcoming behavior in the municipal campus and downtown area, often attributed to the homeless. In addition to the homeless, there are many other people and groups that frequent the municipal campus. The issues on campus are ones of behavior, not housing status, and strategies to address these issues need to be targeted to the behaviors. The Boulder Police Department (BPD) reports increasing criminal activity and need for more officers to address enforcement issues. The municipal court has a significant caseload of homeless defendants and has added probation officer resources to work with defendants on accessing community resources. Boulder business owners report an increased homeless presence in areas such as the University Hill business district and Pearl Street Mall. Though recommendations are still being considered, the BHPG has been exploring the following:

- Piloting a part-time outreach team tasked with patrolling the central municipal campus and downtown areas to discourage illegal behavior, connect people with needed services, collect information on the needs of the homeless population, and identify who are the various groups and users of public space. The BHPG supports increased police enforcement for illegal behaviors, and recommends that an outreach team be comprised of a police officer, a homeless service provider, and possibly a representative of the homeless community. Staff support this approach and have initiated discussions with potential partners including Bridge House, BSH, BPD and the municipal court.

- Piloting a countywide coordinated entry system[1] for chronically homeless individuals and families. Representatives of Boulder, Longmont and the Ten-Year Plan Board will be determining whether to create a pilot program in the third quarter of 2013.

- De-concentrating services such as meal programs on the central municipal campus, while maintaining access to needed services. Meals are regularly provided to large groups on weekends on the lawn near the Main Library between April and October. The BHPG discussed opportunities for the food service providers to partner with the faith community to relocate food programs and the possibility of developing a more coordinated approach to meal service long term to fill gaps on weekends. Staff met with the meal providers and discussed the challenges created by multiple groups distributing food on the municipal campus lawn. Some meal providers disagree with de-concentrating services and indicate the municipal lawn is a convenient and accessible location for services. Bridge House operates a Monday through Friday meal program. Lack of resources have prohibited Bridge House from expanding to the weekend, however they are currently exploring the possibilities of expansion.

[1] Coordinated entry is designed to prevent, reduce, and end homelessness by streamlining and simplifying access, assessment, and referral processes for housing and supportive services. It changes a system's orientation from providers of services asking whether the client is right for the program to the system assessing what services/solutions are best for the client.

- Behavioral Standards: The BHPG is developing common behavioral standards for use by homeless service providers in Boulder and potentially Longmont. The group considers common standards with a uniform message and enforcement to be a significant step toward standardizing community-wide behavioral expectations of clients.

- Public Education Campaign: The BHPG is exploring a public education campaign to increase awareness about homelessness in the community. Campaign messages could include the diversity of the homeless population, including information on the many types of homelessness, invisible homeless groups such as families, and panhandlers, who are not all homeless. The public also could be informed about alternative ways to help the homeless, such as giving to homeless service organizations. BHPG and business community representatives are now discussing perspectives on the issues and areas of shared concern and opportunity.

- Other potential recommendations for further discussion by BHPG include: expansion of day programs to productively engage people, and possible recommendations for modification of current city ordinances such as panhandling and smoking bans to address use of public space issues.

- In coming months the BHPG will be addressing systemic issues (e.g., common data collection, coordination among service providers, appropriate service mix) with a goal of maximizing self-sufficiency for homeless clients.

Regional Planning Efforts

Metro Denver Homeless Initiative (MDHI)

MDHI is a non-profit organization whose mission is the prevention and ending of homelessness in the seven-county, metro Denver region by facilitating, integrating and tracking cooperative regional services and funding for people who are homeless.

In 2013, MDHI, Boulder County and the cities of Longmont and Boulder expanded region-wide planning efforts including:

- Participating in Vulnerability Index Surveys (VI)[2] which help communities identify their most vulnerable homeless residents;
- Participating on MDHI's Notice of Funding Availability (NOFA) Committee which recommended HUD competitive funding to several local initiatives;[3]

[2] VI surveys help communities identify their most vulnerable homeless residents (including those with the greatest health and mental health issues who are most at risk of dying on the streets, those with long histories of incarceration or those with complex or long-standing child welfare issues) – typically heavy users of expensive emergency services.

[3] Boulder Housing Partner's Drive-in Theater project provides permanent supportive housing to households with serious mental illness; the Boulder County Housing First program provides housing vouchers to chronically homeless households throughout the county; and Lee Hill Housing First program. MDHI was recently notified that the Lee Hill Housing First program did not receive federal funds. The Committee recommended funding for the Boulder County Housing Stabilization Program which offers rental assistance for three to nine months, coupled with case management and financial education for situationally or homeless (i.e., housing, health care, financial, or job loss crisis) or potentially homeless households.

- Providing local representation on the MDHI Board (Boulder County and Boulder Housing Partners); and
- Participating on MDHI coordination committees (COB Human Services staff)

Ten-Year Plan to Address Homelessness (The Ten-Year Plan)
The Ten-Year Plan was completed and accepted by city council in April 2010. It provides a blueprint for how Boulder County communities will work together to prevent homelessness, address issues that keep people in homelessness and create housing and supportive services needed to end homelessness. The plan commits to seeking long-term solutions to homelessness in the community while maintaining safe, appropriate emergency shelter for the community's most vulnerable residents.

The Ten-Year Plan is organized around six goals that are designed to have a significant impact on homelessness. Taken together, they represent a comprehensive approach that addresses all facets of homelessness. These goals are not prioritized, but provide a blueprint for strategies to be worked on simultaneously. The plan emphasizes permanent supportive housing as the model for addressing chronic homelessness, while still providing emergency shelter and support services. Moving individuals and families directly into permanent housing has proven more successful in assisting people to stability. This model, however, requires available and affordable permanent housing to succeed. While capacity is built in the community, there will be a continuing need for emergency shelter and transitional housing for both individuals and families.

Ten-Year Plan Goals Update
Chart 1 highlights recent accomplishments countywide of relevant Ten-Year Plan Goals. While these accomplishments have contributed significantly to progress on goals, much remains to be done to bridge the gaps.

Chart 1: Ten-Year Plan Activities and Achievements by Plan Goal, 2012 and 2013 (to date)

Goal	Activities and Achievements
Goal 1: Prevention/Intervention	• Bridge House Resource Center (RC) pilot, providing wraparound services and support, approved for extension • Boulder County Housing Counseling Program expanded to provide pre-rental counseling and related services to prevent homelessness
Goal 2: Temporary Shelter, Alternative Housing and Support	• Attention Homes expanded emergency youth shelter capacity from 10 to 16 beds • Boulder County Housing Stabilization Program (see footnote 3) expanded through HUD's Emergency Solutions Grant • Transitional Housing supply increased: 17 units in Longmont (Inn Between), 14 units for families in Louisville (EFAA)[4], 12 units county-wide (Boulder County Short-Term Housing Program for homeless families in child protection), 45 vouchers for families with school-aged children (Colorado Division of Housing, Tenant-Based Rental Assistance Program)

[4] All 14 units to be occupied through EFAA's transitional program in the future (currently five units are rented at market rate and three through Housing Choice Vouchers).

