

BOULDER CITY COUNCIL MEETING
COUNCIL CHAMBERS, 1777 Broadway
December 16, 2014
5:30 PM

AGENDA

1. CALL TO ORDER AND ROLL CALL

- A. Janet Driskell Turner Award
- B. Latino History Project Declaration

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE (Limited to 45 minutes.)

Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place, any remaining speakers will be allowed to address council. All speakers are limited to three minutes.

3. CONSENT AGENDA (to include first reading of ordinances) Vote to be taken on the motion at this time. Roll call vote required.

- A. Consideration of a motion to approve the City Council Meeting Minutes from November 6, 2014.
- B. Consideration of a motion to approve a 20 year right-of-way for multiple cornices on the property located at 901 Pearl Street. Case No. REV2014-00019.

Applicant: 901 Eldridge, Inc, a Colorado Corporation

- C. Fourth reading and consideration of a motion to adopt and order published by title only Ordinance No. 7957 amending Title 2, "Government Administration," Chapter 7, "Code of Conduct," B.R.C. 1981 and setting forth related details.
- D. Second reading and consideration of a motion to adopt by title only Ordinance No. 8021 amending the cable television franchise agreement between the City of Boulder and Comcast of Colorado IV, LLC, to extend the term of the agreement by 120 days.
- E. Second reading and consideration of a motion to adopt Ordinance No. 8018 amending Title 9, "Land Use Code," B.R.C. 1981, to create an additional method of property valuation for the determination of whether proposed work on a property triggers upgrades to lighting, landscaping, site access and non-conforming drive-throughs under the Land Use Code.

F. Second reading and consideration of a motion to adopt Ordinance No. 8016 amending Chapter 4-11, "Mall Permits and Leases," Sections 4-1-9 "Authority to Deny Issuance of Licenses," 4-20-11 "Mall License and Permit Fees," and 8-6-6 "Requirements for Revocable Permits, Short-term Leases and Long-term Leases," B.R.C 1981, to update the code to be consistent with current mall practices and needs, and setting forth related details.

4. POTENTIAL CALL UP CHECK IN

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

5. PUBLIC HEARINGS

A. Second reading and consideration of a motion to adopt Ordinance No. 8012 authorizing and directing the acquisition of property located along the Wonderland Creek corridor between Winding Trail Drive and Foothills Parkway, by purchase or eminent domain proceedings, for the construction of the Wonderland Creek Greenways Improvement Project.

B. Second reading and consideration of a motion to order published by title only two emergency ordinances numbered 8020 and 8027 both amending Chapter 6-16, B.R.C. 1981, amending Sections 6-16-2 "Definitions," and 6-16-3 "License Required" with Ordinance No. 8020 extending the time for medical marijuana businesses to convert to recreational marijuana businesses from December 31, 2014 to March 31, 2015 and Ordinance No. 8027 amending those sections to eliminate the deadline for conversion of those businesses that existed on October 22, 2013.

6. MATTERS FROM CITY MANAGER

A. Motion to accept the City Manager's recommendation to disburse 2015 Human Services Fund allocations to community human services agencies.

B. Consideration of a response to City and County of Denver's Request for Support for its National Western Center Project

7. MATTERS FROM CITY ATTORNEY

None

8. MATTERS FROM MAYOR AND MEMBERS

A. POTENTIAL CALL-UPS:

(1) Landmark Alteration Certificate to alter window to create an entrance at the north (primary) elevation of 1029 Broadway St. (pending landmark).

(2) Disapproval of historic landmark designation of 445 College Ave.

- (3) Landmark Alteration Certificate to construct a 753 sq. ft. addition to a contributing house and to construct a 336 sq. ft. one-car garage at 735 Mapleton Ave.
- (4) Site and Use Review application no. LUR2008-00034, Flatirons Storage Facility located at 5675 Arapahoe Ave., a request to extend the original Site and Use Review approvals for the property beyond the expiration period as permitted by the development code.
- (5) Potential Call-up item for a site review for the proposed removal of existing structures and a two-phased redevelopment with three, four-story buildings of Class A office in a campus format with below grade parking for the property located at 2095, 2111 and 2121 30th Street along with 2920 and 2930 Pearl Street. A total of 330,000 gross square feet is proposed to be developed in two phases (220,000 square feet in initial phase) with maximum 55' building height and four-stories. Site Review case no. LUR2014-00035. The applicant intends to pursue Vested Rights per section 9-2-19, B.R.C. 1981.

B. Retreat Committee Update

9. **PUBLIC COMMENT ON MATTERS** (15 min.)
Public comment on any motions made under Matters.
10. **FINAL DECISIONS ON MATTERS** Action on motions made under Matters.
11. **DEBRIEF** (5 Min.) Opportunity for Council to discuss how the meeting was conducted.
12. **ADJOURNMENT**

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**CITY COUNCIL PROCEEDINGS
CITY OF BOULDER
Thursday, November 6, 2014**

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the October 21, 2014 City Council meeting to order at 6:06 PM in Council Chambers.

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

Mayor Appelbaum moved, seconded by Council Member Weaver, to amend the agenda by adding items 8C and 8D requesting a nod of five for scheduling discussions on marijuana regulations and on disposal of Open Space property. The motion carried 8:0 with Council Member Young absent at 6:04 PM

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

- 1) David McGuire – representing South Boulder Creek Action group, expressing interest in participating in the discussion about options relating to the detention pond east of Hwy. 36 and concerns relating to high hazard flood zone and the potential life threatening impacts of a 100 year flood.
- 2) Kathie Joyner- as a member of the South Boulder Creek Action Group also spoke of the impacts to residents in the high hazard flood zone and potential life threatening risks of an eventual 100 year flood event. She expressed that the proposed flood mitigation diversion for Hwy 36 was particularly troubling. Solutions need to be developed now, not in years to come.
- 3) Jose Beteta – Spoke of the hardship he and his wife had endured in looking for rental housing in Boulder as all landlords with whom they had interacted with required a social security number for all residents. His wife is a U.S citizen but since he is not they have not been able to find housing within the city limits.
- 4) William Mentzer – spoke of the need to provide equality and equity for all people in Boulder.
- 5) Elmar Dornberger – As a Fraser Meadow resident described his neighborhood as still traumatized by the flood of 2013. He commented that people did not feel safe and many of those who had lost everything, were not recovering from the impacts.
- 6) Stephen Haydel – noted that Goss Grove neighborhood felt the impact of flooding from the Farmers ditch in 2013. He then spoke to the James Travel Development expressing that he and others who would be negatively impacted had not been informed of the proposal until reading about its approval in *The Camera*. He expressed opposition to the development.
- 7) Carl Norby – Also spoke about the impacts of the rising water table in Fraser Meadows after post flood measures taken by the City Utility Department. He expressed that the strained physical, financial and emotional well being that was shared by other speakers was wide spread. He expressed that the resident’s concerns were not being considered or addressed by the city.

The Open Comment portion of the meeting was closed.

Staff response:

Executive Director of Public Works and Acting City Manager Maureen Rait responded to the South Boulder Creek Action group thanking them for attending. She noted that as a result of the September 30 Flood Study Session staff was reviewing additional options related to flood mitigation diversion. Staff would also be following up with C.U. This issue will be going back to the Water Resources Advisory Board in the first quarter of 2015 and, once a schedule was determined, the South Boulder Creek Action Group would be advised.

City Attorney Tom Carr responded to the concerns voiced by Mr. Beteta, noting that there was no requirement in Boulder's Code requiring citizenship as a criteria for residency but in fact there was a law prohibiting discrimination if, in this case, that was happening. He indicated that he would look into the matter further.

3. **CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time. (Roll-Call vote required)
 - A. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM OCTOBER 7, 2014**
 - B. **CONSIDERATION OF A MOTION TO ACCEPT THE STUDY SESSION SUMMARY ON THE FACILITIES AND ASSET MANAGEMENT MASTER PLAN UPDATE FROM SEPTEMBER 23, 2014**
 - C. **CONSIDERATION OF A MOTION TO APPROVE THE CITY'S 2015 STATE AND FEDERAL LEGISLATIVE AGENDA**
 - D. **CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION TO ALLOW THE CHIEF OF POLICE TO DISPOSE OF PROPERTY UNDER B.R.C. 2-4-6 BY MEANS OTHER THAN AUCTION; SPECIFICALLY BY DONATION, RECYCLING OR DESTRUCTION**
 - E. **CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION TO PROVIDE FIRE PROTECTION SERVICES TO CERTAIN ANNEXED PROPERTIES PREVIOUSLY SERVED BY THE BOULDER RURAL FIRE PROTECTION DISTRICT.**
 - F. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8008 VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION FOR FOUR SIDEWALK EASEMENTS AND ONE PUBLIC ROADWAY EASEMENT AT 28TH AND CANYON (LUR2014-00075)**
 - G. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE AMENDING CHAPTER 2-2, B.R.C. 1981 BY THE ADDITION OF A NEW SECTION 2-2-19, "RECORDS RETENTION;" ADOPTING THE COLORADO STATE RECORDS RETENTION SCHEDULE AND REPEALING ORDINANCE NOS. 5753, 5879 AND 5972**

H. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE AUTHORIZING AND DIRECTING THE ACQUISITION OF PROPERTY LOCATED ALONG THE WONDERLAND CREEK CORRIDOR BETWEEN WINDING TRAIL DRIVE AND FOOTHILLS PARKWAY, BY PURCHASE OR EMINENT DOMAIN PROCEEDINGS, FOR THE CONSTRUCTION OF THE WONDERLAND CREEK GREENWAYS IMPROVEMENT PROJECT

Council Member Jones moved, seconded by Council Member Morzel to approve Consent Agenda items 3A through 3H. The motion carried 8:0 with Council Member Young absent, at 6:39 PM

4. POTENTIAL CALL-UP CHECK IN - none

ORDER OF BUSINESS

5. PUBLIC HEARINGS 7:40 PM

A. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8009 DESIGNATING THE BUILDING AND PROPERTY AT 1919 14TH ST., TO BE KNOWN AS THE COLORADO BUILDING, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION ORDINANCE

OWNER/APPLICANT: 1919 14TH STREET, LLC

Historic Planner Marcy Cameron presented on this item.

The public hearing was opened:

- 1) Gena Simpson-Li – 43-year resident opposed to landmarking of the building noting that she did not think this building worthy of landmarking and should not represent historic Boulder.
- 2) Mark Gerwing – Chair of the Landmarks Preservation Advisory Board – spoke to the building's historic relevance and importance in Boulder's architectural history.
- 3) Paul Price – 40-year resident opposed to the landmarking stating he thought it ridiculous to consider such a repulsive and ugly building.
- 4) Jeff Wingert with WW Reynolds CO, owner of the property, spoke to the historic importance of this building to Boulder. He asked for council's support on the matter.

Council Member Weaver moved, seconded by Council Member Morzel, to adopt Ordinance No. 8009 designating the building and property at 1919 14th St., to be known as the Colorado Building, as an individual landmark under the city's Historic Preservation Ordinance. The motion carried: 8:0, with Council Member Young absent. Vote was taken at 7:07 PM.

B. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7992 AMENDING SECTION 9-2-13, "CONCEPT PLAN REVIEW AND COMMENT," B.R.C. 1981, TO ADD A PROCESS FOR REVIEW OF CONCEPT PLANS BY CITY COUNCIL – 7:08 PM

Carl Guiler from Community Planning and Sustainability Department presented this item.

The public hearing was opened.

- 1) Mike Marsh – Spoke in support of council having the ability to review development proposals earlier in the process as it would benefit the developers and the community. He suggested having a lower threshold of votes by council to call-up the review of concept plans.

There being no speakers, the public hearing was closed.

Council Member Morzel moved, seconded by Council Member Weaver to amend and adopt by emergency Ordinance No. 7992 amending Section 9-2-13, “Concept Plan Review and Comment,” B.R.C. 1981, to add a process for review of concept plans by City Council with Attachment B to the errata sheet. The motion carried 8:0 with Council Member Young absent. The vote was taken at 7:30 PM.

C. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT THE FOLLOWING ORDINANCES: - 7:32 PM

1. **ORDINANCE NO. 8005 AMENDING TITLE 9, “LAND USE CODE,” B.R.C. 1981, TO (1) SIMPLIFY VARIOUS VEHICULAR PARKING STANDARDS AND REDUCE QUANTITATIVE REQUIREMENTS FOR WAREHOUSES, STORAGE FACILITIES, AND AIRPORTS AND (2) CREATE NEW LAND USE – BASED BICYCLE PARKING STANDARDS; AND**
2. **ORDINANCE NO. 8006 AMENDING THE DESIGN AND CONSTRUCTION STANDARDS (DCS) RELATED TO BICYCLE PARKING DESIGN STANDARDS**

Senior Planner Karl Guilder and Senior Transportation Planner Marni Ratzel presented this item.

There being no speakers, the public hearing was closed.

Council Member Morzel moved, seconded by Council Member Jones to adopt Ordinance No. 8005 amending Title 9, “Land Use Code,” B.R.C. 1981, to (1) simplify various vehicular parking standards and reduce quantitative requirements for warehouses, storage facilities, and airports and (2) create new land use – based bicycle parking standards; and Ordinance No. 8006 amending the Design and Construction Standards (DCS) related to bicycle parking design standards. The motion carried 8:0 with Council Member Young absent. The vote was taken at 8:40 PM.

