UNIVERSITY HILL COMMERCIAL AREA MANAGEMENT COMMISSION
REGULAR MEETING – October 21, 2015
4 - 6 p.m.

1777 West Conference Room, 1777 Broadway

AGENDA

1. Roll Call
2. Approval of the September 17, 2015 Meeting Minutes
3. Police Update - Trujillo
4. Budget Update – Jobert
5. CUSG - Ahram
6. Public Participation
7. AMPS Presentation and Recommendation - Winter
8. Hill Boulder Update - Soifer
9. UHNA Update – Nancy Blackwood
10. Parking Services Update – Matthews
11. Matters from Commissioners
12. Matters from Staff – Winters/Wiebenson
    - 2A Update
    - EcoPass Update
    - December City Council Study Session
    - Changes to Panhandling Ordinance
13. Action Summary

Attachments

- Meeting Minutes – September 17, 2015
- Sales and Use Tax Revenue Reports – July 2015
- AMPS Study Session Memo
- Agenda Item – Changes to Panhandling Ordinance
- University Hill Stakeholder Updates – September/October

Upcoming Meetings:
November 19 UHCAMC

- Access and Development Projections
- Draft Memo to Council – Study Session 12/8

Commissioner Terms:
Soifer 2019 (business owner)
Nelson 2020 (resident)
Rubino 2018 (business owner)
Raj 2016 (resident)
Liguori 2017 (business/property owner)

UHCAMC 2015 Priorities:
- Establish baseline/benchmarks for Hill Reinvestment Strategy
- Determine feasibility of Hill employee Eco Pass program
- Extend Hill Community Development Coordinator funding
- Pursue anchor tenant and public-private partnerships on UHGID sites
- Pursue short-term incentive program for building improvements
- Enhance communication and coordination with CU
- Integrate arts into planning for 'Event Street'
- Evaluate liquor restriction impacts
- Greater engagement with Hill Commercial Area Community

CITY OF BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING MINUTES

NAME OF BOARD/COMMISSION: **UNIVERSITY HILL COMMERCIAL AREA MANAGEMENT COMMISSION**

NAME/TELEPHONE OF PERSON PREPARING SUMMARY: **Ruth Weiss – 303-413-7318**
NAMES OF MEMBERS, STAFF, AND INVITED GUESTS PRESENT:
BOARD MEMBERS: **RAJ (left at 5:15 pm), SOIFER, RUBINO (absent), LIGUORI, NELSON**
STAFF: **WINTER, WIEBENSON, JUDD, WEISS, SMITH, FELL**
GUESTS: **NANCY BLACKWOOD, SARA MITTON, BILL FOX, PETER RICHARDS**

TYPE OF MEETING: **Regular Meeting** **September 16, 2015**

AGENDA ITEM 1 – Roll Call: Meeting was called to order at 4:06 p.m.

AGENDA ITEM 2 – Approval of the August 19, 2015 Meeting Minutes (Action Item Below):

AGENDA ITEM 3 – Citizen Participation: Sarah Mitton, Lincoln Avenue resident, asked for commissioners to introduce themselves. Mitton mentioned that she was asked to attend regarding the 14th Street affordable housing project. Mitton mentioned the student use of the Boulder Junction affordable housing and how the students were asked to move as they were not permitted to lease at Depot Square. Mitton continued that the city needs to come up with a method to keep students out of the affordable housing and need to be for people who really need the units. Peter Richards noticed the crosswalk markings and appreciated it. The crosswalk was installed this morning per Nelson. Raj said that the hill needs to be monitored closely.

AGENDA ITEM 4 - Police Update – Trujillo: Trujillo has been called to court and could not attend. Wiebenson said he mentioned that it was a quite weekend and wanted the business district to know that the bear proof trash cans are going into effect now, six relocations of bears in the last few weeks and tickets will be issued. The grace period for the business district will be until next year. Nelson spoke to Jen Riley recently about trash cans hit by bears and Riley appreciated the update. Soifer suggested sending the commercial district a note regarding the trash can situation.

AGENDA ITEM 5 – CUSG Update - Ahra: Wiebenson said that Joseph Soto with CU internal affairs said Ahra will be attending UHCAMC in the future.

AGENDA ITEM 6 – Hill Boulder Update: Soifer said there was a good turnout at the Hill Boulder meeting. Hill Boulder will be sending a letter of support of the Boyers 14th Street parking and housing. Soifer said that the housing will be single one bedroom units and the salary range is high per Liguori. Winter said that some things fell through the cracks at Boulder Junction and now there is a lot of scrutiny. Soifer spoke of upcoming events and a rep of Hill Boulder will be attending. Soifer said that a marketing subcommittee is being created.

AGENDA ITEM 7 – UHNA Update: Blackwood said there is going to be a candidate forum at Grace Lutheran Church. There is a meeting in October with the hotel people either the 22nd or 23rd. Hillanthrophy will have a clean up soon and will address the iris' that have overgrown in the cemetery on 9/20. Blackwood mentioned disappointment with council's over density/high decisions. A response to council will be crafted by UHNA soon.

AGENDA ITEM 8 – Public Hearing and Consideration of a Motion to Make a Recommendation to City Council of the Downtown and University Hill Management Division, Parking Services 2016 Budget – Jobert: Jobert said the city models all the employees costs, and one budget request for AMPS of $7,000 with UHGID having more expenses than revenue. Good news is city council has made a commitment to the Hill via the 2A Projects and the General Funds has made allocations and there will be a price increase. Liguori said that sales tax and admission tax revenue that isn't in the budget but is inching upwards.
Open Public Hearing. Closed Public Hearing.
Soifer motioned to recommend the budget to city council approval of the Downtown and University Hill Management Division, Parking Services 2016 Budget. Liguori seconded the motion and all commissioners approved, 3 - 0.

The budget is looking for efficiencies and reallocation of resources to service more Hill needs and project partnerships.

AGENDA ITEM 9 - Presentation of UHGID Access and Parking Projections – Bill Fox, Fox Tuttle Hernandez: Fox said there is a two page spread memo in the rear of the packet with details on build out parking projects as a demand and supply scenario. Fox discussed the numbers with the commission which included the hotel demand to come. EcoPass on the Hill for full time employees and not students was mentioned as a deduction for needed parking. Soifer said the reduction of parking spaces due to the EcoPass as presented was too high. Jobert questioned the number of EcoPasses anticipated on the Hill. Smith questioned Fox on the parking environment of the Hill. Fox said there are 160 on street spaces, the 147 potential NPP commuter permits were discussed that would impact parking spaces. Fox said that UHGID would have access 210 non residential commercial parking spaces on the Hill with a few reserved for residential. Liguori queried the hotel parking usage. Fox projections are calculated on future build out and could change with structure changes. Satellite parking was discussed and has the potential to help all city parking. Liguori asked if demand goes down after 5 pm and Fox replied it depends on use. Nelson questioned why rates would be different between CAGID and UHGID. Fox replied it doesn't work due to different uses such as the students. Jobert mentioned that the meters downtown takes in twice as much per meter than the Hill. Fox will work with Wiebenson on updating to current numbers.

AGENDA ITEM 10 – Parking Services Update: Judd said irrigation design for the trees is almost complete and should be out to bid soon. Liguori asked how long the bidding process takes and Judd said the two facets of the project will go out separately and there is no time frame currently. Crosswalks are in place. YOAB requested the crosswalks. Wiebenson said the roadway in front of the Fox. Zebra crosswalks are being refreshed. Judd said power washing begins this weekend. Parent's weekend is October 3 – 4. Banner hardware arrived today. Pedestrian lights are being worked on and looking to use generic poles for the Hill. More bike racks are going to be installed due to need.

AGENDA ITEM 11 – Matters from the Commissioners:

AGENDA ITEM 12 – Matters from the Staff: Wiebenson said the next Hillanthrophy in October will address bike racks and bollards. The cell phone bench new location was discussed. Wiebenson said that there was a presentation to Commercial Brokers on the Hill market, occupancy rates, top requested tenants, and it was all well received. Winter and Wiebenson met with Boyers last week and is reconsidering the affordable housing concept. Discussion continued with scenarios for parking, funds to pay, is there a market for the parking? Wiebenson is looking for a commissioner to be on the working group with Morzel and Shoemaker, Frances Draper will be looking at the city wide view, Hill Boulder will have Bill Shrum, RHG and RSD involvement and looking for a broad base of people. Nelson volunteered for the group. Dakota motioned to nominate Nelson and Liguori seconded, all were in favor and Nelson accepted. Lisa Smith discussed her role with UHCAMC and the city.
Winter mentioned the AMPS Joint Board Meeting on Monday and some items that will be focused. NPP rate for commuter permits was discussed for increase.

UHCAMC ACTION LIST:
Wiebenson reviewed progress with action items from the July 15 UHCAMC meeting. Additional items were noted:

- Staff to provide schedule for 2A irrigation, lighting and event street to commissioners.
- Staff to invite Mike Boyers to next meeting.
- Staff to provide final baseline performance measurement report from RRC.
- Budget Committee meeting scheduled for September 1.

Work with Hill Boulder on bear trash can email
Current Hill build out at next meeting - RRC
Look at grouping bike racks and locations
Soifer question to Hill Boulder
Looking into CU parking rates.

Meeting adjourned at 6:00 p.m.

ACTION ITEMS:

MOTION: Liguori motioned to approve the August 19, 2015 meeting minutes. Raj seconded and the motion passed 5-0.

MOTION: Soifer motioned to recommend the budget to city council approval of the Downtown and University Hill Management Division, Parking Services 2016 Budget. Liguori seconded the motion and all Commissioners approved, 3 -0.

MOTION: Dakota motioned to nominate Nelson for the working group and Liguori seconded, all were in favor and Nelson accepted.

FUTURE MEETINGS:

October 21, 2015	**4 – 6 pm**	**1777 West Conference Room**	**Regular Meeting**

APPROVED BY:

UNIVERSITY HILL COMMERCIAL AREA MANAGEMENT COMMISSION

Attest:
Ruth Weiss, Secretary

Dakota Soifer, Chair

City of Boulder
Sales & Use Tax Revenue Report
July, 2015

Issued September 8, 2015

This report provides information and analysis related to 2015 Year-to-Date (YTD) sales and use tax collections. Results are for actual sales activity through the month of July, the tax on which is received by the city in the subsequent month. For clarification of any information in this report, please contact Patrick Brown, Revenue & Licensing Officer, at (303) 441-3921 or brownp@bouldercolorado.gov.

PLEASE NOTE: Pursuant to a vote in November of 2014, the sales and use tax rate changed on January 1, 2015 from 3.56% to 3.86%. The additional 0.30% tax was approved for a three year period and is earmarked for "Community Culture and Facilities." Actual dollars collected in the report may show as being higher in 2015 solely because of that tax rate increase. However, the percentage changes included in this report have been "normalized" to be able to compare the actual increase or decrease for this year compared to the same period in 2014 as if the rates were the same. This "normalized" percentage better reflects the underlying economic activity in the city and enables city staff to more readily determine if revenue targets are being met.

REVENUE COMPARISONS TO COMPARABLE PERIOD IN PRIOR YEAR

As reflected in Table 1, "normalized" Sales and Use Tax has increased from the comparable 2014 base by 4.40%.

TABLE 1
*"NORMALIZED "*ACTUAL SALES AND USE TAX REVENUE
(Adjusted to exclude change in tax rate)

TAX CATEGORY	% CHANGE IN REVENUE Increase/(Decrease)	% OF TOTAL
Sales Tax	5.85%	78.08%
Business/Consumer Use Tax	(14.47%)	9.42%
Construction Use Tax	16.70%	9.64%
Motor Vehicle Use Tax	4.34%	2.86%
Total Sales & Use Tax	**4.40%**	**100.00%**

Any time a new commodity (such as recreational marijuana) becomes taxable, it generates additional revenue and increases the revenue "base," but the percentage increase in revenue may distort perception of the strength of the underlying economy. For that reason, Table 2 is presented to illustrate "normalized" sales and use tax revenue excluding revenue from the sale of recreational marijuana.

TABLE 2
*"NORMALIZED "*ACTUAL SALES AND USE TAX REVENUE, *EXCLUDING REVENUE FROM THE SALE OF RECREATIONAL MARIJUANA*
(Adjusted to exclude change in tax rate)

TAX CATEGORY	% CHANGE IN REVENUE Increase/(Decrease)	% OF TOTAL
Sales Tax	4.78%	77.69%
Business/Consumer Use Tax	(14.59%)	9.57%
Construction Use Tax	16.70%	9.81%
Motor Vehicle Use Tax	4.34%	2.92%
Total Sales & Use Tax	**3.56%**	**100.00%**

COMMUNITY CULTURE AND FACILITIES TAX

For July 2015 YTD, the newly enacted Community Culture and Facilities Tax (an additional 0.30%, effective for 3 years beginning January 1, 2015) has generated $5,602,959. This tax is dedicated to fund a variety of projects in the Civic area along the Boulder Creek Path and on University Hill as well as improvements for several culturally oriented projects. It will also fund pedestrian safety lighting improvements along Baseline Road at the entrance to Chautauqua Park.

DETAILED ANALYSIS OF MAJOR CATEGORIES

The following monthly information is provided to identify trends in the various retail categories. While this information is useful, it is important to remember that relatively small aberrations (like the timing of remittances by certain vendors) can make relatively large monthly variances.

Retail Sales Tax – July YTD retail sales tax revenue was up 5.85% from that received in 2014. It is important to note that any significant sales of recreational marijuana did not begin until the second quarter of 2014. Therefore, comparisons are not "apples to apples" for the first quarter.

Jan	Feb	Mar	Apr	May	Jun	Jul
6.50%	9.40%	8.54%	4.87%	2.81%	3.00%	6.41%

Food Stores - YTD retail sales tax revenue for food stores was up 9.25% from that received in 2014. This large increase is primarily due to companies who file thirteen four-week periods instead of reporting monthly. Companies who file thirteen four-week periods do so because of reporting purposes. Each reporting period has the same number of days in the period. Since the city reports monthly, there is one month out of the year where our report contains two filing periods.

Jan	Feb	Mar	Apr	May	Jun	Jul
46.51%	8.69%	2.00%	1.77%	0.70%	8.22%	3.74%

Sales at **Eating Places** are both an important revenue source (Eating Places comprise approximately 12.00% of sales/use tax) and are often an indicator of the health of the economy in the city. This discretionary category is often correlated with disposable income and consumer confidence. Total July YTD retail tax at Eating Places is up by 7.14%.

Jan	Feb	Mar	Apr	May	Jun	Jul
4.82%	10.46%	6.98%	4.87%	11.00%	0.98%	10.84%

Apparel Stores - YTD retail sales were up by 7.16%. The significant increase in April is due to multiple circumstances. Timing was an issue with one large vendor who did not remit in April of 2014. Multiple other vendors also improved their performance during the month

Jan	Feb	Mar	Apr	May	Jun	Jul
(29.55%)	15.03%	(1.28%)	53.97%	2.21%	16.20%	(3.11%)

General Retail sales are up by 4.75% YTD.

Jan	Feb	Mar	Apr	May	Jun	Jul
1.97%	3.75%	3.02%	4.94%	8.42%	5.55%	5.39%

Public Utilities (primarily retail sales tax on natural gas and electricity) are down by 6.44% YTD. Tax on Public Utilities comprises approximately 4.50% of total sales and use tax revenue. Even if rates increase, the direction for this category may be uncertain if conservation strategies are successful and businesses significantly cut their energy use. According to a 2006 study by the City of Boulder, commercial and industrial sector energy use makes up 83% of Boulder's energy use.

TOTAL MARIJUANA REVENUE

The latest revenue sources for the City of Boulder are the sale of both medical and recreational marijuana. These sources represented 1.07% and 1.14% of the total sales/use tax collected respectively in 2014.

The sale of medical marijuana generates:

- 3.86% sales and use tax on product sales paid by the purchaser and/or costs of any construction materials, furniture, fixtures, or equipment paid by the business.

The sale of recreational marijuana generates:

- 7.36% sales tax on product sales paid by the purchaser (3.86% base and 3.50% additional).
- 7.36% use tax on the cost of any construction materials, furniture, fixtures, or equipment paid by the business (3.86% base and 3.50% additional).
- A 5.00% excise tax paid by the grow facility when shipping product to dispensaries and/or marijuana infused product facilities.
- A "share-back" of certain State of Colorado revenue. The State collects a 10.00% tax on recreational marijuana sales and "shares back" 15.00% of that 10.00% to each city where such revenue is generated.

A summary of all year-to-date 2015 marijuana related revenue follows:

Total July YTD Marijuana Related Revenue			
Medical marijuana:			
3.86% Sales/Use Tax	$629,723		
Sub-total Medical marijuana revenue		$629,723	
Recreational marijuana			
3.86% Base Sales/Use Tax	682,749		
3.50% Additional Sales/Use Tax	618,964		
5.00% Excise Tax	579,995		
State Share-back	232,938		
Sub-total Recreational Marijuana revenue		$2,114,646	
TOTAL MARIJUANA RELATED REVENUE			$2,744,369

While the City's base 3.86% sales/use tax is distributed to City funds based upon various past voter decisions, certain other revenue has been dedicated to cover incremental costs related to the sale and use of marijuana in the City of Boulder. Year-to-date collections for these dedicated revenue sources follow:

Total July YTD "Incremental" Recreational Marijuana Related Revenue		
3.50% Additional Sales/Use Tax	$682,747	
5.00% Excise Tax	618,964	
State "Share-back"	232,938	
TOTAL "INCREMENTAL" RECREATIONAL MARIJUANA REVENUE		$1,534,649

Medical Marijuana Retail Sales Tax

Total July YTD sales/use tax revenue collected in this category is down by 7.40% from the same period in 2014. The percentage change by month is presented below.

Jan	Feb	Mar	Apr	May	Jun	Jul
26.96%	(7.57%)	(9.21%)	(1.96%)	(16.06%)	(16.23%)	(26.71%)

Recreational Marijuana Retail Sales Tax

The first remittances in 2014, related to sales of recreational marijuana, were received in the month of February. Significant retail establishments were not open until April of 2014. Therefore, increases for the first quarter of 2015 are not representative due to the non-existent or low comparative base.

Jan	Feb	Mar	Apr	May	Jun	Jul
na	na	82.89%	60.56%	42.84%	38.64%	49.71%

Significant YTD increases / decreases by sales/use tax category are summarized in Table 3.

TABLE 3

2015 YTD RETAIL SALES TAX (% Change in Comparable YTD Collections)	
STRENGTHS:	WEAKNESSES:
▪ Food Stores up by 9.25% (January had two returns for each store by a 13 period filing taxpayer)	▪ Transportation/Utilities down by 4.96%
▪ Eating Places up by 7.14%	▪ Medical Marijuana down by 7.40%
▪ Apparel Stores up by 7.16%	▪ Consumer Electronics down by 8.41%
▪ Home Furnishings up by 3.11%	▪ Table Mesa down by 1.04%
▪ General Retail up by 4.75%	▪ Public Utilities down by 6.44%
▪ Automotive Trade up by 0.43%	
▪ Building Material - Retail up by 1.87%	
▪ Computer Related Business up by 19.94%	
▪ All Other up by 6.97%	
▪ Recreational Marijuana up by 87.19%	
▪ Downtown up by 9.64%	
▪ UHGID (the "hill") up by 0.08%	
▪ N. 28th St Commercial up by 15.49%	
▪ University of Colorado up by 2.49%	
▪ Basemar up by 3.96%	
▪ BVRC (excl 29th St) up by 3.97%	
▪ Twenty-Ninth St up by 3.98%	
▪ The Meadows up by 13.29%	
▪ All Other Boulder up by 7.27%	
▪ Out of State up by 2.11%	
▪ Metro Denver up by 18.52%	
▪ Pearl Street Mall up by 18.57%	
▪ Gunbarrel Commercial up by 18.52%	
▪ Boulder Industrial up by 10.16%	

2015 USE TAX (% Change in YTD Comparable Collections)	
STRENGTHS:	WEAKNESSES
▪ Construction Use Tax up by 16.70% (when adjusted to exclude dedicated Boulder Junction tax in both years, up by 22.51%)	▪ Business Use Tax down by 14.47%
▪ Motor Vehicle Use Tax up by 4.34%	

BUSINESS USE TAX

July YTD Business Use Tax is down by 14.47%. This tax category can be very volatile as it is associated primarily with the amount and timing of purchase of capital assets by businesses in the city and the amount and timing of audit revenue.

MOTOR VEHICLE USE TAX

July YTD Motor Vehicle Use Tax is up by 4.34%, this tax category applies to the purchase of vehicles registered in the city. As individuals and businesses became more confident about jobs and the economy, they have replaced their vehicles and thus reduced the average age of their fleet. 2014 was a strong year for motor vehicle sales, but the change reversed in late 2014 and early in 2015 as the average age of the total vehicle fleet in the city declined and the comparative numbers from the prior year became more difficult to meet or exceed. Both November and December 2014 results were negative (down 17.88% and 12.16% respectively when compared to the very strong sales in the comparative months of 2013) and comparative results continued to be negative through May of 2015. Comparative revenue in this category began to increase again in June 2015 and has continued this increase into July. If the economy remains strong, we may see revenue in this category flatten or even increase for the total year.

CONSTRUCTION USE TAX

Construction Use Tax is up by 16.70% YTD. This is a very volatile tax category as it depends upon the number and timing of construction projects in any given period. Revenue in this category assumes "base" number of projects will continue indefinitely, plus revenue from large projects in the "pipeline" (based upon a review of information from the City Planning Department and the CU Capital Improvement Plan). Even when we know projects are pending, the timing of payment of Construction Use Tax can occur in the prior or subsequent year to the planned construction date. We are currently in a strong period for large project construction in the City but know that this level of activity cannot continue forever. Therefore, it is important that we not commit to ongoing operating expenses from this revenue source, as it will eventually decline.

ACCOMMODATION TAX

July Accommodation Tax revenue is up by 10.95% from the same period in 2014. The hotel industry in Boulder is in a state of flux. It is uncertain when new properties in the pipeline will open. Some upward adjustment in room and occupancy rates has occurred during the transition when the total number of rooms available in the City was down slightly. Some of the changes follow:

- America Best Value – closed March 2014 (to be converted to student housing)
- Golden Buff – closed December 2013 (to be redeveloped into two hotels)
- Boulder Outlook – closed November 2014
- Hyatt Place Depot Square – opened in April 2015
- Other Planned Properties – in concept or site review

ADMISSIONS TAX

Year-to-date 2015 Admission Tax revenue is up by 14.05% from the same period in 2014. Admissions Tax collections are dependent on the number of taxable productions and events held in the City and the level of attendance at such events.

TRASH TAX

July YTD Trash Tax receipts are up by 0.97%. On-going Trash Tax remittances are due on a quarterly basis. Variances also occur when smaller trash collection companies work levels vary, due primarily to pickups related to larger construction projects.

REVIEW OF VARIOUS ECONOMIC DATA & PREDICTIONS FOR THE FUTURE

Because of slower than projected growth in the first half of 2015, the *National Retail Federation* has revised its 2015 forecast:

> The NRF has issued a revised retail sales tax forecast for 2015, lowering its anticipated figures due to unexpected slow growth during the first half of the year. The original NRF forecast in

February predicted a 4.1 percent growth in retail sales over 2014, but the new revision lowers the forecast to 3.5%.

A U.S. Department of Commerce report on June sales noted that sales were down. Excluding autos, gas, building materials and restaurants, core retail sales fell 0.1 percent in June after an increase of 0.7 percent in May. The report precipitated the NRF revision. NRF calculations found that sales during the first six months of 2015 saw 2.9 percent growth, with an anticipated increase at a more positive pace of 3.7 percent over the next five months.

Following a sharp decline in July, The *Conference Board Consumer Confidence Index*® rebounded in August:

The Conference Board ***Consumer Confidence Index***®, which had declined in July, rebounded in August. This survey was conducted before the recent stock market volatility. The Index registered 101.5 (1985=100), up from 91.0 in July. The Present Situation Index increased from 104.0 last month to 115.1 in August, while the Expectations Index improved to 92.5 from 82.3 in July.

"Consumer confidence rebounded in August, following a sharp decline in July," said Lynn Franco, Director of Economic Indicators at The Conference Board. "Consumers' assessment of current conditions was considerably more upbeat, primarily due to a more favorable appraisal of the labor market. The uncertainty expressed last month about the short-term outlook has dissipated and consumers are once again feeling optimistic about the near future. Income expectations, however, were little improved."

The *University of Michigan Consumer Sentiment Index* declined in late August:

The Sentiment Index was 91.9 August, down from 93.1 in July. Consumer confidence declined in late August mainly due to the recent volatility in stock prices. The overall decline was quite small, occurring very late in the month, as well as being offset by still quite favorable job and income prospects. To be sure, when data become available in mid September, much more will be known about consumers' reactions to the volatile stock market. Overall, the data suggest that real personal consumption expenditures will expand by a still healthy 2.9% in 2015, with the pace of growth rising to 3.0% in 2016. Needless to say, consumer sentiment must be carefully monitored in the months ahead.

Accompanying the index result was the following commentary from Richard Curtin, Chief Economist: "How will consumers react to volatile stock prices? The Black Mondays of October 17, 1987 and August 24, 2015 represent two episodes when the stock market declined mainly due to reasons other than the domestic economy. Prior to each stock decline, the Sentiment Index was very positive, but immediately following, it fell by about 10%. Consumers quickly dismissed the 1987 episode since it didn't involve their jobs or incomes, and today's consumers hold similar favorable views about their job and income prospects. While this preliminary reading must be confirmed by additional data, there is every reason to expect continued growth."

According to the *Denver Business Journal*, August retail sales were hampered by lower back-to-school shopping:

The number of retailers reporting same-store sales has declined significantly over the past several years, but the reported numbers do provide a kind of interim report on quarterly performance at the country's retail stores.

While consumers were out in force purchasing new vehicles at a 17.7 million (seasonally adjusted annual rate) at levels not seen since prior to the Great Recession, traffic at the nation's retailers during the key Back-to-School shopping season was not quite as robust. ...Value conscious

American consumers came out in decent numbers. Back-to-School shopping surveys including the National Retail Federation survey found that consumers were going to spend less this year on B2S and this may have very well come to fruition as mall traffic looked sluggish throughout the month but did pick up in the latter half of August.

As reported in the *Denver Business Journal*, the U.S. Federal Reserve System is out with its latest "Beige Book" economic survey for Colorado and nearby states, charting winners and losers in the regional economy over the last several weeks.

Overall, the survey of business leaders says the multistage region's economy continued to rise modestly in July and early August, with mixed conditions across sectors." Among the winners: Consumer spending, tech, transportation and real estate. Sectors not doing so well: Manufacturing, energy and agriculture. The Fed's latest survey, issued today, spans the six-week period that ended Aug. 24.

Summary

Economic activity in the Tenth District continued to rise modestly in July and early August, with mixed conditions across sectors. Consumer spending continued to grow at a moderate pace as retail, restaurant, and auto sales increased and District tourism activity was flat. Manufacturing activity continued to decline primarily due to weakness in food, beverage, plastics, and metal production, but expectations remained modestly positive. Professional, high-tech, and transportation firms reported moderately higher sales compared to a year ago and expected further gains over the coming months. Real estate activity across the Tenth District continued to increase at a modest pace, but residential real estate contacts expected the pace of expansion to slow over the coming months. Banking contacts reported stable loan demand, loan quality and credit standards as well as a slight increase in deposit levels. Energy activity remained weak as oil prices fell to six-year lows. District farm income remained subdued, agricultural credit conditions weakened, and crop prices dropped sharply as a strong fall harvest was expected. Prices were mixed across sectors in the District, and wage growth slowed despite some reported labor shortages.

Consumer Spending

Consumer spending activity rose at a moderate pace, with further growth expected in the months ahead. Retail sales increased moderately from the previous survey period and remained higher than year-ago levels. Several retailers noted an increase in sales for lumber, upholstery, and summer-related products, while sales of higher-end products were weak. Expectations for future retail sales remained strong, and inventory levels were expected to rise moderately. Auto sales increased moderately and were slightly above year-ago levels, with sales expected to climb higher in the months ahead. Dealer contacts noted increased sales of larger vehicles such as trucks and SUVs, and slower sales for small and hybrid cars. Auto inventories fell modestly, although most contacts expected levels to rebound in the next six months. Restaurant sales remained solid and were moderately higher than year-ago levels, with a slight increase in activity expected over the coming months. District tourism activity was roughly flat since the previous survey, but contacts expected activity to fall moderately in the months ahead.