Goal 3: Permanent Housing and Support Services	• 25 homeless veteran households in Boulder County permanently housed with HUD-VASH vouchers in 2013 (10 additional homeless veteran households to be provided HUD-VASH vouchers in 2014) • Lee Hill 31-unit Housing First[5] development approved[6] to receive low-income housing tax credits • 50 family and youth households housed by Boulder County (HUD Family Reunification funding) • 24 family units in development in Lafayette (Aspinwall at Josephine Commons)
Goal 4: System Improvements	• Ten-Year Plan metrics being developed to measure progress • BHPG formed to improve service integration in the city of Boulder and address local issues • Implementation underway for a web-based regional Grants Management System to coordinate human services funding and reporting processes for the cities of Boulder and Longmont, and Boulder County • Increased involvement in MDHI regional planning efforts • Increased coordination between Consolidated Plan and Ten-Year Plan goals • Conducted countywide VI of homeless veterans, resulting in additional veterans housed as described in Goal 3 above • Conducted countywide VI of adults, families and youth, results pending
Goal 5: Public Awareness and Advocacy	• Homeless memorial was held to commemorate the lives of people who were homeless and died on the streets in Boulder in 2012 • Current planning for improved public education on homelessness

Housing Planning Initiatives

Boulder/Broomfield County Regional HOME Consortium: The City of Boulder is the lead partner in this effort. The consortium completes five-year consolidated plans required by HUD. These plans describe strategies for carrying out HUD formula-based housing programs. The Consortium includes reducing homelessness as one of its six priorities in the 2010-2014 Consolidated Plan.

ANALYSIS

2013 Point-in-Time Count and Survey (PIT)

Data from the Jan. 28, 2013 PIT, an annual one-night survey of homeless people, indicates that the number of homeless in the city of Boulder is holding steady (at 748 in 2013 and 750 in 2012).[7] This contrasts with year-over-year increases of about one third for the city of Longmont (from 883 to 1,180) and about 20 percent for the entire county (from 1,970 to 2,366).

Contrary to PIT data, the experiences of homeless service providers and the community suggest that there has been an increase in the homeless population in the City of Boulder. PIT surveys typically undercount the homeless due to the difficulty of finding all homeless and administering

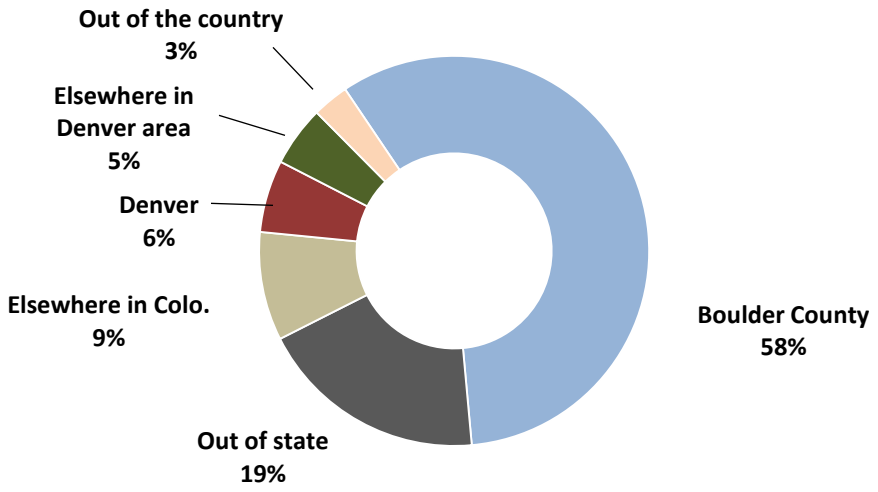
[5] The Ten-Year Plan defines Housing First as "an approach to ending homelessness that centers on providing homeless people with housing quickly and then providing services as needed."
[6] BHP anticipates beginning leasing of the building Aug. 2014.
[7] The primary purpose of the point-in-time surveys is to provide communities with a one day snap shot of homelessness. MDHI discourages communities inferring trends and developing policies on the basis of these data alone.

the survey in a one- or two-day period. Changes in definitions, methodology for collecting data, willingness of homeless people and homeless-serving organizations to participate, the number and experience of the volunteers conducting the survey, and other variables contribute to this undercounting, making trend analyses problematic. Counties across the Denver region are working with MDHI on improving the reliability of the PIT data.

Homeless households with children continue to represent nearly half (45 percent) of the homeless in Boulder; however PIT data suggest the number of people in these households in the city has been decreasing over the last three years.

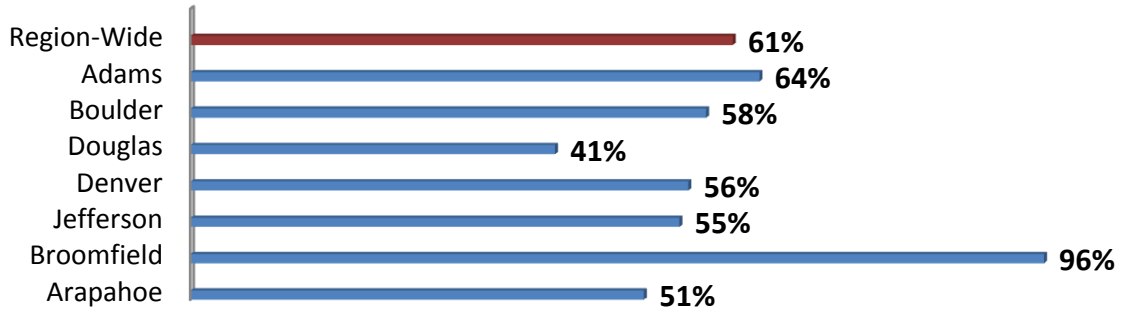
Of those surveyed who stayed in Boulder County on PIT night in 2013, 58 percent identified Boulder County as their last county of permanent residence (see Chart 2 below).

Chart 2: Last permanent residence of Boulder County homeless



The homeless population is highly mobile overall, with other metropolitan Denver counties experiencing similar percentages of homeless from other counties on PIT night, as demonstrated in Chart 3 below. The mobility trend may be increasing, with most counties in the region showing a decrease between 2012 and 2013 in the percentage of PIT participants who stayed in their county of last permanent residence. In Boulder County, this percentage decreased from 65 percent in 2012 to 58 percent in 2013.

Chart 3: Percentage of Metro Denver homeless who stayed in their county of last permanent residence, Jan. 28, 2013



Similar to last year, the top causes of homelessness cited by City of Boulder PIT respondents were:

- Lost job (35 percent)
- Housing costs (32 percent)
- Relationship issues (28 percent)
- Mental illness (20 percent)
- Alcohol/Drug issues (16 percent)

Homeless Housing

Homeless Family Housing

Families are a large proportion (45 percent) of Boulder's homeless. Emergency Family Assistance Association (EFAA) is the primary local provider of shelter, housing and related emergency services to Boulder's homeless and near-homeless families. The agency provides 18 units of housing targeted to homeless families in the City of Boulder (six emergency shelter units and 12 transitional housing units) and an additional 26 units elsewhere in the county (Lafayette, Longmont and Louisville). EFAA's current eligibility criteria require families to have incomes of at least $1,000 per month before they can qualify for emergency shelter services and transitional housing. While it is common to require income for participation in transitional housing programs, emergency shelter facilities typically do not require income.