6. MATTERS FROM THE CITY MANAGER - None

7. MATTERS FROM THE CITY ATTORNEY - None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups - None

B. Request from Library Commissioners to meet with the Board and Commission Subcommittee – 8:38 PM

Mayor Appelbaum moved, seconded by Council Member Plass to extend the Board and Commission Sub-Committee for six months (May 4, 2015) and to authorize the Board and Commission Sub-committee to meet with member of the Art Commission and the Charter Committee.

C. Request for a nod of five for discussion of Marijuana regulations – 8:53 PM

After discussion the council directed the City Attorney to bring back an ordinance in December extending the deadline for conversions from Medical Marijuana businesses to Recreational Marijuana businesses. In addition, the City Attorney was directed to bring back an agenda item in February of 2015 dealing with the sale of merchandise, such as T-shirts and hats, displaying store logos.

D. Request for nod of five to have a general discussion regarding disposal of Open Space and Mountain Parks property

Council agreed to wrap this discussion in with the 11 parcels of open space property disposal on December 2.

E. Opportunity to express interest in the position of Mayor Pro Tem

Council Members Jones and Plass expressed an interest in the Mayor Pro Tem position and spoke to what they would bring to that position.

Other Items:

Council Morzel noted that over the previous weekend she was contacted by two downtown business owners expressing concerns over lost revenues due to lack of parking on the west side of 10th Street between Pearl and Spruce. The space is currently occupied with pallets of materials and equipment to be utilized for construction projects.

Council Member Morzel asked that the following questions provided in an email to the entire council be addressed by staff: 1) What is the policy of the city regarding use of public parking spaces (the ones in question are all metered so a loss of parking revenue is involved) for staging for construction projects? 2) Does the developer pay the city for the loss of revenue? 3) For what period of time will this area be used for staging? 4) Is there no other place that can be used to stage the materials so that parking can resume at this location?; and 5) How can the business owners be compensated...has this been done in the past?

Executive Director of Public Works and Acting City Manager Maureen Rait responded that staff would be providing a comprehensive response to these questions via Hotline. She also noted that one of the staging issues referenced was being relocated and would be completed by the following Monday.

9. PUBLIC COMMENT ON MATTERS - None

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

Vote was taken on the motion to extend the Board and Commission Sub-Committee for six months (May 4, 2015) and to authorize the Board and Commission Sub-committee to meet with members of the Art Commission and the Charter Committee. The motion carried 8:0 with Council Member Young absent. The vote was taken at 9:48 PM.

11. DEBRIEF - none

12. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on November 6, 2014 at 9:48 PM.

Approved this ____ day of _____, 2014.

APPROVED BY:

Matthew Appelbaum,
Mayor

ATTEST:

Alisa D. Lewis,
City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 16, 2014

AGENDA TITLE:

Consideration of a motion to approve a 20 year lease right-of-way lease for multiple cornices on the building located at 901 Pearl Street. Case No. REV2014-00019.

Applicant: 901 Eldridge, Inc, a Colorado Corporation

PRESENTER/S

Jane S. Brautigam, City Manager

David Driskell, Executive Director of Community Planning and Sustainability

Charles Ferro, Land Use Review Manager

Jonathan Woodward, Associate Planner

EXECUTIVE SUMMARY

Pursuant to Section 2-2-8, "Conveyance of City Real Property Interests", B.R.C. 1981, City Council approval is required for lease terms which exceed three years. As indicated in the "Analysis" section below, staff finds the request consistent with the code requests for a long term lease.

The applicant requests City Council approval of a 20 year lease for cornices which encroach into the airspace at the new building at 901 Pearl Street. The cornices are permanent features of the building and will not provide an adverse impact on pedestrians. This motion authorizes the City Manager to execute the necessary documents to accomplish this transaction. The cornices are located on 12 columns and extend into the right-of-way no more than four inches. The proposed lease is attached (See Attachment A) and has been signed by 901 Eldridge, Inc, the owner and applicant.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to approve the 20 year right-of-way lease for multiple cornices on the building located at 901 Pearl Street.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: The encroachments further economic sustainability by enhancing architectural integrity of the property.
- Environmental: The cornices do not have an environmental effect.
- Social: The cornices serve as architectural and design enhancements to the columns of the new building at 901 Pearl Street.

OTHER IMPACTS

- Fiscal: Cornices collect an annual fee of \$1 per year which does not have a major fiscal impact. The lease rate was determined based on the nature of the encroachments and the public purpose served. Lease rates are reviewed annually by the Downtown Management Commission and a recommendation made to City Council. City Council approves the annual rate as part of the annual budget process.
- Staff time: The applicant has paid the required application fee to cover the staff review time of the proposed lease.

PUBLIC FEEDBACK

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

BACKGROUND

City staff has identified the need for a 20 year lease for the cornices that encroach into the right-of-way at 901 Pearl Street per criteria of Section 8-6-6, B.R.C 1981. The project was approved in 2013 through a Site Review process (case no. LUR2013-00039), and the building is currently under construction. During the Technical Document Review (TEC2013-00074), Engineering commented that a revocable lease is needed for right-of-way encroachments in a letter to the applicant dated Dec. 6, 2013. The building is a mixed-use, three-story building that has a ground-level restaurant and residential units on the second and third floor. The cornices are permanent building features and encroach into the right-of-way no more than four inches. See Exhibit B to the Right of Way Lease for the plans.

City Council must approve any lease term greater than three years, because the City Manager is only authorized to permit encroachments within the public right-of-way for a period of three years or less. See Section 2-2-8, "Conveyance of City Real Property

Interest,” B.R.C. 1981, and the City Charter Section 111, “Terms not longer than twenty years – compensation.” The cornices at 901 Pearl Street are permanent in nature and part of the building’s architecture. Staff has determined that there will be no public need for the leased area during the lease period. A copy of the proposed Right-of-Way Lease is attached (see **Attachment A**).

ANALYSIS

Since the encroachments are permanent in nature, a long term lease may be approved, if the following criteria are met, pursuant to Section 8-6-6(f), B.R.C. 1981: The revocable lease meets the requirements found in Section 8-6-6(c), B.R.C. 1981 and are listed below:

1. The encroachment does not constitute a traffic or other hazard.
The cornices are located in the airspace and will not create a traffic hazard.
2. The encroachment does not destroy or impair the public's use of the land for its intended purposes or serves a public purpose that cannot otherwise be accomplished without such minor impairment
The encroachments do not destroy or impair the public use of the space on Pearl Street, as they are located in the air above the space generally used by the public.
3. Encroachment on a sidewalk in commercial areas maintains a minimum clearance of eight feet vertically and horizontally of unobstructed pedestrian way. The requirements of this paragraph may be modified by the city manager if reasonable passage is provided on the sidewalk and the safety of pedestrians, bicyclists and motorists is not impaired.
The cornices are located on columns and are located above eight feet in height. They only project into the right-of-way a maximum of four inches. Therefore, these encroachments do not obstruct the minimum clearance area of eight feet vertically and horizontally for a pedestrian way.
4. A longer termed use of the public property for the specific term approved will not be contrary to the public interest and ultimate use of the public right-of-way or public easement.
A long term lease is being proposed for the encroachments as the encroachments are permanent in nature and of such location and size as to not be contrary to the public interest and ultimate use of the public right-of-way or public easement during this longer lease term.
5. Adequate compensation is provided to the City throughout the lease term.
The lease rate was determined based on the nature of the encroachments and the public purpose served.

MATRIX OF OPTIONS

City Council may:

1. Approve the 20 year lease as proposed;
2. Deny the 20 year lease, but direct the City Manager to approve a three year short term lease. The applicant renews the lease in three years as directed by the city; or
3. Deny both the long and short term lease and require removal of the encroachments.

ATTACHMENTS

A. Right-of-Way Lease

**CITY OF BOULDER
RIGHT-OF-WAY LEASE REV2014-00019
(AIR RIGHTS)**

THIS Lease is entered into this _____ day of _____, 20____, by and between the City of Boulder, a Colorado home rule City, hereinafter called "City" or "Lessor," and 901 Eldridge, Inc., a Colorado corporation, herein called "Lessee.

RECITALS

A. 901 Eldridge, Inc., a Colorado corporation, is the owner of the property and improvements located at 901 Pearl St., and more particularly described on Exhibit A; and

B. The Lessor is the owner of the public right-of-way adjacent to the property located at 901 Pearl St.; and

C. The building located at 901 Pearl St. has 12 columns with cornices which encroach into the aforementioned public right-of-way of the City of Boulder ("Cornices"); and

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

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

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Premises Leased. The Lessor hereby leases, demises, and sets off to the Lessee the portion of air space over the Lessor's right-of-way for the Cornices as more particularly described on Exhibit B attached hereto ("Leased Premises").
2. Lease Term: This lease term shall be for the lesser of twenty (20) years or the life of the aforementioned Cornices, whichever first terminates, said term commencing at noon on _____ ("Lease Term"). During the Lease Term, Lessee shall have the right to repair said Cornices.
3. Rent. Lessee hereby agrees to pay as and for an **annual** rental for use of the above described Cornice, the sum of \$1.00 per year. This amount is due and payable without requirement of notice or billing by Lessor.

For the first year of this lease, the rent is due and payable on the date this Lease is executed by the parties. Please remit payment to City of Boulder, Planning &

Development Services, 1739 Broadway, 3rd Floor, Post Office Box 791, Boulder, CO 80306-0791.

4. Maintenance. The Lessee agrees to construct and maintain the Cornices in said public right-of-way with due caution and regard for the Lessor's and the public's right of use and access to the land adjoining 901 Pearl St.

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

5. Removal and Restoration. Lessee agrees that upon removal of any private improvements, Lessee will restore public improvements in the public right-of-way to their original condition. If the Lessor determines that all or portions of the public improvements have been damaged beyond reasonable repair, Lessee agrees to replace such improvements in accordance with standards for construction in the public right-of-way prescribed by the most current City of Boulder Design and Construction Standards. Lessee agrees to notify the City within five working days of removal of any such private improvements so the Lessor may inspect the public right-of-way.

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

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

This policy shall be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the City. This policy shall be maintained in full force and effect for the duration of the Lease. Lessee, or Lessee's insurance broker, shall notify the City of any cancellation or reduction in coverage or limits of any insurance policy within 7 (seven) days of receipt of insurers' notification to that effect. Lessee shall forthwith obtain and submit proof of substitute insurance in the event of expiration or cancellation of coverage and shall provide Lessor with an updated Certificate of Insurance annually.

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

DATE OF ISSUANCE: _____

DATE OF EXPIRATION: _____

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

LESSEE/BUILDING OWNER:
901 Eldridge, Inc., Colorado corporation

Signature: *Philip Shull*
Printed Name: Philip Shull, President

State of Colorado)
) ss.
County of Boulder)

The foregoing instrument was acknowledged before me this 19 day of November, 2014, by Philip Shull as President of 901 Eldridge, Inc.

Witness my Hand and Seal.
My Commission Expires: 8/25/2017



Julie Allen
Notary Public
5

CITY OF BOULDER

By: _____
Jane S. Brautigam, City Manager

Attest:

City Clerk

Approved As To Form:

Helen Finnerty

City Attorney's Office

Date: 11-17-2014

- Exhibits:
Exhibit A: Legal Description
Exhibit B: Leased Premises
Exhibit C: Certificate of Insurance

Exhibit A

EXHIBIT A

09/17/2014 5:00:56 PM

Commitment No. 515-F0467225-170-RR0, Amendment No. 3

Attached Legal Description

All that portion of the Southeast Quarter of the Southeast Quarter of Section 25, Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the intersection of the centerline of 10th Street and Pearl Street in the City of Boulder, said intersection being marked by an iron pin established by the City Surveyor of said City of Boulder; thence South 75° 00'00" West along said centerline of said Pearl Street, 218.00 feet; thence North 15° 00'00" West at right angles to the centerline of said Pearl Street, 40.00 feet to a point on the North line of said Pearl Street, said point being Westerly 397.38 feet from the intersection of the Range line between Township 1 North, Range 70 West, and Township 1 North, Range 71 West, and the North line of said Pearl Street; thence North 15° 00'00" West at right angles to the centerline of said Pearl Street, 140.00 feet; thence South 75° 00'00" West parallel to the centerline of said Pearl Street, 0.93 feet to a point on the Easterly line of the cinder block building, known as 915 Pearl Street, extended Northerly, the true point of beginning; thence South 14° 58'56" East, 140.00 feet along the Easterly line and the Easterly line extended Northerly of said cinder block building to a point on the Northerly line of said Pearl Street; thence South 75° 00'00" West, 77.03 feet along the Northerly line of said Pearl Street; thence North 15° 00'00" West at right angles to said Pearl Street, 140.00 feet; thence North 75° 00'00" East parallel with said Pearl Street, 77.07 feet to the true point of beginning.

NOTE: Upon recordation of the Condominium Map of 901 Pearl Residences Condominiums and the Declaration of 901 Pearl Residences Condominiums, the legal description shown above will be amended to read as follows:

Commercial Unit 100, 901 Pearl Residences Condominium, according to the Condominium Map of 901 Pearl Residences Condominiums recorded _____, 201_ as Reception No. _____, and as defined and described in the Declaration of 901 Pearl Residences Condominiums recorded _____, 201_ as Reception No. _____, County of Boulder, State of Colorado.