***BizWest* reported that the Region's unemployment rates took a healthy dip in July:**

Unemployment rates dipped across the four-county region in July, with Boulder and Weld counties each seeing theirs decline by half a percentage point from June. The drops came as the state of Colorado as a whole saw its rate decline one-tenth of a percentage point to 4.3 percent. Boulder County's rate dropped to 3.3 percent, down from 3.8 percent in June and down from 4.2 percent from July 2014. There, 168,835 people were employed, with 5,846 looking for work.

Although retail sales taxes are collected and remitted on some retail purchases (primarily those with brick and mortar stores in the City or State), many go untaxed. Therefore, it important to follow trends in this sales category. IBM's annual *Online Retail Readiness Report* published in April of 2015, based upon a Forrester Research Study includes the following:

> The e-commerce industry is steadily growing, faster than expected. A previous report from 2010 didn't expect the industry to top $300 billion until 2017. By the end of this year, the industry is projected to reach nearly $334 billion in consumer spend.
>
> As e-commerce grows overall, holiday spending is increasing as well, though at a slower rate. A study by the National Retail Federation shows that shoppers spent more both in store and online during the 2014 holiday season (which includes November and December sales). Overall online spend amounts to just one-sixth of in-store spend, but it's increasing faster year-over-year. Online sales grew 6.8 percent over 2013, while in-store sales grew 4 percent over 2014.
>
> Mobile shopping is on the rise. ...retailers are using the promotional techniques they use during the main holiday season during smaller holidays around the year, like Father's Day. We're seeing that holiday shopping retailers are investing in mobile websites and applications. We're also seeing retailers looking to find ways to bring the best of online shopping into stores. Mobile devices are the remote control of our lives, and retailers need to leverage that.

According to the 3rd Quarter 2015 Leeds *Business Confidence Index* published by the University of Colorado's Leeds School of Business, expectations are tempered ahead of Q3:

> The panel of business leaders surveyed notched expectations downward ahead of Q3 2015, marking the largest decrease in confidence since Q2 2013. The index remains in positive territory (above 50) for all individual metrics of the index. The greatest optimism was in the state economy, which was also the source of the greatest decline in expectations compared to a year ago. Expectations for the national economy took the largest step back compared to a quarter ago coming on the heels of weak first-quarter real GDP growth. Hiring expectations recorded the second-largest quarterly reduction.
>
> The Leeds Business Confidence Index, which captures Colorado business leaders' expectations for the national economy, state economy, industry sales, profits, hiring plans, and capital expenditures is at 58.3 for Q3 2015 compared to 61.7 ahead of Q2 2015. The LCBI is down 2.9 points from one year ago and 3.4 points from last quarter.

Excerpts from the latest publication of *Focus Colorado: Economic and Revenue Forecast,* from the Colorado Legislative Council Staff, follow:

> The economy is strong. Colorado's expansion grew out of a recovery into a mid-cycle expansion nearing full employment in 2014. Low oil prices are expected to slow the pace of Colorado's expansion in 2015. The expansion and inflationary pressure will be moderated over the forecast period by tightening monetary policy.
>
> The biggest risk to expectations for Colorado's economy is the trajectory of oil prices and its impact on employment and income growth in Denver and the northern Front Range. Cutbacks in the oil industry are expected to be a moderating influence in employment, wages, and income gains in the Denver metropolitan area and the northern front range.

Total Net Sales/Use Tax Receipts by Tax Category	JULY YTD Actual			
	2014	2015	% Change	% of Total
Sales Tax	49,044,726	56,287,932	5.85%	78.08%
Business Use Tax	7,323,388	6,791,170	-14.47%	9.42%
Construction Sales/Use Tax	5,490,808	6,947,863	16.70%	9.64%
Motor Vehicle Use Tax	1,824,733	2,064,437	4.34%	2.86%
Total Sales and Use Tax	**63,683,655**	**72,091,403**	**4.40%**	**100.00%**

Total Net Sales/Use Tax Receipts by Industry Type	JULY YTD Actual			
	2014	2015	%Change	% of Total
Food Stores	8,009,387	9,399,325	8.23%	13.04%
Eating Places	8,131,666	9,460,882	7.30%	13.12%
Apparel Stores	2,141,305	2,486,827	7.11%	3.45%
Home Furnishings	1,544,290	1,724,422	2.99%	2.39%
General Retail	12,406,957	13,870,606	3.11%	19.24%
Transportation/Utilities	4,949,683	5,128,990	-4.43%	7.11%
Automotive Trade	4,467,333	4,932,143	1.82%	6.84%
Building Material-Retail	2,245,918	2,483,108	1.97%	3.44%
Construction Firms Sales/Use Tax	5,029,663	6,503,386	19.25%	9.02%
Consumer Electronics	1,336,170	1,375,054	-5.09%	1.91%
Computer Related Business Sector	3,860,740	4,240,187	1.29%	5.88%
Rec Marijuana	639,471	1,301,711	87.74%	1.81%
Medical Marijuana	606,691	629,723	-4.27%	0.87%
All Other	8,314,381	8,555,038	-5.10%	11.87%
Total Sales and Use Tax	**63,683,655**	**72,091,403**	**4.40%**	**100.00%**

Total Net Sales/Use Tax Receipts by Geographic Area	JULY YTD Actual			
	2014	2015	% Change	% of Total
North Broadway	763,465	878,625	6.14%	1.22%
Downtown	4,431,925	5,580,607	16.13%	7.74%
Downtown Extension	411,386	453,609	1.69%	0.63%
UHGID (the "hill")	658,368	712,902	-0.13%	0.99%
East Downtown	527,694	485,098	-15.22%	0.67%
N. 28th St. Commercial	2,842,340	3,582,913	16.26%	4.97%
N. Broadway Annex	258,718	284,078	1.27%	0.39%
University of Colorado	608,830	538,893	-18.37%	0.75%
Basemar	1,705,702	1,869,842	1.10%	2.59%
BVRC-Boulder Valley Regional Center	12,463,406	14,077,362	4.17%	19.53%
29th Street	4,515,654	5,074,789	3.65%	7.04%
Table Mesa	1,496,880	1,597,550	-1.57%	2.22%
The Meadows	585,011	672,946	6.09%	0.93%
All Other Boulder	4,023,234	5,360,153	22.88%	7.44%
Boulder County	675,412	746,461	1.93%	1.04%
Metro Denver	1,918,426	4,491,265	115.92%	6.23%
Colorado All Other	209,063	363,928	60.55%	0.50%
Out of State	6,201,153	6,073,456	-9.67%	8.42%
Airport	22,024	29,466	23.39%	0.04%
Gunbarrel Industrial	5,067,608	3,906,016	-28.91%	5.42%
Gunbarrel Commercial	672,649	832,357	14.13%	1.15%
Pearl Street Mall	1,727,955	2,220,644	18.52%	3.08%
Boulder Industrial	6,058,293	6,836,161	4.07%	9.48%
Unlicensed Receipts	955,758	290,735	-71.94%	0.40%
County Clerk	1,824,733	2,064,437	4.34%	2.86%
Public Utilities	3,057,970	3,067,110	-7.50%	4.25%
Total Sales and Use Tax	**63,683,655**	**72,091,403**	**4.40%**	**100.00%**

Miscellaneous Tax Statistics	JULY YTD Actual		
	2014	2015	% Change in Taxable
Total Food Service Tax	356,497	376,467	5.60%
Accommodations Tax	3,331,306	3,696,212	10.95%
Admissions Tax	311,041	354,730	14.05%
Trash Tax	910,767	919,618	0.97%
Disposable Bag Fee	132,645	128,316	-3.26%
Rec Marijuana Excise Tax	157,512	579,995	268.22%

USE >< SALES

USE TAX BY CATEGORY JULY YTD Actual 2014	2015	% Change	Standard Industrial Code	SALES TAX BY CATEGORY JULY YTD Actual 2014	2015	% Change
123,967	58,374	-56.57%	Food Stores	7,885,420	9,340,952	9.25%
101,110	131,639	20.08%	Eating Places	8,030,555	9,329,243	7.14%
8,112	8,321	-5.40%	Apparel Stores	2,133,193	2,478,506	7.16%
14,746	14,444	-9.66%	Home Furnishings	1,529,544	1,709,979	3.11%
1,780,870	1,801,899	-6.68%	General Retail	10,626,087	12,068,706	4.75%
246,610	282,753	5.74%	Transportation/Utilities	4,703,074	4,846,237	-4.96%
1,876,428	2,110,818	3.75%	Automotive Trade	2,590,905	2,821,325	0.43%
11,045	14,552	21.51%	Building Material-Retail	2,234,873	2,468,556	1.87%
4,826,890	6,246,597	19.35%	Construction Sales/ Use Tax	202,773	256,788	16.80%
23,958	71,922	176.87%	Consumer Electronics	1,312,212	1,303,132	-8.41%
2,706,129	2,738,587	-6.67%	Computer Related Business	1,154,611	1,501,600	19.94%
4,602	13,184	164.22%	Rec Marijuana	634,869	1,288,527	87.19%
14,244	34,888	125.90%	Medical Marijuana	592,447	594,835	-7.40%
2,900,217	2,275,492	-27.64%	All Other	5,414,165	6,279,546	6.97%
14,638,928	**15,803,470**	**-0.44%**	**Total Sales and Use Tax**	**49,044,726**	**56,287,932**	**5.85%**

USE TAX BY CATEGORY JULY YTD Actual 2014	2015	% Change	Geographic Code	SALES TAX BY CATEGORY JULY YTD Actual 2014	2015	% Change
49,303	65,846	23.17%	North Broadway	714,162	812,778	4.96%
697,033	1,140,446	50.90%	Downtown	3,734,892	4,440,161	9.64%
45,030	-590	-101.21%	Downtown Extension	366,356	454,199	14.34%
27,777	28,644	-4.89%	UHGID (the "hill")	630,591	684,258	0.08%
135,213	52,314	-64.32%	East Downtown	392,480	432,783	1.70%
47,871	83,520	60.91%	N. 28th St. Commercial	2,794,468	3,499,392	15.49%
4,215	5,606	22.66%	N. Broadway Annex	254,503	278,473	0.91%
125,386	1,653	-98.78%	University of Colorado	483,444	537,240	2.49%
550,656	567,894	-4.88%	Basemar	1,155,046	1,301,948	3.96%
314,645	382,510	12.12%	BVRC	12,148,761	13,694,852	3.97%
51,441	41,746	-25.15%	29th Street	4,464,213	5,033,043	3.98%
23,141	16,310	-35.00%	Table Mesa	1,473,739	1,581,239	-1.04%
66,402	35,877	-50.17%	The Meadows	518,610	637,069	13.29%
1,944,345	2,942,285	39.56%	All Other Boulder	2,078,889	2,417,868	7.27%
122,986	166,878	25.14%	Boulder County	552,426	579,583	-3.24%
320,531	2,437,785	601.44%	Metro Denver	1,597,895	2,053,480	18.52%
69,969	53,207	-29.87%	Colorado All Other	139,094	310,720	106.03%
843,828	142,267	-84.45%	Out of State	5,357,325	5,931,189	2.11%
8,362	5,949	-34.39%	Airport	13,662	23,517	58.76%
4,371,866	3,208,872	-32.31%	Gunbarrel Industrial	695,742	697,144	-7.59%
27,815	3,713	-87.69%	Gunbarrel Commercial	644,834	828,644	18.52%
26,949	33,869	15.91%	Pearl Street Mall	1,701,006	2,186,775	18.57%
2,175,870	2,198,708	-6.80%	Boulder Industrial	3,882,423	4,637,453	10.16%
667,752	61,603	-91.49%	Unlicensed Receipts	288,006	229,132	-26.63%
1,824,733	2,064,437	4.34%	County Clerk	0	0	#DIV/0!
95,811	62,120	-40.20%	Public Utilities	2,962,159	3,004,990	-6.44%
14,638,928	**15,803,470**	**-0.44%**	**Total Sales and Use Tax**	**49,044,726**	**56,287,932**	**5.85%**

TOTAL CITY SALES AND USE TAX COLLECTIONS

REVENUE CATEGORY	YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	% Change in Taxable Sales
RETAIL SALES TAX	2008	5,197,400	5,105,109	6,005,946	5,331,447	5,488,450	6,572,335	5,508,796	6,258,640	6,620,535	5,382,779	5,255,155	7,443,455	70,170,045	0.04%
Rate3.41%	2009	4,919,570	4,659,632	5,850,038	5,077,648	5,131,444	6,428,343	5,206,770	5,790,533	6,093,314	5,170,325	4,735,769	7,814,230	66,877,613	-4.69%
	2010	4,576,034	5,386,190	6,196,697	5,320,225	5,470,595	6,895,283	5,522,076	5,943,315	6,855,385	5,652,938	5,240,211	8,414,157	71,473,106	6.87%
	2011	5,394,367	5,132,437	6,692,597	5,630,200	5,708,608	7,016,826	5,580,953	6,531,707	7,286,644	5,765,805	5,830,545	8,390,145	74,960,833	4.88%
	2012	5,363,541	5,129,096	6,754,740	5,599,150	5,988,770	7,304,270	5,551,489	7,062,958	7,502,227	6,188,194	5,693,025	9,604,529	77,741,989	3.71%
	2013	5,557,163	5,824,808	7,171,949	5,707,649	6,197,302	7,968,604	6,161,076	6,944,797	7,500,133	6,591,707	5,934,326	9,925,508	81,485,022	4.81%
Rate 3.56%	2014	5,965,991	6,438,048	7,706,036	6,619,759	6,990,628	8,303,288	7,020,977	7,893,039	8,584,506	7,452,664	7,031,634	9,966,741	89,973,310	5.76%
Rate 3.86%	**2015**	6,889,039	7,636,464	9,068,947	7,527,277	7,792,804	9,273,066	8,100,335						56,287,933	-42.30%
Change from prior year (Month)		6.50%	9.40%	8.54%	4.87%	2.81%	3.00%	6.41%	-100.00%	-100.00%	-100.00%	-100.00%	-100.00%		
Change from prior year (YTD)		6.50%	8.00%	8.21%	7.38%	6.43%	5.76%	5.85%	-8.82%	-20.77%	-28.86%	-35.11%	-42.30%		
CONSUMER USE TAX	2008	818,034	991,472	1,109,160	669,214	736,901	1,067,769	732,334	596,399	899,934	989,683	599,876	1,253,267	10,464,043	-6.63%
(includes Motor Vehicle)	2009	909,558	657,250	1,062,587	997,891	531,724	790,819	858,325	1,299,767	989,089	741,578	698,452	1,600,457	11,137,497	6.44%
Rate 3.41%	2010	687,502	778,796	913,223	701,931	662,382	945,800	620,328	633,593	909,315	752,143	618,493	1,366,131	9,589,636	-13.90%
	2011	1,247,135	650,595	1,034,670	727,395	850,561	1,166,185	958,724	771,357	1,044,032	703,092	903,665	1,410,793	11,468,205	19.59%
	2012	763,425	768,580	859,971	976,451	1,212,071	1,033,899	729,829	940,127	957,894	1,417,818	737,310	1,469,940	11,867,314	3.48%
	2013	1,132,015	762,369	979,120	866,143	911,993	963,938	835,063	768,003	1,338,726	1,121,736	807,130	1,522,486	12,008,722	1.19%
Rate 3.56%	2014	924,895	901,234	1,328,607	1,727,986	666,706	2,541,847	1,056,846	1,297,348	1,409,960	1,012,343	1,011,907	1,429,435	15,309,114	22.11%
Rate 3.86%	**2015**	1,274,337	1,134,561	1,713,016	965,772	1,127,357	1,638,029	1,002,535						8,855,608	-46.65%
Change from prior year (Month)		27.07%	16.11%	18.91%	-48.45%	55.95%	-40.57%	-12.51%	-100.00%	-100.00%	-100.00%	-100.00%	-100.00%		
Change from prior year (YTD)		27.07%	21.66%	20.50%	-3.90%	3.29%	-10.49%	-10.72%	-21.81%	-31.11%	-36.53%	-41.16%	-46.65%		
CONSTRUCTION USE TAX	2008	330,080	347,219	748,549	454,797	327,855	241,649	100,759	442,652	347,954	217,885	107,831	381,753	4,048,982	-13.02%
Rate3.41%	2009	944,905	111,907	425,028	776,511	279,761	995,132	721,209	676,301	235,485	223,169	591,970	1,467,798	7,449,176	83.98%
	2010	591,599	242,591	245,829	362,619	226,230	1,921,675	1,075,078	467,423	245,361	234,021	406,868	531,670	6,550,964	-12.06%
	2011	622,872	281,210	274,661	240,970	2,150,036	352,336	352,846	455,211	478,988	314,958	177,137	471,157	6,172,383	-5.78%
	2012	385,392	1,697,323	315,856	503,719	342,448	375,499	595,334	214,896	422,866	473,523	799,552	371,254	6,497,662	5.27%
	2013	732,539	941,380	298,613	577,351	366,959	728,141	845,123	1,182,131	1,196,147	876,749	622,491	1,511,632	9,879,257	52.04%
Rate 3.56%	2014	716,119	1,110,714	600,580	430,524	571,269	1,688,472	373,129	379,130	713,014	908,032	325,754	1,557,635	9,374,372	-9.11%
Rate 3.86%	**2015**	387,123	680,064	2,527,741	776,513	1,008,019	985,050	583,353						6,947,863	-31.64%
Change from prior year (Month)		-50.14%	-43.53%	288.17%	66.35%	62.74%	-46.19%	44.19%	-100.00%	-100.00%	-100.00%	-100.00%	-100.00%		
Change from prior year (YTD)		-50.14%	-46.12%	36.59%	41.07%	44.68%	14.70%	16.70%	9.16%	-2.66%	-14.46%	-18.02%	-31.64%		
TOTAL FOR MONTH & CHANGE FROM PREVIOUS YEAR (MONTH & YTD)															
Ratechg3.56%>3.41%	2008	6,345,513	6,443,800	7,863,654	6,455,459	6,553,206	7,881,753	6,341,889	7,297,691	7,868,423	6,590,347	5,962,862	9,078,475	84,683,070	
Rate3.41%	2009	6,774,033	5,428,789	7,337,653	6,852,049	5,942,929	8,214,294	6,786,304	7,766,601	7,317,887	6,135,072	6,026,191	10,882,485	85,464,286	0.92%
	2010	5,855,134	6,407,577	7,355,749	6,384,774	6,359,207	9,762,758	7,217,482	7,044,332	8,010,061	6,639,102	6,265,572	10,311,957	87,613,706	2.51%
	2011	7,264,374	6,064,242	8,001,928	6,598,565	8,709,205	8,535,347	6,892,523	7,758,275	8,809,664	6,783,855	6,911,348	10,272,096	92,601,421	5.69%
	2012	6,512,359	7,594,999	7,930,567	7,079,320	7,543,289	8,713,668	6,876,652	8,217,981	8,882,987	8,079,535	7,229,887	11,445,723	96,106,966	3.79%
	2013	7,421,717	7,528,557	8,449,682	7,151,142	7,476,254	9,660,683	7,841,262	8,894,931	10,035,006	8,590,192	7,363,947	12,959,626	103,373,001	7.56%
Rate 3.56%	2014	7,607,004	8,449,996	9,635,223	8,778,269	8,228,603	12,533,607	8,450,951	9,569,517	10,707,479	9,373,039	8,369,295	12,953,810	114,656,795	6.24%
Rate 3.86%	**2015**	8,550,499	9,451,089	13,309,704	9,269,562	9,928,180	11,896,145	9,686,223	0	0	0	0	0	72,091,403	-42.01%
% Change (month)		3.67%	3.15%	27.40%	-2.61%	11.28%	-12.46%	5.71%	-100.00%	-100.00%	-100.00%	-100.00%	-100.00%		
% Change (YTD)		3.67%	3.40%	12.40%	8.58%	9.10%	4.20%	4.40%	-9.23%	-20.81%	-28.76%	-34.62%	-42.01%		

Sales Tax Revenues Generated in the UHGID Area by Standard Industrial Classification

	Food Stores	Eating Places	Apparel Stores	Home Furnish.	Gen. Merchandise	All Others	GRAND TOTAL
2012 (sales tax rate of 3.41%)							
January-December	74,972	630,882	28,068	30,800	254,698	8,615	1,028,035
2012 TOTAL	74,972	630,882	28,068	30,800	254,698	8,615	1,028,035
2013 (sales tax rate of 3.41%)							
January	5,943	42,419	683	1,897	31,839	663	83,444
February	6,733	46,945	793	2,316	14,240	494	71,521
March	7,356	58,210	2,599	2,239	14,365	933	85,702
April	8,177	60,898	1,098	2,254	14,133	566	87,126
May	7,428	44,535	1,141	1,945	17,979	502	73,530
June	6,202	49,128	2,797	1,675	15,800	1,084	76,686
July	6,773	43,431	1,410	1,929	14,014	506	68,063
August	7,880	58,942	2,478	2,320	30,225	655	102,500
September	9,034	58,301	2,276	1,593	33,190	1,032	105,426
October	9,092	75,153	1,588	2,109	20,452	622	109,016
November	7,239	54,518	1,019	1,854	14,389	473	79,492
December	6,413	41,556	1,692	1,783	27,202	3,852	82,498
2013 TOTAL	88,270	634,036	19,574	23,914	247,828	11,382	1,025,004
2014 (sales tax rate of 3.56%)							
January	6,674	44,572	549	1,698	29,308	617	83,418
February	7,481	57,318	527	1,677	18,003	548	85,554
March	7,999	57,635	280	1,754	25,675	4,941	98,284
April	9,253	73,736	335	2,261	19,985	516	106,086
May	7,947	58,322	299	1,603	22,326	557	91,054
June	6,859	49,148	1,533	1,411	18,654	3,806	81,411
July	7,169	54,921	500	1,870	19,801	522	84,783
August	10,246	63,974	389	2,090	43,631	707	121,037
September	10,859	89,597	2,127	1,858	28,775	4,106	137,322
October	10,302	74,379	327	2,709	21,704	654	110,075
November	7,552	59,538	219	1,880	17,441	493	87,123
December	7,923	55,287	2,200	2,745	19,670	4,248	92,073
2014 TOTAL	100,264	738,427	9,285	23,556	284,973	21,715	1,178,220
2015 (sales tax rate of 3.86%)							
January	7,859	49,979	1,137	2,449	26,951	857	89,232
February	8,922	74,022	423	1,717	17,242	686	103,012
March	9,623	75,994	1,619	2,331	22,518	4,180	116,265
April	10,748	66,826	242	2,280	22,236	1,016	103,348
May	8,814	66,461	576	1,720	21,496	1,104	100,171
June	7,727	50,227	1,326	1,908	17,445	6,593	85,226
July	8,147	54,767	370	2,580	19,697	1,444	87,005
August	-	-	-	-	-	-	-
September	-	-	-	-	-	-	-
October	-	-	-	-	-	-	-
November	-	-	-	-	-	-	-
December	-	-	-	-	-	-	-
2015 TOTAL	61,840	438,276	5,693	14,985	147,585	15,880	684,259

% Change from 2012-2013	17.74%	0.50%	-30.26%	-22.36%	-2.70%	32.12%	-0.29%
% Change from 2013-2014	8.80%	11.56%	-54.56%	-5.65%	10.14%	82.75%	10.10%
% Change from 2014-2015	6.84%	2.16%	30.51%	12.60%	-11.47%	27.28%	0.08%
% Change from previous year month	4.81%	-8.03%	-31.75%	27.25%	-8.26%	155.13%	-5.35%

Sales and Use Tax Revenues Generated in the UHGID Area by Standard Industrial Classification

	Food Stores	Eating Places	Apparel Stores	Home Furnish.	Gen. Merchandise	Construction	All Others	GRAND TOTAL
2012 (sales tax rate of 3.41%)								
January-December	74,987	637,659	28,068	30,800	257,134	21,390	10,190	1,060,228
2012 TOTAL	74,987	637,659	28,068	30,800	257,134	21,390	10,190	1,060,228
2013 (sales tax rate of 3.41%)								
January	5,943	42,867	692	1,897	31,839	307	1,769	85,314
February	6,733	47,024	793	2,316	14,252	233	494	71,845
March	7,356	58,287	2,599	2,239	14,377	9	1,150	86,017
April	8,177	60,975	1,098	2,254	14,143	1,364	574	88,585
May	7,428	44,596	1,141	1,945	17,981	51	502	73,644
June	6,202	49,221	2,797	1,675	15,803	1,783	1,316	78,797
July	6,778	45,052	1,410	1,929	14,021	223	506	69,919
August	7,880	59,050	2,478	2,320	30,234	826	655	103,443
September	9,034	58,377	2,276	1,593	33,195	342	1,355	106,172
October	9,092	75,238	1,588	2,109	20,456	296	628	109,407
November	7,239	55,042	1,019	1,854	14,400	6,281	473	86,308
December	6,413	41,638	1,692	1,783	27,202	115	4,075	82,918
2013 TOTAL	88,275	637,367	19,583	23,914	247,903	11,830	13,497	1,042,369
2014 (sales tax rate of 3.56%)								
January	6,674	44,901	549	1,698	29,309	14,291	617	98,039
February	7,481	60,702	527	1,677	18,003	268	548	89,206
March	7,999	57,709	280	1,754	25,677	2,691	5,161	101,271
April	9,253	74,888	335	2,261	19,990	3,118	516	110,361
May	7,951	58,390	299	1,603	22,328	1,008	557	92,136
June	6,859	49,694	1,533	1,411	18,656	56	4,114	82,323
July	7,189	55,013	500	1,870	19,805	134	522	85,033
August	10,246	64,092	389	2,090	43,632	3,089	719	124,257
September	10,861	91,142	2,127	1,858	28,778	51	4,420	139,237
October	10,302	74,466	327	2,709	21,707	1,661	654	111,826
November	7,552	59,692	219	1,880	17,482	117	640	87,582
December	7,923	55,416	2,200	2,745	19,672	126	4,462	92,544
2014 TOTAL	100,290	746,105	9,285	23,556	285,039	26,610	22,930	1,213,815
2015 (sales tax rate of 3.86%)								
January	7,859	50,053	1,137	2,449	26,953	35	865	89,351
February	8,924	74,115	423	1,717	17,243	97	836	103,355
March	9,623	76,124	1,619	2,331	22,524	447	4,638	117,306
April	10,748	66,975	242	2,280	22,242	363	1,020	103,870
May	8,814	66,519	576	1,720	21,503	24,406	1,108	124,646
June	7,727	50,425	1,326	1,908	17,449	1,307	6,892	87,034
July	8,147	54,826	370	2,580	19,704	261	1,451	87,339
August	-	-	-	-	-	-	-	-
September	-	-	-	-	-	-	-	-
October	-	-	-	-	-	-	-	-
November	-	-	-	-	-	-	-	-
December	-	-	-	-	-	-	-	-
2015 TOTAL	61,842	439,037	5,693	14,985	147,618	26,916	16,810	712,901

% Change from 2012-2013	17.72%	-0.05%	-30.23%	-22.36%	-3.59%	-44.69%	32.45%	-1.68%
% Change from 2013-2014	8.82%	12.13%	-54.58%	-5.65%	10.14%	115.46%	62.73%	11.54%
% Change from 2014-2015	6.80%	0.90%	30.51%	12.60%	-11.46%	15.11%	28.82%	-0.13%
% Change from previous year month	4.52%	-8.09%	-31.75%	27.25%	-8.24%	79.64%	156.37%	-5.27%

UHGID Yearly Summary

Sales and Use Tax Breakdown by Industry Category

	Food Stores	Eating Places	Apparel Stores	Home Furnishings	General Merch	All Other	Total
2015	$61,842	$439,037	$5,693	$14,985	$147,618	$43,726	$712,901
	9%	62%	1%	2%	21%	6%	100%
2014	$100,290	$746,105	$9,285	$23,556	$285,039	$49,540	$1,213,815
	8%	61%	1%	2%	23%	4%	100%
2013	$88,275	$637,367	$19,583	$23,914	$247,903	$25,327	$1,042,369
	8%	61%	2%	2%	24%	2%	100%
2012	$74,987	$637,659	$28,068	$30,800	$257,134	$31,580	$1,060,228
	7%	60%	3%	3%	24%	3%	100%
2011	$58,221	$650,532	$31,199	$29,330	$281,896	$49,701	$1,100,879
	5%	59%	3%	3%	26%	5%	100%
2010	$40,028	$604,913	$37,852	$30,571	$355,637	$81,746	$1,150,748
	3%	53%	3%	3%	31%	7%	100%
2009	$49,066	$578,900	$44,712	$24,213	$326,839	$34,018	$1,057,749
	5%	55%	4%	2%	31%	3%	100%
2008	$60,686	$568,892	$63,307	$24,768	$333,780	$12,073	$1,063,507
	6%	53%	6%	2%	31%	1%	100%
2007	$56,250	$588,610	$72,142	$30,921	$353,173	$19,270	$1,120,367
	5%	53%	6%	3%	32%	2%	100%
2006	$56,511	$525,911	$86,527	$33,045	$321,897	$19,261	$1,043,152
	5%	50%	8%	3%	31%	2%	100%
2005	$58,421	$493,955	$98,605	$28,891	$288,004	$29,024	$996,900
	6%	50%	10%	3%	29%	3%	100%
2004	$47,446	$461,253	$87,695	$25,958	$301,938	$124,607	$1,048,897
	5%	44%	8%	2%	29%	12%	100%
2003	$43,618	$417,782	$94,036	$35,450	$304,099	$46,965	$941,951
	5%	44%	10%	4%	32%	5%	100%
2002	$42,268	$407,606	$89,454	$34,104	$313,795	$41,419	$928,646
	5%	44%	10%	4%	34%	4%	100%

City Wide Yearly Summary

UHGID Sales and Use Tax as a Percent of Total City Wide Sales and Use Tax

	Food Stores	Eating Places	Apparel Stores	Home Furnishings	General Merch	All Other	Total
2015	$ 9,399,325	$ 9,460,882	$ 2,486,827	$ 3,099,476	$13,870,606	$ 33,774,287	$ 72,091,403
	1%	5%	0%	0%	1%	0%	1.0%
2014	$14,681,607	$14,447,798	$ 4,180,365	$ 5,475,586	$22,124,094	$ 53,747,345	$ 114,656,795
	1%	5%	0%	0%	1%	0%	1.1%
2013	$13,454,838	$13,174,730	$3,774,426	$4,692,270	$20,776,166	$47,500,571	$ 103,373,001
	1%	5%	1%	1%	1%	0%	1.0%
2012	$13,060,743	$12,937,276	$3,717,039	$4,850,986	$20,402,962	$41,137,961	$ 96,106,967
	1%	5%	1%	1%	1%	0%	1.1%
2011	$12,241,084	$11,838,300	$ 3,426,738	$ 5,259,120	$19,948,416	$ 39,725,073	$ 92,438,731
	0%	5%	1%	1%	1%	0%	1.2%
2010	$11,130,533	$10,930,482	$ 2,690,372	$ 4,459,406	$19,279,577	$ 38,940,102	$ 87,430,472
	0%	6%	1%	1%	2%	0%	1.3%
2009	$11,160,109	$10,572,840	$ 2,626,020	$ 4,304,383	$17,515,062	$ 39,002,103	$ 85,180,517
	0%	5%	2%	1%	2%	0%	1.2%
2008	$11,204,475	$10,910,035	$ 2,819,260	$ 4,827,635	$18,101,297	$ 36,708,245	$ 84,570,947
	1%	5%	2%	1%	2%	0%	1.3%
2007	$11,205,584	$10,888,135	$ 2,804,311	$ 5,522,090	$18,040,152	$ 39,631,459	$ 88,091,731
	1%	5%	3%	1%	2%	0%	1.3%
2006	$10,392,069	$ 9,582,212	$ 2,424,694	$ 4,611,056	$15,402,540	$ 37,371,060	$ 79,783,631
	1%	5%	4%	1%	2%	0%	1.3%
2005	$10,046,723	$ 8,995,846	$ 2,362,366	$ 4,465,788	$14,587,419	$ 35,882,350	$ 76,340,492
	1%	5%	4%	1%	2%	0%	1.3%
2004	$10,148,861	$8,637,718	$2,232,147	$3,118,312	$14,123,007	$32,171,342	$70,431,387
	0%	5%	4%	1%	2%	0%	1.5%
2003	$9,052,658	$7,847,285	$2,046,951	$3,922,549	$13,185,423	$31,552,637	$67,607,503
	0%	5%	5%	1%	2%	0%	1.4%
2002	$9,294,397	$8,133,237	$2,346,305	$4,164,992	$13,572,651	$33,815,600	$71,327,182
	0%	5%	4%	1%	2%	0%	1.3%

UHGID Sales Tax Revenues (N(Does not factor in tax rate changes.