EFAA staff recently conducted a review of the agency's eight-week emergency shelter program in which they found:

- Approximately 40 percent of families seeking emergency shelter were ineligible due to insufficient household income (i.e., less than $1,000). There is no previous year data to compare, but EFAA believes there is an increase in families ineligible due to income;
- A widening service gap in Boulder to provide emergency shelter to families in greatest need. EFAA refers an increasing number of very low- or no-income families to Denver's Samaritan House emergency shelter. It is disruptive for families, particularly the children in these families, to be sent so far away from their home communities and schools. EFAA also refers these families to Safehouse Progressive Alliance for Nonviolence (SPAN) and Safe Shelter of St. Vrain, if domestic violence is involved.

- More families presenting with increasingly complex situations (e.g., legal involvement, substance abuse, employment barriers, mental health and other disabilities, parenting issues, domestic violence, evictions and foreclosures).

EFAA staff indicate there are two key gaps for homeless families in the Boulder area: 1. lack of emergency shelter for families with either no incomes or very low incomes; and 2. very low vacancy rates in affordable rental housing. Access to affordable housing is a significant barrier for EFAA clients in reaching self-sufficiency.

Housing Supply
Appropriate, affordable rental housing is critical in addressing homelessness but is in short supply in Boulder.[8] The federal government offers low-income and homeless housing assistance programs, but they are insufficiently funded. According to HUD, only one in four eligible households nationwide receives housing assistance and sequestration will further limit those numbers. Although significant progress has been made on transitional and permanent housing options in Boulder County, the community need is still greater than available resources. Attachment A represents a countywide inventory of housing for the homeless, including vouchers, for 2013-2014. It shows a total of 217 warming center beds, 276 emergency shelter beds, 379 transitional housing units and vouchers, and 415 permanent housing units and vouchers. With nearly 2400 people counted as homeless throughout Boulder County in the 2013 PIT, there is not enough permanent housing for everyone.

The majority of the county's emergency shelter and overflow space is located in the city of Boulder. This is not surprising because the Boulder Shelter for the Homeless (BSH), is the county-wide shelter. BSH receives funding from Boulder County and the City of Longmont, in addition to the City of Boulder and other funders.

Housing Vouchers
In Boulder, a variety of federally and locally funded housing vouchers are available through Boulder Housing Partners (BHP), Mental Health Partners (MHP) and Boulder County Housing Authority (BCHA). These vouchers are issued to low-income individuals, or those with special needs, to subsidize rental costs. However, the majority of federally funded vouchers are not specifically designated for homeless individuals and families, and demand substantially exceeds supply. Sequestration and increased housing costs have reduced the number of vouchers available. Individuals or families that obtain vouchers sometimes have difficulty using them due to high rents and low vacancy rates. Many housing vouchers do not include supportive services, which some homeless people need to remain successfully housed. A significant percentage of transitional and permanent housing options are available through vouchers that are portable and can be used countywide.

City Funding to Address Homelessness
In addition to the Human Services Department, a other city departments interact with homeless individuals, including Parks and Recreation, Open Space and Mountain Parks, Police, Housing, Library, Municipal Court, Downtown and University Hill Management Division/Parking Services,

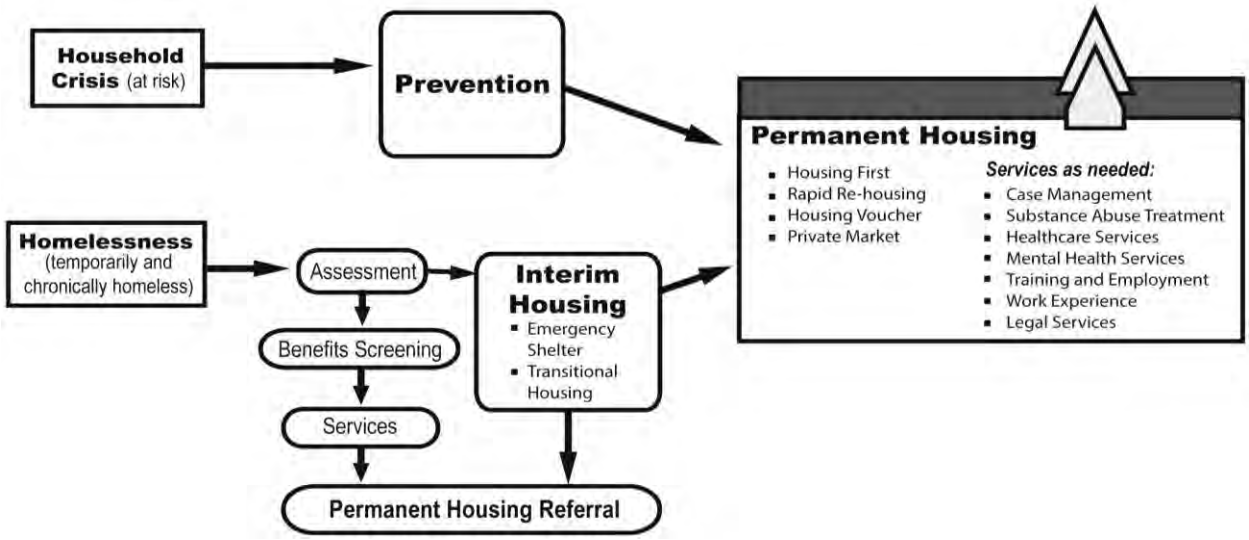
[8] Affordable unit vacancy rates are generally lower than vacancy rates in all units. The Apartment Association of Metropolitan Denver reported a 1.9 percent vacancy rate for the city of Boulder.

Public Works, Fire and Rescue Services. These department services are generally focused on broader city populations outside the scope of the Ten-Year Plan and Human Services Master Plan. Generally, human services are defined through a social welfare lens, which is narrower than for overall community well-being. Social welfare is generally focused on the availability of essential services such as food, housing, health and mental health access, and other basic necessities of daily living which allows one to be self-sufficient.

The funding analysis below includes city investments that specifically address the Ten-Year Plan's goals of preventing and reducing homelessness, and providing a safety net for those who experience homelessness. The investments are in programs, services or housing provided directly or indirectly (through grants to nonprofit organizations) by the Human Services Department and the Housing Division. The primary sources of city funding for homelessness are the Human Services Fund (HSF), Community Development Block Grant (CDBG), HOME grants and the Affordable Housing Fund.

Alignment of City of Boulder Homeless Funding with Ten-Year Plan
The primary goal of the Ten-Year Plan is to minimize homelessness by getting and keeping people housed. For chronically adult homeless people it emphasizes a housing first model and maximizing self-sufficiency and independence through a coordinated system of support services. This system relies on the integration of capital investments to increase housing supply, and operating investments to support services which maximize self-sufficiency and independence, as shown in Chart 4 below.