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Exhibit B

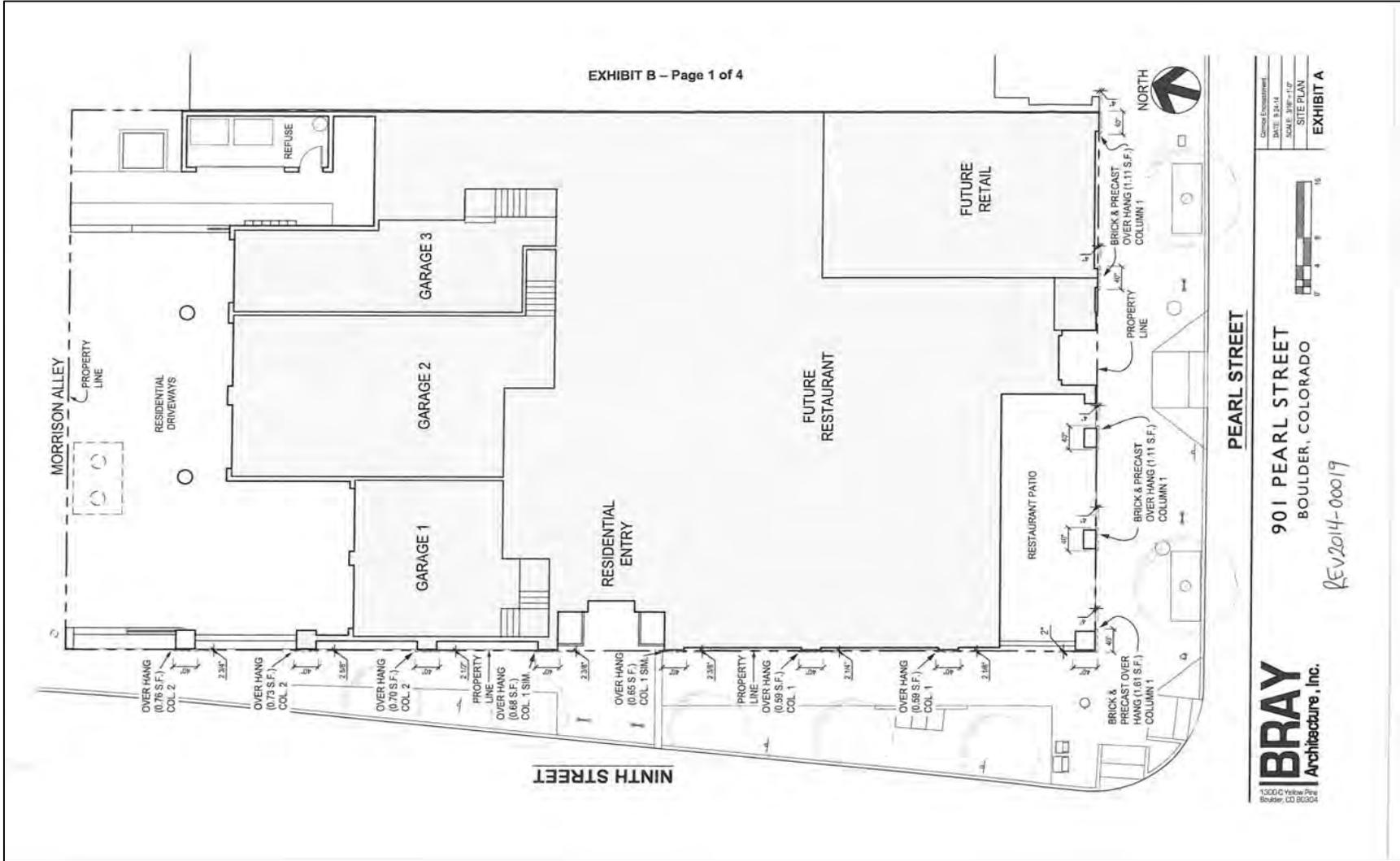
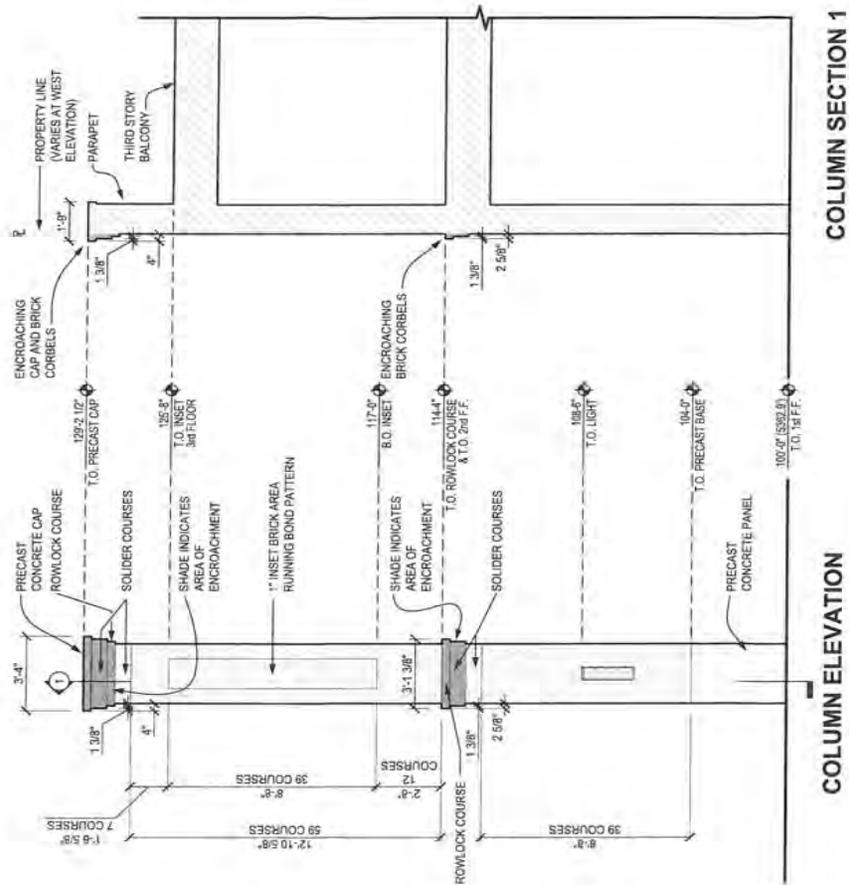


Exhibit B

EXHIBIT B – Page 2 of 4



TYPICAL SOUTH & SOUTHWEST COLUMN 1 (9 LOCATIONS)

DATE: 3.22.18
 SCALE: 1/8" = 1'-0"
 ELEV & SECTION: 1



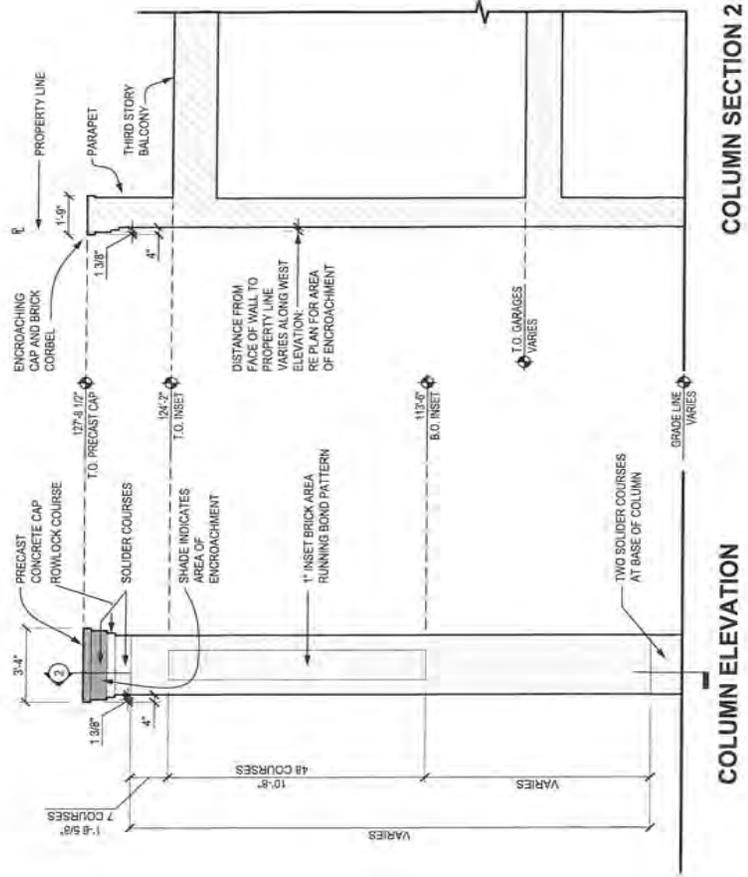
901 PEARL STREET
 BOULDER, COLORADO

BRAY
 Architects, Inc.

REV 2014-00019

15006 (1) Rev 12/13
 © 2013 Bray Architects, Inc.

EXHIBIT C



TYPICAL NORTHWEST COLUMN 2
(3 LOCATIONS)

BRAY
Architecture, Inc.

901 PEARL STREET
BOULDER, COLORADO

1300 C Yellow Pine
Boulder, CO 80501

9 7 2 4 8

0' 2' 4' 8'

DATE: 8.24.14
SCALE: 1/8" = 1'-0"
ELEVATION: 2

EXHIBIT D

Exhibit B

Exhibit B



EXHIBIT C



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/4/2014

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

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

PRODUCER Moody Insurance Agency, Inc. 8055 East Tufts Avenue Suite 1000 Denver CO 80237		CONTACT NAME: Gail Clark PHONE (A/C No. Ext.): (303) 824-6600 FAX (A/C No.): (303) 370-0118 E-MAIL ADDRESS: gail.clark@moodyins.com	
INSURED 901 Eldridge, Inc 2344 Spruce St. Ste B Boulder CO 80302		INSURER(S) AFFORDING COVERAGE NAIC # INSURER A: United Specialty Ins Co 12537 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR	TYPE OF INSURANCE	ADDL	POLICY NUMBER	POLICY EFF	POLICY EXP	LIMITS
LTR		INSR		(MM/DD/YYYY)	(MM/DD/YYYY)	
A	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X Y	BU01412837	6/1/2014	6/1/2015	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ EXCLUDED MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE DED RETENTION \$		BU01412837	6/1/2014	6/1/2015	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A			WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 City of Boulder and its elected officials and employees are included as Additional Insured with respect to General Liability.

CERTIFICATE HOLDER City of Boulder 1739 Broadway, 3rd Floor P.O. Box 791 Boulder, CO 80306	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Gail Clark/GAICLA
---	---

ACORD 25 (2010/05)
 INS025 (2010/05) 01

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 16, 2014

AGENDA TITLE: Fourth reading and consideration of a motion to adopt and order published by title only Ordinance No. 7957 amending Title 2, “Government Administration,” Chapter 7, “Code Of Conduct,” B.R.C. 1981 and setting forth related details.

PRESENTERS:

Tom Carr, City Attorney
David Gehr, Deputy City Attorney

EXECUTIVE SUMMARY

On January 21, 2014, council considered and passed on first reading extensive proposed changes to the city’s code of conduct. These changes were developed based on council direction given at study sessions on October 9 and October 23, 2012. Council made no changes on [first reading](#). After first reading, Council Members Matthew Appelbaum and Macon Cowles posted questions on the council hotline. The second reading memorandum addressed those questions. On February 18, 2014, Council considered the proposed ordinance on [second reading](#). Staff requested Council direction on thirteen questions. Council provided direction on each issue and directed staff to modify the ordinance and bring a proposed revised ordinance back for a continued second reading. The questions and council direction were recorded in the [council minutes](#). On November 18, 2014, council considered and adopted the proposed ordinance on [continued second reading](#). While preparing the final ordinance, staff recognized a gap in the conflict of interest provision. There is no exclusion for actions that affect an entire body. Under the proposal passed on continued second reading, council would be prohibited from accepting any benefit conferred on the general public. Staff prepared a proposed amendment that council adopted on third reading. Council amended ordinance 7957 on third reading. The amendment on third reading created the necessity of a fourth reading.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to order published by title only and adopt on fourth reading Ordinance No. 7957 amending Title 2, "Government Administration," Chapter 7, "Code Of Conduct," B.R.C. 1981.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic:
None identified.
- Environmental:
None identified
- Social:
Boulder's community values support an honest, ethical and transparent local government. The intent of the proposed ordinance is to revise the city's ethics code to be more accessible through clarity. The proposed ordinance would strengthen the sanctions for dishonest behavior, while at the same time clarifying what is acceptable and appropriate behavior for city elected officials, employees and appointed volunteers.

OTHER IMPACTS

- Fiscal:
None identified.
- Staff Time:
None identified.

BACKGROUND

In 2012, council directed staff to revise extensively both the financial disclosure provisions in Chapter 13-2, B.R.C. 1981 and the Code of Conduct in Chapter 2-7, B.R.C. 1981. Council's intent was to make these rules more transparent, effective and easy to use. The proposed ordinance is the last piece of this extensive project. On June 3, 2014, council passed Ordinance Number 7968 finalizing the changes to the financial disclosure provisions. The proposed ordinance would complete the final phase of this project.