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
January	98,853	118,058	120,247	113,123	110,986	112,825	100,726	85,100	83,445	83,418	89,231
February	72,140	79,436	78,684	81,957	76,043	73,913	69,547	84,232	71,520	85,554	103,011
March	72,060	75,944	75,112	72,996	78,172	83,309	77,463	93,790	85,702	98,284	116,264
April	74,662	82,378	79,016	91,281	80,517	84,060	90,460	84,564	87,124	106,086	103,349
May	61,131	68,638	90,603	74,823	71,299	74,711	86,261	84,923	73,530	91,055	100,172
June	69,085	72,486	71,063	66,754	62,685	74,080	75,299	69,958	76,685	81,411	85,227
July	65,768	56,168	67,097	65,755	62,034	71,846	77,257	67,462	68,064	84,783	87,005
August	144,466	109,263	118,556	145,179	149,212	138,971	121,559	96,703	102,501	121,037	
September	99,702	147,416	149,898	117,567	118,373	121,834	109,669	121,503	105,425	137,322	
October	93,865	89,472	101,034	93,772	82,191	89,506	89,788	90,290	109,016	110,075	
November	65,915	60,321	71,082	65,404	70,564	71,343	75,716	74,312	79,492	87,123	
December	62,359	72,197	79,696	64,029	83,085	77,446	72,817	75,198	82,497	92,072	
Totals	**980,005**	**1,031,777**	**1,102,088**	**1,052,642**	**1,045,162**	**1,073,843**	**1,046,562**	**1,028,035**	**1,025,001**	**1,178,220**	**684,259**
Tax Rate	3.41	3.41	3.56	3.41	3.41	3.41	3.41	3.41	3.41	3.56	3.86

MEMORANDUM

To: University Hill Commercial Area Management Commission

From: Molly Winter, Director, Department of Community Vitality
Kathleen Bracke, GO Boulder Manager, Public Works Transportation
Chris Hagelin, Senior Transportation Planner, GO Boulder
Bill Cowern, Transportation Operations Engineer
Karl Guiler, Senior Planner, Planning Housing + Sustainability
Jay Sugnet, Senior Planner, Planning Housing + Sustainability

Date: October 5, 2015

EXECUTIVE SUMMARY

The purpose of this memo is to:

1. Seek the University Hill Commercial Area Management Commission input on draft recommendations for key priorities for 2015 and 2016:
    a. options and draft recommendations on car sharing policy;
    b. options and draft recommendation for parking code amendments; and
    c. draft recommendations for Transportation Demand Management (TDM) policies for new developments.
2. Share ongoing community engagement and work plan items related to AMPS and next steps.

The purpose of AMPS is to review and update the current access and parking management policies and programs and develop a new, overarching citywide strategy in alignment with city goals. The project goal is to evolve and continuously improve Boulder's citywide access and parking management policies, strategies, and programs in a manner tailored to address the unique character and needs of the different parts of the city.

Staff has gathered input from the community, boards and commissions to help identify 2015 priorities for further research and community discussion. Ongoing outreach to the city advisory boards and the community has served the dual purposes of educating the public about the multimodal access system and seeking input and ideas about future opportunities for enhancements. The community and board members attended an AMPS open house in September

2015, and provided the input summarized in Section II below. Staff is preparing the most recent feedback from the boards and commissions, surveys, and September 21 open house, which will be submitted to council prior to the study session.

Questions for the Boards and Commissions

1. What is your input on the following AMPS 2015 priority work program items:

   Updates to Off-Street Parking Code Regulations

   a. Recent parking data shows that current parking requirements generally require more parking city wide than is needed for land uses. Which scenario for parking code changes would be advised moving forward *(see Section III)*?

   TDM Plans for New Development

   b. What are the pros and cons related to the two approaches – district focused and city-wide – for a TDM Plan ordinance for new developments?
   c. Should staff include in the city-wide approach an option to have the trigger based on the number of employees or bedrooms/housing units or number of peak hour vehicle trips?

   Car Share On-Street Parking Policy

   d. Should the city include a designated on-street parking alternative for car share companies in our car share on-street parking policy?
   e. Should the city include a permitting process for geo-tracked car share vehicle to park in undesignated public right-of-way parking spaces in managed districts, in excess of time restrictions present in these areas?

2. Do the Boards and Commissions have any feedback regarding the ongoing AMPS community engagement and related work plan items and next steps?

MEMO ORGANIZATION

I. Background
II. Community, Board and Commission Feedback
III. Updates to Off-Street Parking Code Regulations (Land Use Code)
IV. Transportation Demand Management Plans for New Development
V. Car Share On-Street Parking Policy
VI. Parking Pricing Preview
VII. AMPS Implementation
VIII. Ongoing Work and Coordination Related to AMPS
IX. Next Steps

I. BACKGROUND

The Access Management and Parking Strategy (AMPS) project approach emphasizes collaboration among city departments and close coordination with the numerous interrelated planning efforts and initiatives such as the Transportation Master Plan (TMP), Economic Sustainability Strategy, and Climate Commitment. Guiding principles for AMPS include:

- provide for all transportation modes;
- support a diversity of people;

- customize tools by area;
- seek solutions with co-benefits;
- plan for the present and future; and
- cultivate partnerships.

In addition of considering enhancements to existing districts, AMPS is examining parking and multimodal access policies and strategies outside of the districts, including parking requirements by land use, bicycle parking requirements, neighborhood parking permit program, and on-street parking throughout the community.

Elements of the AMPS project include:

- integrated planning, coordinated with other master planning efforts;
- a focus on goals and guiding principles that create an adaptable set of tools and methods, allowing the city to continually improve and innovate to achieve its goals;
- evaluation of existing and new parking and access management policies and practices within existing districts and across the community, including on- and off-street parking, and public and private parking areas; and
- development of context-appropriate strategies using the existing parking districts as role models for other transitioning areas within the community and incorporating national best practices research.

The full text of the project purpose, goals and guiding principles are shown in **Attachment A**.

City Council held study sessions on June 10, July 29, Oct. 28, 2014 and May 26, 2015 to review work to-date on the seven focus areas (District Management, On- & Off-Street Parking, Technology, Transportation Demand Management, Code Changes, Parking Pricing, and Enforcement) and provide overall direction on the approach for AMPS, as well as short-term code changes. Staff prepared summaries of the study sessions for June and July 2014, October 2014, and May 2015.

It is important to note that if Ballot Questions No. 300 and 301 are passed by the voters on November 3, there will be implications for the AMPS work effort. This memo reflects current staff thinking on AMPS. If the ballot measures pass between now and the City Council Study Session on November 12, staff will need to reevaluate the overall AMPS work plan to reflect the city's approach to implementing the two measures. The City Attorney's Office submitted an information packet memorandum to City Council on Oct. 6 with additional information on plans for implementation of the ballot measures if they pass.

II. COMMUNITY, BOARD AND COMMISSION FEEDBACK

Staff continues to compile community, board and commission feedback to inform the development of AMPS. Staff has been conducting outreach to residents and commuters through the project website, surveys, Inspire Boulder, and a series of coffee talks throughout Boulder to help develop an understanding of how the community currently views parking and access management. To provide feedback on the relationship of potential changes to the parking code and the TDM Plan ordinance for new developments, staff has convened a stakeholder group consisting of neighborhood and business representatives, developers, and transportation

engineers to gather feedback on proposed changes. This group will be meeting throughout the fall of 2015 as staff prepares for the November study session with Council.

Associated with the current phase of work the following community, board and commission activities have occurred or been scheduled.

- September 21 – AMPS Joint Board Workshop
- September 28 – AMPS Open House
- October 5 – Downtown Management Commission
- October 8 – Downtown Boulder Business Improvement District
- October 12 – Transportation Advisory Board
- October 14 – Downtown Boulder, Inc.
- October 15 – Boulder Junction Access Districts Commissions
- October 15 – Planning Board
- October 21 – University Hill Commercial Area Management Commission
- November 12 – City Council Study Session

A summary of feedback from the commissions and boards will be provided at the study session. A summary of recent community engagement, as well as the full documentation of comments received as part of this phase of AMPS, is available on the AMPS website.

III. UPDATES TO OFF-STREET PARKING REGULATIONS (LAND USE CODE)

With the exception of the recently approved "fixes" and addition of new bike parking regulations to the parking code in 2014, the City of Boulder has not conducted a comprehensive review of its parking requirements or updated the standards for some time. The current parking requirements do not reflect the travel mode shift that has occurred in Boulder in recent years or the desired continued mode shift in the future. Boulder's current mode split (including higher than regional and national trends for walking, biking, and transit) is reflected in the high number of parking reductions that are requested and approved for new development projects and in data that shows an increasing use of transit and bike facilities.

As part of the AMPS process, the city is evaluating updates to the land use (zoning) code to ensure that parking is being provided according to contemporary and future travel needs. These needs should take into account the higher percentages of people choosing to walk, bike and ride transit as alternatives to the automobile. This memo outlines the best practices that staff has researched and discussed in previous memoranda, includes new data on parking supply and demand in the city (see **Attachment B** – Parking Study), and specifies three scenarios ranging from conservative to more aggressive related to how much of the parking regulations should be updated. Based on direction received from review boards and council on these scenarios, staff will return with more specific land use changes and analysis for consideration. It should be noted that parking regulations, particularly those that may impact residential areas may be affected if the Ballot Questions 300 and 301 pass on November 3 as discussed in the Executive Summary.

Staff's work on evaluating the current parking requirements are informed by policies in the Boulder Valley Comprehensive Plan, discussed below, and the Transportation Master Plan's (TMP) goals of encouraging transportation options and reducing vehicle miles traveled (VMT).

City policies seek to require more efficient parking solutions and avoid excessive parking as expressed in the two Boulder Valley Comprehensive Plan (BVCP) policies below:

> ***6.09 Integration with Land Use***
> *Three intermodal centers will be developed or maintained in the downtown, Boulder Junction and on the university's main campus as anchors to regional transit connections and as hubs for connecting pedestrian, bicycle and local transit to regional services. The land along multimodal corridors will be designated as multimodal transportation zones when transit service is provided on that corridor. In these multimodal transportation zones, the city will develop a highly connected and continuous transportation system for all modes, identify locations for mixed use and higher density development integrated with transportation functions through appropriate design, and develop parking maximums and encourage parking reductions. The city will complete missing links in the transportation grid through the use of area transportation plans and at the time of parcel redevelopment.*
>
> ***6.10 Managing Parking Supply***
> *Providing for vehicular parking will be considered as a component of a total access system of all modes of transportation - bicycle, pedestrian, transit and vehicular - and will be consistent with the desire to reduce single occupant vehicle travel, limit congestion, balance the use of public spaces and consider the needs of residential and commercial areas. Parking demand will be accommodated in the most efficient way possible with the minimal necessary number of new spaces. The city will promote parking reductions through parking maximums, shared parking, unbundled parking, parking districts and transportation demand management programs.*

Consistent with the policies mentioned above, staff is considering incorporating the following best practices from other communities into the land use code:

- Updated parking requirements that include new parking minimums and parking maximums;
- Shared parking requirements;
- Automatic parking reductions;
- Unbundled parking in areas outside of Boulder Junction; and
- Requirements for electric vehicle charging stations.

Staff worked with Fox Tuttle Hernandez Transportation Consultants on analyzing different land uses throughout Boulder in different contexts (e.g., suburban locations away from transit vs. mixed-use locations along transit routes) to evaluate current parking needs. The study, which looked at the parking supply and demand of over thirty locations during peak and non-peak periods and during the university school year, found that parking supply exceeds demand in all instances. Therefore, consistent with the policy direction provided by the Boulder Valley Comprehensive Plan and goals of the Transportation Master Plan (TMP), reducing parking requirements – principally for commercial and office uses – is warranted.

The data also indicates that there is not a strong correlation between the parking needs of properties in more urban, walkable mixed-use locations versus more isolated, vehicle-oriented, suburban locations. This is due to city's high level of walk-ability, bike-ability and transit access. While differences can be seen between these locations, they are not large enough to necessitate complicated, localized parking requirements, but rather it makes sense to have updated parking requirements per land use citywide.

Based on the parking data results and the intrinsic connection between reducing parking requirements and encouraging transportation options, staff has been working on creating updated parking regulations that are linked to new Transportation Demand Management (TDM) requirements (in addition to those TDM requirements discussed later in this memorandum). The approach is to create new parking maximums and parking minimums per land use such that if a new development includes parking amounts towards the lower end of required parking, the required TDM strategies would need to be more robust to offset the need for parking and encourage transportation options. Staff is looking for direction on whether this is a good approach and also how aggressive the numeric parking amounts should be changed.

Questions:

a. The Fox Tuttle Hernandez parking data shows that current parking requirements generally require more parking city wide than is needed for land uses. Which scenario for parking code changes below would be advised moving forward?

   <u>Scenario 1</u>
   - Minimal change to current parking requirements.
   - Parking lots would continue to take up large portions of sites.
   - Spillover impacts would be largely avoided.
   - May result in continued applications for parking reductions.
   - Would have the least impact to businesses reliant on provision on parking.
   - Least alignment with city BVCP policies and Transportation Master Plan (TMP) goals.

   <u>Scenario 2</u>
   - Recognizes that alternative modes are a growing trend in Boulder based on transit use and bike-ability.
   - Would entail a reduction in parking supply requirements closer to the average parking demand numbers in the data.
   - More flexibility in site design as parking lots would take up some portions of sites.
   - Would likely result in tighter parking availability during peak periods and potential for some spillover for some land uses. If spillover parking into neighborhoods occurred during peak periods, mitigation through the Neighborhood Parking Permit (NPP) program may be necessary.
   - Would include implementation of new TDM requirements in the land use code.
   - Would likely reduce the amount of applications for parking reductions.
   - May have a moderate impact to businesses reliant on provision on parking.
   - Better alignment with city BVCP policies and TMP goals.
   - Would be more of an incremental approach towards TMP goals.

   <u>Scenario 3</u>
   - Recognizes that use of transportation options is a growing trend in Boulder based on transit use and bike-ability.
   - Would entail a more significant reduction in parking supply requirements to potentially less than the current demand.

- Greatest level of site design flexibility with parking lots and garages taking up minimal portions of sites.
- Spillover parking may be more likely. If spillover parking into neighborhoods occurred during peak periods, mitigation through the NPP program may be necessary.
- Would include implementation of more robust TDM requirements in the land use code.
- This scenario would result in minimal applications for parking reductions.
- May have a detrimental impact on businesses reliant on provision of parking.
- Most alignment with city BVCP policies and TMP goals.
- May have biggest impact to travel behavior and modal choice if less parking is available.

IV. TRANSPORTATION DEMAND MANAGEMENT PLANS FOR NEW DEVELOPMENT

Staff is developing a Transportation Demand Management (TDM) Plan ordinance for new developments. The work represents a systematic approach to holistically address the impacts of new commercial and residential developments on our transportation system. This TDM Plan ordinance work is moving forward together with two other initiatives that are also addressing the impact of new developments. The two initiatives include changes to the city parking code and an impact fee study that includes evaluating the feasibility, design and implementation of a multi-modal impact fee.

Parking Code Changes

As described above, staff is considering changes to the city parking code which establishes parking supply requirements for new developments. One possible modification includes the establishment of parking maximums in addition to current parking minimums. Due to the connection between parking supply, parking management and TDM, there is a need to evaluate the relationship between the parking code and TDM strategies and move these two work items in tandem. For example, if both parking maximums and minimums were implemented, the closer the parking supply is to the minimum required number of parking spaces, the more robust the TDM program should be to limit parking demand and prevent spillover parking in surrounding areas.

To move the parking code changes together with TDM Plans for new developments, staff formed a new stakeholder group with representatives from the development, commercial and neighborhood communities. The group met in early September and will meet together two more times during the next several months to provide input and feedback on the design of a TDM ordinance within the context of a modified parking code. The need to develop the TDM Plan ordinance and parking code changes together was a direct outcome of earlier input from developers and property owners in the spring of 2015.

Development-Related Impact Fees and Excise Taxes

A second related initiative is the city's update to the development-related fee studies. The city has retained TishlerBise and Keyser Marston Associates to assist in the analysis. The update is examining four different areas:

1. an update of the 2009 Impact Fee study;

2. affordable housing linkage fee on non-residential development;
3. the preparation of a study to create a public art program for new development; and
4. a study of both the capital and operating impacts to multimodal transportation facilities and services of new development.

The last area related to multimodal transportation facilities and services will employ new thinking regarding traditional Transportation Impact Fee and other funding programs. TischlerBise will employ innovative approaches toward Multimodal Mobility Fees that consider different requirements for infill/redevelopment; variations due to geographic subareas and multimodal options; and approaches to recognize the need to move people, not cars, and finding ways to pay for those improvements. For example, the revenue could be used to fund the installation of electric vehicle charging stations, bike-sharing stations, long-term secure bicycle parking, car share vehicles, or transit facility improvements. This type of fee has the potential to work as a foundation for the TDM Plan Ordinance in which the fee provides for initial capital improvements and long-term TDM programs and service commitments are required through the ordinance.

The development related fee study is expected to conclude in 2016.

TDM Plan Ordinance for New Developments

The overarching reasons for incorporating TDM into the Site Review process and regulating implementation and evaluation is to meet the goals and objectives of the Boulder Valley Comprehensive Plan, the City of Boulder's Sustainability Framework and the Transportation Master Plan. At the last AMPS Study Session, City Council directed staff to study two approaches for a TDM Plan ordinance for new developments; a city-wide approach and a district approach.

<u>City-wide Approach</u>

There is wide variety of ways a city-wide TDM Plan ordinance could be designed in terms of:

- what is measured to determine compliance;
- level of the specific targets of the measurable objective(s);
- triggers for requiring compliance;
- required elements of the TDM Plans;
- timing and duration of monitoring; and
- enforcement.

Other considerations include identifying a sustainable way of monitoring and administrating the program. Depending on the triggers and thresholds for compliance, a city-wide TDM ordinance could require significant staff time and resources.

Based on feedback from boards and council, a possible city-wide TDM Plan ordinance would measure single occupant vehicle (SOV) mode share and use vehicle trip generation as a way to verify survey results of residents and employees. The specific targets would be based on existing SOV mode share data, land use, size and location in terms of level of multi-modal access and service. These targets would likely be lowered over time to reflect the city's long-term sustainability and transportation master plan objectives.

The trigger for requiring compliance would be based on peak trip generation as currently outlined in the city's Design and Construction Standards. Currently TDM plans are required when a commercial development is expected to exceed 100 vehicle trips at peak hour and 20 vehicle trips at peak hour for residential developments. Boards and council have discussed lowering the commercial threshold, but there has been no clear consensus.

Another option for a trigger that has come out of the stakeholder process at this point is size of commercial and residential developments in regard to the number of employees or the number of housing units or bedrooms. One advantage of this trigger is that the ordinance would be designed to require the compliance of commercial tenants as oppose to property owners on the commercial side. One of the difficulties of a TDM ordinance linked to the property is that the owner of the property has less influence on the travel behavior of their tenants as a business has on its employees.

In terms of the TDM Plan design and the question of required elements, feedback supports the idea of maintain as much flexibility as possible with very few required elements. Of the wide variety of possible elements, Eco Pass participation, appointment of an employee transportation coordinator, participation in the evaluation process, and the unbundling of parking were identified as being required elements when appropriate.

Based on initial feedback, city boards and council support allowing a three year period to meet targets with annual monitoring. If after three years the property is in compliance, the annual monitoring ends but properties would be periodically monitored as targets are lowered over time. If the property is in non-compliance, a revised TDM plan would be required with additional programs and incentives and the property would have one more year to reach compliance. It has also be discussed as an option to require support from a transportation consultant or membership in transportation management organization to receive the necessary technical assistance if a property is non-compliant after the initial three years. If the property continues to be in non-compliance – an enforcement phase would be initiated.

After several board and council meetings, there remains little consensus on what enforcement looks like. The spectrum of input ranged from making a good faith effort is sufficient to meaningful fines and penalties. Some feedback from the stakeholder groups on this topic is that using fines is counterproductive as it takes away from funding possible TDM programs and services. Often if a property is in noncompliance it is related to the level of multi-modal service. In other words, it may not matter how robust a TDM Plan is or how much "teeth" an ordinance has, if there are no accessible transportation options for employees or residents to use.

District Approach

The district approach is modeled after the system that has been implemented in Boulder Junction. In Boulder Junction, the city adopted a Trip Generation Allowance, which states that only 45 percent of all trips by residents and employees can be completed in a single-occupant vehicle. Rather than meeting the ordinance as individual properties, the owners voted to establish a TDM Access District. The TDM Access District is a general improvement district that collected property taxes to provide TDM programs and services designed to meet the target of

the trip generation allowance. The TDM Access Districts works in conjunction with a Parking Access District that provides funding for parking management and the construction of shared parking structures. The revenue from the TDM Access District is currently used to provide Eco Passes to all residents and employees, discounted bike share memberships and free memberships to car sharing organizations.

There are many benefits of this approach. The taxes provide a sustainable and flexible source of revenue for TDM programs and administration of the district. The focus is not on individual property compliance and monitoring, but on how the district operates as a whole, and providing incentives for travel behavior change by providing the necessary programs and services rather than on the disincentive of fines and penalties. If in non-compliance, enforcement and penalties are not necessarily required as taxes can be raised to provide the necessary programs and services to increase mode shift. The district approach would also provide a way to bring not only new developments, but also existing commercial and residential properties in our highest trip generation area under the ordinance. The citywide model would only cover new developments and has a limited impact on overall trip generation.

If the Boulder Junction model is applied to our current parking districts in downtown and on University Hill, this approach would concentrate resources on the higher density commercial areas of the city where parking demand and vehicle trip generation are the highest. Furthermore, a district approach could be coupled with an ordinance covering any significant developments that occur outside of existing districts. With increased development in North Boulder and along East Arapahoe, a TDM Access District approach combined with capital investments in multi-modal facilities and service could significantly improve long term sustainability and reduce the impacts of new developments. One critical disadvantage of the approach is that the establishment of a general improvement district (GID) requires the vote of property owners even with an ordinance in place. In Boulder Junction, the option to form a district was developed as an alternative to individual properties meeting the requirement of the Trip Generation Allowance on their own.

Next Steps

The next steps in designing a TDM Plan ordinance for new developments is to develop the criteria for setting targets and produce a matrix outline the targets for different land uses, sizes and locations for the city-wide approach. For both approaches, staff will be working with an internal working group and the City Attorney's Office to begin to craft potential ordinances reflective of the two models. Similar to potential parking code changes, the current approach to the TDM Plan ordinance will need to be reevaluated if the Ballot Measures 300 and 301 pass on November 3 as discussed in the Executive Summary.

Questions:

b. What are the pros and cons related to the two approaches for a TDM Plan ordinance for new developments?
c. Should staff include in the city-wide approach an option to have the trigger based on the number of employees or bedrooms/housing units? Or number of peak hour vehicle trips?

V. CAR SHARE ON-STREET PARKING POLICY

Car sharing has been recognized as a viable transportation option for use in urban areas. The City of Boulder currently has a relationship with eGo car share that operates out of public and private parking lots. Staff has been approached by other car share companies wishing to operate in Boulder and a clear on-street parking policy is needed to help guide those conversations.

There are two basic models for on-street car sharing parking. The first is a roundtrip model where the vehicle is located in an assigned position and must be returned to that position. The second model allows for geo-tracked vehicles to be rented from any geo-fenced location, driven to another geo-fenced location, and left for the next customer to find using a GPS-based mobile application. Both business models have asked for (geo-tracked requires) on street parking privileges. The roundtrip model would require a specific marked space in the public right of way, while the geo-tracked, one-way model would require some type of permit or exemption from parking at a pay station or in an NPP or other managed parking location. Current policy is that on-street parking is shared, unbundled, managed and paid (SUMP), to meet these requests would require both a change in policy and in ordinance. A draft consultant report is available for more information.

Questions:

d. Should staff include a designated on-street parking alternative for car share companies in our car share on-street parking policy?
e. Should staff include a permitting process for geo-tracked car share vehicle to park in undesignated public right-of-way parking spaces in managed districts, in excess of time restrictions present in these areas?

VI. PARKING PRICING PREVIEW

Based on the SUMP principles, parking pricing is a key component of parking management ensuring parking turnover and creating an incentive to use other transportation modes. It is also a critical element in creating economically viable and accessible community commercial districts. Since the three access/parking districts – downtown, University Hill and Boulder Junction – are the only commercial centers that have customer paid parking, it is essential to approach parking pricing policies carefully and thoughtfully, mindful of the impacts to businesses and the perceptions of the public consumers who have the alternative to shop, dine and visit commercial areas without paying for parking.