Chart 4: Permanent housing pathways

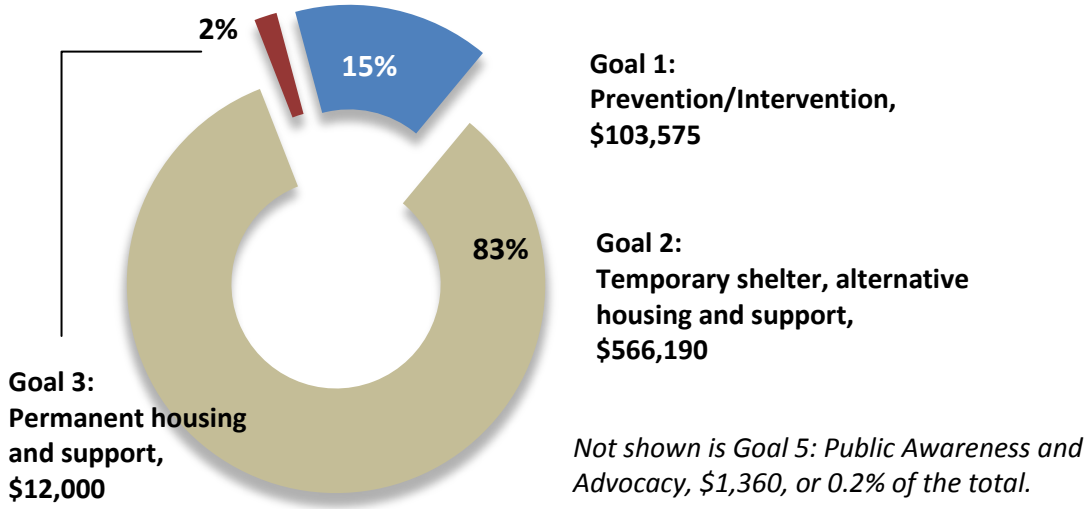


The analysis emphasizes city investments in services provided in Boulder, but also examines homeless investments countywide, because not all services need to be provided in each Boulder County community. Investments in operating programs are provided as a snapshot, from 2012, as operating funding tends to be fairly stable over time. Capital investments are presented over a five-year period as they are intermittent and tend to be larger, one-time investments. Because vouchers increase housing options for homeless people, investments in vouchers have been included with

capital investments in this analysis.[9] However, unlike capital investments, which result in additional housing units on a permanent basis, funding for vouchers may vary over time based on available budget.

Operating Investments
In 2012, the Human Services Department expended a total of $683,125 on homeless specific services through operating funding to community agencies. These investments are summarized by Ten-Year Plan goal area, as shown in Chart 5 below. Attachment B provides a detailed list of city investments within relevant goal areas.

Chart 5: 2012 Human Services Department operating investments by Ten-Year Plan goals



*Goals 4 and 6 not included; investment is existing staff time in partnerships as discussed under "Human Services Funding by Ten-Year Plan Goal.

Approximately $730,000 also was expended on operating support for basic safety net (BSN) services in the city. BSN services, such as health and mental health, are accessed by both housed and homeless low-income persons and can help prevent homelessness. Chart 6 on the next page compares funding for homeless and safety net services.

[9] Vouchers that are not specifically targeted to people who are homeless, such as the majority of those issued through Boulder Housing Partners, are not included in this analysis or in Attachments A or C.

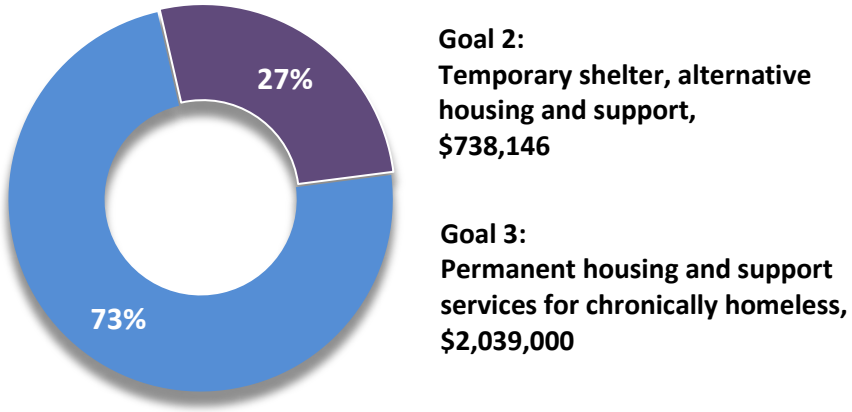
Chart 6: City support for homeless and those at risk of being homeless

Capital Investments

Although the City of Boulder provides significant support for the acquisition and preservation of affordable housing, only capital investments which increased the supply of housing for the homeless are included in this analysis. Between 2008 and 2013, the city invested about $2.7 million in capital projects to increase the supply of housing options for the homeless.

Chart 7 summarizes capital investments by Ten-Year Plan goals. Attachment C provides an overview of the investments that have increased supply, in addition to investments by Boulder County and the City of Longmont during the same time period. The majority of the city investment in the three years since council approved the Ten-Year Plan ($2 million) has been in costs related to the development of the Lee Hill Housing First project.

Chart 7: Housing Division Capital Investments, 2008-13, by Ten-Year Plan Goals *



*Capital investments are only relevant for goals 2 and 3 of the Ten-Year Plan

Countywide Capital Investments and Vouchers
Boulder County and the City of Longmont have also made progress on increasing housing options for homeless individuals and families over the last five years. Boulder County invested about $10.5 million in capital projects and vouchers between 2008-2013, primarily in permanent and transitional housing for families and youth. The City of Longmont invested approximately $1.8 million during this period in capital projects and vouchers that increased options for emergency, transitional and permanent supportive housing. Further details on these investments are included in Attachment C.

Human Services Operating grants by Ten-Year Plan Goal
Prevention/Intervention (Goal 1): In 2012, 15 percent of HS operating funds for homelessness went to:

- Prevent homelessness through financial assistance to prevent evictions;
- Early support services to the newly homeless;
- Education and training; and
- Post-institutional reintegration into the community.

A total of $103,575 was allocated to this goal. Homelessness prevention is a goal of the Ten-Year Plan because relatively small investments can have a significant impact in keeping people housed. However, recent information from HUD suggests that rapid re-housing[10] is a more cost-effective investment than homelessness prevention programs.

Temporary Shelter, Alternative Housing and On-Site Services Support (Goal 2): Goal 2 blends providing temporary emergency shelter, day services, basic needs, and transitional housing with providing on-site support services at emergency shelter facilities. Eighty-three percent of operating funds for homelessness supports this goal.

A total of $566,190 in operating funding was allocated to this goal, the largest percentage of which (53 percent) was to support on-site services in shelters such as mental health, health and domestic violence victim services. The next largest percentage (35 percent) was to provide emergency shelter space, primarily during winter months. In addition, the city allocated $738,146 in capital funding during the years 2008-13 to expand emergency and transitional capacity for Attention Homes and SPAN (Attachment C).

The city and community values providing shelter for people to prevent exposure to harsh weather conditions or sleeping in places not meant for human habitation. Many communities struggle with balancing the need for emergency shelter with providing permanent housing. While some communities have decreased emergency shelter capacity to address more long-term permanent housing solutions (e.g., Grand Rapids, MI), others have delayed implementation of Housing First-type solutions (e.g., Denver) to meet the community's immediate demand for emergency shelter.

[10] Rapid re-housing is a form of permanent housing designed to move people into housing quickly and provide supports necessary to stabilize the household on an as needed basis. A national study found that 91 percent of the 110,000 homeless people in families who received rapid re-housing assistance exited homelessness for permanent housing. More than half of these households did so with just one month of assistance.

Boulder's investment of $8,000 in transitional housing operating support is low compared to investments in transitional housing in other cities. There is a national and regional trend to move housing investments from transitional housing to permanent supportive housing options, including rapid re-housing, due to their greater effectiveness. This however, does not mean that transitional housing is not an appropriate housing solution for some or appropriate continued investment to meet the variety of needs in Boulder.