ATTACHMENTS

Attachment A - Proposed Ordinance

Attachment B - Third Reading Agenda Memo for December 2, 2014 Meeting

ORDINANCE NO. 7957

AN ORDINANCE AMENDING TITLE 2, "GOVERNMENT ADMINISTRATION," CHAPTER 7, "CODE OF CONDUCT," B.R.C. 1981, INCLUDING EXPANDING THE LEGISLATIVE PURPOSE, CLARIFYING THE PROHIBITIONS ON ACCEPTING GIFTS, AMENDING THE RESTRICTIONS ON APPEARING BEFORE CITY BODIES, SETTING FORTH PROHIBITED ACTS, ESTABLISHING EXPECTATIONS FOR PUBLIC OFFICIALS AND PUBLIC OFFICERS, SETTING FORTH EXAMPLES OF VIOLATIONS AND SETTING FORTH RELATED DETAILS.

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

Section 1. Title 2, Chapter 7 of the Boulder Revised Code, 1981 is amended as follows:

2-7-1 Purpose, Legislative Intent and Findings.

(a) Purpose: The purpose of this chapter is to protect the integrity of city government by:

(1) Defining and forbidding certain activities including bribery and profiteering from public office~~conflicts of interest that if left unchecked tend to compromise the ability of elected and appointed public officials and public employees to perform their duties without improper financial influence.~~

(2) Establishing high standards of conduct for elected officials, appointed board and commission members and city employees by setting forth certain expectations of behavior that all such individuals shall maintain while elected, appointed or employed by the City of Boulder. ~~Defining and discouraging certain actions that may create an appearance of impropriety that undermines public trust in the accountability and loyalty of elected and appointed public officials and employees.~~

~~(3) Protecting the integrity of city government by providing standards of conduct and guidelines for elected and appointed public officials and public employees to follow when their private interests as residents conflict with their public duties.~~

(34) Fostering public trust by defining standards of honest government and prohibiting the use of public office for private gain.

(b) Legislative Intent: It is the intent of the city council to:

(1) Establish rules of conduct that meet or exceed the rules established by the Colorado State Constitution and the Colorado Revised Code. ~~Prohibit public~~

officials and public employees from acting on any matter in which he or she may have a conflict of interest.

(2) Establish ~~expectations~~ aspirational guidelines to encourage public officials and public employees to maintain the highest standard of conduct to justify the public trust that they enjoy, avoid any appearance of impropriety.

(3) ~~Require adherence to any provision of state or federal law that imposes a higher standard of conduct than this chapter.~~ Exercise the City of Boulder’s right to develop laws related to ethics in local government and appropriate standards of local conduct as matters of local concern as established by the Colorado State Constitution in Article XX recognized by Article XXIX, § 3(6).

(c) Findings: The city council finds and determines that this chapter is necessary to protect the public health, safety, and welfare of the residents of Boulder and is a matter of local concern.

2-7-2 ~~Conflicts of Interest~~ Prohibited Acts.

(a) ~~Personal Benefit~~ Conflicts Prohibited: No public official or public employee shall solicit, receive or accept anything of value in exchange for performing or refraining from performing any act associated with the official or employee’s position with the city. ~~make or participate in the making of any official action in which he or she knows or should have known that he or she would have a conflict of interest.~~

~~(Disclosure Required: Each public official or public employee shall disclose any conflict of interest and disqualify him or herself from participating in the relevant action as provided in section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981.~~

2-7-3 ~~Use of Public Office or Confidential Information for Financial Gain.~~

(~~b~~a) Use of Position for Gain Prohibited: No public official or public employee ~~city council member, employee, or appointee to a city board, commission, task force or similar body~~ shall use his or her public office or position for financial gain.

(~~c~~b) Use of Confidential Information for Financial Gain Prohibited: No public official or public employee ~~city council member, employee, or appointee to a city board, commission, task force or similar body~~ shall use or disclose confidential information obtained as a result of holding his or her public office or position, to obtain financial gain, whether for personal gain; gain for his or her relative; gain of any property or entity in which the official or employee has a substantial interest; or gain for any person or for any entity with whom the official or employee is negotiating for or has any arrangement concerning prospective employment.

2-7-~~3~~4 Duty to Maintain the Confidentiality of Privileged Information.

1 (a) ~~Duty of a Public Official Member Of City Council, Board, Commission, Task Force Or~~
 2 ~~Similar Body: No public official city council member or appointee to a city board,~~
 3 ~~commission, task force or similar body shall disclose privileged or confidential~~
 4 ~~information without a public majority vote granting the permission of the council or~~
 5 ~~similar body that holds the privilege. The sanction for a member of the city council,~~
 6 ~~board, commission, task force or similar body shall be censure of the body, reached by a~~
 7 ~~majority vote of the body, not including the member charged with disclosing such~~
 8 ~~confidential information.~~

6 (b) Duty of a PublicCity Employee: No ~~city~~public employee shall disclose privileged or
 7 confidential information, obtained as a result of holding his or her public office or
 8 position, unless the employee has first received approval by the city manager acting upon
 9 the advice of the city attorney.

2-7-45 Gifts to Public Officials and Public Employees.

9 (a) Gifts Prohibited: No ~~city council member or appointee to a city board, commission, task~~
 10 ~~force or similar body, or city employee,~~public official or public employee or relative of
 11 such employee or official shall accept anything of value including, without limitation, a
 12 gift, a favor, a discount or a promise of future employment if:

- 12 (1) The official or employee is in a position to take official action with regard to the
- 13 donor; or
- 14 (2) The city has or is known to be likely to have a transactional, business, or
- 15 regulatory relationship with the donor.

16 (b) Exceptions and Items not Considered Gifts: The following shall not be considered gifts
 17 for purposes of this section, and it shall not be a violation of this chapter for a person to
 18 accept the same:

- 18 (1) Campaign contributions as permitted by law;
- 19 (2) An unsolicited, occasional non-pecuniary gift of a maximum amount of \$530.00
- 20 or less in value. The maximum amount will be equal to the amount established by
 21 the state of Colorado pursuant to Colorado Constitution Article XXIX, Section
 22 6adjusted on January 1, 2006, and annually thereafter to reflect changes in the
 23 United States Bureau of Labor Statistics Consumer Price Index for the Denver-
 24 Boulder Consolidated Metropolitan Statistical Area for all Urban Consumers, All
 25 Goods, or its successor index;
- 23 (3) A gift from a relative;
- 24 (4) An award, publicly presented, in recognition of public service;

- 1 (5) Reasonable expenses ~~paid by other governments or governmentally related~~
2 ~~organizations~~ for attendance at a convention, fact-finding mission or trip, or other
3 meeting if the person is scheduled to deliver a speech, make a presentation,
4 participate in a panel, or represent the city provided that if travel expenses are
5 paid:
- 6 (A) The travel is for a legitimate city purpose;
7 (B) The travel arrangements are appropriate to that purpose;
8 (C) The expenses paid are for a time period that is no longer than reasonably
9 necessary to accomplish the business that is its purpose;
10 (D) The public official or public employee who will be traveling is not
11 currently, was not in the recent past, and will not in the reasonably
12 foreseeable future, be in a position to take direct official action with
13 respect to the donor;
14 (E) Prior to travelling, the public official informs the city council or the
15 employee informs the city manager of the name of the party paying for the
16 travel expenses and the reason for the travel; and
17 (F) After completing the travel, the public official reports compliance of the
18 first four conditions to the city council and the public employee reports
19 compliance with the first four conditions to the city manager.
- 20 (6) Items which are similarly available to all employees of the city or to the general
21 public on the same terms and conditions; and
- 22 (7) A single unsolicited ticket given to a city council member and valued at not in
23 excess of \$150.00 to attend events ~~open to the public~~ on behalf of the city, such as
24 awards dinners, nonprofit organization banquets and seminars, provided that:
- 25 (A) The ticket is offered only to the council member and has no resale value;
and
(B) The ticket is not offered by a commercial vendor who sells or wishes to
sell services or products to the city; and
(C) ~~The ticket is not for a sporting event~~
- (8) A single unsolicited ticket given to a council member and valued at not in excess
of \$150.00 in each calendar year to attend a sporting event, concert or other event
provided by a governmental entity or nonprofit organization, if the event is
sponsored by the governmental entity or nonprofit organization, and the purpose

1 of attending the event is to promote the relationship between the city and the other
 2 governmental entity or nonprofit organization.

3 2-7-65 Prior Employment, Outside Employment, and Subsequent Employment.

- 4 (a) Prior Employment: No person shall be disqualified from service with the city as a ~~an~~ public
 5 official or public employee solely because of his or her prior employment. Public
 6 Officials and public employees shall not take ~~official~~ any action with respect to their
 7 former employers for a period of six months from the date of termination of the prior
 8 employment if such action involves an exercise of discretion by the public official or
 9 public employee and provides direct benefit to the prior employer, including but not
 10 limited to a contract, lease, employment or regulatory approval.
- 11 (b) Disclosure of Employment and Other Business Activities: All ~~officials and public~~
 12 employees, other than elected officials, shall report existing or proposed outside
 13 employment or other outside business interests that may affect their responsibilities to the
 14 city in writing to their appointing authorities prior to being appointed or hired. After
 15 being appointed or hired, all such people shall report any changes of employment or
 16 changes to outside business interests that may affect the person's responsibilities to the
 17 city, within thirty days after accepting the same. An employee that has received
 18 permission from the city manager may engage in outside employment or outside business
 19 interests.
- 20 (c) Disclosure by Public Officials ~~City Council Members~~: Public Officials ~~Members of the~~
 21 city council shall report any change in their employment status that could give rise to a
 22 conflict of interest under this chapter.
- 23 (d) Activities That Occur After Termination of Employment or Office: No former public
 24 official or public employee shall seek or obtain employment concerning matters upon
 25 which he or she took ~~any official~~ action during his or her service with the city for six
months following termination of office or employment if such action, occurred less than
four years prior to seeking or obtaining employment, involved an exercise of discretion
by the public official or public employee and provided direct benefit to the employer,
including but not limited to a contract, lease, employment or regulatory approval. This
provision may be waived by the city council or the city manager.
- (e) Participation of Former Officials or Employees: No former public official or public
employee shall appear before, or participate in, a city board, commission, task force or
similar body on which he or she was a member or served directly as an employee
concerning any matter or on which he or she took official action during his or her service
with the city for twelve months following termination of office or employment. This
prohibition may be waived by the city council by appointment or vote. This prohibition
shall not apply to persons who appear before the city in their capacity as an elected
official following termination of their office or employment with the city.

1 (f) Participation in Litigation After Termination: No former public official shall engage in
 2 any action or litigation in which the city is involved on behalf of any other person or
 3 entity, if the action or litigation involves a matter upon which the person took official
 4 action during his or her service with the city for twelve months following termination of
 5 service with the city.

6 2-7-76 Employment of Relatives.

7 (a) No public official or public employee shall appoint, hire, or advocate the appointment or
 8 hiring by the city any person who is his or her relative. In the event that an employee is
 9 concerned that the employee's decision to appoint, hire or advocate the appointment or
 10 hiring by the city a person who is the employee's relative may cause an appearance of
 11 violating this section, the employee may request that the city manager make such
 12 decision on the employee's behalf. Council-appointed officers may request the city
 13 council to make such an appointment or hiring decision on their behalf.

14 (b) The city may enter into transactions with companies, corporations or other business
 15 organizations that employ a relative of a city public official or public employee; provided
 16 that:

17 (1) The public official or public employee does not participate in the decision making
 18 that leads to hiring the company, corporation, or other business organization that
 19 employs his or her relative; or

20 (2) The business organization is a publicly-traded corporation that provides its
 21 services or products to the city on nondiscriminatory terms justified by the market
 22 facts and circumstances of each transaction; or

23 (3) The company, corporation, or business organization has been doing business with
 24 the city for at least one year prior to the date the city official's or employee's
 25 relative became employed by the company, corporation or other business
 organization, and the city official's or employee's relative is not directly employed
 upon matters involving the city and does not have his or her compensation tied in
 any manner to the success of the company, corporation, or other business
 organization, or its ability to obtain business or earn compensation from the city.

26 2-7-87 Representing Others Before the City Prohibited.

27 (a) City Council Members Barred From Representing Others: No city council member shall
 28 appear on behalf of himself or herself, or another person, before the city council or any
 29 city board, commission, task force or similar body. A city council member may be
 30 affiliated with a firm appearing on behalf of or employed by another person concerning
 31 any transaction with the city before such a body if the council member discloses the
 32 situation and recuses himself or herself pursuant to section 2-7-10, "Disclosure and
 33 Recusal Procedure," B.R.C. 1981. This prohibition shall not apply when a city council

1 member is appointed by a majority vote of the council to represent the council before a
2 board or commission.

3 (b) Board, Commission or Task Force Members Barred From Representing Others: An
4 appointee to a city board, commission, task force or similar body may appear or be
5 affiliated with a firm appearing concerning any transaction with the city under the
6 following circumstances:

7 (1) An appointee may appear on his or her own behalf before the body of which he or
8 she is a member to represent his or her personal interests, if the appointee
9 discloses the situation and recuses himself or herself pursuant to section 2-7-10,
10 "Disclosure and Recusal Procedure," B.R.C. 1981, or before the city council;

11 (2) An appointee may appear on behalf of another person before any city body except
12 the ~~city council or the~~ body of which the appointee is a member, except with
13 respect to a matter that has or may come before the board or commission on
14 which he or she serves;

15 (3) A firm with which an appointee is affiliated may not appear on behalf of or be
16 employed by another person concerning any transaction before the body of which
17 the appointee is a member unless the appointee discloses the situation and recuses
18 himself or herself pursuant to Section 2-7-10, "Disclosure and Recusal
19 Procedure," B.R.C. 1981.