All elements of parking pricing are under consideration: long-term, permit parking, short term, hourly parking, and short term parking fines, as well as the cost of the parking permits in the Neighborhood Parking Permit (NPP) areas. The consideration of parking pricing will be undertaken in a phased approach from 2015 through 2016. Community engagement and outreach will be an important component throughout the process. Please find below an update the status and next steps of parking pricing in all areas:

Progress Update

- Long-term, Permit Rates: Updates to long-term permit rates in the downtown and on the hill, and in NPP commuter permit rates are included in the 2016 budget process which take into account increases in permit parking rates charged in the private and non-profit sector.

Historically, permit rates have been increased on a regular basis. Prior to 2014 the rates were increased every other year. Beginning in 2014, the permit rates have been increased on an annual basis based on demand and monitoring of private parking rates. In the last three years the permit rates have increase 28.6 percent in the downtown. The proposed rates for 2016 are:

- Downtown garages: **$360 per quarter**
- Downtown surface lots: **$210 per quarter**
- University Hill surface lots: **$185 per quarter**
- NPP Commuter permits: **$90 per quarter**

Staff will continue monitoring parking supply and parking rates on a regular basis to recommend further adjustments as needed.

- Parking Fines: The current on-street, overtime at meter parking fines have not been increased for more than 20 years and staff will be presenting council with recommendations for fine increases, as well as considering a graduated fine approach, in the first quarter of 2016. Currently, staff is working with the AMPS consultant, Kimley-Horn, who surveyed communities nationwide and in Colorado to research rates for a number of parking fines. A summary of the research to date is included in **Attachment C**. This background data will inform the recommendations. The rate of the overtime at meter fines has a proportional relationship with the short term parking rates so it is important that these two issues are considered together.

- Short-term, Hourly Parking Rates: The on-street and garage hourly rates will also be reviewed, including the option of variable rates at different times of day or in different locations. Numerous communities across the country have instituted different approaches to short term parking rates using performance or geographically based criteria. A report from Kimley-Horn on potential pricing strategies and applications is available here. Prior to developing any recommended changes the first step will be to determine the goals of parking pricing. Short term parking rates were last increased in 2007. Outreach and community engagement will be critical to arrive at an informed and balanced recommendation. In order to learn directly from other communities, staff will be organizing along with our consultants a panel of representatives from peer municipalities to share their experience with performance based parking pricing.

- Boulder Junction: The Boulder Junction district developed a parking pricing strategy to implement the shared, unbundled, managed and paid (SUMP) principles and reflect the market of the surrounding area. Staff is also phasing in on-street parking management as newly constructed streets become available.

- Neighborhood Parking Program: The rates for the Neighborhood Parking Program (NPP) permits will be evaluated – both business and resident – to ensure a comprehensive pricing approach. Currently, the residential permit rate is $17 per year and the permits for businesses embedded with an NPP is $75 per year. The residential rates were last increased in 2006. Community outreach and engagement will be integrated into every stage of this process. It is estimated a recommendation will be forthcoming in the first quarter of 2016.

Next Steps
Staff will continue to work on the policy options described above and will return to the boards and city council in the first quarter of 2016.

VII. ACTIONS IN PROGRESS

The following are AMPS related action items currently in progress.

New Technology Improvements

- Staff has selected a vendor (contract negotiations are underway) for the replacement of the downtown garage access, revenue control, and permitting systems to a state-of-the-art system that will coordinate with other technologies such as the variable messaging system. Installation is expected in 2015 and will take approximately two months to complete. Installation will be phased and managed to maintain access to the garages.
- With the projected completion of the Depot Square mixed-use development in Boulder Junction in the second quarter of 2015, staff is working with the multiple parties – the hotel, RTD, affordable housing and Boulder Junction Parking District – to implement a parking management system to accommodate the variety of users of the shared parking.
- The Department of Community Vitality is pursuing an innovative pilot program with a downtown Boulder startup company, Parkifi. Parkifi is developing a real-time parking space occupancy technology system and is proposing to pilot the program in the Broadway and Spruce Street surface parking lot, in on-street spaces downtown, and potentially in the downtown garages. The pilot consists of installing sensors in parking spaces at no cost to the city. The sensors are connected to a Parkifi gateway that is connected to a cloud-based dashboard that displays occupancy data. The goal will be to work with the city's existing mobile payment vendor, Parkmobile, to provide real-time parking data to customers. Installation of the sensors is expected within the next couple of months as the details and specifications are worked out.

Shared Parking
The goal of a shared parking partnership policy is to maximize potential opportunities for additional shared and managed parking between private developments and established parking districts. The proposed policy could require a mandatory step in the development review process for projects of a certain size located inside one of the three parking districts (downtown, University Hill and Boulder Junction) to explore options and opportunities for additional parking and/or parking management strategies benefiting the entire district. Partnerships could take a number of different forms, including adding district-funded parking to the private development and/or district management options to increase or maximize private parking utilization to the benefit of the district as well as the private property owner. Staff is proposing the approach of requiring a mandatory discussion between the developer and the parking/access district during the review process with voluntary compliance.

There are several examples of potential and implemented partnerships between Boulder's access districts and private developments. These include St. Julien Hotel and the downtown parking district Central Area General Improvement District (CAGID); the Depot Square garage in Boulder Junction between multiple parties (RTD, Hyatt Hotel, affordable housing, the depot and the Boulder Junction Access District - Parking); the current negotiations between CAGID and

the Trinity Commons project; and the University Hill General Improvement District (UHGID) and Del Mar Interests. Initial discussions are underway between BJAD and the S'Park development in Boulder Junction, and between UHGID and a coalition of property owners for a potential development at the southwest corner of Broadway and University.

Based on Council feedback from the last study session, staff is proceeding with the development of a policy that would be incorporated as a step in the development review process.

District Satellite Parking Strategy

Parking opportunities are becoming more limited for employees in the downtown and the University Hill commercial area. This strategy explores opportunities for shared parking facilities for non-resident employees who commute into Boulder for work along major transportation corridors associated with available transit service, off-street multiuse paths, and on-street bike lanes, and ideally with a multimodal "mobility hub." Commuters could park their vehicle at vacant lots outside of the commercial districts and then finish their trip into work by transit, bike, carpool, bike share, or car share. RTD already has several free Park-n-Ride locations that are primarily used for trips from Boulder to areas outside of the community that could be used by in-commuters. Staff is reviewing different types of locations:

- existing public (city, RTD, CDOT) and/or private parking lots with multimodal amenities;
- existing parking lots that would require amenities such as sidewalks, bus shelters, etc.; and
- locations without existing parking facilities that could become satellite locations.

These types of satellite parking lots could be used by employees driving into the city and finishing their trip by transit, carpool, biking, and/or walking. Satellite parking lots could also be used for special events parking.

As one of the action items from the Transportation Master Plan, the city is continuing to work with CDOT, RTD, Boulder County, and area property owners to explore the concept of a mobility hub for north Boulder, at the intersection of north Broadway and US 36. The mobility hub could include potential opportunities for enhancing transit operations and passenger amenities, bike parking, bike share, car share, and satellite parking (Park-n-Ride), kiss-and-ride, etc. The project team is currently revising the conceptual site plan designs based on prior City Council input.

The city's consultant is working on an analysis of the different potential locations, travel sheds that have the greatest number of employees in-commuting, location assessments, and recommendations regarding the highest priority opportunities both long- and short-term. A presentation of the consultant findings is available here. All sites will be reviewed to ensure compliance with existing zoning regulations and project specific requirements. Staff is pursuing the short term options as well as working with other entities such as CDOT and the County to include satellite parking options in corridor studies along SH119 and East Arapahoe.

Coordination with Civic Area project for access/parking/TDM programs
In conjunction with proposed changes to the Civic Area, staff is working to develop recommendations on how to holistically manage civic area parking and a strategic TDM plan to increase access to the Civic area by city staff, residents, library patrons, and visitors. With construction set to begin in 2016 and the potential loss of some parking spaces, staff will be implementing new TDM strategies and enhancing existing programs to reduce the parking demand by employees of the city government. Some of these programs will be piloted at the end of 2015 and potentially formally adopted in 2016 prior to construction.

VIII. ONGOING WORK AND COORDINATION RELATED TO AMPS

In addition to the items described above, the project team is advancing work in several AMPS focus areas in 2016.

Districts

- Negotiations are continuing for a shared parking option between the Central Area General Improvement District (CAGID) and Trinity Lutheran Church in downtown for a mixed-use project, including senior affordable housing, additional congregational space, and additional parking.
- Negotiations are also continuing for a public-private partnership redevelopment of one of the catalyst sites - the University Hill General Improvement District (UHGID) Pleasant Street parking lot - for a hotel, and a district parking garage.
- Downtown and University Hill development and access projections will be updated during the second and third quarters of 2015 to reflect recent zoning changes on the hill, projected development, and the results of the employee travel surveys. This is a valuable tool in anticipating the access needs, including parking, for the downtown area.
- The downtown bike rack occupancy count was completed in August 2014. This survey provides valuable information and informs staff of locations for additional bike racks. Based on the data from the final report and recommendations, additional bike parking was added to the West Pearl area.
- Staff will be developing recommendations for guidelines for the creation of new access/parking districts. Suggested locations include East Arapaho and North Boulder.

Transportation Demand Management

- The communitywide Boulder Valley Employee Survey was completed at the end of 2014 with a special subsample taken from downtown employees. A survey of the travel patterns of the University Hill commercial district employees was completed in the beginning of 2015. A hill employee pilot Eco Pass program is recommended in the 2016 budget for implementation in 2016.
- The property owner of the future Google campus at the southwest corner of 30th and Pearl streets petitioned to join the Boulder Junction Access District (BJAD) – Travel Demand Management (TDM) and was accepted by the Boulder Junction Access District-Parking. In addition, staff is in initial discussions with the Reve project at the southeast corner of 30th and Pearl about their petitioning to join the TDM district.

On-Street/Off-Street

- A downtown parklet study determined potential criteria and locations, operational parameters and considerations, installation requirements, and recommendations for potential parklet sites. The evaluation of the pilot parklet on University Hill has been completed and provided valuable information for the development of future parklets in the downtown.
- An alley master plan for the University Hill commercial district is proposed in the 2016 budget.
- Beginning in 2015 and continuing into 2016, a review will be conducted of the Neighborhood Parking Permit program's regulations and how the program serves the variety of community needs. Staff will also be preparing the Chautauqua Access Management Plan (CAMP) that is called out in the Chautauqua lease. In addition to the Chautauqua leasehold, the surrounding neighborhoods will be included to address any spillover impacts. Preliminary discussions are underway with the Steelyards Association regarding the potential for a coordinated parking management and TDM program for the mixed-use neighborhood in anticipation of the completion of Depot Square at Boulder Junction. The homeowners' association has expressed interest in creating a form of a NPP in their mixed-use neighborhood.

IX. NEXT STEPS

Information from the community outreach and input from the City Council and boards will be used to refine the AMPS 2016 work plan items. In second quarter of 2016, staff will schedule a joint board workshop in preparation for a council study session to consider a final AMPS Summary Report. Not all AMPS topics will be addressed within the AMPS umbrella, therefore an on-going strategy will identify future action items to address the next generation of Boulder access and parking needs. A timeline of all AMPS work plan items is shown in **Attachment D**.

As noted throughout this memo, the potential passage of Ballot Questions No. 300 and 301 on November 3 will influence the discussion at the City Council study session on November 12. This memo reflects the current thinking on AMPS and if the measures pass, staff will need to reevaluate the overall AMPS work plan to reflect how the city implements the two measures.

Community engagement and outreach will continue to ensure public feedback and participation with the AMPS. **Attachment E** shows an info-graphic that staff will use to help explain the overall purpose of AMPS, moving forward.

For more information, please contact Molly Winter at winterm@bouldercolorado.gov or Kathleen Bracke at brackek@bouldercolorado.gov, or visit www.bouldercolorado.gov/amps.

ATTACHMENTS

A. AMPS Project Purpose, Goals and Guiding Principles
B. Tuttle, Fox Hernandez Parking Study
C. Parking Fines in Boulder and Other Cities
D. AMPS Timeline
E. AMPS Infographic

ATTACHMENT A: AMPS PROJECT PURPOSE, GOALS, AND GUIDING PRINCIPLES

Purpose

Building on the foundation of the successful multi-modal, district-based access and parking system, the Access Management and Parking Strategy (AMPS) will define priorities and develop over-arching policies, and tailored programs and tools to address citywide access management in a manner consistent with the community's social, economic and environmental sustainability principles.

Goals

The Access Management and Parking Strategy (AMPS) will:

- Be consistent with and support the city's sustainability framework: safety and community well-being, community character, mobility, energy and climate, natural environment, economic vitality, and good governance.
- Be an interdepartmental effort that aligns with and supports the implementation of the city's master plans, policies, and codes.
- Be flexible and adapt to support the present and future we want while providing predictability.
- Reflect the city's values: service excellence for an inspired future through customer service, collaboration, innovation, integrity, and respect.

Guiding Principles

1. Provide for All Transportation Modes: Support a balance of all modes of access in our transportation system: pedestrian, bicycle, transit, and multiple forms of motorized vehicles—with the pedestrian at the center.
2. Support a Diversity of People: Address the transportation needs of different people at all ages and stages of life and with different levels of mobility – residents, employees, employers, seniors, business owners, students and visitors.
3. Customize Tools by Area: Use of a toolbox with a variety of programs, policies, and initiatives customized for the unique needs and character of the city's diverse neighborhoods both residential and commercial.
4. Seek Solutions with Co-Benefits: Find common ground and address tradeoffs between community character, economic vitality, and community well-being with elegant solutions—those that achieve multiple objectives and have co-benefits.
5. Plan for the Present and Future: While focusing on today's needs, develop solutions that address future demographic, economic, travel, and community design needs.
6. Cultivate Partnerships: Be open to collaboration and public and private partnerships to achieve desired outcomes.

FOX TUTTLE HERNANDEZ
TRANSPORTATION GROUP

Date: September 11, 2015

To: Karl Gulier – City of Boulder

From: Carlos Hernandez – Fox Tuttle Hernandez Transportation Group
Bill Fox - Fox Tuttle Hernandez Transportation Group
Drew Willsey – Fox Tuttle Hernandez Transportation Group

RE: 2015 Parking Study Results

This memo summarizes the results of a parking study conducted in the City of Boulder between Spring and Fall 2015. This study is an extension of a prior study that was conducted in Summer 2014. The purpose of these studies is to provide the Transportation Advisory Board, Planning Board, and the AMPS project with actual parking data from selected sites around the city. The attached summary presentation provides specific details. The key findings from the 2015 parking study are summarized in Table 1 below. The ranges shown in the table include sites studied in 2014 as well as the ones studied in 2015. A detailed list of all sites studied and when their peak demands occurred can be found at the end of this document.

Table 1: Parking Supply and Demand Rate Ranges (2014 & 2015) by Land Use Type (Not Including On Street)

Land Use Type	Observed Supply Range		Observed Demand Range		Units
	Lowest	Highest	Lowest	Highest	
Residential	0.48	1.72	0.43	1.27	(Spaces per DU)
Commercial	2.57	5.92	1.96	4.39	(Spaces/1000 sq. ft.)
Office	1.92	4.15	0.92	2.79	(Spaces/1000 sq. ft.)
Mixed-use (Residential)	0.82	1.58	0.42	1.17	(Spaces per DU)
Mixed-use (Commercial)	1.69	2.89	1.3	2.22	(Spaces/1000 sq. ft.)

2015 Study Details

In April and early May of 2015, Fox Tuttle Hernandez (FTH) staff conducted a comprehensive city-wide parking study of 6 commercial sites, 5 office/light industrial sites, 8 residential sites, and 3 mixed-use sites. The data-gathering phase of this study was completed before the end of the spring semester at the University of Colorado. Additional follow-up mid-week counts were conducted at selected commercial retail sites in August and September.

Sites were chosen in the interest of obtaining a representative sample of the entire city. Therefore, sites adjacent to the Community Transit Network and bike network were evaluated as well as sites with fewer destinations and higher reliance on motor vehicle access. A visual survey of building occupancy and resident occupancy was also conducted, and only commercial and residential sites that appeared to be near or at full occupancy were studied. Finally, follow-up calls to some of the residential sites were made to determine the ratio of students to non-students for those complexes to enable better understanding of parking patterns of university students.

For all commercial sites, parking demand was sampled 3 times: weekday afternoons between noon and 2 pm, Friday evenings between 5:30 and 7:30 pm, and Saturday afternoons between noon and 2 pm. For all residential sites, parking demand was sampled once on weekdays after 8 pm. For all office sites, parking demand was sampled once on weekday afternoons between 2 and 3 pm. Mixed-use sites were sampled 4 times in order to ensure the peak demand was captured considering the unique and more complex demand fluctuations at those sites. These samples were taken on Friday afternoons between noon and 2 pm, Friday evenings between 5:30 and 7:30 pm, Saturday afternoons between noon and 2 pm, and Saturday evenings between 5:30 and 7:30 pm. Additional mid-week samples were conducted at four commercial retail sites in August and September. These additional samples were taken on Tuesday afternoons between noon and 2 pm and Tuesday evenings between 5:30 and 7:30 pm. Parking supplies were determined at the time of the first demand observation at all sites, and any significant changes in supply that occurred during subsequent samples were noted and taken into account. FTH staff photographed peak demand at all sites when possible (i.e., when peak demand occurred during daylight hours). Supply rates were observed in the field on study days and adjusted when necessary for temporary supply constraints such as special events taking place in the lot.

Results, once entered, were then used in conjunction with gross square footage figures and/or residential unit counts that city planning staff provided to determine the observed supply rates and peak demand rates for all sites (spaces per 1000 square feet for commercial and office sites and spaces per dwelling unit for residential sites). Rates were calculated both including and excluding any applicable on-street parking.

Chart 1: Parking Supply & Highest Demand Rates for Residential Sites (Excluding On Street)

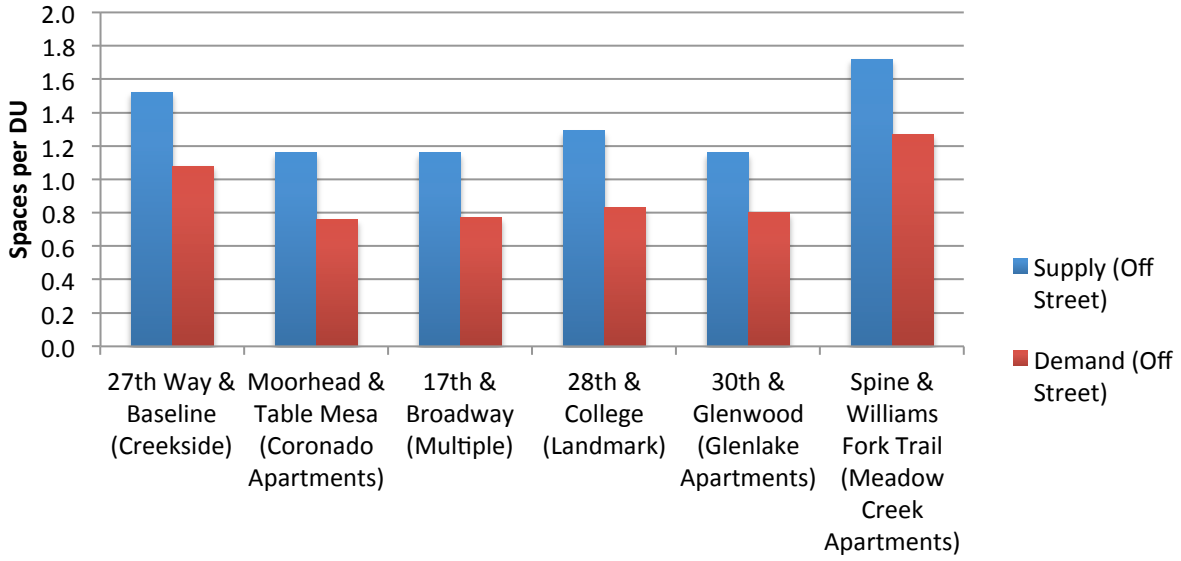


Chart 2: Parking Supply & Highest Demand Rates for Residential Sites

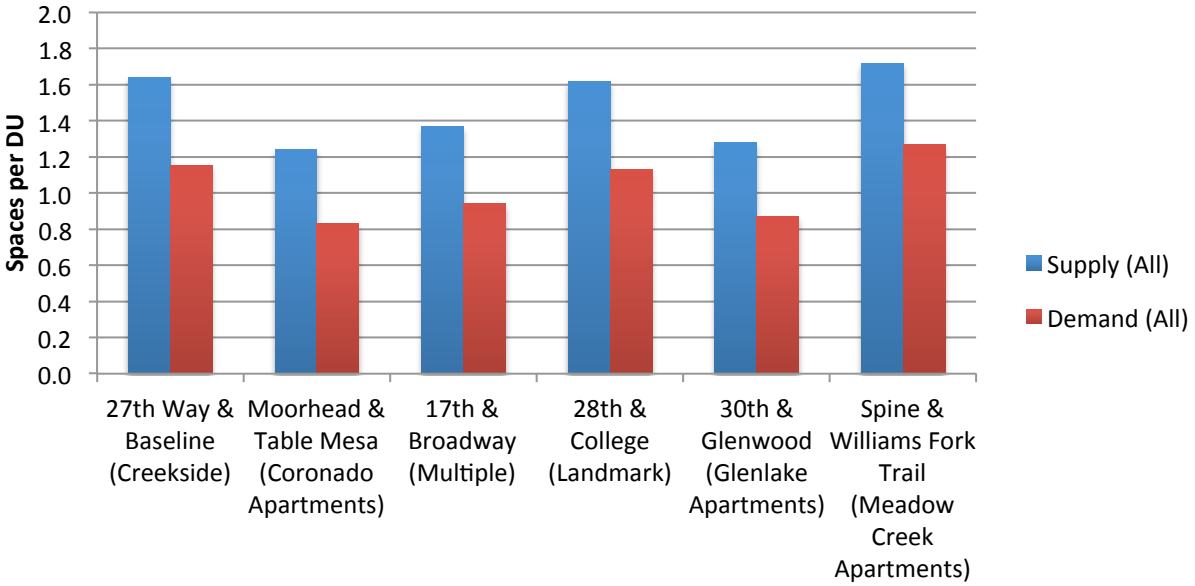


Chart 3: Parking Supply & Highest Demand Rates for Commercial Sites (Excluding On Street)

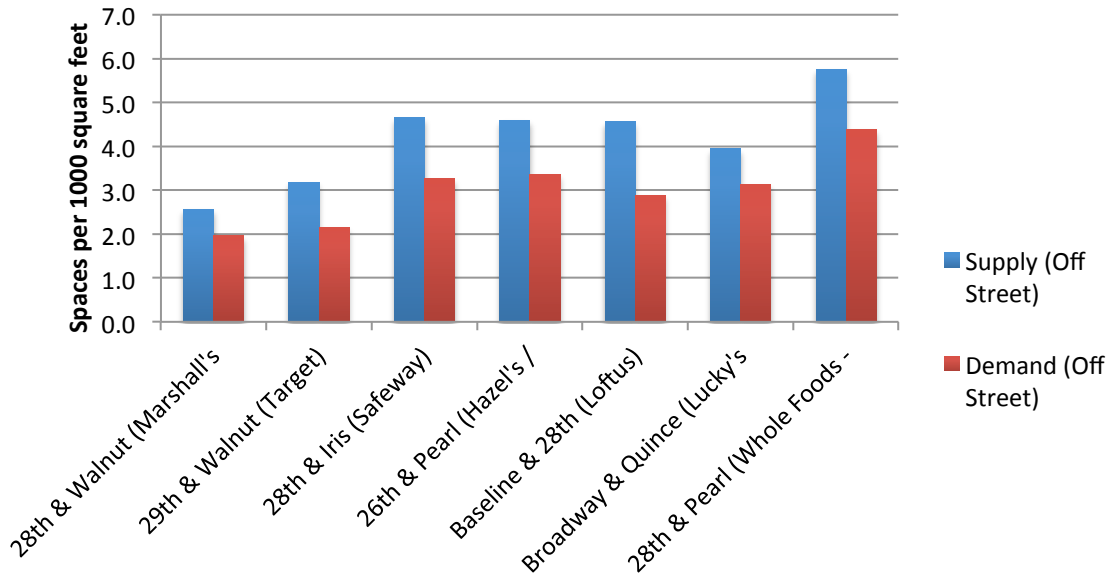


Chart 4: Parking Supply & Highest Demand Rates for Commercial Sites

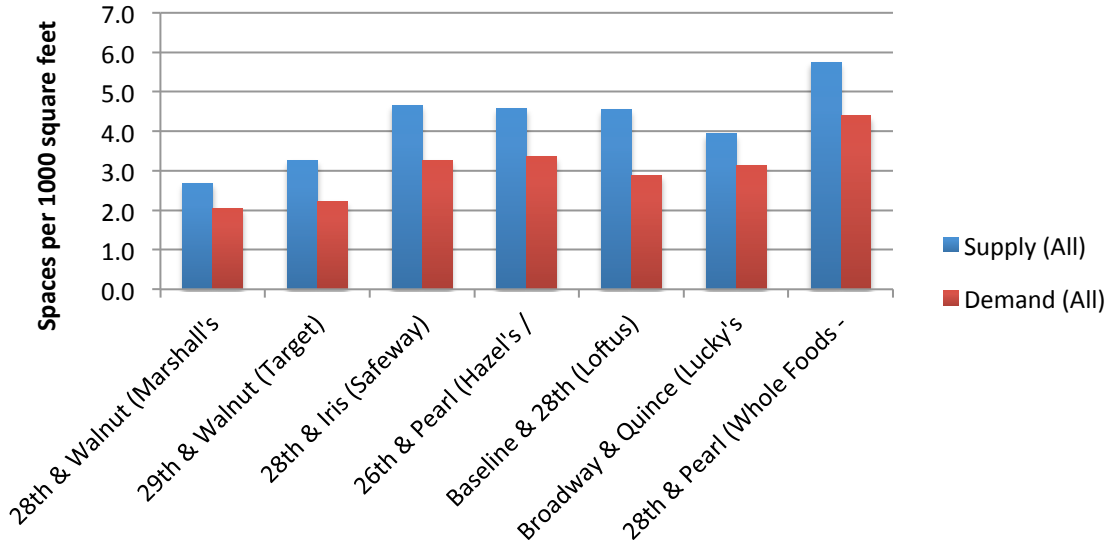


Chart 5: Parking Supply & Highest Demand Rates for Office Sites (Excluding On Street)