Emergency shelter is not the emphasis of the Ten-Year Plan, and Boulder's investment in this area may be disproportionate compared to permanent housing investments and housing for families. Emergency shelter and transitional housing for families in Boulder is inadequate, with families often being sent to Denver for services.

Housing and support services for chronically homeless (Goal 3): Two percent of operating funding for the homeless was invested in this Ten-Year Plan goal in 2012. This goal area specifically addresses permanent housing and related support services. Attachment C indicates that from 2008 to 2013, approximately $2 million in capital funding was invested in expanding permanent housing for the homeless by the city. Other major funders of permanent housing in the county include Boulder Housing Partners, Boulder County Housing Authority, and Mental Health Partners.

The Ten-Year Plan sets a goal of 100 permanent housing units for the chronically homeless over ten years. Through the planned Lee Hill Housing First development referenced in Chart 1, 31 units will be added to the existing approximately 50 units. The city will continue to work with countywide partners to reach goals for permanent housing for the chronically homeless. According to PIT data, approximately 80 percent of the county's chronically homeless are in Boulder, and without stable housing, this population disproportionately uses community safety net/emergency resources.

Although homeless assistance, including permanent supportive housing, is a Consolidated Plan goal, Housing Division requests for funding proposals (RFPs) have not specifically targeted a certain proportion of funding for homeless housing. Rapid re-housing (see footnote 10) is a successful strategy for moving people into permanent housing with a limited up-front investment. Boulder County and Longmont have implemented rapid re-housing programs, and this is an area the city will explore with local partners.

Another challenge in getting and keeping people housed in the city is a lack of low-cost housing options such as single room occupancy (SRO) units and group homes. Assessment of regulatory barriers to this type of housing could be explored.

Developing/improving systems to support efficient and effective Ten-Year Plan implementation (Goal 4): Significant staff time has been invested in this area as outlined in the activities described in Chart 1. City staff collaboration with the BHPG and participation in the development of regional priorities with MDHI and the Ten-Year Plan Board are examples of efforts to address systemic issues, and will continue to be a key focus for staff.

Key Homeless Issues
The majority of the Human Services Fund operating funding dedicated to homelessness is in emergency shelter and support services, reflecting significant need in this area. Relative to these investments in emergency shelter and support, there are gaps in investments for homeless families. The need for emergency, transitional and permanent housing for homeless families is far greater than the supply. As part of the update to the Human Services Strategy and development of the Housing Strategy, city staff will be evaluating and making recommendations on funding alignment with city and community priorities.

NEXT STEPS

- Update on homelessness – IP fourth quarter 2013
- Update on Housing Strategy – Oct. 29, 2013
- Council consideration of potential changes to panhandling ordinance – first quarter 2014
- City council study session on Human Services Strategy – first quarter 2014
- Adoption of Housing Strategy – fourth quarter 2014

ATTACHMENTS

A: Boulder County homeless housing inventory, 2013/2014
B: Department of Human Services' 2012 operating grants by Ten-Year Plan goals
C: Countywide homeless housing investment in increasing shelter, transitional housing and permanent housing supply, 2008-2013

Boulder County Homeless Housing Inventory, 2013/2014

Attachment A

Agency	Location	Program	Homeless Target Population	Capacity			Bed Type	Season	Notes
				# Beds	# Units/ Vouchers	% BC total			
Warming Centers (Overflow Overnight Shelter)									
BOHO	Boulder	overflow - rotating faith facility shelter	adults	145				winter	
Har HaShem Synagogue	Boulder	outdoor camping on private prop.	approved for camping	32			outdoor	summer	2 congregations participating; 25 & 7 person capacities
COB totals				**177**		**82%**			
Agape Family Services	Longmont	Agape Family Services Warming Center	men, women	40			facility-based	winter	3 programs cooperate to offer warming center spaces on cold winter nights (maximum 2 centers open each night)
COL totals				**40**		**18%**			
Total County-Wide Warming Center Beds				**217**		**100%**			
Overnight Shelter									
Boulder Shelter	Boulder	Emergency Shelter	adult men and women	110			facility-based	winter	BSH is located in Boulder and is a county-wide shelter with funding from Longmont and Boulder County
Boulder Shelter	Boulder	Transitions	adult men and women	50			facility-based	year round	BSH is located in Boulder and is a county-wide shelter with funding from Longmont and Boulder County
Attention Homes	Boulder	Emergency Shelter	youth	16					
Emergency Family Assistance Association (EFAA)	Boulder	ECHO House Shelter	families (with incomes)	15	6		facility-based	year round	
Safehouse Progressive Alliance for Non-Violence (SPAN)	Boulder	Emergency Program	victims of DV & children	27			facility-based	year round	
COB totals				**218**	**6**	**79%**			
EFAA	Longmont	Atwood Shelter	families (with incomes)	25	10		facility-based	year round	referrals only through OUR Center
Safe Shelter of St. Vrain	Longmont	Emergency Program	victims of DV & children	23					
COL totals				**48**	**10**	**17%**			
EFAA	Lafayette	North Carr Shelter	families (with incomes)	10	4		facility-based	year round	
Elsewhere in BC totals				**10**	**4**	**4%**			
Total County-Wide Emergency Shelter Beds				**276**		**100%**			
Transitional Housing									
Boulder County AIDS Project	Boulder	Eaton House Group Home	HIV	4	2		facility-based	year round	4 beds in 2 units
Boulder Shelter for the Homeless	Boulder	Transitional Housing Program	all		12		facility-based	year round	apartments in condo complex; some 2 bedroom units
Addiction Recovery Center	Boulder	Transitional Residential Program	addicted to substance(s)	1 to 2	1		facility-based	year round	1 to 2 beds in 1 unit prioritized for homeless
SPAN	Boulder		DV		4		facility-based	year round	
SPAN	Boulder		DV - families		4		facility-based	year round	
EFAA	Boulder	Yarmouth	families (with incomes)		7		facility-based	year round	
EFAA	Boulder	Yarmouth - Triplex	families (with incomes)		3		facility-based	year round	
EFAA	Boulder	BHP master leased units - Sanitas	families (with incomes)		2		facility-based	year round	
COB totals				**5.5**	**35**	**9%**			
Inn Between	Longmont	Transitional Housing Program	all		68				
OUR Center at First Lutheran	Longmont	Transitional Housing Program	singles		1				
Longmont Housing Authority	Longmont	Briarwood Apartments	all	20	10		facility-based	year round	6 units designated to Probation programs; capacity for two in each unit
Longmont Housing Authority	Longmont	The Suites	all	6	6		facility-based		typically 6 units with 6 month subsidy & intensive case management
Longmont Housing Authority	Longmont	Tenant -Based Rental Assistance (TBRA)	all		3		vouchers		new assistance (7 vouchers) on hold due to sequestration