20 (c) ~~City~~ Public Employees Barred From Representing Others: No ~~public~~ city employee shall
21 appear on behalf of or be employed by another person concerning any transaction with
22 the city or before the city council or any city board, commission, task force or similar
23 body. A ~~public~~ city employee may appear before such a body on his or her own behalf or on
24 behalf of such employee's spouse, parent, or child. Nothing in this chapter shall be
25 deemed to prohibit the city manager from establishing additional policies and regulations
to prevent conflicts of interest between ~~city~~ public employees and the city.

(d) City Council Members and Municipal Court: No city council member who is an attorney
shall appear on behalf of or be employed by another person or be affiliated with a firm
appearing on behalf of or employed by another person concerning any matter before the
municipal court.

(e) ~~City~~ Public Employees and Municipal Court: No ~~city~~ public employee who is an attorney
shall appear on behalf of or be employed by another person or be affiliated with a firm
that appears on behalf of or is employed by another person concerning any matter before
the municipal court. A non-attorney employee may appear before the municipal court on
his or her own behalf, and an employee other than a municipal court judge may appear on
behalf of such employee's spouse, parent, or child to the extent otherwise allowed by law.
This authority is intended to allow employees to assist family members in matters before
the municipal court to the extent permitted by law but not to promote the unauthorized
practice of law.

1
2 (f) Board, Commission, or Task Force Member and Municipal Court: An appointee to a city
3 board, commission, task force or similar body may appear before the municipal court and
4 may be affiliated with a firm appearing before the municipal court.

5 (g) Consent to Sue: No public official~~city council member or appointee to any city board,~~
6 ~~commission, task force or similar body shall be a party or~~ by himself or herself or as an
7 affiliate of a firm appear on behalf of a party in a civil law suit in which the city is an
8 adverse party, unless the public official~~member or appointee~~ first obtains the consent of
9 the city council.

10 2-7-98 ~~Appearances of Impropriety Discouraged~~ Expectations.

11 (a) These expectations~~guidelines~~ are intended to establish ethical standards~~goals and~~
12 ~~principles to guide~~help public officials and public employees~~city council members,~~
13 ~~employees, and appointees to a city board, commission, task force or similar body in the~~
14 ~~execution of their offices in a manner that will reflect well on the city and promote to~~
15 ~~determine if their actions may cause an appearance of impropriety that will undermine~~
16 the public's trust in local government.

17 (b) ~~Violations of this section shall not constitute a violation of this chapter.~~ Compliance with
18 this section will not constitute a defense for violation of another subsection or section of
19 this chapter. Violation of this section may be considered as the basis for censure of a
20 public official, or in the most serious cases, removal of a board or commission member.
21 Violation of this section may be the basis of disciplinary action, or in the most serious
22 cases, termination of a public employee.

23 (c) A public official~~city council member, employee, or appointee to a city board,~~
24 ~~commission, task force or similar body~~ who determines that his or her actions may be
25 considered to be in violation of this section~~cause an appearance of impropriety~~ should
26 consider disclosure and discussion of the potential violation in a public meeting before
27 the council, board, commission, task force or similar body on which the person serves.

28 (d) A public official whose participation in a matter would violate this section shall,~~but is~~
29 ~~not required to, disclose and recuse~~ herself or himself as prescribed by section 2-7-910,
30 "Disclosure and Recusal Procedure," B.R.C. 1981, ~~in the following circumstances:~~

31 (1) ~~If the person is an employee of a state or federal government entity with a substantial~~
32 ~~interest in any transaction with the city;~~

33 (2) ~~If the person has a close friend with a substantial interest in any transaction with the city,~~
34 ~~and the council member, appointee, or employee believes that the friendship would~~
35 ~~prevent such person from acting impartially with regard to the particular transaction;~~

- 1 ~~(3) If the person has an interest in any transaction with the city that is personal or private in~~
2 ~~nature that would cause a reasonable person in the community to question the objectivity~~
3 ~~of the city council member, employee, or appointee to a city board, or commission;~~
- 4 ~~(4) If the person is called upon to act in a quasi-judicial capacity in a decision regarding any~~
5 ~~of the situations described in paragraphs (c)(1), (c)(2), and (c)(3) of this section; or~~
- 6 ~~(5) If the person owns or leases real property within six hundred feet from a parcel of property~~
7 ~~that is the subject of a transaction with the City upon which he or she must make a~~
8 ~~decision, and is not required to receive official notice of a quasi-judicial action of the~~
9 ~~City.~~

10 (e) A public official or public employee shall:

- 11 (1) Strive at all times to serve the best interests of the city regardless of his or her
12 personal interest.
- 13 (2) Perform duties with honesty, care, diligence, professionalism, impartiality and
14 integrity.
- 15 (3) Strive for the highest ethical standards to sustain the trust and confidence of the
16 public they serve, not just the minimum required to meet legal or procedural
17 requirements.
- 18 (4) Use sound judgment to make the best possible decisions for the city, taking into
19 consideration all available information, circumstances and resources.
- 20 (5) Act within the boundaries of his or her authority as defined by the city charter and
21 code.
- 22 (6) Treat colleagues and members of the public professionally and with courtesy.
- 23 (7) Disclose personal or professional relationships with any company or individual
24 who has or is seeking to have a business relationship with the city, if the official
25 or employee has any authority to exercise discretion over the business
relationship.
- (8) Disclose any benefit he or she will receive from any matter requiring the exercise
of discretion by the officer or employee.
- (9) Use city resources, facilities and equipment only for city purposes, except for
reasonable incidental personal use that does not interfere with city business.
- (10) Disclose waste, fraud, abuse and corruption to appropriate authorities.

(f) A public official or public employee shall not:

- 1 (1) Advocate or support any action or activity that violates a law or regulatory
2 requirement.
- 3 (2) Use his or her position or decision-making authority for his or her benefit.
- 4 (3) Expend city funds for his or her personal use or benefit.
- 5 (4) Misrepresent known facts in any issue involving city business.
- 6 (5) Exercise authority or discretion in any matter in which he or she will benefit as a
7 result of that exercise of authority or discretion.
- 8 (6) Use city resources, facilities or equipment for personal profit, for outside business
9 interests or to access any inappropriate material, except if viewing such material
10 is a necessary and proper part of their duties.
- 11 (7) Participate in any decision to appoint, hire, promote, discipline or discharge a
12 relative for any position with the city.
- 13 (8) Supervise a relative in the performance of the relative's official powers or duties.
- 14 (9) Compel or induce a subordinate municipal officer or employee to make, or
15 promise to make, any political contribution, whether by gift of money, service or
16 other thing of value.
- 17 (10) Act or decline to act in relation to appointing, hiring or promoting, discharging,
18 disciplining, or in any manner changing the official rank, status or compensation
19 of any employee, or an applicant for a position, including appointment to a board
20 or commission, on the basis of the giving or withholding or neglecting to make
21 any contribution of money or service or any other valuable thing for any political
22 purpose.
- 23 (11) Solicit or accept anything of value from anyone doing business with the city.
- 24 (12) Solicit or accept employment from anyone doing business with the city, unless the
25 official or employee completely withdraws from city activity regarding the party
 offering employment and the withdrawal is approved by the city council for
 members of the council, boards or commissions and by the city manager for
 employees.
- (13) Use his or her public position to obtain a benefit for the official or employee, a
 family member, or anyone with whom the official or employee has a business or
 employment relationship.

1 (14) Vote, authorize, recommend, or in any other way use his or her position to secure
2 approval of a contract (including employment or personal services) in which the
3 official or employee, a family member, or anyone with whom the official or
4 employee has a business or employment relationship, has an interest.

5 (15) Use, or authorize the use of, his or her title, the name "City of Boulder," or the
6 city's logo in a manner that suggests impropriety, favoritism, or bias by the city or
7 the official or employee.

8 (16) Use, or authorize the use of, his or her title, the name "City of Boulder," or the
9 city's logo in a manner that suggests or implies that the city supports or opposes a
10 candidate or ballot measure, except that public officials may identify themselves
11 and their position as public officials supporting or opposing candidates or ballot
12 measures.

13 (17) Use, or authorize the use of, his or her title, the name "City of Boulder," or the
14 city's logo in for personal profit or advantage.

15 (18) Use city resources, facilities or equipment to support or oppose any political
16 candidate or ballot measure.

17 2-7-~~910~~ Disclosure and Recusal Procedure.

18 (a) Disclosure and Recusal: No person with an ~~an~~ conflict of interest prohibited pursuant to
19 ~~subsection 2-7-2(a)~~, B.R.C. 1981, and no person described in subsection 2-7-~~78~~(a) or (b),
20 B.R.C. 1981, shall fail to give written notice of the interest described in such section or
21 subsection to the city council or the city board, commission, task force or similar body of
22 which the person is a member and the city manager as soon as reasonably possible after
23 the interest has arisen. However, no written notice is required if such person discloses the
24 conflict of interest on the record of a public meeting of the city council or the city board,
25 commission, task force or similar body of which the person is a member. The interested
26 council member, employee, or appointee shall thereafter:

27 2-7-~~101~~ Enforcement.

28 2-7-~~112~~ Sanctions and Remedies for Violation.

29 (c) Sanction Recommendations: If the party conducting an investigation pursuant to section
30 2-7-~~101~~, "Enforcement," B.R.C. 1981, finds that a city council member or an appointee
31 to a city board, commission, task force or similar body, or employee has violated any
32 provision of this chapter, the investigator shall provide its findings and recommendations

1 to the city manager or city council, as appropriate, who or which in turn may take any of
2 the following actions:

- 3 (1) In the case of a city council member, a motion of censure;
- 4 (2) In the case of a ~~city~~ public employee, a motion for censure or a recommendation
5 that the employee's appointing authority consider disciplining or discharging the
6 employee;
- 7 (3) In the case of a member of a board or commission ~~r~~Removal as provided in
8 subsection (b) of this section; or
- 9 (4) As an alternative or in addition to the sanctions imposed herein, the city council
10 may resolve that any person or entity causing, inducing, or soliciting a public
11 official or public employee to violate this chapter may not be involved in any
12 transaction with the City, including but not limited to the award of any city
13 contract, grant, loan or any other thing of value for a period of twelve months or
14 that any such contract, grant, loan or thing of value be terminated, repaid or
15 forfeited.

16 (d) Civil Remedies: Any person incurring actual monetary damage as a direct and proximate
17 result of a violation of section 2-7-2, "Prohibited Acts," B.R.C. 1981 or section 2-7-3,
18 "Duty to Maintain the Confidentiality of Privileged Information," B.R.C. 1981 ~~affected~~
19 ~~by a city transaction~~ may commence a civil action in the District Court in and for the
20 County of Boulder for equitable relief to enforce the provisions of this chapter upon a
21 showing of willful violation of any provision of this chapter. Before filing such an action,
22 the person shall present the claim to the city attorney to investigate in accordance with
23 subsection 2-7-11(c), B.R.C. 1981. The city attorney or appointed special council shall
24 have sixty days to act thereon. No civil action in district court pursuant to this subsection
25 may be commenced later than twelve months after a violation of this chapter is alleged to
have occurred.

(e) Criminal Sanctions: The city attorney, or special counsel authorized to act on behalf of
the city attorney, acting on behalf of the people of the City, may prosecute any violation
of section 2-7-2, "Prohibited Acts," B.R.C. 1981 or section 2-7-3, "Duty to Maintain the
Confidentiality of Privileged Information," B.R.C. 1981 ~~this chapter~~ in municipal court in
the same manner that other municipal offenses are prosecuted.

(f) ~~Defense: It shall be a defense to any charge of a violation of this chapter if the city~~
~~council member, employee, or appointee to a city board, commission, task force or~~
~~similar body obtained an advisory opinion pursuant to section 2-7-13, "Advisory~~
~~Opinions and Outside Counsel Appointment," B.R.C. 1981, and was acting in accordance~~
~~with the advice provided thereby.~~

2-7-132 Advisory Opinions and Outside Counsel Appointment Role of the City Attorney.

1 (a) ~~City Attorney to Provide Advisory Opinions: Any city council member, employee, or~~
2 ~~appointee to a city board, commission, task force or similar body may request an advisory~~
3 ~~opinion of the city attorney whenever a question arises as to the applicability of this~~
4 ~~chapter to a particular situation. The city attorney's advisory opinion may provide a~~
5 ~~specific defense from prosecution as set forth in section 2-7-12, "Sanctions And~~
6 ~~Remedies For Violation," B.R.C. 1981.~~

5 (b) Appointment of Outside Counsel: If the city attorney has a conflict of interest or a matter
6 arise in which the city attorney believes that a reasonable person would question his or
7 her objectivity a significant controversy arises under this chapter, the city attorney
8 shall may appoint a neutral outside counsel to assist in resolving investigate the issue and
9 make a recommendation.

8 2-7-143 Exemptions From Chapter.

9 ...

10 2-7-14 Definitions

11 "Benefit" shall mean anything of value accruing to an official or employee. A benefit shall not
12 include any situation in which the official, employee or family member has only a remote
13 interest. A benefit does not include things that affect the entire membership of a significant class
14 or a significant segment of the community in a similar manner as the affected public official or
15 employee. An official or employee is deemed to have received a benefit if any of the following
16 receive a benefit:

15 (1) A Family Member;

16 (2) Any person or business entity with whom a contractual relationship exists with the
17 official or employee;

18 (3) Any business entity in which the official or employee is an officer or director; or

19 (4) Any business entity in which the official or employee has a stock, legal ownership, or
20 beneficial ownership of at least five (5) percent of the total stock or total legal and beneficial
21 ownership, or which is controlled or owned directly or indirectly by the official or employee.