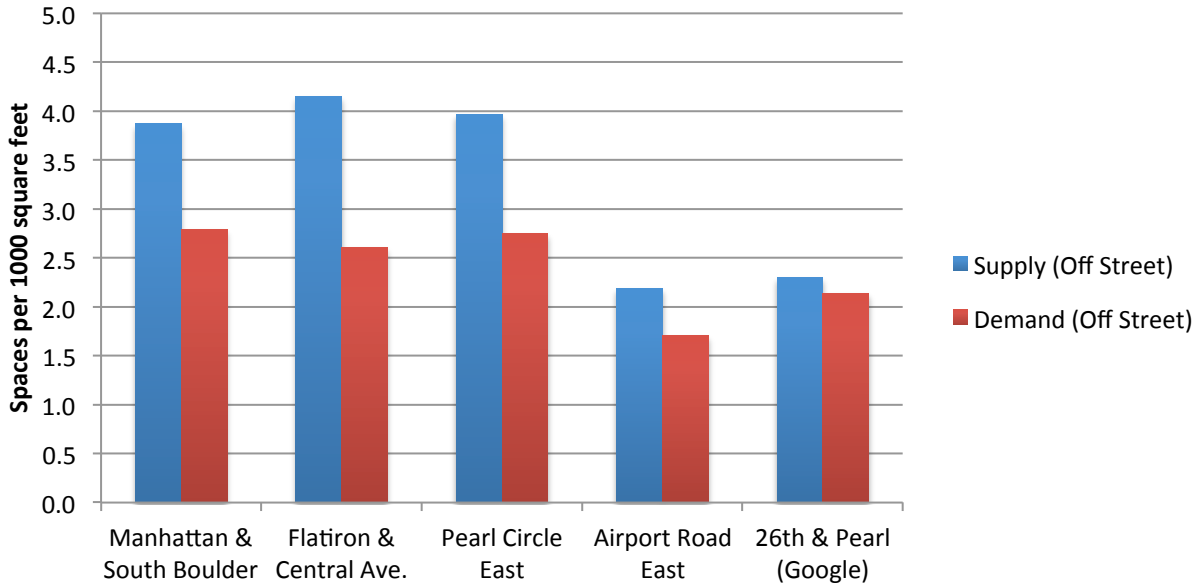


Chart 6: Parking Supply & Highest Demand Rates for Office Sites

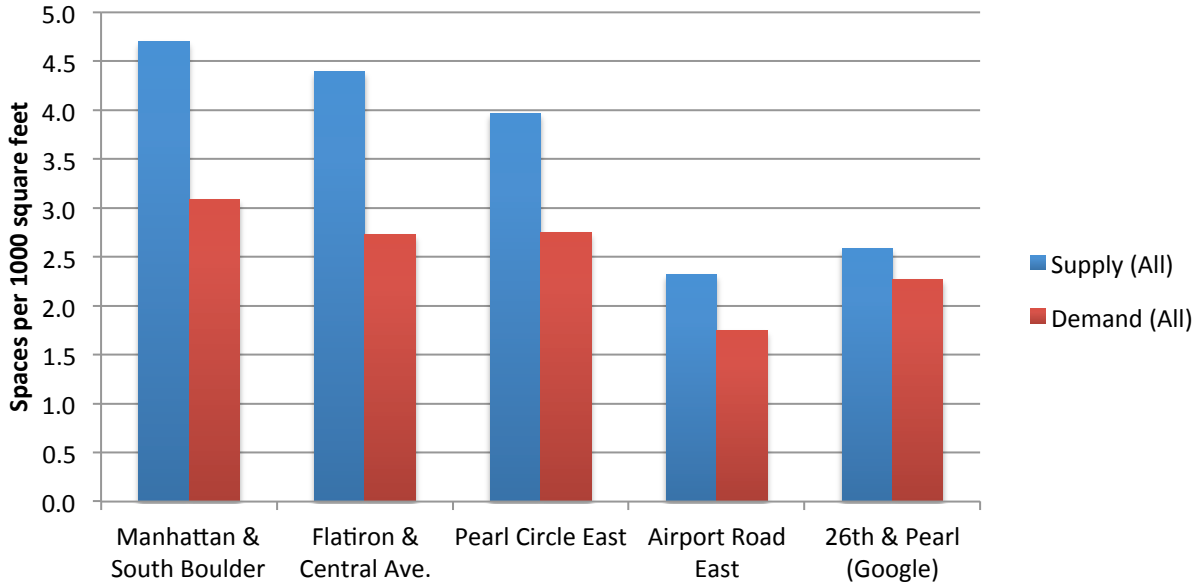


Chart 7: Parking Supply & Highest Demand Rates for Mixed-Use (Residential) Sites (Excluding On Street)

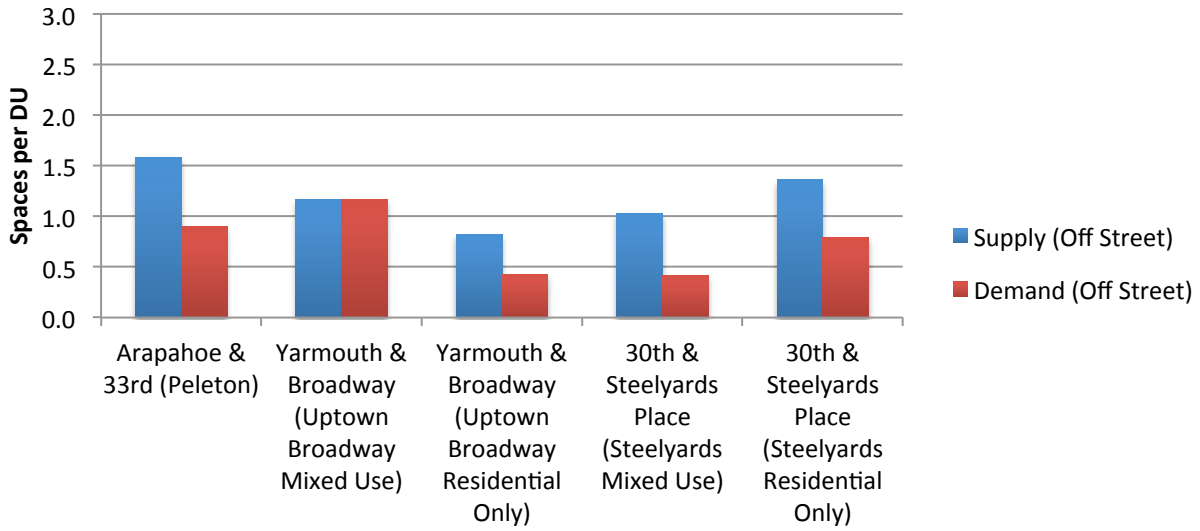


Chart 8: Parking Supply & Highest Demand Rates for Mixed-Use (Residential) Sites

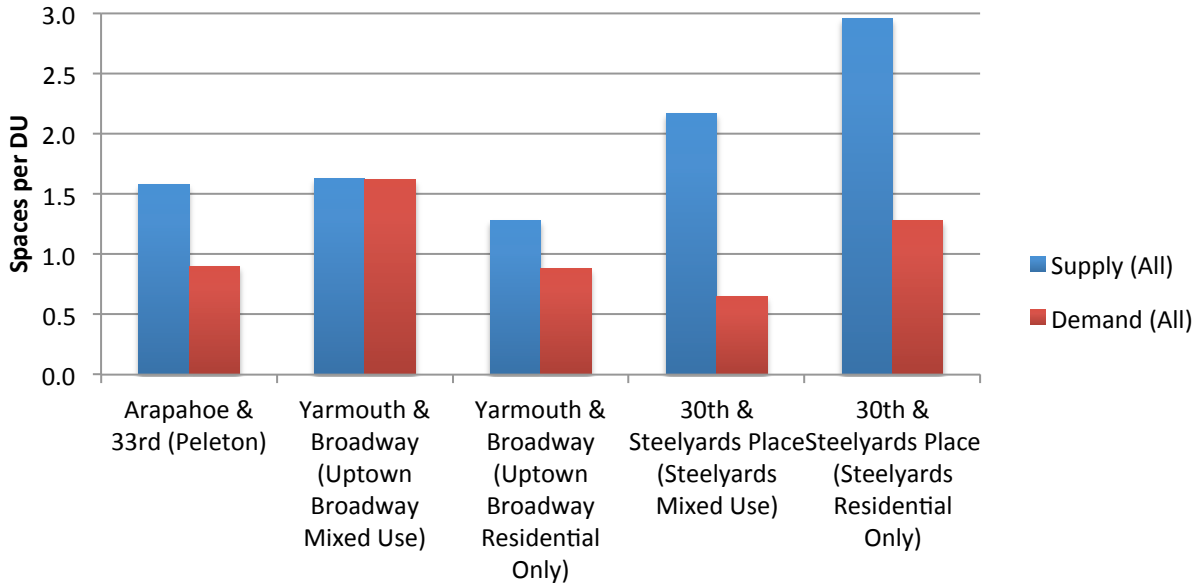


Chart 9: Parking Supply & Highest Demand Rates for Mixed-Use (Commercial) Sites (Excluding On Street)

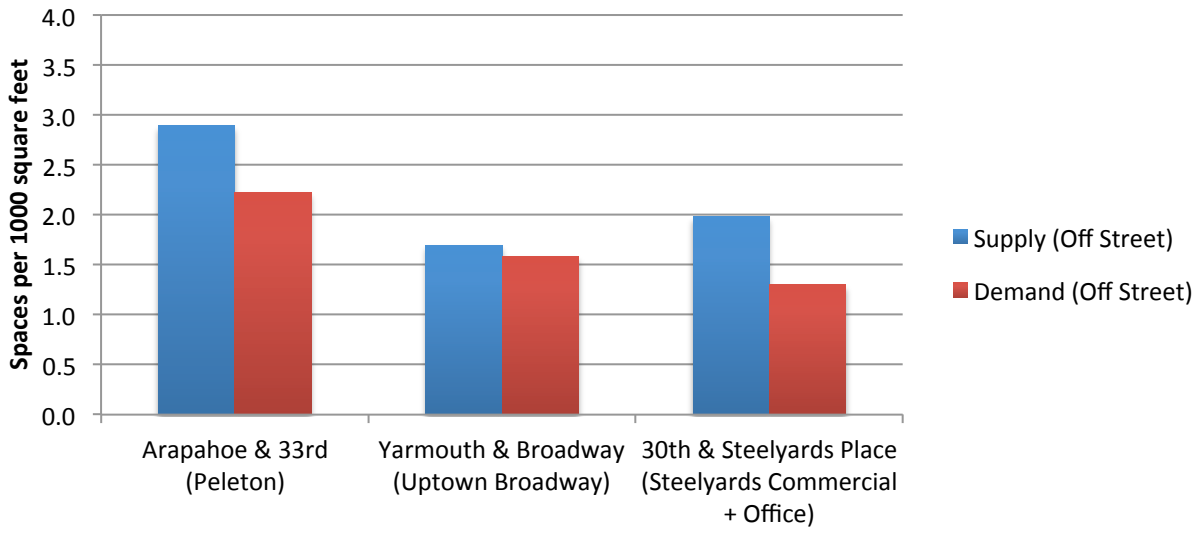
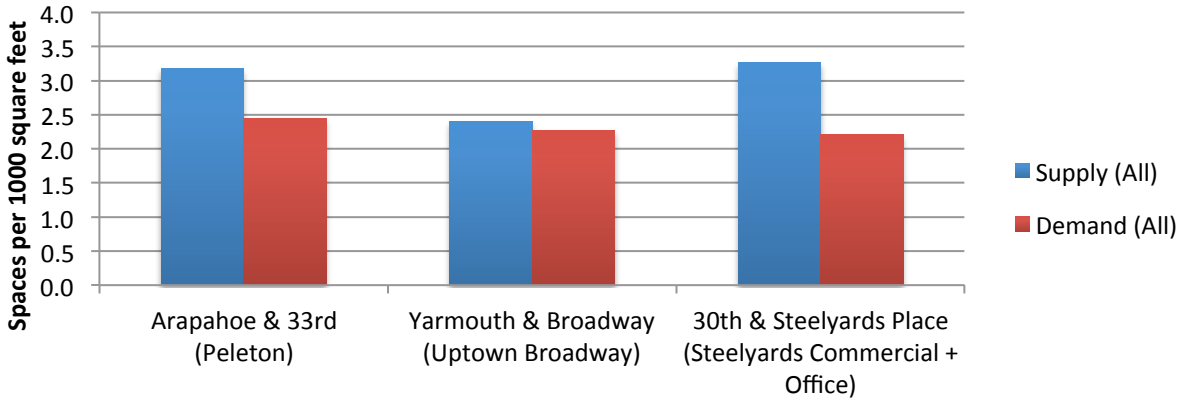


Chart 10: Parking Supply & Highest Demand Rates for Mixed-Use (Commercial) Sites



Comparison to Peer Cities

In order to gather perspective on and context to Boulder's existing parking code, FTH staff reviewed the parking rate requirements of three other selected cities: Davis, CA; Walnut Creek, CA; and Portland, OR. Tables summarizing how Boulder's code compares to these peer cities are given below.

Table 2: Summary of Basic Rate Requirements Across Selected Cities by Major Land Use Type

Use Type	Davis, CA	Portland, OR	Walnut Creek, CA	Boulder, CO
Detatched Dwellings	1 covered space, 1 uncovered space for 0 - 4 bedrooms; 1 additional uncovered space per additional bedroom.	Typically, 1 space per DU.	2 covered spaces per DU.	Typically, 1 space per DU; 0 for MU-4 or RH-7.
Attached Dwellings	1 covered space, 1 uncovered for 0 - 3 bedrooms, 1 additional space per additional bedroom.		1 additional space per DU compared to detatched dwelling requirement.	Minimum: Varies by zoning. Either 1 space per DU; 1 for 1 - 2 bedrooms, 1.5 for 3 bedrooms, and 2 for 4 + bedrooms; or 1 for 1 bedroom, 1.5 for 2 bedrooms, 2 for 3 bedrooms, and 3 for 4 + bedrooms. No minimum for MU-4 or RH-7. Maximum: typically, no maximum except for MU-4 and RH-7 (1 space per DU maximum).
Multi-family Dwellings	1 space for 0 - 1 bedrooms, 1.75 for 2 bedrooms, 3 for for 3+ bedrooms.		1.25 spaces per studio, 1.5 per 1 bedroom, 2 per 2 bedrooms, 2.25 per 2+ bedrooms. At least one space must be covered.	
Retail	1 space per 300 sqare feet of gross area.	Minimum: 1 space per 500 square feet of net building area. Maximum: 1 per 196 square feet.	1 space per 250 square feet of RFA.	Minimum: Varies by zoning. No minimum for RH-3, RH-6, RH-7, MU-4; 1 space per 400 square feet of floor area for BCS, MR-1, IS, IG, IM, A; 1 per 400 sq. ft. if residential is less than 50% of FA (otherwise 1 per 500 sq. ft.) for RMX-2, MU-2, IMS, BMS; 1 per 300 sq. ft. if residential is less than 50% of FA (otherwise 1 per 400 sq. ft.); 1 per 300 sq. ft. of FA for all other zones. Maxiumm: typically, no maximum except for RH-3, RH-6, RH-7, and MU-4 (1 space per 400 sq. ft. of FA if residential is less than 50% of FA, otherwise 1 space per 500 sq. ft.).
Restaurants (Dine-in)	1 space per 3 seats.	Minimum: 1 space per 250 square feet of net building area. Maximum: 1 per 63 square feet.	1 space per 5 seats and 1 per 75 square feet of floor area for portable seats or tables.	
Mixed Use	1 space per 350 square feet of gross commercial area; 1 per DU.	N/A	1 space per 200 square feet of rentable floor area up to 50,000 square feet, 1 per 250 square feet after 50,000. Residential requirement determined on case-by-case basis.	

*** Requirements listed are minimums unless otherwise noted**

Table 3: Examples of Space Requirements per Parking Code by Selected City and Land Use Type (Not Including Reductions)

Example Number of DU's or Amount of Square Feet	Davis, CA	Portland, OR	Walnut Creek, CA	Boulder, CO****
Detatched Dwellings				
1BR DU	2	1	2	1
2BR DU	2	1	2	1
3BR DU	2	1	2	1
4+BR DU	2	1	2	1
Attached Dwellings				
1BR DU	2	1	3	1
2BR DU	2	1	3	1.5
3BR DU	2	1	3	2
4+BR DU	3	1	3	3
Multi-family Dwellings				
1BR DU	1	1	1.5	1
2BR DU	1.75	1	2	1.5
3BR DU	3	1	2.25	2
4+BR DU	3	1	2.25	3
Retail				
5,000 SF	17	10	20	17
15,000 SF	51	30	60	51
40,000 SF	133	80	160	133
Restaurants (Standalone Dine-In)**				
5,000 SF	67	20	40	67
10,000 SF	133	40	80	133
15,000 SF	200	60	120	200
Mixed Use***				
10,000 SF with 10 DU	39	40	60	0 - 43
25,000 SF with 40 DU	111	90	165	0 - 123
50,000 SF with 200 DU	343	300	400	0 - 367

*** Requirements listed are minimums**
**** Assuming 200 seats per 5,000 sq. ft. of restaurant space**
***** Assuming 1 space per DU for Walnut Creek, CA and Boulder, CO mixed-use residential (actual requirement determined on case-by-case basis)**
****** Assuming typical suburban zoning type (highest minimum possible listed; minimums may be lower depending on other criteria)**

Correlations to Transit Network Accessibility and Bicycle Facilities

In addition to comparing Boulder's parking code to that of selected peer cities, FTH staff researched each 2015 study site's proximity to transit routes, both on and off the Community Transit Network (CTN), as well as proximity to existing bicycle facilities, and related those proximities to parking demand in order to ascertain if any correlations exist. These correlation graphs are depicted below.

Chart 11: Commercial Demand versus All Nearby Transit Routes

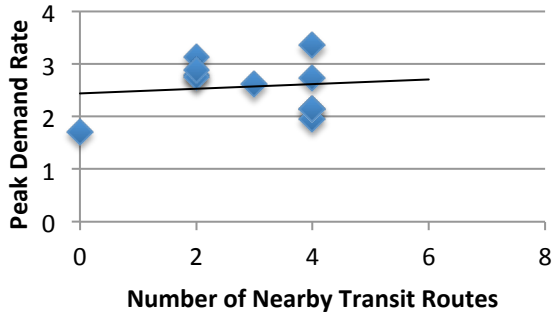


Chart 12: Commercial Demand versus Nearby CTN Routes

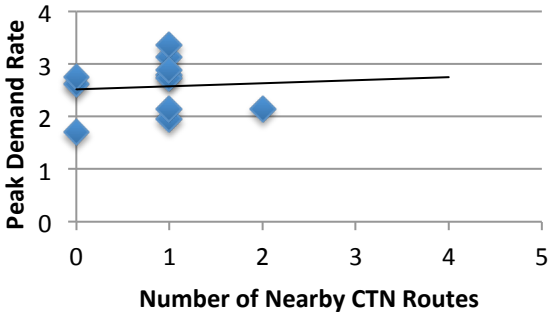


Chart 13: Commercial Mixed Use Demand versus All Nearby Transit Routes

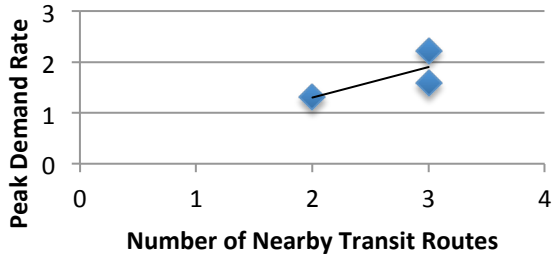


Chart 14: Commercial Mixed Use Demand versus Nearby CTN Routes

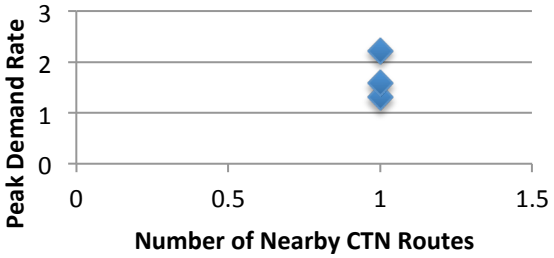


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Chart 15: Residential Demand versus All Nearby Transit Routes

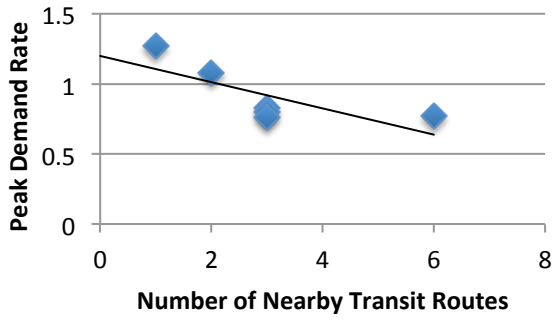


Chart 16: Residential Demand versus Nearby CTN Routes

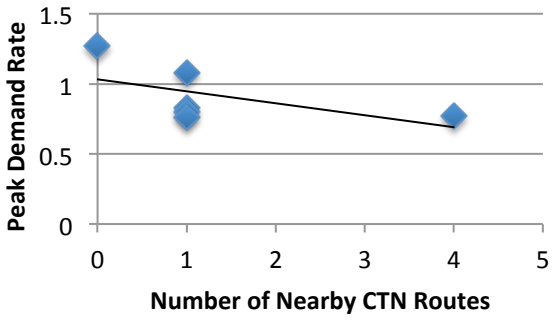


Chart 17: Residential Mixed Use Demand versus All Nearby Transit Routes

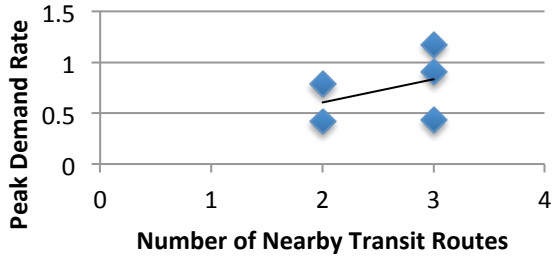


Chart 18: Residential Mixed Use Demand versus Nearby CTN Routes

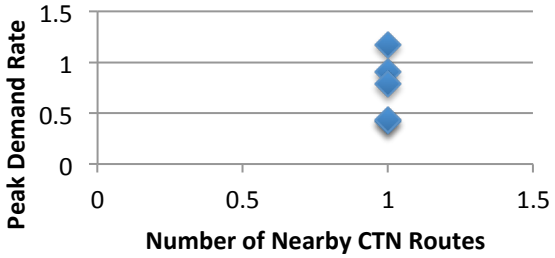


Chart 19: Commercial Demand versus Nearby Bike Facilities

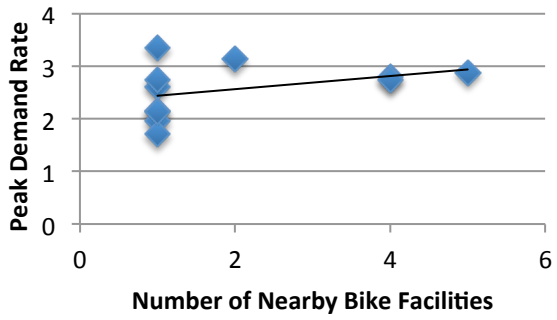


Chart 20: Residential Demand versus Nearby Bike Facilities

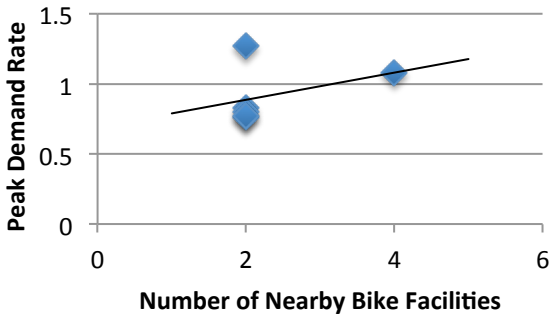


Chart 21: Commercial Mixed Use Demand versus Nearby Bike Facilities

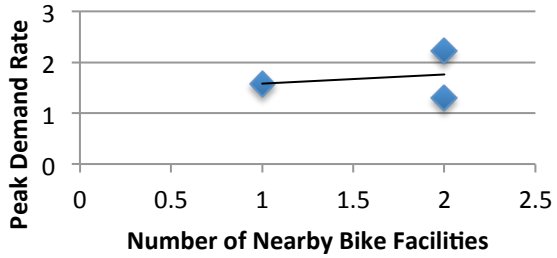
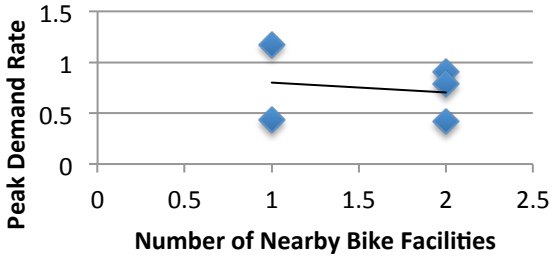


Chart 22: Residential Mixed Use Demand versus Nearby Bike Facilities



Key Questions To Consider

The following questions can be considered as part of upcoming conversations with Transportation Advisory Board and Planning Board regarding parking code adjustments:

- Should new requirement be a parking minimum, parking maximum, or both?
    - If no minimum, should parking reductions be eliminated?
    - If maximum, should a new exception process be created to allow for more parking in certain circumstances and/or when requested?
- Should different parking requirements be created depending on zoning district/typology or by land use type, or a combination of the two?
    - If by typology, should proximity to multi-modal networks or CTN routes be considered?
- If parking reductions are kept, should the criteria for obtaining a reduction be more stringent or more lenient?
- What methodology should be used to determine option ranges (i.e., conservative, moderate, progressive)?
- Can the data determine automatic percentage parking reductions that should apply under certain scenarios?
- How do other AMPS components factor into any proposed code changes (e.g., TDM, district parking enforcement, et cetera)?
- Where should, if at all, unbundled parking be required outside of Boulder Junction?
- Should special considerations be made in the updated code for electric vehicles (EVs)?
    - If so, how many EV stations should be required?
    - What type(s) of EV stations should be required?

Table 4: Summary of Days Observed in 2014 & 2015 by Site

2015 Sites

Site ID Number	Site	Highest Commercial Demand Rate Observed (Excluding On Street)	Highest Residential Demand Rate Observed (Excluding On Street)	Days Studied (Highlighted Indicates Peak Demand Observed)									
				Weekday Afternoon 2 - 3 PM (Tuesday thru Thursday)	Weekday Late Night 8 - 11 PM (Tuesday thru Thursday)	CU Move-in Tuesday Afternoon 12 - 2 PM	CU Move-in Tuesday Evening 5:30 - 7:30 PM	Tuesday Afternoon 12 - 2 PM	Tuesday Evening 5:30 - 7:30 PM	Friday Afternoon 12 - 2 PM	Friday Evening 5:30 - 7:30 PM	Saturday Afternoon 12 - 2 PM	Saturday Evening 5:30 - 7:30 PM
Residential													
2	28th & College (Landmark)		0.83		X								
9	20th & Glenwood (Glenlake Apartments)		0.8		X								
10	27th Way & Baseline (Creekside Apartments)		1.08		X								
14	Spine & Williams Fork Trail (Meadow Creek Apartments)		1.27		X								
16	Moorhead & Table Mesa (Coronado Apartments)		0.76		X								
19	17th & Broadway (Multiple)		0.77		X								
22	20th & Steelyards Place (Residential Only)		0.79		X								
23	Yarmouth & Broadway (Uptown Broadway Residential Only)		0.43		X								
Commercial/Retail													
3	Arapahoe & 33rd (Peleton)	2.22	0.9							X	X	X	X
6	26th & Walnut (Marshall's Plaza)	1.96						X	X	X	X	X	
7	20th & Steelyards Place (Mixed Use Portion)	1.3	0.42							X	X	X	X
8	29th & Walnut (Target)*	2.15				X	X			X	X	X	
12	Broadway & Quince (Lucky's Market/Nomad)	3.14				X	X			X	X	X	
13	Yarmouth & Broadway (Uptown Broadway Mixed Use Portion)	1.58	1.17							X	X	X	X
15	26th & Pearl (Hazel's/Wahoo's)	3.36								X	X	X	
17	28th & Iris (Safeway)	3.26						X	X	X	X	X	
20	Baseline & 28th (Loftus)	2.88								X	X	X	
Office													
1	Manhattan & South Boulder (Multiple)	2.79		X									
4	Flatiron & Central Ave. (Multiple)	2.61		X									
5	Pearl Circle East (Multiple)	2.75		X									
11	Airport Road East	1.71		X									
21	26th & Pearl (Google Campus - Largest Two Buildings)	2.14		X									

* Peak demand (2.61 rate) that occurred on CU move-in day is noted in red highlight. Typical peak demand is highlighted in yellow.