Homeless Outreach Providing Encouragement (HOPE)	Longmont	Respite care	adults (singles/couples)	2	1		facility-based		up to two week respite care program in one hotel room for singles or couples, by referral, as needed, available year-round
Safe Shelter of St. Vrain	Longmont		DV	6	2				
COL totals				**34**	**91**	**24%**			
Boulder County Housing Authority and BC HHS	Longmt & Lafayette	Short-Term Housing	homeless families in child protection		12		facility-based	year round	rotating designated units from BCHA inventory; 12 month maximum stay
EFAA	Lafayette	North Carr Transitional	families		6		facility-based	year round	
EFAA	Louisville	Garfield	families		6		facility-based	year round	all 14 units to be occupied through transitional housing program over time - 5 units currently rented at market rate, 3 units with Housing Choice Vouchers
Boulder County Housing Authority and BC HHS	County-wide	Tenant -Based Rental Assistance (TBRA)	families with school-aged children		35		vouchers	year round	24 month voucher
Boulder County Housing Authority and BC HHS	County-wide	Housing Stabilization Program	all	295	180		coupons	year round	short-term assistance to secure permanent housing - rapid re-housing program
Boulder County Housing Authority & BCHHS	County-wide	Family Unification Program (FUP)	transition-aged youth		10		vouchers	year round	
SPAN	County-wide		DV - families		4		facility-based	year round	
Elsewhere in County totals					**253**	**67%**			
Total County-Wide Transitional Housing Units/Vouchers					**379**	100%			
Permanent/Permanent Supportive Housing									
Boulder Housing Partners	Boulder	1175 Lee Hill - Housing First	chronically homeless		31		facility-based		in pre-construction phase
Boulder Housing Partners	Boulder	Holiday Drive In			10		facility-based		
COB totals				**0**	**41**	**10%**			
Longmont Housing Authority	Longmont	The Suites	all	79	64		facility-based	year round	
OUR Center	Longmont	Jobs to Homes	singles	16					new program; security deposit, first month's rent, 6 months case management. Just now receiving funding.
Longmont totals				**95**	**64**	**15%**			
Boulder Shelter for the Homeless	Boulder & Longmont	Boulder County Housing First	chronically homeless		22		vouchers		
Mental Health Partners	Boulder & Broomfield Counties	Shelter Plus Care	serious mental illness		95		vouchers		geographic distribution of vouchers currently in use for these 2 programs combined: 86 in Boulder, 78 in Longmont, 7 in Broomfield, 6 in Lafayette, and 1 each in Erie, Louisville, Nederland and Niwot.
Mental Health Partners	Boulder & Broomfield Counties	Housing Choice Vouchers	serious mental illness		94		vouchers		
Boulder County Housing Authority & BCHHS	County-wide	Veterans Affairs Supportive Housing (VASH)	chronically homeless veterans and their families (if applicable)	50	35		vouchers	year round	
Boulder County Housing Authority & BCHHS	County-wide	Family Unification Program (FUP)	families involved in child protection		40		vouchers	year round	
Boulder County Housing Authority & BCHHS	Lafayette	Aspinwall at Josephine	families participating in BC self-sufficiency programs		24		facility-based		new program in pre-construction phase; families can be participating in Family Self-Sufficiency, TBRA, other Boulder County self-sufficiency programs
Elsewhere in County totals					**310**	**75%**			
Total County-Wide Permanent Housing Units/Vouchers					**415**	**100%**			

Color Key: **Blue: City of Boulder** **Green: Longmont** **Tan: Elsewhere in county; combination**

Notes:

1. Housing Choice Vouchers issued through the Cities of Longmont and Boulder (BHP) and Boulder County Housing Authorities provide the largest supply of housing vouchers in the county, however the majority are not targeted to people experiencing homelessness.

2. The Longmont Housing Authority has a total allocation of 529 vouchers, 469 of which will be used next year (the balance will not be filled due to sequestration cuts). The Longmont Housing Authority prioritizes housing the homeless with these vouchers as they turn over. In a typical year 50 units would automatically go to the homeless. Sequestration will disproportionately impact the supply of housing options for the homeless in Longmont because the Housing Authority does not anticipate issuing any new vouchers this year.
3. Totals for # beds and # units are duplicated counts. Some totals for bed numbers are based on agency estimates of people per unit.
4. The information presented in this spreadsheet is organized according to which jurisdiction facilities are located rather than which communities they serve or where their clients come from.

Attachment B

Department of Human Services, 2012 Operating Grants by Ten-Year Plan Goals

	GOAL 1: Prevention/Intervention	Allocation
SERVICES FOR AT-RISK /NEAR HOMELESS	**Financial/ In-Kind Assistance to Stay Housed**	
	BCAP - Care Services	$15,000
	City of Boulder - Family Resource Schools	$7,000
	Early Intervention Services	
	Bridge House - Resource Center (Human Relations Commission - Impact Fund)	5,000
	Bridge House - Resource Center	$25,000
	Education & Training	
	SPAN - Outreach Counseling and Community Education	$38,070
	SPAN - Violence Prevention and Education	$8,505
	Post-Institutional Reintegration	
	Collaborative Community - Focus Offender Re-entry	$5,000
	Total Prevention	**$103,575**
	Percentage to Goal 1	**15.2%**
SERVICES FOR HOMELESS	**GOAL 2: Temporary shelter, alternative housing and support**	
	Emergency Shelter	
	BOHO - Emergency Warming Centers	$20,000
	BSH - Winter Shelter and Transitional Housing	$62,295
	EFAA - Shelter	$53,750
	SPAN - Shelter - DV Victim Services	$60,000
	Attention Homes - Residential Shelter Services (funding for shelter services are reimbursed to Attention Homes)	$0
	Day Services/ Basic Needs	
	Attention Homes - Runaway and Homeless Youth, safe day shelter and basic needs	$30,000
	Bridge House - Basic Needs	$17,257
	BSH - Boulder County Cares - Outreach services and basic needs	$15,000
	Transitional Housing	
	BSH - Transitional Housing	$8,000
	Support Services	
	MHP - Psychiatric Emergency and Adult Services (on-site in Boulder Shelter and Bridge House)	$180,388
	Clinica - Primary Health Care for Low Income Boulder Residents	$59,500
	SPAN - DV Victim Services	$60,000
	Total Shelter, Housing & Support	**$566,190**
	Percentage to Goal 2	**82.9%**
	GOAL 3: Provide permanent housing and support services for chronically homeless	
	BSH - Housing First	$12,000
	Total Permanent Housing & Support	**$12,000**
	Percentage to Goal 3	**1.8%**
INDIRECT SERVICES	**GOAL 4: Develop and/or Improve Systems to Support Efficient and Effective Plan Implementation**	
	City actions related to implementation of this goal will be addressed in the text of this IP	
	Percentage to Goal 4	
	GOAL 5: Public Awareness and Advocacy	
	Bridge House - Homeless Memorial Service (Human Relations Commission - Impact Fund)	$1,360
	Total Public Awareness and Advocacy	**$1,360**
	Percentage to Goal 5	**0.2%**
	GOAL 6: Effective Governance and Staffing Structure	
	City actions related to implementation of this goal will be addressed in the text of this IP	
	Total Ten-Year Plan Expenditures	**$683,125**

Attachment C

Countywide Homeless Housing Investment* in Increasing Shelter, Transitional Housing and Permanent Supportive Housing Supply, 2008-2013**