21 "Family Member" shall mean a spouse, domestic partner, partner in a civil union, child, and
22 whether related through adoption or marriage, a parent, brother or sister.

22 "Public Official" shall mean any elected or appointed city official, including city council
23 members and members of boards and commissions.

24 "Remote Interest" shall mean any interest which is incidental to the contract or
25 transaction and shall include:

1 (1) A position as a non-salaried director, officer or employee of a non-profit
2 corporation or organization;

3 (2) Less than five (5) percent of the total stock or total legal and beneficial ownership in a
4 business entity;

5 (3) A position of employment held by a family member which is not a director, officer,
6 manager or supervisor in a business entity;

7 (4) A position of employment held by a family member which does not directly exercise
8 decision making authority affecting the contract or transaction; or

9 (5) A position in a representative capacity such as a receiver, trustee or administrator.

10 2-7-15-Definitions: Examples of Violations

11 The examples in this paragraph are intended to provide guidance for the implementation of these
12 rules. These are examples only; behavior not listed here also can violate these rules.

13 The following acts would constitute a violation of this chapter:

14 (a) A person lies to a constituent in violation of paragraph 2-7-8(f)(4), B.R.C. 1981.

15 (b) A person favors a personal friend when awarding a city contract in violation of paragraph
16 2-7-8(f)(13), B.R.C. 1981.

17 (c) A person is rude to a constituent in violation of paragraph 2-7-8(e)(2), B.R.C. 1981.

18 (d) A person fails to disclose a professional relationship with a firm seeking to do business
19 with the city in violation of paragraph 2-7-8(e)(7), B.R.C. 1981.

20 (e) A person fails to disclose owning stock in a company involved in a matter that requires
21 the exercise of discretion by the person in violation of paragraph 2-7-8(e)(8), B.R.C.
22 1981.

23 (f) A person uses a city computer to operate a personal business in violation of paragraph 2-
24 7-8(e)(11), B.R.C. 1981.

25 (g) A person uses a city phone for a political campaign in violation of paragraph 2-7-
8(f)(18), B.R.C. 1981.

(h) A person fails to disclose fraud by a public employee in violation of paragraph 2-7-
8(e)(10), B.R.C. 1981.

(i) A person arranges a repaving project that benefits his or her neighborhood in violation of
paragraph 2-7-8(f)(2), B.R.C. 1981.

- 1
2 (i) A council member participates in a decision that affects the value of his or her real property in violation of paragraph 2-7-8(f)(2), B.R.C. 1981.
- 3 (j) A person uses city photocopies machines to make 100 flyers to advertise a personal business paragraph 2-7-8(f)(3), B.R.C. 1981.
- 4 ~~(k) A person travelling on business uses city funds to purchase an expensive dinner in violation of paragraph 2-7-8(f)(3), B.R.C. 1981.~~
- 5 (k) A person makes verbal attacks against someone who contacted the city for information in violation of paragraph 2-7-8(e)(2), B.R.C. 1981.
- 6
- 7 (l) A person recommends that his or her department hire his or her niece in violation of paragraph 2-7-8(f)(7), B.R.C. 1981.
- 8
- 9 (m) A person supervises his or her spouse in violation of paragraph 2-7-8(f)(8), B.R.C. 1981.
- 10 (n) A council member seeks a campaign contribution from a public employee in violation of paragraph 2-7-8(f)(9), B.R.C. 1981.
- 11 (o) A supervisor encourages employees to attend a campaign fundraiser for a council member in violation of paragraph 2-7-8(f)(9), B.R.C. 1981.
- 12
- 13 (p) A supervisor implicitly requires an employee to make a campaign contribution as a condition of receiving a positive evaluation in violation of paragraph 2-7-8(f)(9), B.R.C. 1981.
- 14
- 15 (q) A person accepts a lunch from a person seeking to do business with the city in violation of paragraph 2-7-8(f)(11), B.R.C. 1981.
- 16
- 17 (r) A person seeks employment with a contractor whom the person previously hired to work for the city in violation of paragraph 2-7-8(f)(12), B.R.C. 1981.
- 18
- 19 (s) A person obtains an internship for his or her son with a company doing business with the city in violation of paragraph 2-7-8(f)(13), B.R.C. 1981.
- 20
- 21 (t) A board member who is an architect participates in a decision in which his or her firm represents the applicant in violation of paragraph 2-7-8(f)(5), B.R.C. 1981.
- 22 (u) A board member who is an attorney participates in a decision in which his or her firm represents a party to the transaction being considered in violation of paragraph 2-7-8(f)(5), B.R.C. 1981.
- 23
- 24 (v) A person endorses a business using his or her city title in violation of paragraph 2-7-8(f)(15), B.R.C. 1981.
- 25

1 ~~(w) A board member allows his or her name and title to be used in campaign literature~~
2 ~~supporting a candidate in violation of paragraph 2-7-8(f)(16), B.R.C. 1981.~~

3 (w) A person solicits work for his or her off-duty business, by advertising his or her work as a
4 city of Boulder employee in violation of paragraph 2-7-8(f)(20), B.R.C. 1981.

5 (x) A council member solicits business by relying upon his or her position as a city council
6 member in violation of paragraph 2-7-8(f)(20), B.R.C. 1981.

6 2-7-15 Definitions.

7 ...

8 ~~"Conflict of interest" shall mean any situation in which a city council member, an appointee to a~~
9 ~~city board, commission, task force or similar body, or a city employee:~~

10 ~~(a) Has a substantial interest in any transaction with the City;~~

11 ~~(b) Has a relative with a substantial interest in any transaction with the City;~~

12 ~~(c) Has a substantial interest as an affiliate of a firm with a substantial interest in any transaction~~
13 ~~with the City;~~

14 ~~(d) Has a substantial interest as an affiliate of a firm appearing on behalf of or employed by a~~
15 ~~person with a substantial interest in any transaction with the City;~~

16 ~~(e) Is an officer of an organization that has taken an official position on any transaction with the~~
17 ~~City, unless service on the board of the organization is required by city code, rule or contract;~~

18 ~~(f) Is on the board of directors of an organization that is substantially affected by a transaction~~
19 ~~with the City, unless service on the board of the organization is required by city code, rule or~~
20 ~~contract;~~

21 ~~(g) Is affiliated with a law, accounting, planning, or other professional firm that has substantial~~
22 ~~interest in any transaction with the City; or~~

23 ~~(h) Is required to receive official notice of a quasi-judicial action from the City.~~

24 ...

25 ~~"Substantial interest" means a situation, including, without limitation, a financial stake in the~~
outcome of a decision in which, considering all of the circumstances, would tend to influence the
decision of a reasonable person faced with making the same decision.

~~"Transaction" means a contract of any kind; any sale or lease of any interest in land, material,~~
supplies, or services; or any granting of a development right, any planning, zoning or land use or

~~review process that may precede granting of a development right, license, permit, or application. A transaction does not include any decision which is legislative in nature that affects the entire membership of a class or a significant segment of the community in the same manner as the affected official or employee.~~

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of January, 2014.

Mayor

Attest:

City Clerk

READ ON SECOND READING, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November, 2014.

Mayor

Attest:

City Clerk

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READ ON THIRD READING, AND ORDERED PUBLISHED BY TITLE ONLY this
2nd day of December, 2014.

Mayor

Attest:

City Clerk

READ ON FOURTH READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 16th day of December, 2014.

Mayor

Attest:

City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 2, 2014

AGENDA TITLE: Third reading and consideration of a motion to adopt and order published by title only Ordinance No. 7957 amending Title 2, “Government Administration,” Chapter 7, “Code Of Conduct,” B.R.C. 1981 and setting forth related details.

PRESENTERS:

Tom Carr, City Attorney
David Gehr, Deputy City Attorney

EXECUTIVE SUMMARY

On January 21, 2014, council considered and passed on first reading extensive proposed changes to the city’s code of conduct. These changes were developed based on council direction given at study sessions on October 9 and October 23, 2012. Council made no changes on [first reading](#). After first reading, Council Members Matthew Appelbaum and Macon Cowles posted questions on the council hotline. The second reading memorandum addressed those questions (Attachment B). On February 18, 2014, Council considered the proposed ordinance on [second reading](#). Staff requested Council direction on thirteen questions. Council provided direction on each issue and directed staff to modify the ordinance and bring a proposed revised ordinance back for a continued second reading. The questions and council direction were recorded in the [council minutes](#). On November 18, 2014, council considered and adopted the proposed ordinance on continued second reading. The November 18, 2014 agenda packet is attached as Attachment B. While preparing the final ordinance, staff recognized a gap in the conflict of interest provision. There is no exclusion for actions that affect an entire body. Under the current proposal, council would be prohibited from accepting any benefit conferred on the general public. Staff has included a proposed amendment that addresses this issue. It is Attachment C. Accordingly, the proposed motion includes alternatives to pass the ordinance as amended on second reading, or to pass the ordinance with the amendment in Attachment C. If council chooses the latter, a fourth reading will be required.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt on third reading Ordinance No. 7957 amending Title 2, "Government Administration," Chapter 7, "Code Of Conduct," B.R.C. 1981.

Or in the alternative:

Motion to adopt on third reading Ordinance No. 7957, as amended as set forth in attachment C, amending Title 2, "Government Administration," Chapter 7, "Code Of Conduct," B.R.C. 1981.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic:
None identified.
- Environmental:
None identified
- Social:
Boulder's community values support an honest, ethical and transparent local government. The intent of the proposed ordinance is to revise the city's ethics code to be more accessible through clarity. The proposed ordinance would strengthen the sanctions for dishonest behavior, while at the same time clarifying what is acceptable and appropriate behavior for city elected officials, employees and appointed volunteers.

OTHER IMPACTS

- Fiscal:
None identified.
- Staff Time:
None identified.

BACKGROUND

In 2012, council directed staff to revise extensively both the financial disclosure provisions in Chapter 13-2, B.R.C. 1981 and the Code of Conduct in Chapter 2-7, B.R.C. 1981. Council's intent was to make these rules more transparent, effective and easy to use. The proposed ordinance is the last piece of this extensive project. On June 3, 2014, council passed Ordinance Number 7968 finalizing the changes to the financial disclosure provisions. The proposed ordinance would complete the final phase of this project.

ATTACHMENTS

Attachment A - Proposed Ordinance

Attachment B - Second Reading Agenda Memo for November 18, 2014 Meeting

Attachment C – Potential Amendment to Section 2-7-14



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM
MEETING DATE: December 16, 2014**

AGENDA TITLE

Second reading and consideration of a motion to adopt by title only Ordinance No. 8021 amending the cable television franchise agreement between the City of Boulder and Comcast of Colorado IV, LLC, to extend the term of the agreement by 120 days.

PRESENTERS

Jane S. Brautigam, City Manager
Don Ingle, Director, Information Technologies
Patrick von Keyserling, Communication Director
Debra Kalish, Senior Assistant City Attorney
Carl Castillo, Policy Advisor

EXECUTIVE SUMMARY

First reading on this item was held on Dec. 2, 2014. Council had no questions or changes at that reading.

The city is party to a non-exclusive franchise agreement with Comcast of Colorado IV, LLC (“Comcast”) which allows Comcast to use the city’s public rights of way to provide cable television services (the “Existing Franchise,” **Attachment A**). This agreement, originally set to expire on Dec. 31, 2011, has twice been extended: first until Dec. 31, 2013 (Ordinance 7785, the “First Franchise Extension,” **Attachment B**), and; then until Dec. 31, 2014 (Ordinance 7952, the “Second Franchise Extension,” **Attachment C**). The purpose of this agenda item is to approve a third extension for 120 days (Ordinance 8021, **Attachment D**). City staff and Comcast have been working closely to finalize an agreement and are confident that, with this additional time, they will be able to resolve the remaining differences, which relate to the following topics:

- Re-Opener;
- Annual Summary of Complaints;
- C-SPAN;
- Audio Information Network of Colorado;
- Cost of City’s HD Equipment;
- FM Channels;
- Biennial Ascertainment Survey;
- PEG Channel Utilization;
- Web-Based Video on Demand Grant;
- Promotion of PEG Channels;
- PEG Fees;
- Customer Liability for Extension of Lines; and
- 2HD Channels w/free HD Box: City accepts.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance No. 8021 amending the cable television franchise agreement between the City of Boulder and Comcast of Colorado IV, LLC, to extend the term of the agreement by 120 days.

FISCAL IMPACTS

The city currently collects an annual franchise fee equal to five percent of Comcast’s “gross revenue,” as that term is defined in Section 11-6-2 of the Boulder Revised Code. In 2013, this amounted to \$1,237,435.91. This revenue is directed to the city’s general fund.

The city also collects \$.50 per subscriber in public, educational and government (“PEG”) access channel fees. Since the discontinuation of Public Channel 54 in 2008, the city has allocated the PEG fees for Educational Channel 22 and for Government Channel 8. In 2013, the PEG revenue generated from these fees amounted to a combined \$149,288.56 for both stations. This revenue is limited by federal law to capital costs associated with these access channels.