2014 Sites

Site ID Number	Site	Highest Commercial Demand Rate Observed (Excluding On Street)	Highest Residential Demand Rate Observed (Excluding On Street)	Days Studied (Highlighted Indicates Peak Demand Observed)									
				Weekday Afternoon 2 - 3 PM (Tuesday thru Thursday)	Weekday Late Night 8 - 11 PM (Tuesday thru Thursday)	CU Move-in Tuesday Afternoon 12 - 2 PM	CU Move-in Tuesday Evening 5:30 - 7:30 PM	Monday Afternoon 12 - 2 PM	Monday Evening 5:30 - 7:30 PM	Friday Afternoon 12 - 2 PM	Friday Evening 5:30 - 7:30 PM	Saturday Afternoon 12 - 2 PM	Saturday Evening 5:30 - 7:30 PM
Residential													
A	Walnut & 9th (Multiple)		0.43		X								
B	18th & Marine (Multiple)		1.04		X								
C	21st & Goss (Multiple)		0.53		X								
Commercial/Retail													
D	28th & Pearl (Whole Foods Shopping Center)	4.39								X			
E	Broadway & Baseline (Basemar)	3.36								X			
F	Broadway & Table Mesa (King Soopers)	2.77						X					
G	28th & Arapahoe (The Village)	2.77									X		
H	28th & Iris (Willow Springs Shopping Center)	3.16								X			
I	29th & Arapahoe (29th Street)	2.09										X	
Industrial/Office													
J	Pearl & Foothills Northwest Side (Multiple)	1.73		X									
K	Pearl & Foothills Southwest Side (Multiple)	0.92		X									

Table 5: Site Transit & Bike Route Access Analysis

Site	Highest Commercial Demand Rate Observed (Excluding On Street)	Highest Residential Demand Rate Observed (Excluding On Street)	Transit													Bike Facilities								Walkability Rating	Walkability Rating Index
			Boulder Community Transit Network							Other Transit			Total Proximate Boulder Transit Routes	Total Proximate Numbered Transit Routes	Total Proximate Transit Routes (All)	Designated Bike Route	Multi-use Path	On Street Bike Lane	Paved Shoulder	Sidewalk Connection	Soft Surface Multi-use	Street with Single Bike Lane	Total Proximate Bike System Features		
			Existing				Future																		
			1	2	3	4	1	2	3	1	2	3													
1	2.79		DASH				LEAP			206			1	1	2	1		1	1		1		4	36	3
2		0.83	STAM				ORBIT			201	J		1	2	3		1	1					2	36	3
4	2.61						LEAP			206	208	S	0	3	3		1						1	15	1
5	2.75						LEAP			206	S		0	2	2		1						1	15	1
6	1.96		HOP				LEAP	ORBIT	DART	205	F/H/T	206	1	3	4			1					1	70	6
8	2.15		HOP	BOUND			ORBIT	LEAP		205	206		2	2	4		1						1	70	6
9		0.8	BOUND							205	208		1	2	3	1		1					2	57	5
10		1.08	BOUND							204			1	1	2	1	1	1				1	4	57	5
11	1.71												0	0	0		1						1	0	0
12	3.14		SKIP							M			1	1	2	1		1					2	46	4
14		1.27								205			0	1	1	1				1			2	36	3
15	3.36		HOP				ORBIT	DART		205	206	F/H/T	1	3	4			1					1	70	6
16		0.76	DASH				LEAP			204	206		1	2	3			1	1				2	57	5
17	2.73		BOUND				ORBIT			205	208	F/H/T	1	3	4		1	1	1	1			4	70	6
19		0.77	HOP	SKIP	DASH	STAM				203	204		4	2	6	1	1						2	57	5
20	2.88		BOUND							203			1	1	2	1	1	1	1	1			5	70	6
21	2.14		HOP				ORBIT	DART		205	206	F/H/T	1	3	4			1					1	70	6
Mixed Use Sites																									
3	2.22	0.9	JUMP							S	J		1	2	3	1	1						2	57	5
7	1.3	0.42	BOUND							208			1	1	2		1	1					2	70	6
13	1.58	1.17	SKIP							M	204		1	2	3			1					1	57	5
22		0.79	BOUND							208			1	1	2		1	1					2	57	5
23		0.43	SKIP							M	204		1	2	3			1					1	57	5

ATTACHMENT C: PARKING FINES IN BOULDER AND OTHER CITIES

Parking Fines in Boulder and Other Cities

INFRACTION	Boulder, CO	Ann Arbor, MI	Austin, TX	Breckenridge, CO	Colorado Springs, CO	Denver, CO (Including Cherry Creek)	Fort Collins, CO	Longmont, CO	Madison, WI	Pasadena, CA	Portland, OR	Santa Monica, CA	Seattle, WA
Most Recent change	**2007***	2010		2015						2010		2012	
Expired/Unpaid Meter	**$15**	$20	$30	N/A	$20	$25	NA	NA	$25	$47	$60	$53	$44
Overtime Parking-Meter	**$15**	$35	$40	$30-[illegible]**	$30	$25	NA	NA	$35	$47	$39/45/65	$53	$ 47
Overtime -Non-Meter	**$20**	$35	$30	$30-[illegible]**	$30	$25	W-$50**	$20	$35	$47	$39/45/65	$64	$47
Outside Lines/Markings	**$15**	$ 35	$40	$30	$40	$25	$25		$30	$41	$39	$53	$47
Double Parking	**$15**	$50	$70	$30	$50	$25	$ 25	$10	$30	$47	$80	$53	$47
Loading Zones (Commercial)	**$20**	$45	$40	$30	$50	$ 25	$25		$40	$41	$90	$53	$53
No Permit (in Permit Zone)	**$25**	$25	$40	$30		$25	$25		$30	$47		$64	$53
Bus Stop	**$25**	$35	$40	$30		$25	$25		$45	$281	$100	$304	$47
Crosswalk	**$25**	$35	$40	$30	$50	$25	$25	$20	$30	$ 47	$90	$53	$47
Red Zone/Fire Lane	**$50**	$50	$70	$30	$70	$50	$25		$30-100	$58	$80	$53-64	$47
Parking Prohibited	**$25**	$35	$40	$30	$50	$25	$25	$25	$ 30	$47		$64	$47
No Stopping/Standing	**$25**	$35	$40	$30	$50	$25	$25		$30-45	$53	$80	$64	$47
Fire Hydrant	**$50**	$40	$70	$30	$50	$25	$25	$35	$30	$53	$150	$53	$47
Blocking Traffic	**$15**	$35	$40	$30	$50	$25	$25			$41	$50	$53	$47
Disabled Parking	**$112**	$125	$300	$100	$350	$150	$100	$100	$150	$362	$160-435	$ 399	$250
Blocking Driveway	**$25**	$35	$40	$30	$50	$25	$25		$30	$47	$90	$ 53	$ 47

*Increase was for "safety violations" only, not overtime fines.

**Escalating fines: Breckenridge is based on 365 days; Fort Collins has no meters; overtime fine escalated based on 180 days (Initial infraction is warning)

Note: Pasadena fines have been increased based on the CPI so are not in even dollars. Table data is rounded to nearest dollar. Austin has "standard" fines, with a lesser amount accepted for a certain period after issuance. Table displays the reduced "early payment" amounts.

ATTACHMENT D: AMPS TIMELINE
AMPS Summary Report
2nd Quarter 2016

Access Management & Parking Strategy Timeline

★ = City Council Review of Draft Recommendations

● = City Council Review of Policy/Strategy Recommendations

2015 | City Council Study Session on AMPS - Nov. 10, 2015 | 2016

2ND QUARTER | 3RD QUARTER | 4TH QUARTER | 1ST QUARTER | 2ND

District Management

- Analyze Satellite Parking and Other Mobility Options
- Explore Shared Parking Policy with Public-Private Partnerships
- Develop Criteria to Pilot New Multimodal Districts
- Develop Civic Area Access & Parking Strategy

Pricing

- Evaluate Neighborhood Parking Permit Program Pricing
- Evaluate Pricing Options for Parking Rates
- Recommend Amount for Overtime at Meter Fine
- Consider a Graduated Fine Structure

Technology

- Install New PARCS Equipment in Downtown Garages
- Integrate PARCS Software with Existing Technology
- Explore Applications to Enhance the Parking Experience

Parking

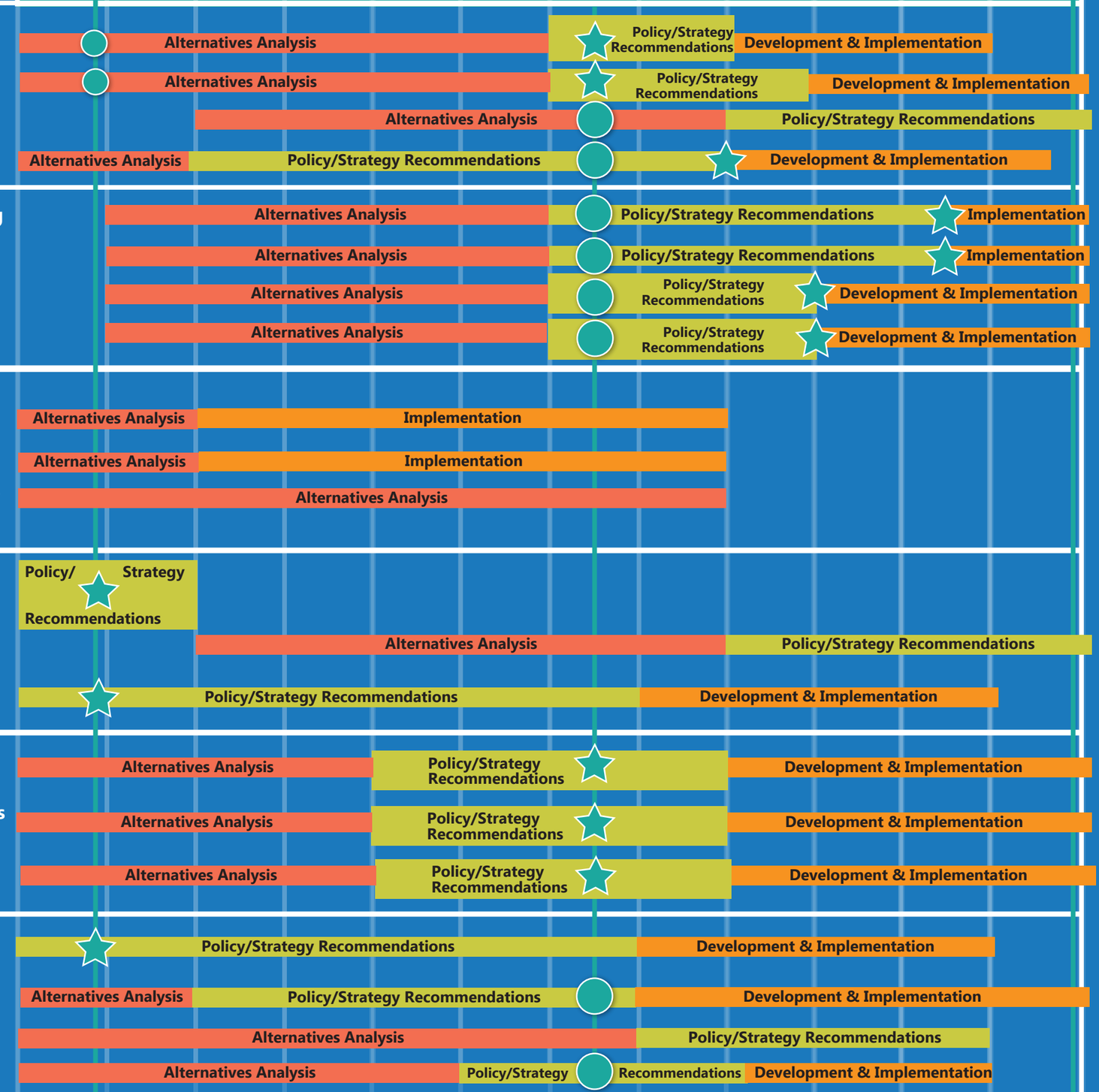
- Reassess Long-term On-Street Parking (72-Hour) Limitation
- Develop a Curbside Space Management Plan
- Explore Transportation Demand Management Options for New Private Developments

Code

- Evaluate & Update Parking Requirements
- Explore Automatic Parking Reductions for Beneficial Projects
- Evaluate Expansion of Shared, Unbundled, Managed & Paid Parking in New Districts or as Potential Overlays

Travel Options

- Transportation Demand Management Toolkit for Private Developments
- Explore Trip Reduction Tools for Existing Commercial
- Investigate Bundled First & Final Mile Strategies
- Explore Parking Cash-Outs for CAGID Employees



ATTACHMENT E: AMPS INFOGRAPHIC

Access Management & Parking Strategy

Boulder is a national leader in providing options for access, parking and transportation. To support the community's social, economic and environmental goals, it is important to create customized solutions that meet the unique access goals of Boulder's diverse districts, residential and commercial.

AMPS: A balanced approach to enhancing access to existing districts and the rest of the community by increasing travel options — biking, busing, walking and driving — for residents, commuters, visitors and all who enjoy Boulder.

TOOLS FOR CHANGE

- district management
- pricing
- technology
- parking
- code
- travel options

mixed use neighbor-hoods
- North Boulder

transit oriented development
- Boulder Junction
- Depot Square

historic commercial
- Downtown
- University Hill

office park
- East Arapahoe
- Flatirons Park

residential
- Mixed Use
- Multi-Family
- Single-Family

suburban commercial
- 29th Street
- Table Mesa
- BaseMar

Mixed-income, mixed-use neighborhoods where residents can easily walk or bicycle to meet all basic daily, non-work needs.

15 minute neighborhood

CITY OF BOULDER

AMPS

bouldercolorado.gov/amps

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: October 6, 2015

AGENDA TITLE: Introduction, first reading, consideration of a motion to publish by title only and adopt by emergency an ordinance amending title 5 "General Offenses" by amending section 5-3-7, "Aggressive Begging Prohibited," B.R.C. 1981 and repealing section 5-3-12 "Begging in Certain Places Prohibited," B.R.C. 1981 to comply with a decision of the U.S. District Court and setting forth related details.

PRESENTER/S
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Greg Testa, Chief of Police

EXECUTIVE SUMMARY

The purpose of this council agenda item is to bring the city into compliance with a decision of the United States District Court for the District of Colorado. In Browne v. City of Grand Junction, the district court struck down Grand Junction's panhandling ordinance. This decision relies upon the United States Supreme Court decision in Reed v. Town of Gilbert announced June 18, 2015. In light of these decisions, Boulder's panhandling ordinances are subject to potential legal challenge. Accordingly, staff recommends that Council adopt the proposed ordinance amending the aggressive panhandling provisions and repealing the ban on panhandling in certain places.

STAFF RECOMMENDATION

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

Motion to introduce, adopt on emergency and order published by title only, an ordinance amending title 5 "General Offenses" by amending section 5-3-7, "Aggressive Begging Prohibited," B.R.C. 1981 and repealing section 5-3-12 "Begging in Certain Places Prohibited," B.R.C. 1981 to comply with a decision of the U.S. District Court and setting forth related details..

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: The restriction on panhandling on the Pearl Street Mall and in the University Hill Business District is intended to facilitate tourism and commercial activity. Repeal could have a negative impact on businesses in these areas.
- Environmental: None.
- Social: None.

OTHER IMPACTS

Fiscal –None.

Staff Time –Considering the limited number of citations issued, there will be no substantial savings in staff time resulting from the adoption of the proposed ordinance.

BOARD AND COMMISSION FEEDBACK

None

BACKGROUND

The Boulder revised code includes two restrictions on panhandling, which are found in sections 5-3-7 and 5-3-12. Section 5-3-7 prohibits aggressive begging. Aggressive begging is defined to include

- Repeated requests after a refusal by the individual addressed.
- Blocking the passage of the individual addressed.
- Addressing fighting words to the individual addressed.
- Touching the individual addressed.

Section 5-3-12 prohibits begging in certain places. This section applies only on the Pearl Street Mall and in the University Hill business district. In those areas, it prohibits panhandling in the following places:

- Within 10 feet of a wall on the Pearl Street Mall
- Within 5 feet of a wall in the University Hill business district
- Within 5 feet of a wall in the Downtown area
- Within ten feet of any outdoor patio where food or drink are served
- Within ten feet of any vending cart operating pursuant to a permit from the city

Neither section results in many citations. In 2015, to date, the Boulder Police Department has issued five citations under section 5-3-7 and none under section 5-3-12. There are no pending cases under either provision in the Boulder Municipal Court.

On September 30, 2015, United States District Court Judge Christine M. Arguello issued an order in Browne v. City of Grand Junction striking down the City of Grand Junction's panhandling ordinance. Judge Arguello held that the bulk of the city's panhandling ordinance violated the First Amendment to the United States Constitution. She held that any panhandling restriction must support a compelling governmental interest. The only such interest the court found supported by the ordinance was the protection of public safety embodied in a provision prohibiting threatening behavior that would place a reasonable person in fear for his or her safety.

The decision is sufficiently broad so that much of city's existing panhandling restrictions could be called into question. Accordingly, on October 5, 2015, Police Chief Greg Testa issued a directive to all Boulder Police Officers to cease any enforcement of sections 5-3-7 and 5-3-12.

Staff recommends that Council adopt the proposed ordinance, which would amend section 5-3-7 to define aggressive panhandling as threatening, coercive or obscene conduct that would place a reasonable person in fear or using fighting words. The proposed ordinance would repeal section 5-3-12.

Staff requests that council adopt this proposed ordinance as an emergency measure, because as written the current code restricts what are now recognized as first amendment rights. In addition, the current code could subject the city to potential liability.

ATTACHMENT

Attachment A – Proposed Ordinance
Attachment B – Browne v. City of Grand Junction, Order Dated September 30, 2015.

ORDINANCE NO.

AN EMERGENCY ORDINANCE AMENDING TITLE 5 "GENERAL OFFENSES" BY AMENDING SECTION 5-3-7, "AGGRESSIVE BEGGING PROHIBITED" AMENDING SECTION (a)(1) AND REPEALING SECTION (a)(4) AND (c) AND REPEALING SECTION 5-3-12 "BEGGING IN CERTAIN PLACES PROHIBITED" AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 5-3-7 is amended to read as follows:

5-3-7. - Aggressive Begging Prohibited.

(a) No person shall beg or solicit aggressively for a gift of money or any thing of value on any public street, sidewalk, way, mall, park, building, or other public property or on any private property open to the public while in close proximity to the individual addressed. Aggressive begging means begging or soliciting accompanied by or followed immediately by one or more of the following:

(1) Conduct that is intimidating, threatening, coercive, or obscene and that causes the person addressed to reasonably fear for his or her safety~~Repeated requests after a refusal by the individual addressed~~; or

~~(2) Blocking the passage of the individual addressed;~~

(2~~3~~) Addressing fighting words to the individual addressed.~~; or~~

~~(4) Touching the individual addressed.~~

(b) If one person acts in concert with another to beg aggressively, such that one person begs or solicits, and another commits one or more of the additional acts constituting aggressive begging, both have committed the crime.

(c) ~~If one person begs or solicits, and a second person, who knew or reasonably should have known of a refusal by the individual addressed, begs or solicits from the same individual within one minute, the second person has committed the crime.~~

Section 2. Section 5-3-12 is repealed.

Section 3. The city council finds this ordinance is necessary for the immediate preservation of public peace, health, safety, and property justifying the adoption of this ordinance as an emergency measure. Passage of this ordinance immediately is necessary to comply with a recent Federal District Court ruling. This ordinance shall become effective immediately.

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.

INTRODUCED, READ ON FIRST READING, ORDERED PUBLISHED BY TITLE ONLY AND ADOPTED BY EMERGENCY this 6th day of October, 2015.

_____
Mayor

Attest:

_____
City Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello

Civil Action No. 14-cv-00809-CMA-KLM

DEBRA BROWNE,
MARY JANE SANCHEZ,
CYNTHIA STEWART, and
HUMANISTS DOING GOOD,

Plaintiffs,

and

GREENPEACE, INC.,

Plaintiff-Intervenor,

v.

CITY OF GRAND JUNCTION, COLORADO,

Defendant.

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFFS' MOTION FOR LEAVE TO FILE A SECOND SUPPLEMENTAL COMPLAINT, AND DENYING DEFENDANT'S MOTION TO STAY THE COURT'S CONSIDERATION OF THE CROSS-MOTIONS FOR SUMMARY JUDGMENT

This case involves a constitutional challenge to a municipal ordinance that regulates panhandling. Currently before the Court are cross-motions for summary judgment. Defendant City of Grand Junction ("Grand Junction" or "the City") filed its motion for summary judgment on February 17, 2015. (Doc. # 84.) That same day, Plaintiffs Debra Browne, Mary Jane Sanchez, Humanists Doing Good, and Eric

Niederkruger[1], and Plaintiff-Intervenor Greenpeace, Inc. (collectively "Plaintiffs") filed their motion for summary judgment. (Doc. # 85.) Also before the Court is Plaintiffs' Motion for Leave to File a Second Supplemental Complaint, which was filed on November 21, 2014 (Doc. # 66), and Grand Junction's Motion to Stay the Court's Consideration of the Pending Cross-Motions for Summary Judgment for Sixty Days, which was filed on September 22, 2015 (Doc. # 110). For the reasons that follow, the Court GRANTS IN PART AND DENIES IN PART Plaintiffs' Motion for Summary Judgement (Doc. # 85), GRANTS IN PART AND DENIES IN PART Grand Junction's Motion for Summary Judgment (Doc. # 84), DENIES Plaintiffs' Motion for Leave to File a Second Supplemental Complaint (Doc. # 66), and DENIES Grand Junction's Motion to Stay the Court's Consideration of the Pending Cross-Motions for Summary Judgment for Sixty Days (Doc. # 110).

I. FACTUAL AND PROCEUDRAL BACKGROUND

A. Ordinance No. 4618

On February 19, 2014, Grand Junction adopted Ordinance No. 4618, entitled "An Ordinance Prohibiting Activities Relating to Panhandling." (Doc. # 1-1.) Ordinance No. 4618 amended Title 9 of the Grand Junction Municipal Code to include a new Chapter 5, entitled "Prohibited Activities." Section 9.05.020 of Ordinance No. 4618, which set forth the defined terms, stated, "*Panhandle / panhandling* shall mean to knowingly approach, accost or stop another person in a public place and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for money, employment or other thing of value." (Doc. # 1-1 at 2-3.) Section 9.05.040 of Ordinance No. 4618, entitled "General panhandling and solicitation," stated:

[1] Mr. Niederkruger was dismissed from this action June 8, 2015. (Doc. # 102.)

It shall be unlawful for any person to panhandle

(a) One-half (1/2) hour after sunset to one-half (1/2) hour before sunrise;

(b) If the person panhandling knowingly engages in conduct toward the person solicited that is intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety;

(c) If the person panhandling directs fighting words to the person solicited that are likely to create an imminent breach of the peace;

(d) If the person panhandling knowingly touches or grabs the person solicited;

(e) If the person panhandling knowingly continues to request the person solicited for money or other thing of value after the person solicited has refused the panhandler's request;

(f) If the person panhandling knowingly solicits an at-risk person;

(g) In such a manner that the person panhandling obstructs a sidewalk, doorway, entryway, or other passage way in a public place used by pedestrians or obstructs the passage of the person solicited or requires the person solicited to take evasive action to avoid physical contact with the person panhandling or with any other person;

(h) Within one hundred (100) feet of an automatic teller machine or of a bus stop;

(i) On a public bus;

(j) In a parking garage, parking lot or other parking facility;

(k) When the person solicited is present within the patio or sidewalk serving area of a retail business establishment that serves food and/or drink, or waiting in line to enter a building, an event, a retail business establishment, or a theater;

(l) On or within one hundred (100) feet of any school or school grounds.

(Doc. # 1-1 at 3.)

Ordinance No. 4618 also contained section 9.05.050, entitled "Panhandling and soliciting on or near public streets and highways," which stated:

> It shall be unlawful for any person to panhandle or to solicit employment, business contributions or sales of any kind, or to collect money for the same, directly from the occupant of any vehicle traveling upon any public street or highway when:
>
> (a) Such panhandling, solicitation or collection involves the person performing the activity to enter onto the traveled portion of a public street or highway to complete the transaction, including, without limitation, entering onto bike lanes, street gutters or vehicle parking areas; or
>
> (b) The person performing the activity is located such that vehicles cannot move into a legal parking area to safely complete the transaction.
>
> Notwithstanding the foregoing in this Section 9.05.050, it shall be unlawful for any person to panhandle or to solicit or attempt to solicit employment, business, or contributions of any kind directly from the occupant of any vehicle on any highway included in the interstate or state highway system, including any entrance to or exit from such highway.

(Doc. # 1-1 at 4.)

Section 9.05.060, entitled "Enforcement and penalties," stated that "[v]iolation of any provision of this Chapter shall constitute a misdemeanor." (Doc. # 1-1 at 4.) Section 9.05.030 stated that Ordinance No. 4618 was to go into effect "thirty (30) days following publication." (Doc. # 1-1 at 3.) Ordinance No. 4618 was published on February 21, 2014, and, therefore, was to go into effect on March 23, 2014.

B. Plaintiffs' Complaint and Plaintiff Stewart's Supplemental Complaint

Before Ordinance No. 4618 went into effect, Plaintiffs Debra Browne, Mary Jane Sanchez, Cynthia Stewart, Steve Kilcrease[2], Humanists Doing Good, and Eric Niederkruger filed suit on March 18, 2014. (Doc. # 1.) The complaint states that Plaintiff Debra Browne, a resident of Palisade, Colorado, and Plaintiffs Mary Jane Sanchez and Cynthia Stewart, residents of Grand Junction, are "needy and engage[ ] in peaceful, nonthreatening solicitation in Grand Junction in a manner and in situations that violate the Ordinance." (Doc. # 1 at 3.) The complaint also states that Plaintiff Humanists Doing Good "is a non-profit corporation that carries out peaceful, nonthreatening fundraising activities in Grand Junction in a manner and in situations that violate the Ordinance." (Doc. # 1 at 3.) Plaintiffs explicitly state in their complaint that they challenge subsections (a), (e), (f), and (h) through (l) of section 9.05.030, and that they do not challenge subsections (b), (c), (d), and (g). (Doc. # 1 at 6.) Plaintiffs also challenge the final sentence of section 9.05.050, but they do not challenge subsections (a) and (b) of section 9.05.050. (Doc. # 1 at 6.)

In their first claim for relief, Plaintiffs assert a facial challenge to the disputed subsections of section 9.05.050 of Ordinance No. 4618 on constitutional grounds, alleging that "[t]he challenged Ordinance unconstitutionally infringes or imminently threatens to infringe the freedom of Plaintiffs to fully exercise their First Amendment rights, including their rights of freedom of speech and freedom of expression, in violation

[2] Mr. Kilcrease was voluntarily dismissed with prejudice from this action on January 9, 2015. (Doc. # 72.)

of the First Amendment." (Doc. # 1 at 14.) In their fifth claim for relief[3], Plaintiffs allege that "[t]he Ordinance unconstitutionally infringes or imminently threatens to infringe the freedom of Plaintiffs to fully exercise their rights of freedom of speech and freedom of expression, in violation of Article II, Section 10 of the Colorado Constitution." (Doc. # 1 at 17.)

In their second and sixth claims for relief, Plaintiffs allege that "[t]he Ordinance establishes classifications that discriminate against Plaintiffs Browne, Stewart, Sanchez, Kilcrease, and Humanists Doing Good solely on the basis of the content of the communications that they wish to direct to the public" and that "[t]he discrimination against Plaintiffs unconstitutionally burdens the exercise of fundamental rights," including "the rights of freedom of speech and expression as well as the fundamental right to liberty." (Doc. # 1 at 15, 18.) According to Plaintiffs, the classifications established by Ordinance No. 4618 deny them the equal protection of the laws, in violation of both the Fourteenth Amendment to the United States Constitution (second claim for relief) (Doc. # 1 at 15) and the equal protection component of Article II, Section 25 of the Colorado Constitution (sixth claim for relief) (Doc. # 1 at 18).

In their third and seventh claims for relief, Plaintiffs allege that Ordinance No. 4618: (1) "fails to provide adequate notice that would enable the ordinary person to understand what conduct it prohibits"; (2) "fails to establish adequate guidelines to govern law enforcement"; and (3) "authorizes and encourages arbitrary and discriminatory enforcement." (Doc. # 1 at 16, 19) Thus, Plaintiffs assert, Ordinance No.

[3] Plaintiffs' fourth and eight claims for relief relate solely to Mr. Niederkruger. (Doc. # 1 at 16, 19-20.) Because Mr. Niederkruger has been dismissed from the action, these claims no longer apply.

4618 is unconstitutionally vague, in violation of both the Fourteenth Amendment to the United States Constitution (third claim for relief) (Doc. # 1 at 16, 19) and the Due Process Clause of Article II, Section 25 of the Colorado Constitution (seventh claim for relief) (Doc. # 1 at 19).

Plaintiffs seek a declaratory judgment holding that the challenged provisions of Ordinance No. 4618 violate both the United States Constitution and the Colorado Constitution. (Doc. # 1 at 20.) Plaintiffs also request injunctive relief prohibiting Grand Junction from enforcing the challenged provisions of Ordinance No. 4618. (Doc. # 1 at 20.)

On August 11, 2014, Plaintiff Stewart filed an unopposed motion for leave to file a supplemental complaint (Doc. # 60), which the Court granted on August 19, 2014. (Doc. # 61.) In her supplemental complaint, Plaintiff Stewart "sets forth events that have transpired since the filing of the original Complaint in this action on March 18, 2014." (Doc. # 62 at 1.) According to Plaintiff Stewart, "[t]hese events support a claim for nominal damages," which she seeks in addition to all Plaintiffs' requests for declaratory and injunctive relief. (Doc. # 62 at 1.)

C. Plaintiffs' Motion for Preliminary Injunctive Relief

On March 19, 2014, Plaintiffs moved for a temporary restraining order and preliminary injunction. (Doc. # 6.) During a March 21, 2014 hearing on Plaintiffs' motion (Doc. # 16), United States District Judge Philip A. Brimmer[4] found that Plaintiffs lacked standing to challenge the provisions of section 9.05.040 because Plaintiffs, who did not allege in their complaint that they approach, accost, or stop anyone before

[4] Plaintiffs' motion was before Judge Brimmer pursuant to Federal Rule of Civil Procedure 63.

soliciting them, do not engage in "panhandling" as defined in section 9.05.020 and, therefore, Plaintiffs did not have a credible fear of prosecution. (Doc. # 16 at 42.) However, Judge Brimmer did find that Plaintiffs had standing to challenge section 9.05.050 and that they were entitled to an injunction prohibiting Grand Junction from enforcing the last sentence of that section, which dealt with soliciting on public highways and highway exits. (Doc. # 16 at 53.) Judge Brimmer issued a written order that provided further analysis and support for his ruling from the bench. (Doc. # 15.)