Consortium Funder/ Project	Year	Fund	Amount 2008-2013	Activity	Type of Housing	# of additional beds provided/people sheltered or housed
Boulder County						
Project-Based Vouchers for Aspinwall at Josephine Commons	2013	HUD	$210,000	Homeless/at-risk families in Boulder County self-sufficiency programs	Permanent Housing	24 units - in development, not yet available
Inn Between Longmont	2013	Boulder County Worthy Cause Funds	$322,000	Renovations and debt reduction	Transitional Housing with support services/case management	13 three-bedroom units, 4 two-bedroom units***
EFAA Transitional Housing	2012	Boulder County Worthy Cause Funds	$546,075	Purchase of 14 units in Louisville	Transitional Housing for families with support services	10 two-bedroom and 4 one-bedroom units (8 units transitioning from market rate as current tenants move)
Veterans Affairs Supportive Housing (VASH)	2012/2013	HUD/Veterans Affairs	$638,400	Housing Choice Vouchers (formerly Section 8) for homeless veterans & families	Permanent Housing	35 households/year
Boulder County Short-Term Housing Program	2012/2013	Temporary Safety Net Funds	$240,000	Short-term housing for homeless families in child protection	Transitional Housing (3 to 12 months)	12 units
Family Unification Program (FUP)	2012/2013	HUD	$1,080,000	Housing Choice Vouchers for homeless youth transitioning out of foster care and homeless families involved in child protection	Permanent Housing for families; Transitional Housing for transitioned age youth (18-month voucher)	50 households/year
Tenant-Based Rental Assistance Program (TBRA)	2012/2013	CO Division of Housing, Dept of Local Affairs	$784,422	Tenant-Based Rental Assistance (TBRA) for families with school-aged children who are homeless/at risk	Transitional Housing (2-year "coupon"/voucher)	approximately 45 households/year
Transitional Housing for SPAN (Safehouse)	2011	Boulder County Worthy Cause Funds	$160,000	For clients of SPAN	Transitional Housing (up to 2 years)	4 units

Boulder Housing Partners	2010	Boulder County Worthy Cause Funds	$832,150	Lee Hill Housing First project for chronically homeless	Permanent Supportive Housing	31 units*** - in development. Not yet available.
Housing Stabilization Program	2008 to 2013	Local funds received from Boulder County 1A initiative	$5,700,000	Funding for households who need help paying their security deposit and rent. Approximately half are homeless and half at risk	Homelessness Prevention to enable Permanent Housing (primarily security deposits and rental assistance)	Approximately 180 households/year
Total Boulder County			**$10,513,047**			
City of Boulder						
Attention Homes, Emergency Shelter	2013/2011	Affordable Housing Fund	$143,235	Material, labor and soft costs for remodel and expansion of youth shelter	Emergency Shelter	Six beds (capacity increased from 10 to 16 beds)
Boulder Housing Partners, Housing First	2013	Affordable Housing Fund	$1,600,000	New construction @1175 Lee Hill for chronically homeless	Permanent Supportive Housing	31 units*** - in development. Not yet available.
	2011	HOME	$300,000	Pre-development costs for Lee Hill housing first development for chronically homeless		
	2010	HOME	$121,000	Pre-development costs for Lee Hill housing first development for chronically homeless		
Boulder Housing Partners, Tenant-Based Rental Assistance (TBRA)	2008	HOME	$18,000	Housing vouchers for single adults	Permanent Housing	4 people
SPAN	2008/2012	Affordable Housing Fund	$594,911	New construction for victims of domestic violence	Emergency shelter and transitional housing	10 beds (capacity increased from 17 to 27)
Total City of Boulder			**$2,777,146**			
City of Longmont						
Inn Between Longmont	2011-2013	Longmont HOME funds	$513,612	Acquisition and rehab	Transitional Housing with support services/case management	13 three-bedroom units, 4 two-bedroom units***
Tenant-Based Rental Assistance Program (TBRA)	2008-2012	Longmont HOME funds	$313,159	Tenant-Based Rental Assistance (TBRA) for families/individuals who are homeless	Transitional Housing (2 year coupon/voucher)	42 households total

Critical Housing Opportunities Program (CHOP)	2010-2013	Longmont General Funds	$279,400	Mix of tenant based rent assistance and place based assistance at The Suites and Briarwood	Winter Transitional Housing (6-9 months) for families/individuals who are on street and at-risk	53 households through 2012
Rent Deposit Program	2008-2010	Longmont CDBG funds	$10,370	Rent and/or utility security deposits	Assistance to homeless, working families/individuals who can afford rent, but cannot save for deposits	41 households served in total
Agape Family Services	2010-2013	Longmont General Funds	$56,350	Operating costs for warming center rotating between 3 church facilities	Warming Center providing overnight shelter when weather is inclement	40 beds on any given night
The Suites	2011	Longmont Affordable Housing Fund, CDBG funds	$621,000 (total project cost was $6.5 million)	Acquisition and rehab of former extended stay hotel	Permanent supportive housing	71 units; 13 two bedroom and 58 one bedroom units
Total City of Longmont			**$1,793,891**			

* Includes homeless housing (capital & vouchers) investment of Housing Consortium members in Boulder County including Boulder and Longmont.

** An additional $1,092,303 allocated to Emergency Family Assistance Association, Boulder Shelter for the Homeless, Bridge House, Mother House, Community Food Share and Safehouse Progressive Alliance for Non-Violence (SPAN) from 2008 to 2013, is not presented in this table as these investments were for repairs or debt service and did not increase shelter, transitional or permanent supportive housing capacity during this period. Debt service payments were paid each year of the current five year period.

*** Indicates projects that appear more than once on spreadsheets due to funding from multiple sources.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Mike Patton, Director of Open Space and Mountain Parks
Kacey French, Environmental Planner

Date: August 20, 2013

Subject: Information Item: Update on Regional Trail Connections

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EXECUTIVE SUMMARY

Creating regional trail connections continues to be of City Council and community interest. Several regional trail connections are being pursued as Open Space and Mountain Parks (OSMP) plans are implemented. Staff continues to work with regional partners on existing initiatives and to identify new opportunities.

FISCAL IMPACT

No additional funding is required in addition to current budget resources. The Open Space and Mountain Parks Acquisition Plan, approved by council in May 2013, identifies $2-$3 million for regional trail connections. This funding is for acquiring the necessary property interests to facilitate the completion of regional trails.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Overall economic impacts on the business community are unknown. Open Space and Mountain Parks lands, along with convenient access provided by regional trails, contribute to the vibrant character of the City of Boulder and appeal to outdoor lifestyle of many residents. The ecological setting and recreational opportunities on OSMP help attract and retain a wide range of employers and help those employers recruit and retain quality employees.
- Environmental: Overall environmental impacts are unknown. It is possible that regional trail connections will attract more visitors to OSMP lands. While increasing numbers of visitors is a concern, the greatest threats to conserving natural resources are most directly related to visitor behaviors. Regional trail connections could also disperse visitors from already highly visited areas to less visited areas including other public lands. Regional trail connections

could encourage alternative modes of transportation and/or reduce the number of cars at trailheads.

- Social: Regional trail connections could make Open Space more accessible for those who do not live adjacent or nearby.

STATUS

This memo describes both regional trails for which there is existing direction from City Council as well as new opportunities in which staff is participating.