BACKGROUND

The city last renewed its franchise agreement with Comcast in February 2004. This agreement was set to expire on Dec. 31, 2011. In the winter of 2009, the city requested that Comcast submit a renewal proposal for consideration. Late in the summer of 2010, Comcast instead proposed a two-year extension of the existing franchise agreement, consistent with a proposal it had made to members of Denver’s Greater Metro Telecommunication Consortium (GMTC, since renamed the CCUA). The GMTC had asked Comcast to support a regional model agreement and, failing that, for extensions to expiring member franchise agreements until 2013. Such extensions would

allow GMTC members to benefit from the renewal of the City and County of Denver's and Aurora's franchise agreement which were scheduled for the end of 2012. Comcast refused to offer a model regional agreement but agreed to the two-year extension. The City of Boulder ultimately agreed that it shared similar interests with GMTC members and approved a two-year extension of the Existing Franchise (**Attachment B**).

On behalf of Comcast, but with input from the city, *Talmey-Drake Research & Strategy, Inc.*, a public opinion research firm in Boulder, conducted a resident survey in November 2009 and again in May 2013. Key findings from that most recent survey were:

- Almost six of ten cable customers (57%) in the City of Boulder say they are either very (21%) or somewhat (36%) satisfied with the cable service they receive, a rating that's down 11 points from 2009. They are most satisfied with the technical quality they receive (74%), followed by the quality of their channel line-up (68%). Like overall satisfaction with cable, the rating for satisfaction with customer service has also declined, going from 70% in 2009 to 58% today. Additionally, rates have become an increasingly important issue with Boulder customers, as 49% now say the rate they pay for cable is "way too high," compared to 38% back in 2009.
- When asked to rate the importance of each of the three access channels available to cable customers in Boulder, only one, Channel 8, had a higher positive (59% for "very" or "somewhat") than negative (40% for "not too" or "not at all") importance rating. The other two access channels, 22 and 63, did not fare nearly so well.

ANALYSIS

Generally speaking, franchise operators are entitled to renewal unless they have not been meeting the terms of their existing franchise agreements or, for a variety of reasons, will not be able to provide adequate service to meet the cable-related needs of the community in the future. Federal law precludes franchising authorities from imposing requirements related to the provision or content of cable services except as specifically permitted by federal law.

The issues that may be considered in deciding whether to renew the franchise agreement relate primarily to Comcast's:

- Substantial compliance with the terms of the Existing Franchise;
- Customer service, including signal quality, response to consumer complaints and billing practices;
- Technical ability to provide cable television service;
- Financial ability to provide cable television service; and
- Legal ability to provide cable television service.

The primary foci of franchise negotiations have included:

- The amount and calculation of franchise fees;
- Customer service standards; and

- The provision of Public, Education, and Government (PEG) access channels.

Federal law specifically precludes the city from conditioning franchise renewal upon Comcast's willingness to address other issues of interest to the community, such as cable service rates, channel programming and programming packages (including the ability to choose particular cable channels, also known as "a la carte service"), or telecommunication services (including Internet or voice over internet protocol (VOIP) services).

Boulder's Home Rule Charter, at Article VIII, § 108, requires a vote of the electorate to approve any franchises. However, this charter provision has been preempted by federal statutes. *See Qwest v. Boulder*, 151 F. Supp.2d 1236. This means that no election will be required for a renewal of the Comcast franchise agreement.

NEXT STEPS

With this extension approved, staff expects to bring first reading of a new franchise agreement to council for its consideration on March 3, 2015.

ATTACHMENTS:

Attachment A: City of Boulder's Current Franchise Agreement with Comcast

Attachment B: Ordinance 7785, the Franchise Extension

Attachment C: Ordinance 7952, the Second Franchise Extension

Attachment D: Proposed Ordinance 8021 w/Form of Third Extension

FRANCHISE AGREEMENT
City of Boulder, Colorado
and
Comcast of Colorado IV, LLC

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**FRANCHISE AGREEMENT
BETWEEN THE CITY OF BOULDER, COLORADO
AND COMCAST OF COLORADO IV, LLC**

WHEREAS, the Boulder City Council accepted a draft ascertainment report (dated June 19, 2002) as a valid expression of customer concerns regarding current cable service in the City of Boulder (“City”) and as a valid expression of future cable-related community needs and interests; and

WHEREAS, the City has determined that any franchise must be subject to the terms and conditions set forth herein in order to serve the public interest; and

WHEREAS, Comcast of Colorado IV, LLC is willing to accept the terms and conditions of this Franchise Agreement, and

WHEREAS, the City has determined that, subject to the terms and conditions set forth herein and the provisions of Chapter 11-6, B.R.C 1981 (The Boulder Cable Code, hereinafter referred to as the “cable ordinance”), and other applicable provisions of the Boulder Revised Code and the Boulder City Charter, granting Comcast of Colorado IV, LLC a non-exclusive franchise pursuant to this Franchise Agreement is consistent with the public interest, and

NOW, THEREFORE, in consideration of the City's issuance of a franchise; Comcast of Colorado IV, LLC's promise to provide cable service to residents of the City under the terms and conditions set forth herein, the promises and undertakings herein; and other good and valuable consideration, the receipt and the adequacy of which is hereby acknowledged,

THE SIGNATORIES HEREBY AGREE AS FOLLOWS.

1. Definitions

Except as otherwise provided herein, the definitions and word usage set forth in Section 11-6-1, B.R.C 1981 (The Boulder Cable Code) shall govern this Franchise Agreement. References to any City official or City office also refer to any official or office that succeeds to any or all of the responsibilities of the named official or office, whether by delegation, succession or otherwise. The following definitions shall apply:

1.1 *Applicable Law or Laws* All duly enacted and applicable federal, state and city constitutions, charters, laws, ordinance, codes, rules, regulations and orders, as the same may be adopted or amended from time to time

1.2 *Cable Ordinance* Chapter 11-6, B.R.C 1981, as amended from time to time.

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1.3 *Cable System or System.* Defined as in the cable ordinance, as of the effective date of this Franchise Agreement, except where the context indicates otherwise, it specifically refers to Franchisee's cable system.

1.4 *Channel* A portion of the electromagnetic frequency spectrum, or a digitally encoded stream of content, which is used in a cable system and capable of delivering a television channel, as television channel is defined by the FCC by regulation. While a channel must be at least capable of delivering a video programming service, a channel is not restricted to the transmission of video programming services

1.5 *Construction, Operation or Repair* Encompass, among other things, installation, extension, maintenance, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready, excavation and tree trimming.

1.6 *Franchise Agreement* This Franchise Agreement and any amendments or appendices hereto

1.7 *Franchisee* Comcast of Colorado IV, LLC, a limited liability company company, and its lawful and permitted successors and assigns.

1.8 *Institutional Network or I-net* A communication network which is constructed by Franchisee and which is available only to City authorized users

1.9 *Standard Drop* An aerial connection extending no more than 125 feet from the potential Subscriber's demarcation point to the point nearest the property line on the public right-of-way, or if closer, to the nearest point on the Cable System from which Cable Service can be provided to that Subscriber.

1.10 *Subscriber Network.* Fibers, coaxial cables and the electronic devices required to activate the same that are primarily used in the transmission of programming to residential subscribers.

2. **Scope of Franchise; Limits and Reservations**

2.1 *Scope.*

2.1.1 A cable system franchise is hereby granted to Franchisee This franchise grants the right, subject to conditions, to construct, operate and repair a cable system in, over, along and under City rights of way within the City of Boulder for the purpose of providing cable service, and for providing an institutional network and other facilities or services for PEG use of the cable

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system, commencing on the effective date of this Franchise Agreement, January 1, 2004 through and including December 31, 2011, unless terminated prior to that date in accordance with this Franchise Agreement or applicable law. The franchise is subject to, and Franchisee must exercise all rights granted to it in accordance with, this Franchise Agreement and applicable law, including the cable ordinance. This Franchise Agreement and all rights and privileges granted under the franchise are subject to the City's police and other powers. However, once the franchise grant is effective, this Franchise Agreement is a contract and except as to those changes which are the result of the City's exercise of its police and other powers, neither party may take any unilateral action which materially changes the explicit mutual promises in this contract. Subject to the foregoing, Franchisee does not waive its right to challenge the lawfulness of any particular amendment to the cable ordinance or any other provision of the City code on the ground that a particular action is in excess of the City's power under Colorado or federal law or violates the Colorado or the United States Constitution.

2.1.2 This franchise does not confer rights upon Franchisee other than as expressly provided herein. No privilege or power of eminent domain is bestowed by this grant. All rights and powers of the City now existing or hereafter obtained are reserved except as expressly provided to the contrary in this Franchise Agreement. Nothing passes by implication under this Franchise Agreement. Subject to the foregoing, Franchisee shall provide the cable services required hereunder throughout the franchise term and any holdover term, and shall make any cable services it provides over its cable system available to all persons in its franchise area, subject to Section 5.3.1.

2.1.3 The franchise shall be interpreted to convey limited rights and interests only as to those City rights of way in which the City has an actual interest and only to the extent and for the purposes set out in this Franchise Agreement. The grant of the franchise is not a warranty of title or interest in any right of way; and it does not provide Franchisee any interest in any particular location within the right of way. The issuance of the franchise does not deprive the City of any powers, rights or privileges it now has or may later acquire in the future to use, perform work on or to regulate the use of and to control the City's rights of way covered by the franchise, including without limitation the right to perform work on its roadways, rights of way and drainage facilities, by constructing, altering, renewing, paving, widening, grading, blasting or excavating; and the right to build and install systems and facilities, with or without a franchise.

2.1.4 The grant of the franchise shall not become effective unless and until Franchisee has (a) filed an unconditional acceptance of the franchise grant, and (b) made all payments, posted all securities and guarantees, and supplied all information that it is required to supply prior to or upon the effective date of Franchise. If Franchisee fails to satisfy these obligations within thirty days of the ordinance authorizing the City to enter into this Franchise Agreement, the franchise grant shall be deemed rescinded five days after the City notifies

Franchisee in writing the obligations have not been satisfied, unless the obligations have been satisfied before the five day period has expired.

2.2 *Affiliates Must Comply.* Any affiliate of or joint venturer with or partner of Franchisee involved in the management or operation of the cable system in the City that would constitute a cable operator of the cable system is subject to the limitations of, and shall comply with the terms and conditions of, this Franchise Agreement. Franchisee shall be fully liable for an act or omission of an affiliate that controls Franchisee or is responsible in any manner for the management of the cable system that results in a breach of this Franchise Agreement or a violation of the cable ordinance, as if the act or omission was Franchisee's act or omission.

2.3 *Conflicts with the Cable Ordinance.* In the event of a conflict between the cable ordinance as it existed on the effective date of this Franchise Agreement, and this Franchise Agreement as of its effective date, the Franchise Agreement shall control except where expressly provided otherwise in this Franchise Agreement. However, although the exercise of rights hereunder is subject to the cable ordinance, the cable ordinance is not a contract. Nothing in this Section 2.3 prevents Franchisee from challenging a particular amendment to the cable ordinance as an impairment of this Franchise Agreement.

2.4 *Relation to Other Provisions of Law.*

2.4.1 The franchise issued and the franchise fee paid hereunder are not in lieu of any other required authorization, fee, charge or tax, unless expressly stated herein. Franchisee, among other things, must obtain all applicable permits, and comply with the conditions thereof, comply with zoning laws, and comply with other City codes, ordinances and regulations governing the construction of the cable system.

2.4.2 Franchisee is free to challenge any unilaterally imposed requirement of the City as unlawful and/or in excess of the City's police power, but not on the grounds that it imposes police power requirements over and above this Franchise Agreement.

2.4.3 This franchise is only for the provision of cable services. It shall not act as a bar or in any respect prevent imposition of additional or different conditions, including additional fees or authorizations related to the provision of, or the use or occupancy of the rights of way to provide, non-cable services. Nothing in this Section is intended to expand or contract the City's rights, if any, to regulate non-cable services.

2.4.4 The provisions of this Franchise Agreement shall be construed in accordance with Colorado and federal law regarding cable franchises.

2.5 *Validity* Both parties waive, as of the effective date of this Franchise Agreement, any claim or defense that any provision of this Franchise Agreement, as it existed on the effective date of this Franchise Agreement, is unenforceable or otherwise invalid or void. Neither party waives the right to challenge the validity of any applicable law.

2.6 *Effect of Franchise Acceptance.* By accepting the franchise, Franchisee:

2.6.1 Acknowledges and accepts the City's legal right to issue and enforce the franchise;

2.6.2 Agrees that it will not oppose intervention by the City in any proceeding affecting its cable system, subject to Section 12.2.2,

2.6.3 Accepts and agrees to comply with each and every provision of this Franchise Agreement;

2.6.4. Agrees that it will not claim that any difference between this Franchise Agreement, and the franchise granted by the City to Wide Open West effective October 17, 2000, or between this Franchise Agreement and the interim permit granted by the City to US West effective January 4, 2000, is discriminatory, anti-competitive, or in any way violates any applicable law; provided, however, that Franchisee reserves the right to challenge the US West permit as discriminatory, anti-competitive or otherwise in violation of applicable law if as of December 31, 2004, US West or its successor is operating under the interim permit, and therefore has no requirement to provide cable service within the entire boundaries of the City, nor provide similar levels of capital support as Franchisee for PEG and any institutional network (as defined in the Cable Act) provided by U.S. West or its successors

2.6.5 Agrees that the franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary

2.7 *Franchisee Bears Its Own Costs.* Unless otherwise expressly provided in this Franchise Agreement, all acts that Franchisee is required to perform under this Franchise Agreement or the cable ordinance must be performed at its own expense; provided that nothing contained in this Section 2.7 is intended to restrict or limit Franchisee's rights under applicable law to offset, assess, recover, or pass through costs to subscribers

2.8 *No Waiver.*

2.8.1 The failure of the City or Franchisee on one or more occasions to exercise a right or to require compliance or performance under this Franchise Agreement, the cable ordinance, or any other applicable law, shall not be deemed to constitute a waiver of such right

or a waiver of compliance or performance, unless such right has been specifically waived in writing; provided that nothing in this Section is meant to alter any renewal protections afforded by 47 U.S.C. Section 546 (d) or the operation of any applicable statute of limitations

2.8.2 Waiver of a breach of this Franchise Agreement is not a waiver of any other breach, whether similar or different from that waived. Neither the granting of the franchise nor any provision herein shall constitute a waiver, bar or expansion to the exercise of any governmental right or power of the City, including without limitation the right of eminent domain.