Immediately following the hearing, Plaintiffs filed an emergency motion for reconsideration of Judge Brimmer's order (Doc. # 10), which included a supplemental declaration from Plaintiff Stewart stating that "when [she] ask[s] people for money at the bus stop[, she] sometimes walk[s] up to and approach[es] the person in a non-aggressive way and ask[s] for the change that [she] need[s] to cover [her] bus fare." (Doc. # 10-1.) In a written order, Judge Brimmer denied Plaintiffs' emergency motion stating that the submission of Plaintiff Stewart's supplemental declaration "d[id] not provide a legitimate basis for reconsideration" because those facts were available for presentation at the time of the original argument. (Doc. # 14 at 4.)

On March 27, 2014, the parties filed a joint motion to withdraw Plaintiffs' preliminary injunction motion because "[t]he parties . . . reached an agreement which obviates the need to hold a hearing or prepare briefing on the Plaintiffs' PI Motion." (Doc. # 21 at 2.) The Chief of Police of Grand Junction, John Camper ("Chief Camper"), issued an order to the police officers under his command to "not enforce Ordinance No. 4618 pending resolution of the claims subject to litigation in this civil action." (Doc. # 21

at 2.) That same day, this Court granted the joint motion to withdraw Plaintiffs' motion for a preliminary injunction. (Doc. # 22.)

On March 31, 2014, Greenpeace, Inc., moved for leave to intervene as a plaintiff in this action. (Doc. # 23.) Greenpeace is an "independent, fully member-driven non-profit organization" that uses canvass operations to provide financial support to the organization and educate the public about its work. (Doc. # 23 at 2.) Greenpeace's complaint in intervention echoes the same claims and requests for relief set forth in Plaintiffs' complaint. (Doc. # 23-2.)[5]

D. Ordinance No. 4627

On April 2, 2014, the Grand Junction City Council passed Ordinance No. 4627, entitled "An Emergency Ordinance to Amend Ordinance No. 4618 Regulating Panhandling Activities in Public Places." (Doc. # 25-4.) Ordinance No. 4627 amended the definition of "panhandle / panhandling" to include the phrase "without that person's consent" after "solicit that person," so that the amended definition reads:

> *Panhandle / panhandling* shall mean to knowingly approach, accost or stop another person in a public place and solicit that person *without that person's consent*, whether by spoken words, bodily gestures, written signs or other means, for money, employment or other thing of value.

(Doc. # 25-4 at 4 (emphasis added to highlight the added language).) Ordinance No. 4627 also amended section 9.05.040, which sets forth the specific restrictions on panhandling. Ordinance No. 4627 differs from Ordinance No. 4618 in that it: (1) removed entirely the restriction on panhandling an "at-risk person"; (2) reduced from

[5] On April 25, 2014, the Court granted Greenpeace's motion to intervene. (Doc. # 35.) Three days later, on April 28, 2014, Alexis Gallegos filed an unopposed motion for leave to intervene as a plaintiff in this action. (Doc. # 37.) That motion was granted on April 29, 2014. (Doc. # 40.) On January 20, 2015, Ms. Gallegos was dismissed without prejudice. (Doc. ## 76, 96.)

100 feet to 20 feet the area around an ATM or bus stop within which panhandling is prohibited; (3) narrowed the prohibition on panhandling to "public parking garages" specifically, as opposed to "parking garages" generally; and (4) removed entirely the prohibition on panhandling on or within 100 feet of any school or school grounds. (Doc. # 25-4 at 5.) Ordinance No. 4627 also removed the last sentence in section 9.05.050. (Doc. # 25-4 at 6.) Pursuant to section 9.05.030, Ordinance No. 4627 took effect "immediately upon passage" by the City Council. (Doc. # 25-4 at 5.) Grand Junction planned to begin enforcement of Ordinance No. 4627 on April 14, 2014.[6] (Doc. # 25-5 at 5.)

E. Grand Junction's Motion to Dismiss

On May 19, 2014, Grand Junction filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). (Doc. # 46.) While this motion to dismiss was pending, Plaintiffs filed their Motion for Leave to File a Second Supplemental Complaint on November 21, 2014 (Doc. # 66), and both parties filed cross-motions for summary judgment on February 17, 2015 (Doc. ## 84, 85).

On March 30, 2015, this Court granted in part and denied in part Grand Junction's motion to dismiss. (Doc. # 96.) Specifically, this Court granted Grand Junction's motion "insofar as it argues that Plaintiffs' challenges to Ordinance 4618 are moot and Plaintiffs lack standing to challenge the prohibition against solicitation on buses." (Doc. # 96 at 16.) Grand Junction had argued that Plaintiffs' challenge to Ordinance No. 4618 was moot because that ordinance had been replaced by Ordinance No. 4627, and that Plaintiffs lacked standing to challenge the prohibition against

[6] Based on the record before the Court, it does not appear that Grand Junction ever enforced Ordinance No. 4627.

solicitation on buses because none of them asserted that they had solicited, or planned to solicit, donations on buses. This Court denied Grand Junction's motion to dismiss "insofar as it argues that Plaintiffs lack standing to challenge the prohibition against soliciting people within sidewalk serving areas and waiting in line." (Doc. # 96 at 16.) This Court reserved ruling on the balance of Grand Junction's arguments. (Doc. # 96 at 16.) On June 8, 2015, this Court denied the remainder of Grand Junction's motion to dismiss, concluding that Plaintiffs sufficiently stated First Amendment, equal protection, and due process claims. (Doc. # 102.)

F. Grand Junction's Motion for Summary Judgment

Grand Junction's motion for summary judgment presents four arguments: (1) this Court lacks subject-matter jurisdiction over the claims because Plaintiffs lack standing and because some of Plaintiffs' claims are moot (Doc. # 84 at 14-19); (2) Ordinance No. 4627 does not violate Plaintiffs' free speech rights (Doc. 84 at 19-31); (3) Plaintiffs' equal protection claims fail (Doc. # 84 at 31-33); and (4) Plaintiffs' due process challenges fail (Doc. # 84 at 33-35).

Grand Junction argues that Plaintiffs lack standing—and, therefore, this Court lacks subject-matter jurisdiction—because their conduct is not covered by Ordinance No. 4627. (Doc. # 84 at 15.) This argument is based on Grand Junction's assertion that Plaintiffs "all admit that the people who engage with them do so voluntarily of their own free will" and that Plaintiffs Browne and Greenpeace "admit they do not approach, accost, or stop anyone." (Doc. # 84 at 15.) According to Grand Junction, the prohibitions of Ordinance No. 4627 do not reach Plaintiffs' conduct because the ordinance explicitly defines "panhandling" as "knowingly approach[ing], accosting[ing], or stop[ping] another person" to solicit that person "without that person's consent."

(Doc. # 84 at 16.) Thus, under Grand Junction's reading of Ordinance No. 4627, the conduct engaged in by Plaintiffs is not panhandling and, therefore, not limited in any way by Ordinance No. 4627.

Grand Junction argues that this Court also lacks subject-matter jurisdiction because Plaintiffs' challenges to Ordinance No. 4618 "were rendered moot by the passage of Ordinance No. 4627." (Doc. # 84 at 17.) Specifically, Grand Junction notes that Ordinance No. 4627 removed the prohibition on panhandling on a highway or highway exit ramp, removed the restriction on panhandling "at-risk" individuals, and removed the prohibition on panhandling on or within 100 feet of any school or school grounds. (Doc. # 84 at 18.) Grand Junction asserts that "[t]here is no evidence that [it] intends to reenact those provisions of the Ordinance." (Doc. # 84 at 18.)

Grand Junction also argues that it is entitled to summary judgment because the undisputed material facts demonstrate that Ordinance No. 4627 does not violate either the First Amendment to the United States Constitution or Article II, Section 10 of the Colorado Constitution. (Doc. # 84 at 19.) Grand Junction asserts that Ordinance No. 4627 is a "content-neutral time, plane, and manner restriction" and, therefore, intermediate scrutiny applies. (Doc. # 84 at 19.) According to Grand Junction, Ordinance No. 4627 "satisfies intermediate scrutiny because it is narrowly tailored to a legitimate government interest and leaves open ample alternative means of communication." (Doc. # 84 at 19.) Grand Junction's motion for summary judgment does not address whether Ordinance No. 4627 satisfies strict scrutiny.

Grand Junction argues that it is also entitled to summary judgment on Plaintiffs' equal protection claims because Plaintiffs "are not members of a suspect class and the

Ordinance does not impinge their fundamental rights." (Doc. # 84 at 31.) In support of its position, Grand Junction asserts that the United States Supreme Court "does not recognize a suspect classification based on wealth, or lack thereof." (Doc. # 84 at 31.) Therefore, according to Grand Junction, rational basis review applies and the undisputed facts demonstrate that Ordinance No. 4627 is rationally related to a legitimate government purposes. (Doc. # 84 at 32.)

Lastly, Grand Junction argues that Plaintiffs' due process claims fail because Ordinance No. 4627 is not impermissibly vague. (Doc. # 84 at 34.) In support of this argument, Grand Junction points out that Ordinance No. 4627: (1) "expressly defines what constitutes 'panhandling,' 'knowingly,' 'obscene,' and 'obstruct'"; (2) "sets forth in detail the precise places, times, and manners that [limit] a person's conduct"; and (3) "exempts inadvertent violations (because of the knowledge requirement) and exempts consensual encounters." (Doc. # 84 at 34.) Therefore, according to Grand Junction, Ordinance No. 4627 "provides fair notice of the conduct it proscribes and is not subject to arbitrary application." (Doc. # 84 at 35.)

G. Plaintiffs' Motion for Summary Judgment

In their motion for summary judgment, Plaintiffs' argue that they are entitled to summary judgment because the undisputed facts show that Ordinance No. 4627 violates their freedom of speech as protected by the First Amendment to the United States Constitution and Article II, Section 10 of the Colorado Constitution. (Doc. # 85 at 18.) In support of their position, Plaintiffs argue that Ordinance No. 4627 is a content-based restriction and, therefore, presumptively unconstitutional and subject to strict scrutiny. (Doc. # 85 at 19.) Plaintiffs argue that each of the challenged provisions of Ordinance No. 4627 cannot survive strict scrutiny. (Doc. # 85 at 28-33.)

Plaintiffs argue that they are entitled to summary judgment on their equal protection claims because "[t]he elements [of an equal protection claim] are met by establishing that the ordinance discriminates on the basis of content," which Plaintiffs assert they have done in discussing their free speech claims. (Doc. # 85 at 36.)

Plaintiffs argue that they are entitled to summary judgment on their due process claims because the undisputed facts demonstrate that Ordinance No. 4627 is unconstitutionally vague. (Doc. # 85 at 37.) In support of this argument, Plaintiffs assert that Ordinance No. 4627 is vague because: (1) it is unclear whether the ordinance prohibits "passive" panhandling (i.e., soliciting by displaying a sign) (Doc. # 85 at 37-39); and (2) it is unclear whether the consent provision requires the solicitor to obtain consent before soliciting someone (Doc. # 85 at 39). Thus, Plaintiffs argue, Ordinance No. 4627 is not drafted with sufficient clarity to enable the ordinary person to understand what conduct is prohibited, and Ordinance No. 4627 fails to provide law enforcement with adequate guidance in order to prevent arbitrary and discriminatory enforcement. (Doc. # 85 at 37.)

II. DISCUSSION

A. Summary Judgment Standard

Summary judgment is warranted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). A fact is "material" if it is essential to the proper disposition of the claim under the relevant substantive law. *Wright v. Abbott Labs., Inc.*, 259 F.3d 1226, 1231-32 (10th Cir. 2001). A dispute is "genuine" if the evidence is such that it might lead a reasonable jury to return a verdict for the nonmoving party. *Allen v. Muskogee, Okla.*, 119 F.3d 837, 839 (10th Cir. 1997). When considering a motion for

summary judgment, the court must "construe the factual record and reasonable inferences therefrom in the light most favorable to the nonmovant." *Id*. at 39-40.

Where, as here, the parties file cross-motions for summary judgment, each motion is considered separately and "the denial of one does not require the grant of another." *Buell Cabinet Co., Inc. v. Sudduth*, 608 F.2d 431, 433 (10th Cir. 1979). However, when faced with cross summary judgment motions, the court is "entitled to assume that no evidence needs to be considered other than that filed by the parties." *James Barlow Family Ltd. P'ship v. David Munson, Inc.*, 132 F.3d 1316, 1319 (10th Cir. 1997).

B. Freedom of Speech Claims

The First Amendment to the United States Constitution unequivocally states that "Congress shall make no law . . . abridging the freedom of speech." U.S. CONST. amend. I.[7] It is no exaggeration to say that the First Amendment is the bedrock of American democracy. *See, e.g.*, *Speiser v. Randall*, 357 U.S. 513, 530 (1958) (Black, J., concurring) (stating that the freedoms secured by the First Amendment "are absolutely indispensable for the preservation of a free society in which government is based upon the consent of an informed citizenry and is dedicated to the protection of the rights of all"); *Palko v. Connecticut*, 302 U.S. 319, 327 (1937) (stating that freedom of speech is "the matrix, the indispensable condition, of nearly every other form of freedom"), overruled on other grounds by *Benton v. Maryland*, 395 U.S. 784 (1969).

Because of the First Amendment, "a government, including a municipal government vested with state authority, 'has no power to restrict expression because of

[7] The First Amendment applies to the States through the Due Process Clause of the Fourteenth Amendment. *Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc.*, 425 U.S. 748, 749 n.1 (1976).

its message, its ideas, its subject matter, or its content.'" *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2226 (2015) (quoting *Police Dept. of Chi. v. Mosley*, 408 U.S. 92, 95 (1972)). For this reason, whenever a restriction is challenged on First Amendment grounds, it must be determined at the outset whether that restriction is "content-based" or "content-neutral." A law or ordinance regulating speech is "content-based" if it "applies to particular speech because of the topic discussed or the idea or message expressed." *Id*. at 2227. When deciding whether a challenged law or ordinance is content-based, a court must "consider whether a regulation of speech 'on its face' draws distinctions based on the message a speaker conveys." *Id*.

A content-based restriction is presumptively unconstitutional and subject to strict scrutiny. *Id*. at 2226. A facially content-based law must pass strict scrutiny "regardless of the government's benign motive, content-neutral justification, or lack of 'animus toward the idea contained' in the regulated speech." *Id*. at 2228 (quoting *Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 429 (1993)). "[A]n innocuous justification cannot transform a facially content-based law into one that is content neutral." *Id*.

To withstand strict scrutiny, the law or ordinance must be "necessary to serve a compelling state interest." *Ark. Writers' Project, Inc. v. Ragland*, 481 U.S. 221, 231 (1987). To demonstrate that a law or ordinance is necessary to serve a compelling state interest, the government must show that the law or ordinance is the "least restrictive means" of achieving that vital interest. *Ashcroft v. ACLU*, 542 U.S. 656, 666 (2004). The government bears the burden of demonstrating that a content-based restriction passes strict scrutiny. *Reed*, 135 S. Ct. at 2231.

"Only a law that is substantially overbroad may be invalidated on its face." *City of Hous. v. Hill*, 482 U.S. 451, 458 (1987) (citations omitted). Whether a restriction is substantially overbroad depends primarily upon whether it reaches a substantial amount of protected speech or conduct. *Id*. (citing *Hoffman Estates v. The Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 494 (1982)).

1. Ordinance No. 4627 is a Content-Based Restriction on Protected Speech

This Court determined in its prior order granting in part and denying in part Grand Junction's motion to dismiss that Ordinance No. 4627 is a content-based restriction on protected speech. (Doc. # 102 at 13.) The Court need not reevaluate that decision here as that determination is now the law of the case. *See, e.g.*, *Arizona v. California*, 460 U.S. 605, 618 (1983) ("As most commonly defined, the [law of the case] doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages of the same case."). Therefore, the Court applies strict scrutiny to Ordinance No. 4627 when considering the parties' cross motions for summary judgment.

Before beginning its analysis, the Court notes that the parties filed their summary judgment motions prior to the Court issuing its ruling on Grand Junction's motion to dismiss, in which it determined that Ordinance No. 4627 is a content-based restriction. Therefore, one of the issues addressed in each of the summary judgment motions is the level of judicial scrutiny that should be applied to Ordinance No. 4627. In their summary judgment motion, Plaintiffs correctly argue that strict scrutiny applies because Ordinance No. 4627 is a content-based restriction. (Doc. # 85 at 18.) Grand Junction, on the other hand, takes the position in its summary judgment motion that intermediate

scrutiny applies because Ordinance No. 4627 is a content-neutral time, place, and manner restriction. (Doc. # 84 at 19.) In none of its briefing does Grand Junction argue in the alternative that, even if strict scrutiny applies, Ordinance No. 4627 withstands that more exacting standard of judicial review. In addition, following the Court's issuance of its ruling in which it stated that strict scrutiny applies, Grand Junction did not request permission to file a supplemental brief in which it addressed whether Ordinance No. 4627 meets strict scrutiny. Nevertheless, the Courts believes that it is able to rule on the parties' cross motions for summary judgment, despite the fact that Grand Junction's briefing does not apply the correct level of scrutiny. The Court believes that additional briefing from Grand Junction would not alter the Court's ultimate conclusion.

In addition, the Court notes that a little more than a week after the issuance of its order on Grand Junction's motion to dismiss, the United States Supreme Court issued its ruling in *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (2015). In *Reed*, the Supreme Court held that a town's "comprehensive code governing the manner in which people may display outdoor signs" amounted to "content-based regulations of speech that cannot survive strict scrutiny." *Reed*, 135 S. Ct. at 2224. Although the facts of *Reed* did not involve municipal regulation of panhandling, the case is significant to the matter at hand—and First Amendment jurisprudence more generally—because it provides clarification as to how lower courts should go about determining whether a restriction on protected speech is content-based or content-neutral.

In *Reed*, the Ninth Circuit Court of Appeals had concluded that the sign code was content neutral because the town "'did not adopt its regulation of speech [based on] disagree[ment] with the message conveyed,' and its justifications for regulating

temporary directional signs were 'unrelated to the content of the sign.'" *Id*. at 2227 (quoting *Reed v. Town of Gilbert, Ariz.*, 707 F.3d 1057, 1071-72 (9th Cir. 2013)) (alterations in original). The Supreme Court reversed finding that the Ninth Circuit had erred because its analysis "skip[ped] the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face." *Id*. at 2228. Importantly, the Supreme Court stated that "[a] law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of 'animus toward the idea contained' in the regulated speech." *Id*. (quoting *Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 429 (1993)). Thus, *Reed* instructs that "whether a law is content neutral on its face" must be considered "*before* turning to the law's justification or purpose." *Id*. (emphasis in original).

The Supreme Court also used *Reed* to clarify the distinction between "viewpoint discrimination" and "content discrimination." Viewpoint discrimination, which is "the regulation of speech based on 'the specific motivating ideology or the opinion or perspective of the speaker,'" is simply a "'more blatant' and 'egregious form of content discrimination.'" *Id*. at 2230 (quoting *Rosenberg v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995)). In other words, viewpoint discrimination prohibits speech specifically based on the particular point of view of the speaker. Content discrimination, on the other hand, prohibits speech based on the broad topic being discussed. For example, a town ordinance generally prohibiting all speech about war would be content discrimination, whereas a town ordinance specifically prohibiting only anti-war speech would be viewpoint discrimination. Although viewpoint discrimination is more "blatant" and "egregious" than content discrimination, the Supreme Court in *Reed* noted that

content discrimination is also prohibited by the First Amendment. *Id*. ("[I]t is well established that '[t]he First Amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic.'") (quoting *Consol. Edison Co. of N.Y. v. Public Serv. Comm'n of N.Y.*, 447 U.S. 530, 537 (1980)) (alteration in original). Thus, *Reed* makes clear that "a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter." *Id*.[8]

According to *Reed*, "[g]overnment regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed." *Reed*, 135 S. Ct. at 2227. In *Reed*, the Supreme Court instructed that when a court is determining whether a regulation of speech is facially content based, it must consider whether the regulation "'on its face' draws distinctions based on the message a speaker conveys." *Id*. The Supreme Court further instructed that while "[s]ome facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose." *Id*. Nevertheless, "[b]oth are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny." *Id*.

The Court engages in this extended discussion of *Reed* because it confirms the correctness of this Court's prior conclusion that Ordinance No. 4627 is a content-based speech restriction. The Court believes it is also important to briefly note two decisions

[8] Applying this principle to an example more akin to the present matter, a law prohibiting all solicitation speech in a public forum would be an example of content discrimination. On the other hand, a law prohibiting solicitation for only environmental causes would be an example of viewpoint discrimination. Both types of laws are prohibited by the First Amendment.

that were issued after *Reed* in cases similarly dealing with municipal panhandling regulations and cited by the parties in this matter.

In a June 19, 2014 decision in *Thayer v. City of Worcester, Massachusetts*, 755 F.3d 60 (1st Cir. 2014), the First Circuit Court of Appeals had concluded that a municipal panhandling ordinance was content neutral because it was "not designed to suppress messages expressed by panhandlers, Girl Scouts, the Salvation Army, campaign politicians, or anyone else subject to restriction." *Thayer*, 755 F.3d at 71. In its opinion, written by retired Associate Justice Souter, the First Circuit focused exclusively on the city's intent and justification for passing the ordinance. *Id*. at 67 ("In determining whether a particular regulation is content-neutral, the principal enquiry is 'whether the government has adopted a regulation of speech because of disagreement with the message it conveys.'"). The First Circuit affirmed the District Court's denial of the plaintiffs' motion for a preliminary injunction. *Id*. at 78.

On June 29, 2015, a week and a half after issuing its decision in *Reed*, the United States Supreme Court granted the *Thayer* plaintiffs' petition for a writ of certiorari, vacated the judgment of the First Circuit, and remanded the case "for further consideration in light of [*Reed*]." *Thayer v. City of Worcester, Mass.*, 135 S. Ct. 2887 (2015). To date, the First Circuit has not yet issued its opinion on remand.

Like the First Circuit's first opinion in *Thayer*, on September 25, 2014, the Seventh Circuit Court of Appeals concluded that a city ordinance regulating panhandling was content neutral—though it admitted that it did not "profess certainty about [that] conclusion." *Norton v. City of Springfield, Ill.*, 768 F.3d 713, 717 (7th Cir. 2014). In reaching its decision, the Seventh Circuit focused on the fact that "[t]he ordinance is

indifferent to the solicitor's stated reason for seeking money, or whether the requester states any reason at all." *Id*. In addition, the Seventh Circuit pointed to the fact that "what activates the prohibition [in the ordinance] is *where* a person says something (in the 'downtown historic district') rather than what position a person takes." *Id*. Thus, the Seventh Circuit evaluated the ordinance "by the standard for time, place, and manner restrictions" and found that the ordinance passed muster under intermediate scrutiny.

The plaintiffs in *Norton* filed a petition for rehearing, which the Seventh Circuit deferred consideration of until the Supreme Court decided *Reed*. *Norton*, --- Fed. Appx. ---, Case No. 13-cv-3581, 2015 WL 4714073, at *1 (7th Cir. Aug. 7, 2015). After *Reed* was decided, the Seventh Circuit applied it to the ordinance at issue and found that the ordinance "regulates 'because of the topic discussed.'" *Id*. (quoting *Reed*, 135 S. Ct. at 2227). Therefore, according to the Seventh Circuit, the ordinance is "a form of content discrimination" under *Reed*. *Id*. at *2. The Seventh Circuit remanded the case to the district court with the instruction that it enter an injunction prohibiting enforcement of the ordinance. *Id*.

Although only persuasive, the Court believes that the outcomes in *Thayer* and *Norton* provide yet additional support for the correctness of its prior conclusion that Ordinance No. 4627 is a content-based speech restriction.

2. The Challenged Provisions of Ordinance No. 4627 Do Not Withstand Strict Scrutiny

Having concluded that Ordinance No. 4627 is a content-based restriction on protected speech, the Court presumes that the ordinance is unconstitutional, and it must be struck down unless Grand Junction can demonstrate that it is "necessary to serve a compelling state interest." *Ark. Writers' Project*, 481 U.S. at 231.

As stated above in section II.B.1, Grand Junction takes the position in all of its briefing that Ordinance No. 4627 is a content-neutral time, place, and manner restriction that is subject to intermediate scrutiny. Despite the fact that Grand Junction's briefing addresses the incorrect level of scrutiny, the Court finds that, even if it had argued to the correct standard, Grand Junction would be unable to demonstrate that Ordinance No. 4627 is necessary to serve a compelling state interest. Therefore, the challenged provisions of Ordinance No. 4627 are unconstitutional under the First Amendment and cannot be enforced.

In its brief in support of its motion for summary judgment, Grand Junction argues that there is a "close fit" between Ordinance No. 4627 and "the harm intended to be regulated." (Doc. # 84 at 25.) According to Grand Junction, the harm that is intended to be regulated is "aggressive behavior in connection with certain solicitation activities." (Doc. # 84 at 25.) As proof of this alleged aggressive solicitation, Grand Junction cites the deposition testimony of Chief Camper and Grand Junction City Manager Richard Englehart ("City Manager Englehart"). (Doc. # 84 at 25.)

During his deposition, Chief Camper stated that, generally speaking, Grand Junction "had seen an increase or had become aware of an increase in more reports of aggressive panhandling." (Doc. # 84-1 at 17.) Chief Camper then discussed two specific examples. First, Chief Camper described how, following an annual conference of chiefs of police held in Grand Junction, he was "approached on at least three occasions by either chiefs or their spouses indicating that they had been aggressively panhandled near or at the Convention Center." (Doc. # 84-1 at 19.) Chief Camper stated that the panhandlers in this instance were allegedly "very persistent and, at least

in one case, . . . [verbally] abusive towards the spouse of one of the chiefs." (Doc. # 84-1 at 19.) Second, Chief Camper discussed a specific instance in which a county employee was alleged to have been "pretty aggressively harassed by vagrants near the 4th/Main Wells Fargo at about noon."

> She was well dressed, walking towards the bank, when the subjects approached her for money. When she refused, they became loud and aggressive and made comments about the police taking away their tents and having nowhere to stay. She was pretty intimidated . . . .

(Doc. # 84-1 at 19.) Chief Camper also recalled, generally, "some discussion about the [restaurant] patios, that [Grand Junction] had had increased complaints of that, and also when people are waiting to enter a line to go into some event or they're sort of in a queue to get into an event or theater." (Doc. 84-1 at 17.)

During his deposition, City Manager Englehart stated that he was told about "some challenges downtown with the restauranteurs and that people, while they were having lunch, were being approached aggressively to give money." (Doc. # 84-1 at 22.) City Manager Englehart also discussed two instances during which he, personally, was "aggressively panhandled":

> I pulled up to an intersection, and a gentleman that was walking alongside my car—I have a convertible—yelled at me, asked me if I had any money. And I said, I'm sorry, I don't. He walked out next to my car, leaned over the top, and said, Come on, Dude. You drive a car like this, you've got money. Give me any money that you may have. I said, I'm sorry, sir. I don't have any money. Now he's out in the traffic lane. He sees the change in my cup-holders. He says, Well, you've got money right there. And I said, I'm sorry, sir, you are going to need to leave. And he had a few choice words and walked off.
>
> . . .

> I was pulling money out of a bank and a gentleman stood there and waited until I finished. He says, Can you spare some of that money you just pulled out? And I said, No, sir. He said, All right, thank you, and he walked off. Those are my personal experiences.

(Doc. # 84-1 at 23.)

Grand Junction argues that Ordinance No. 4627 is narrowly tailored because it "only addresses conduct in certain limited zones and at limited times" and it "does not sweep in any more conduct than is necessary to address the City's legitimate interest in promoting public safety." (Doc. # 84 at 25.) The Court does not question that "public safety" is a compelling governmental interest. *See, e.g.*, *Schenck v. Pro-Choice Network of W. N.Y.*, 519 U.S. 357, 375 (1997) (discussing "public safety and order" as a valid governmental interest). However, Grand Junction cannot demonstrate that the challenged provisions of Ordinance No. 4627 are necessary to serve that interest.