Regional Trails with Existing City Council Direction (*Plans Accepted by City Council are Shown in Italics)*

- **Boulder Canyon to Flagstaff Summit** - Chapman Drive (*West Trail Study Area)*
  The Lower Chapman Drive Trail was opened to the public in January 2013 connecting Boulder Canyon to Flagstaff Summit. This regional trail connection was made possible by the purchase of the Schnell property in 2012. As part of its approval of the Walker Ranch Management Plan, the Boulder County Commissioners directed county staff to examine ways of connecting Walker Ranch to OSMP's Chapman Drive Trail.

- **Boulder Creek Path –** Chapman Drive Trail and Fourmile Canyon Drive to Boulder County Parks and Open Space Betasso Preserve *(West Trail Study Area)*
  OSMP and Boulder County Transportation have explored a number of options for extending the current bike path up to Chapman Drive Trail or to the canyon side of the Betasso Trail. Most recently, OSMP and county staffs have been working with Colorado Department of Transportation (CDOT) on a "shelf" project that, although currently unfunded, could eventually provide a bike path along the right of way to Chapman and Betasso.

- **Boulder to Lyons (Feeder Canal)** *(Boulder Valley Comprehensive Plan)*
  There has been no activity in 2013 specific to this connection. Boulder County is the lead agency for this project and suspended further planning in response to public concerns, and land ownership issues. This area is included in the Regional Trails Master Plan project planning area (see below project description).

- **Eldorado Canyon to Walker Ranch** *(Boulder Valley Comprehensive Plan, Visitor Master Plan, Eldorado Mountain/Doudy Draw and West Trail Study Area Plans)*
  Boulder County's Walker Ranch Management Plan as well as both the Eldorado Mountain/Doudy Draw and West Trails Study Area Plans recommend an evaluation of the feasibility of constructing a multi-use trail between Walker Ranch and Eldorado Canyon. The city, county and state are partnering on a feasibility study of four alignments to determine if a cost effective and environmentally acceptable connection can be found. A Request for Proposal is being developed this summer and will be distributed in early fall.

New Opportunities for Regional Trails

- **Regional Mountain Trails Master Plan (RMTMP)** – A multi-agency project led by Boulder County Parks and Open Space (BCPOS) to develop a network of access points and travel corridors for non-motorized users in the foothills and mountains of Boulder County.

The goal of the plan is to connect communities and recreation areas in the mountains and foothills to regional trails in the plains. The plan will emphasize linking existing trails and trail systems. The project partners are BCPOS, Boulder County Transportation, U.S. Forest Service, National Park Service, Colorado Parks and Wildlife, City of Boulder OSMP and City of Longmont. Public listening kick-off meetings were held at 11 sites across the county from mid-April to mid-May. The purpose of the meetings was to listen to the desires and concerns of the public and to share information about the project. Information was provided about the existing management considerations of the participating agencies. The management considerations for OSMP are:

- Trail Study Area (TSA) Planning is the primary decision-making process for area-specific plans that determine the design of the trail system and the permitted activities on the trails.
- West TSA decisions are considered "givens" for the RMTMP. Proposals for lands near or in the West TSA planning area will be evaluated based on their consistency and compatibility to the West TSA Plan.
- The RMTMP process will be integrated as appropriate with the North TSA planning process for OSMP lands generally north of Linden Drive and west of Broadway.

The project is entering into the preliminary planning phase, and will be followed by a trail corridor options and analysis phase. A draft plan is scheduled to be completed in the winter of 2014.

- **Rocky Mountain Greenway Project** – An American Great Outdoors initiative led by the U.S. Department of the Interior to create uninterrupted trails and transportation linkages that connect community trail systems with the three national wildlife refugees in the Denver metro region and Rocky Mountain National Park.
  The RMTMP will include an evaluation of potential connections to Rocky Mountain National Park through western Boulder County. A scoping report investigating the feasibility of connecting Rocky Flats with Two Ponds National Wildlife Refuge in Arvada was completed in December 2012. BCPOS Coalton trailhead is being considered as a potential connection from Rocky Flats Wildlife Refuge.

OSMP staff will continue to coordinate with other partner agencies on the development of regional trails through planning, route feasibility assessment, land acquisition and trail construction.

CITY OF BOULDER, COLORADO

BOARDS AND COMMISSIONS MEETING ACTION SUMMARY FORM

NAME OF BOARD/COMMISSION: LIBRARY COMMISSION
DATE OF MEETING: August 7, 2013 at Main Library
NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Leanne Slater, 303-441-3106
LIBRARY COMMISSION MEMBERS PRESENT: Anne Sawyer, Celeste Landry, Donna O'Brien, and Anna Lull
LIBRARY COMMISSION MEMBERS ABSENT: Dan King resigned effective Aug. 4, 2013.
LIBRARY STAFF MEMBERS PRESENT: Valerie Maginnis, Jennifer Miles, Leanne Slater, Gwen Holton, and Kathleen Janosko
CITY STAFF PRESENT: Glenn Magee, Maureen Rait, Joe Castro, Jennifer Bray, and David Mallett
PUBLIC PRESENT: Alice McDonald, Doris Hass, Carl Manthei (Boulder Library Foundation president), Peter Richards, Laurence Anderson, Jacqueline Reid, and Cynthia Neil
BOULDER TEEN ADVISORY BOARD (BTAB) MEMBER PRESENT: Nick Bozik

Call to order: The meeting was called to order at 6:00 p.m.
Approval of Agenda: The agenda was approved with the additions included below.
Public Participation: No public participation

Consent Agenda:

A. Approval of July 10, 2013 minutes- The July 10, 2013 minutes were unanimously approved as amended (3-0, O'Brien abstained as she was absent from the July meeting.
B. Commission Update (from memo)
C. Library Update (from memo)

Commission Priority Discussion and Input:

A. Main Library Renovation Project Design Advisory Group (DAG) Update (1 hour & 27 minutes)-
The Library Commission received an information update from DAG on the following categories:
project communication plan, public art process timeline, shelving floor plan, technology, HVAC augmentation, preliminary information on cost estimate, and an update on the Request for Qualifications (RFQ) process for construction contractor selection. Also, Commissioners Sawyer and Lull volunteered to serve on the public art selection panel.

Matters from the commission:

A. Consideration of a statement about tax options and possibility of a future library district (11 minutes)
B. Discussion regarding resignation of Commissioner King- Commissioner Sawyer will be making a request to the City Council Agenda Committee that states the Library Commission's preference for a new commissioner to be appointed prior to the annual spring recruitment period.

Matters from the department:

A. Patron survey cost information and options (15 minutes)
B. Update on the north Boulder library station (10 minutes)
C. Questions about the new Library Commission city-based webpage- (10 minutes)- This item was deferred until the September meeting.

Next commission meeting (rollover items): Main Library renovation project Design Advisory Group and studiotrope update regarding way finding, furniture and finishes, RFID and automated materials handling system selection process, cost estimate and tradeoffs (if any) to consider, and preliminary architect-recommended project phasing; (possible) results from the north Boulder survey; review of library's portion of the city manager's recommended city budget; discuss survey questions in relation to the library's special programming.

Adjournment – The meeting was adjourned at 8:23 p.m.

ATTACH BRIEF DETAILS OF ANY PUBLIC COMMENTS (LIMIT TO ONE PAGE):

TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS: 6 p.m. on Wed., Sept. 4, 2013 at the Main Library, in the North Meeting Room, 1001 Arapahoe Ave.