Simply put, the challenged portions of Ordinance No. 4627 are over-inclusive because they prohibit protected speech that poses no threat to public safety. For example, subsection (a) of section 9.05.040 of Ordinance No. 4627 prohibits panhandling "[o]ne-half (1/2) hour after sunset to one-half (1/2) hour before sunrise." (Doc. # 25-4 at 5.) Grand Junction has not demonstrated that this prohibition on protected speech is necessary for public safety. None of the alleged instances of "aggressive panhandling" —the stated impetus for Ordinance No. 4627—occurred at night. In fact, Chief Camper himself stated that they "don't see a lot of" nighttime panhandling in Grand Junction. (Doc. # 86-2 at 23.) There is no indication that panhandling at night—no matter the location in Grand Junction—is inherently dangerous or threatening to the public. Therefore, Grand Junction has not shown that a blanket prohibition on panhandling at night is necessary to advance public safety.

Subsection (e) of section 9.05.040 of Ordinance No. 4627 prohibits panhandling if "[t]he person panhandling knowingly continues to request the person solicited for money or other thing of value after the person solicited has refused the panhandler's initial request." In one of the examples of "aggressive panhandling" discussed by Chief Camper, the panhandlers were allegedly "very persistent." (Doc. # 84-1 at 19.) The Court interprets this to mean that the panhandlers requested money or a thing of value more than once. In addition, in the encounter described by City Manager Englehart that took place when he was driving his car, it appears that he may have been solicited more than once. (Doc. # 84-1 at 23.) However, in neither instance does it appear that the safety of the person being solicited was threatened simply because the person doing the soliciting had made a second request after the initial request was refused. Grand Junction has not shown—and the Court does not believe—that a repeated request for money or other thing of value necessarily threatens public safety. Thus, a ban on multiple requests is not necessary to serve a compelling governmental interest.

Subsection (g) of section 9.05.040 of Ordinance No. 4627 prohibits panhandling "[w]ithin twenty (20) feet of an automatic teller machine or of a bus stop." (Doc. # 25-4 at 5.) During his deposition, City Manager Englehart described an instance in which he personally was solicited after obtaining money from an ATM. (Doc. # 84-1 at 23.) City Manager Englehart stated that after he denied the request for money, the requester said, "All right, thank you," and walked away. (Doc. # 84-1 at 23.) The Court does not see how that interaction in particular threatened City Manager Englehart's safety or, more generally, how any request for money, simply because it occurs within 20 feet of an ATM (whether or not the person solicited used or planned to use the ATM),

constitutes a threat to public safety. With regard to the ban on panhandling within 20 feet of a bus stop, none of the specifically identified instances of "aggressive panhandling" identified by Grand Junction occurred within 20 feet of a bus stop. Grand Junction has not shown—and the Court does not believe—that a request for money, simply because it occurs within 20 feet of a bus stop, threatens public safety. Therefore, the ban on panhandling with 20 feet of an ATM or bus stop is not necessary to serve a compelling government interest.

Subsection (i) of section 9.05.040 of Ordinance No. 4627 prohibits panhandling "[i]n a public parking garage, parking lot or other parking facility." (Doc. # 25-4 at 5.) None of the specifically identified instances of "aggressive panhandling" identified by Grand Junction occurred in a public parking garage, parking lot, or other parking facility. Similar to the other prohibitions set forth in Ordinance No. 4627, Grand Junction has not shown—and the Court does not believe—that a solicitation for money or other thing of value is a threat to public safety simply because it takes place in a public parking garage, parking lot, or other parking facility. Therefore, the ban on panhandling in these areas is not necessary to serve a compelling government interest.

Lastly, subsection (j) of section 9.05.040 of Ordinance No. 4627 prohibits panhandling "[w]hen the person solicited is present within the patio or sidewalk serving area of a retail business establishment that serves food and/or drink, or waiting in line to enter a building, an event, a retail business, or a theater." (Doc. # 25-4 at 5.) None of the specific instances of "aggressive panhandling" identified by either Chief Camper or City Manager Englehart took place while the person solicited was either within the patio or sidewalk serving area of a restaurant, café, or bar, or waiting in line to enter a

building, an event, a retail business, or a theater. Nevertheless, like all of the other challenged prohibitions, Grand Junction has not shown—and the Court does not believe—that the panhandling of an individual in the areas identified in subsection (j), without more, constitutes a threat to public safety. Therefore, the ban on panhandling individuals in the locations specified in subsection (j) is not necessary to serve a compelling government interest.

The Court notes that certain behavior that may be engaged in by solicitors when soliciting could threaten public safety. For example, the solicitor may engage in conduct that is intimidating, threatening, coercive, or obscene and that causes the person solicited to reasonable fear for his or her safety. Such conduct, in fact, is expressly prohibited by subsection (b) of section 9.05.040 of Ordinance No. 4627. Tellingly, Plaintiffs do not challenge subsection (b). At times, threatening behavior may accompany panhandling, but the correct solution is not to outlaw panhandling. The focus must be on the threatening behavior. Thus, the problem in this case is that Grand Junction has taken a sledgehammer to a problem that can and should be solved with a scalpel. In attempting to combat what it sees as threatening behavior that endangers public safety, Grand Junction has passed an ordinance that sweeps into its purview non-threatening conduct that is constitutionally protected. Thus, the Court is compelled to strike down subsections (a), (e), (g), (i), and (j) of section 9.05.040 of Ordinance No. 4627.[9]

[9] The free speech protections afforded by Article II, Section 10 of the Colorado Constitution is "of greater scope than that guaranteed by the First Amendment." *Bock v. Westminster Mall Co.*, 819 P.2d 55, 59 (Colo. 1991). Therefore, "the level of scrutiny required to safeguard the broader free speech protections afforded by Article II, Section 10 of the Colorado Constitution [is] necessarily more stringent than that associated with

C. Equal Protection Claims

The parties' cross-motions for summary judgment also address Plaintiffs' claim that the challenged provisions of Ordinance No. 4627 violate their right to the equal protection of the laws under both the Fourteenth Amendment to the United States Constitution and Article II, Section 25 of the Colorado Constitution. Plaintiffs only argument in support of their equal protection claim is that "[t]he elements are met by establishing that [Ordinance No. 4627] discriminates on the basis of content." (Doc. # 85 at 36.) In support of this argument, Plaintiffs cite *Police Department of Chicago v. Mosley*, 408 U.S. 92 (1972), and *Speet v. Schuette*, 889 F. Supp. 2d 969 (W.D. Mich. 2012), *aff'd on other grounds*, 726 F.3d 867 (6th Cir. 2013). Grand Junction, on the other hand, argues that "Plaintiffs' equal protection challenge fails because they are not members of a suspect class and [Ordinance No. 4627] does not impinge their fundamental rights." (Doc. # 84 at 31.) The Court finds that neither party's analysis provides much insight.

Section 1 of the Fourteenth Amendment provides that "[n]o state shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend. XIV, § 1. In other words, the government may not treat any person or class of people differently than any other similarly-situated person or class of people without providing adequate justification. The level of scrutiny with which a court reviews a law challenged on equal protection grounds (i.e., the strength of the justification that must be provided by the government) depends upon the type of classification made by the

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First Amendment analysis." *Denver Pub. Co. v. City of Aurora*, 896 P.2d 306, 323 (Colo. 1995). Thus, because the challenged subsections of Ordinance No. 4627 cannot withstand strict scrutiny as required by the First Amendment, they necessarily cannot withstand the more stringent scrutiny required by Article II, Section 10 of the Colorado Constitution.

government or whether the classification affects a fundamental right. *See, e.g.*, *Clark v. Jeter*, 486 U.S. 456, 461 (1988) ("In considering whether state legislation violates the Equal Protection Clause of the Fourteenth Amendment, . . . we apply different levels of scrutiny to different types of classifications.") "Classifications based on race or national origin . . . and classifications affecting fundamental rights . . . are given the most exacting scrutiny." *Id*. (citations omitted).

In light of the Court's conclusion that the challenged provisions of Ordinance No. 4627 are unconstitutional under the First Amendment, it is not necessary to decide whether the challenged provisions are also unconstitutional under the Equal Protection Clause of the Fourteenth Amendment because the outcome of the case will not be affected.[10] Nevertheless, for purposes of providing guidance to the parties and to dispose of all of the claims on the merits, the Court will address Plaintiffs' equal protection claim.

The Court finds that the Equal Protection Clause is not applicable to the present matter because Ordinance No. 4627 does not create classifications of individuals at all—let alone classifications based on race or national origin, or classifications affecting fundamental rights. Yes, Ordinance No. 4627 clearly affects the fundamental right of free speech, but it affects the free speech right of every individual in Grand Junction. The prohibitions on panhandling as set forth in Ordinance No. 4627 apply equally to all persons within the city limits.

[10] The Court notes that the Sixth Circuit in *Speet* explicitly declined to consider whether the anti-begging ordinance at issue in that case violated the Fourteenth Amendment because it had already affirmed the district court's finding that the ordinance violated the First Amendment.

In the Court's opinion, the fact that some speech is prohibited while other speech is not does not trigger equal protection analysis. If that were the case, all First Amendment claims would necessarily be Fourteenth Amendment claims as well. The Court believes that the Equal Protection Clause prohibits laws that create certain classifications of individuals, not certain classifications of speech.

In support of this conclusion, the Court finds informative cases in which a state law was found unconstitutional under the Equal Protection Clause because the classification made by the law affected an individual's fundamental right. For example, in *Kramer v. Union Free School District No. 15*, 392 U.S. 621 (1969), the United States Supreme Court struck down a New York statute that limited voting in school district elections to owners or lessees of taxable property and parents or guardians of children in public schools. In *Dunn v. Blumstein*, 405 U.S. 330 (1972), the Supreme Court invalidated a Tennessee law that created a durational residency requirement for would-be voters. In both cases, the law at issue created classes of individuals (i.e., property owner vs. non-property owner, parent vs. non-parent, resident for a certain period of time vs. non-resident for a certain period of time) and prohibited individuals in one of the classes from exercising a fundamental right (voting). Without the government demonstrating that such distinctions were necessary in order to achieve a compelling government interest, the laws could not stand.

Unlike the statutes at issue in *Kramer* and *Dunn*, Ordinance No. 4627 does not deny the exercise of a fundamental right to a certain class of individuals while granting it to another. As stated above, *no one* in Grand Junction may engage in panhandling as

set forth in Ordinance No. 4627. Thus, a violation of the ordinance is determined not by *who* speaks, but rather by *what* is spoken.

The mere fact that certain individuals may express the prohibited speech does not mean that those individuals are a class for equal protection purposes. Such reasoning would lead to the outlandish conclusion that every law creates classes of people—those that follow it and those that do not. The Court believes that prohibiting such a "classification" is not what the Equal Protection Clause of Fourteenth Amendment is meant to accomplish.

Therefore, the Court will grant summary judgment in favor of Grand Junction on Plaintiffs' equal protection claims under both the Fourteenth Amendment to the United States Constitution and Article II, Section 25 of the Colorado Constitution. [11]

D. Due Process Claims

In their third claim for relief, Plaintiffs assert that the challenged provisions of Ordinance No. 4627 are unconstitutionally vague in violation of the Due Process Clause of the Fourteenth Amendment. Plaintiffs argue that Ordinance No. 4627 is "vague as to 'passive' panhandling." (Doc. # 85 at 37.) In support of this argument, Plaintiffs point to the fact that, while the definition of "panhandling" explicitly states that the solicitor must "approach, accost, or stop" another person, the definition also, in Plaintiffs' reading, "applies to solicitation carried out by 'written signs or other means.'" (Doc. # 85 at 37-38.) Plaintiffs also argue that "vagueness concerns are . . . raised by the amended

[11] In interpreting the equal protection guarantee under the Colorado Constitution, the Supreme Court of Colorado has "followed the analytical mode developed by the United States Supreme Court in construing the equal protection clause of the fourteenth amendment." *Firelock Inc. v. Dist. Court in and for the 20th Judicial Dist. of the State of Colo.*, 776 P.2d 1090, 1097 (Colo. 1989). Thus, because Plaintiffs' challenge under the Equal Protection Clause of the Fourteenth Amendment fails, their challenge likewise fails under Article II, Section 25 of the Colorado Constitution.

ordinance's consent provision." (Doc. # 85 at 39.) In support of this argument, Plaintiffs' assert that it is unclear whether the solicitor must obtain the consent of the person to be solicited before the solicitation takes place. (Doc. # 85 at 39-40.)

Grand Junction, on the other hand, argues that Ordinance No. 4627 "is not impermissibly vague—it expressly defines what constitutes 'panhandling,' 'obscene,' and 'obstruct.'" (Doc. # 84 at 34.) According to Grand Junction, Ordinance No. 4627 "provides fair notice of the conduct it proscribes and is not subject to arbitrary application."

Section 1 of the Fourteenth Amendment provides that "[n]o state shall . . . deprive any person of life, liberty, or property, without due process of law." U.S. CONST. amend. XIV, § 1. To comport with the Due Process Clause of the Fourteenth Amendment, a law must "give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute." *United States v. Lovern*, 590 F.3d 1095, 1103 (10th Cir. 2009) (internal quotation marks omitted). This notice must be given "in a manner that does not encourage arbitrary and discriminatory enforcement." *Skilling v. United States*, 561 U.S. 358, 402-03 (2010). However, the Supreme Court has recognized that, "[c]ondemned to the use of words, we can never expect mathematical certainty from our language." *Grayned v. City of Rockford*, 408 U.S. 104, 110 (1972).

Despite having already found that the challenged provisions of Ordinance No. 4627 are unconstitutional under the First Amendment, the Court will address Plaintiffs' due process claims because the Court believes that it is important to both decide the claim on the merits and provide guidance to the parties on the vagueness issue.

Applying the standards set forth above, the Court finds that Ordinance No. 4627 is not unconstitutionally vague. Ordinance No. 4627 defines "panhandling" as "to knowingly approach, accost or stop another person in a public place and solicit that person without that person's consent, whether by spoken words, bodily gestures, written signs or other means, for money, employment or other thing of value." (Doc. # 25-4 at 4.) It is clear from this definition that all "panhandling," as defined by the ordinance, must begin with the solicitor knowingly approaching, accosting, or stopping another person. Once that action has taken place, the solicitor may solicit that person by spoken words, bodily gestures, written signs, or other means. A person sitting or standing still and holding a sign (i.e., a "passive" solicitor), by definition, is not "panhandling" because that person is not approaching, accosting, or stopping another person. Based upon this natural and straightforward reading of Ordinance No. 4627, the Court believes that the language used is sufficiently clear, such that it would "give a person of ordinary intelligence fair notice" of what conduct is forbidden.

In addition, the Court believes that the consent provision is not unconstitutionally vague. Again, Ordinance No. 4627 defines "panhandling" to mean "to knowingly approach, accost or stop another person in a public place and solicit that person without that person's consent . . . ." (Doc. # 25-4 at 4.) Grand Junction is correct that "consent" is a concept that appears throughout American jurisprudence. People of ordinary intelligence generally understand what "consent" is and the law expects people to obtain consent in certain instances. A law that requires "consent" is, based on this alone, not unconstitutionally vague. Thus, Plaintiffs' argument may be boiled down to the fact that Ordinance No. 4627 does not specify *how* consent is to be obtained. However, this fact

alone does not render the language unconstitutionally vague. Of course, common sense tells us that a would-be solicitor could ask whether the person to be solicited consents to the solicitation. Although cumbersome, and perhaps unrealistic in a real world setting, such a practice would provide the solicitor with express consent (or lack thereof). The law recognizes that consent may also be implied. A person may communicate his or her consent through action (or, in some instances, inaction). Although implied consent may be more difficult to ascertain, it nevertheless is an acceptable form of consent.[12]

Thus, the Court finds that the challenged provisions of Ordinance No. 4627 are not unconstitutionally vague under the Due Process Clause of the Fourteenth Amendment.

E. Plaintiffs' Motion for Leave to File a Second Supplemental Complaint

Also before the Court is Plaintiffs' Motion for Leave to File Second Supplemental Complaint. (Doc. # 66.) In their proposed Second Supplemental Complaint, Plaintiffs seek to add as a defendant in this litigation Chief Camper, in his official capacity. In support of their motion, Plaintiffs argue that the proposed Second Supplemental Complaint "sets forth events that have transpired and new facts that have emerged since the filing of the original Complaint in this action on March 18, 2014." (Doc. # 66.) More specifically, Plaintiffs assert that, during his deposition on October 21, 2014, Chief Camper "revealed a plan to enforce the challenged ordinance in a manner and under circumstances that contradict representations made by the City in its motion to dismiss and reply in support of motion to dismiss." (Doc. # 66 at 2.) Plaintiffs allege that during

[12] The Court assumes that Grand Junction understood when it passed Ordinance No. 4627 that "lack of consent" would be an element of a violation of the ordinance and would thus need to be proven in any prosecution under the ordinance.

his deposition, Chief Camper "stated that the ordinance would be enforced against panhandlers who do not initiate interactions but instead solicit silently by holding a sign." (Doc. # 66 at 2.) Plaintiffs, therefore, seek to enjoin Chief Camper from enforcing the challenged ordinance against them. (Doc. # 66 at 2.)

In its response to Plaintiffs' motion, Grand Junction asserts that "it is clear from Chief Camper's testimony that neither he nor any City official is presently enforcing the ordinance." (Doc. # 69 at 2.) Therefore, Grand Junction argues, "Plaintiffs' requested supplemental complaint amounts to an anticipatory as-applied challenge to the ordinance." (Doc. # 69 at 2-3.) In addition, Grand Junction argues that "[b]ecause the ordinance is not being enforced and the Chief clearly stated that he would seek the input of his attorneys before enforcing the ordinance, there is no live case or controversy." (Doc. # 69 at 3.) According to Grand Junction, Plaintiffs' motion should be denied because it would be subject to a motion to dismiss and, thus, futile. (Doc. # 69 at 3.)

In their reply to Grand Junction's response, Plaintiffs assert that "[t]he original complaint includes claims aimed at prohibiting enforcement of the challenged Ordinance as written," whereas the proposed new claims "directly challenge Chief Camper's plan to enforce the Ordinance." (Doc. # 70 at 6.) In support, Plaintiffs take the position that "the Ordinance as written and as Chief Camper plans to enforce it are not one and the same." (Doc. # 70 at 6.)

Federal Rule of Civil Procedure 15(d) provides that "[o]n motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the

pleading to be supplemented." Trial courts are given "broad discretion" when deciding whether to permit a party to serve a supplemental pleading. *See, e.g.*, *Walker v. United Parcel Serv., Inc.*, 240 F.3d 1268, 1278 (10th Cir. 2001). However, a party's request for leave to file a supplemental complaint "should be liberally granted unless good reason exists for denying leave, such as prejudice to the defendants." *Id*. (quotation marks and citation omitted).

In the present matter, good reason exists to deny Plaintiffs' motion for leave to file their proposed Second Supplemental Complaint. Filing a Second Supplemental Complaint to add Chief Camper as a defendant in this action would be unnecessarily duplicative because, in the context of this litigation, the City of Grand Junction and Chief Camper in his official capacity are one and the same. *See, e.g.*, *Thompson v. City of Lawrence, Kan.*, 58 F.3d 1511, 1517 (10th Cir. 1995) ("A suit against a city official in his official capacity is no different from a suit against the City itself."); *Watson v. City of Kansas City, Kan.*, 857 F.2d 690, 695 (10th Cir. 1988) ("A suit against a municipality and a suit against a municipal official acting in his or her official capacity are the same."). In other words, Plaintiffs' argument relies on a distinction without a difference. There is no legal significance to adding Chief Camper in his official capacity as a defendant in this action. All orders and judgments binding on Grand Junction are equally binding on Grand Junction's chief of police. Therefore, Plaintiffs have not provided sufficient justification for adding Chief Camper in his official capacity as a defendant in this action.

F. Grand Junction's Motion to Stay the Court's Consideration of the Pending Cross-Motions for Summary Judgment for Sixty Days

Also before the Court is Grand Junction's recently filed motion to stay for sixty days the Court's consideration of the cross-motions for summary judgment. (Doc. # 110.) Plaintiffs oppose Grand Junction's motion. (Doc. # 112.)

In support of its motion, Grand Junction notes the *Reed*, *Thayer*, and *Norton* decisions and states that "[i]n response to these developments in the law, the City of Grand Junction has elected to consider further amendments to Ordinance No. 4627." (Doc. # 110 at 2.) Grand Junction asserts that the "[f]irst reading of the proposed amended ordinance will occur on October 7, 2015," and "the anticipated date for the full public hearing on the proposed ordinance is October 21, 2015." (Doc. # 110 at 3.) Grand Junction also states that "[t]he proposed amendments, if passed, would eliminate all of the challenged portions of the current ordinance as well as other restrictions on panhandling in order to comply with the *Reed* decision." (Doc. # 110 at 3.) According to Grand Junction: "The proposed amendments would effectively remove all of the claims for injunctive and declaratory relief from this action. The only claim that would survive the proposed amendments is Ms. Stewart's claim for nominal damages." (Doc. # 110 at 3.)

As Plaintiffs correctly point out, Grand Junction has not provided the Court with the text of the proposed amendments to Ordinance No. 4627. Therefore, the Court is unable to determine the extent to which the proposed amendments address the constitutional infirmities of Ordinance No. 4627. Moreover, the proposed amendments are just that—*proposed* amendments. It is not certain that they will pass and, until that time, Ordinance No. 4627 is in effect. Grand Junction provides an additional reason

why the Court should not stay its consideration of the cross motions for summary judgments—even if Ordinance No. 4627 is amended, Plaintiff Stewart's claim for nominal damages would not be rendered moot. Therefore, the Court would still be required to assess the constitutionality of the challenged sections of Ordinance No. 4627, and judicial resources would not be conserved by staying consideration of the cross motions for summary judgment.

III. CONCLUSION

Accordingly, it is hereby ORDERED that:

Plaintiffs' Motion for Summary Judgement (Doc. # 85) is GRANTED IN PART AND DENIED IN PART. Plaintiffs' Motion is GRANTED as to Claims One and Five of Plaintiffs' Complaint, and DENIED as to Claims Two, Three, Four, Six, Seven, and Eight of Plaintiffs' Complaint;

Grand Junction's Motion for Summary Judgment (Doc. # 84) is GRANTED IN PART AND DENIED IN PART. Grand Junction's Motion is GRANTED as to Claims Two, Three, Four, Six, Seven, and Eight of Plaintiffs' Complaint, and DENIED as to Claims One and Five of Plaintiffs' Complaint;

Grand Junction is PERMANENTLY ENJOINED from enforcing subsections (a), (e), (g), (i), and (j) of section 9.05.040 of Ordinance No. 4627;

Plaintiff Stewart is awarded nominal damages in the amount of $1.00;

Plaintiffs shall have their costs pursuant to Federal Rule of Civil Procedure 54(d)(1) and Civil Local Rule 54.1;

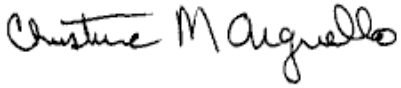
Plaintiffs' Motion for Leave to File a Second Supplemental Complaint (Doc. # 66) is DENIED; and

Grand Junction's Motion to Stay the Court's Consideration of the Pending Cross-Motions for Summary Judgment for Sixty Days (Doc. # 110) is DENIED.

The Clerk of the Court shall enter judgment in favor of Plaintiffs on Claims One and Five of Plaintiffs' Complaint and in favor of Defendants on Claims Two, Three, Four, Six, Seven, and Eight of Plaintiffs' Complaint. All claims and matters having been decided, the Clerk shall close this case.

DATED: September 30, 2015

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge

UNIVERSITY HILL UPDATE

From: **Sarah K. Wiebenson**
Hill Community Development Coordinator

To: **University Hill Stakeholders**

Date: **Thursday, September 24, 2015**

City of Boulder

Fall Power-washing of the Hill Commercial District Complete

In advance of CU Parent's Weekend, Oct. 3-4th, the **UHGID** parking district has funded power-washing of the Hill Commercial Area sidewalks. The next power-washing will coincide with the spring Hillanthropy cleanup.

September Hillanthropy Cleanup Focused on Columbia Cemetery

More than 50 students from the **Inter-Fraternity Council** (IFC) and **Leeds School of Business** helped the **University Hill Neighborhood Association** and the city's **Parks and Recreation Department** divide and replant irises along College Ave to clean up the landscaping at the perimeter of Columbia Cemetery, located at 9th and College. The next Hillanthropy on Sunday, Oct. 25th will continue the cemetery work, as well as assist with repainting bike racks and other street furnishings in the Hill Commercial Area. The city will soon launch a page on the city's website for community members to access information about upcoming Hillanthropy events.

Two City Council Candidate Forums Planned for the Hill

Both the **University Hill Neighborhood Association** (UHNA) and **Studio Arts Boulder** will host meet-and-greets with candidates for Boulder City Council next week. UHNA will host their event at **Spark Boulder** (1310 College, basement level) on Thursday, Oct. 1st from 7:00-9:00 p.m. Studio Arts Boulder will host their event at the **Pottery Lab** (1010 Aurora) on Friday, Oct. 2nd starting at 6:00 p.m.

First-annual Hilltoberfest to Feature Music, Beer and Brats

The Hill Boulder will host its first 'Hilltoberfest' on Saturday, Oct. 10th from 2:00-8:00 p.m. Sponsored by the **Upslope Brewing Company**, the event will feature live music provided by **The Fox Theatre**, sausages from **Alfalfa's**, and local breweries **Avery Brewing Company**, **Boulder Beer**, **Mountain Sun** and **West Flanders**.

The event is hosted in partnership with the **Responsible Hospitality Group** and the **Colorado Restaurant Association**. The stage and beer tents will be located on the future 'event street' at 13th/Pennsylvania. The $12 entry includes three local pints.

Upcoming Meetings:

Wed., Oct. 21st at 4:00 p.m. – **University Hill Commercial Area Management Commission** (1777 Broadway).

UNIVERSITY HILL UPDATE

From: **Sarah K. Wiebenson**
Hill Community Development Coordinator

To: **University Hill Stakeholders**

Date: **Wednesday, September 30, 2015**

City of Boulder

CORRECTION: Thursday's UHNA Candidate Forum to be Hosted at Grace Lutheran Church

In last week's Stakeholder Update, it was announced that the **University Hill Neighborhood Association** (UHNA) will host a candidate forum this Thursday, Oct. 1st from 7:00-9:00 p.m. The event will be hosted at **Grace Lutheran Church** (1001 13th Street). A second candidate forum will be hosted on the Hill this week by **Studio Arts Boulder** at the **Pottery Lab** (1010 Aurora) on Friday, Oct. 2nd starting at 6:00 p.m.

10/10 Hilltoberfest To Feature Live Performances by Local Bluegrass, Funk Bands

The Fox Theatre announced this week the two musical acts playing at the first-annual **Hilltoberfest** on Saturday, Oct. 10th: Booster and Henscratch. The event was crafted in response to a recent survey of year-round Hill neighbors which called for a local brewpub and more outdoor events with bluegrass, jazz and other music that appeals to all ages. The event is free. To RSVP for the event, go to the Facebook event page HERE.

Russell + Mills Studios Selected as Designer of Public Event Space at 13th/Pennsylvania

Earlier this year, the city issued an RFQ for a firm to design the future shared 'event street' public space at 13th/Pennsylvania, funded by the 'Community. Culture. Safety.' tax adopted by Boulder voters in 2014. The Hill Commercial Area currently offers no public gathering space, and the design will provide a landscaped half-block that can be closed to pedestrians only for public events. In August, three finalists were asked to prepare preliminary design concepts for the space, which were displayed at **Buchanan's Coffee Pub** and online for public feedback. A city selection committee announced the final choice of **Russell + Mills Studios** this week. The firm has completed similar projects for the Fort Collins Downtown Development Authority and the Parks and Recreation Department of Laramie, WY, as well as work for the City of Boulder on the Civic Area Plan. The design phase will begin immediately. Construction is anticipated to begin in fall 2016.

Russell + Mills Alley Enhancement, Ft. Collins, CO

Upcoming Hill Meetings/Events:

Thursday, Oct. 1 at 7:00 p.m. – **UHNA Council Candidate Forum**, Grace Lutheran Church (1001 13th Street)
Friday, Oct. 2 at 6:00 p.m. – **Studio Arts Boulder Council Candidate Forum**, Pottery Lab (1010 Aurora)
Saturday, Oct. 10 at 2:00 p.m. – **Hilltoberfest** (13th/Pennsylvania)
Wed., Oct. 21st at 4:00 p.m. – **University Hill Commercial Area Management Commission** (1777 Broadway)
Sunday, Oct. 25th at 9:00 a.m. – **Hillanthropy** (multiple locations)