2.9 *No Monetary Recourse.* Without limiting such immunities as the City or other persons may have under applicable law, Franchisee will have no monetary recourse whatsoever against the City or its officials, boards, commissions, agents or employees for any loss, costs, expense or damage arising out of Franchisee's construction, operation or repair of its cable system, or the activities of the City or any entity authorized by the City to use public rights-of-way or other public property.

2.10 *Severability* In the event that a court or agency of competent jurisdiction makes a final judgment that any specific provision of this Franchise Agreement is unenforceable according to its terms, or otherwise void, said provision shall be considered a separate, distinct, and independent part of this Franchise Agreement, and such holding shall not affect the validity and enforceability of all other provisions hereof.

2.11 *Effect of Change in Law.* Subject to Section 2.10, in the event that state or federal laws, rules, or regulations preempt a provision or limit the enforceability of a provision of this Franchise Agreement, then the provision shall be read to be preempted to the extent and for the time, but only to the extent and for the time, required by law. In the event such state or federal law, rule, or regulation is subsequently repealed, rescinded, amended, or otherwise changed, so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City

2.12 *Grant of Other Franchises* In the event that the City enters into a franchise agreement, permit, license, or other authorization with any other person or entity other than Franchisee to enter into the City's rights of way for the purpose of constructing or operating a cable system to provide cable service to any part of the franchise area, in which Franchisee is actually providing cable service under the terms and conditions of this Franchise Agreement or to which it is required to extend cable service under the provisions of this Franchise Agreement, the material provisions thereof shall be reasonably comparable to those contained herein for comparable situations, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law. The City shall not grant a franchise for less than the entire City, unless legally compelled to do so.

3. Transfers

3.1 *No Transfer Without City Approval.* Franchisee agrees that the rights granted to it by the City are personal in nature and held in trust. No transfer may occur without the prior consent of the City. An application for a transfer, containing all information and complying with the requirements of applicable law, and the application fee of \$5000, which amount shall be refunded if not expended in the review process, must be filed before a request for a transfer will be considered by the City.

3.2 *Application for Transfer to be Considered in Accordance With Cable Ordinance* An application for a transfer will be considered in accordance with the cable ordinance, and the standards set forth therein as of the effective date of this Franchise Agreement shall govern the City's review of the transfer application, subject to amendments the City may adopt to comply with or reflect changes in applicable state and federal law and the specific provisions in Sections 3.3 – 3.5, below. Requests for approval of a transfer will not be unreasonably withheld.

3.3 *Mandatory Conditions – Transfers* No transfer application shall be granted unless the proposed transferee:

3.3.1 Agrees in writing that it will abide by and accept the terms of the cable ordinance, this Franchise Agreement and any additional terms and conditions that the City reasonably determines are needed to ensure compliance by the transferee with such Franchise Agreement;

3.3.2 Agrees in writing to assume and be responsible for the obligations and liabilities of Franchisee, known and unknown, under this Franchise Agreement and applicable law;

3.3.3 Provides reasonable performance guarantees to the City that the City considers sufficient and adequate to guarantee the full and faithful performance of all franchise obligations by the proposed transferee,

3.3.4 Agrees in writing that, except as provided in Section 626 of the Cable Act concerning use of previous non-compliance evidence in renewal proceedings following a transfer, approval by the City of the transfer shall not constitute a waiver or release of any rights of the City under this Franchise Agreement or applicable law whether arising before or after the effective date of the transfer; and

3.3.5 Posts all required bonds, securities in a manner to ensure that there is no gap in coverage

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3.4 *Change in Control of Franchisee.* No application for a change in the control of Franchisee or its parents will be granted unless:

3.4.1 Franchisee unconditionally reaffirms that it will abide by and accept the terms and conditions of the cable ordinance, this Franchise Agreement and any additional terms and conditions that the City reasonably determines are needed to ensure compliance by Franchisee with such Franchise Agreement;

3.4.2 Franchisee reaffirms that it remains responsible for all of its obligations and liabilities, known and unknown, under the Franchise Agreement and applicable law for all purposes, including but not limited to renewal under Section 626,

3.4.3 Franchisee and the entity that will own and control Franchisee provide reasonable performance guarantees to the City that the City considers sufficient and adequate to guarantee the full and faithful performance of all franchise obligations,

3.4.4 Franchisee and the entity that will own and control Franchisee agree that the approval of the change of control by the City shall not constitute a waiver or release of any rights of the City under this Franchise Agreement or applicable law, whether arising before or after the change of control,

3.4.5 Required bonds, securities and the like must be maintained so that there is no gap in coverage, if there will be any change in the same as a result of the change of control

3.5 *Intra-Corporate Transactions*

3.5.1 The parties find it appropriate to exempt certain intra-corporate transactions from the transfer approval requirement, as permitted by the cable ordinance. No City approval shall be required in connection with any addition, deletion or consolidation of wholly-owned subsidiaries in the ownership chain above Franchisee, so long as the conditions in Section 3.5.2 are met.

3.5.2 To qualify for exemption from transfer approval, the following conditions must be met:

3.5.2.1 Franchisee and the party being added to the chain of control unconditionally reaffirm that Franchisee will abide by and accept the terms and conditions of the cable ordinance and this Franchise Agreement,

3.5.2.2 Franchisee and the party being added to the chain of control reaffirm that Franchisee shall be responsible for all of Franchisee's obligations and liabilities, known and

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unknown under the Franchise Agreement and applicable law for all purposes, including but not limited to renewal under Section 626;

3 5.2.3 Required bonds, securities and the like must be maintained so that there is no gap in coverage, if there will be any change in the same as a result of the transaction;

3 5.2.4 The Franchisee and party being added to the chain of control must agree in writing that there shall be no waiver or release of any right of the City (whether such right arises before or after the transaction) under this Franchise Agreement or applicable law, as a result of the transaction; and

3 5.2.5 The party being added to the chain of control must be a wholly-owned subsidiary of Comcast Cable Holdings, LLC, and Comcast Cable Holdings, LLC must agree to guarantee unconditionally the performance of the Franchisee and party being added to the chain of control

4. Franchise Fee

4.1 *Payment to City.* Franchisee shall pay the City a franchise fee in an amount equal to five percent of gross revenues as that term is defined in the cable ordinance as of the effective date of this Franchise Agreement, subject to amendments the City may adopt to comply with changes in applicable state and federal law. Fees or charges collected by Franchisee for PEG, for sales taxes, and for user fees assessed by the FCC, shall not be counted as part of gross revenues. Gross revenues shall include revenue received by any entity other than Franchisee where necessary to prevent evasion or avoidance of the obligation to pay franchise fees on all cable services.

4.2 *Cable Modem Fees*

4.2.1 In a Declaratory Ruling and Notice of Proposed Rulemaking released March 15, 2002, the FCC stated that cable modem service is not a cable service under the Communications Act of 1934, as amended, and initiated a rulemaking to, among other things, examine States' and local governments' authority to regulate cable modem service and the scope of the FCC's jurisdiction to regulate cable modem service. If the FCC's ruling that cable modem service is not a cable service is modified in a final, non-appealable decision by the FCC or a court of competent jurisdiction to the extent that cable modem service is determined to be a cable service, then the definition of gross revenues set forth in Section 11-6-2, B.R.C. 1981, shall include revenues Franchisee receives from providing cable modem services in the franchise area in accordance with the FCC's ruling. If payments are made pursuant to this Franchise Agreement as provided for in this Section, this Franchise Agreement will be interpreted to grant rights and authorizations to use and occupy the public rights of way to provide the cable modem service on which the fee is paid.

4.2.2 Nothing in the Franchise Agreement shall be construed as a waiver of any right the City may have to assess a fee on Franchisee's provision of cable modem service consistent with applicable law

4.3 *Not in Lieu of Any Other Assessments, Tax or Fee* The franchise fee is in addition to all other fees, assessments, taxes or payments that Franchisee may be required to pay under applicable law, subject to any limitations set forth in 47 U.S.C. §542.

4.4 *Payments.* Franchise fees shall be paid in accordance with the schedule set forth in the cable ordinance, and late payments shall be subject to the additional charges set forth in the cable ordinance.

4.5 *No Accord or Satisfaction* No acceptance of any payment by the City shall be construed as a release or an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under the cable ordinance or for the performance of any other obligation of Franchisee.

4.6 *Payment Records.* Subject to Section 9 of this Franchise Agreement, the City shall have the right, from time to time, and upon reasonable advance written notice, to inspect, audit, copy and review all books and records of Franchisee reasonably necessary to the determination of whether gross revenues and franchise fees have been accurately computed and paid

4.7 *Holdover Term.* During any holding over after the scheduled date for expiration or other termination of the franchise, without the consent of the City, Franchisee shall continue to pay the franchise fee as set forth above, in addition to honoring all other provisions of this Franchise Agreement.

5. Construction Provisions

5.1 *Provision of Service: Franchise Area and Charges for Plant Extensions.*

5.1.1 *Franchise Area* Franchisee's franchise area shall be the corporate limits of the City of Boulder, as they may be altered during the franchise term.

5.1.2 Except where Franchisee is unable to obtain required easements or permits and subject to Section 5.1.4, Franchisee shall extend cable service to any residence within the City as of the effective date of this Franchise Agreement upon the request of a potential subscriber at its then-prevailing installation charge for such service. There shall be no charge for extending plant to a point where service can be provided with a standard drop, or (if closer) to a point on the property line of the potential subscriber from which service can be provided to the potential

subscriber. For areas where Franchisee has not extended its cable system as of the effective date of this Franchise Agreement, the foregoing will apply after January 1, 2004.

5.1.3 For non-residential locations in the City and for areas annexed to the City after the effective date of this Franchise Agreement, except where Franchisee is unable to obtain required easements or permits and subject to Section 5.1.4, Franchisee shall provide service upon request at its then-prevailing installation charge, but may charge for any required plant extension as provided in this paragraph. Franchisee shall extend its plant at no charge so that it can provide service with a standard drop where there is either a minimum density of twenty-five residential units per mile or where fifteen commercial locations per mile agree to subscribe to Franchisee's cable service for one year at commercial rates. Where these standards are not satisfied, Franchisee may condition service extensions at the then-prevailing charge upon the person or persons requesting service agreeing to pay a *pro rata* share of the cost of extending the plant to a point where service can be provided with a standard drop. For purposes of this subsection, in areas where Franchisee has not constructed cable system lines as of the effective date of this Franchise Agreement, each dwelling unit within a multiple dwelling unit ("MDU") will count as a residential unit if and only if Franchisee can obtain access to the MDU on reasonable terms and conditions. Notwithstanding the foregoing, Franchisee may charge any potential subscriber located in a mall or strip mall for any line extension greater than 100' required to cross a parking lot to provide cable service.

5.1.4 Franchisee is not required to provide cable service to any

5.1.4.1 occupant of a mall or strip mall as set forth in Section 5.1.3 where such occupant is unwilling to pay its portion of any applicable line extension costs,

5.1.4.2 commercial occupant of commercial structures above the first floor, where inside wiring necessary to provide the cable service is not already present, or where the owner or occupant is unwilling to install or pay for the inside wiring necessary to provide the cable service,

5.1.4.3 occupant of unlawful dwelling units, or

5.1.4.4 potential subscriber in a building where Franchisee is denied access

5.1.5 Franchisee must extend its plant so that service may be provided to the subscriber at the lowest cost to the subscriber that meets Franchisee's technical standards unless a subscriber directs otherwise. If Franchisee contends that it cannot obtain the easements necessary to provide service to a particular location, Franchisee shall have the burden of proving that it cannot obtain those easements.

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5.1.6 Nothing in this Section 5.1 shall be construed to prohibit experimental or "test bed" services being extended to a segment of the community during the period of the experiment

5.1.7 Except as lawful rate orders may otherwise provide, the "then-prevailing installation charge" is the lowest lawful charge that would apply at any given time to a particular class of users. For example, if free installation is then being provided for installations involving aerial drops of 125 feet or less, any person requesting cable service that could be served by an aerial drop of 125 feet or less and anyone to whom Franchisee is required to extend services under Sections 5.1.1 and 5.1.2 could take advantage of that installation offer. Similarly, if Franchisee has established a lawful fee for installations that recovers additional costs for sidewalk and other pavement cuts which is charged to persons throughout the City, that charge may be applied on a non-discriminatory basis. If applicable law permits, nothing in this Franchise Agreement prohibits Franchisee from establishing separate charges for separate classes of drops, such as, for example, underground and aerial drops, so long as drop costs are treated consistently. Notwithstanding the foregoing, Franchisee may not charge for a drop crossing a paved portion of the roadway, not to exceed sixty feet, to provide service, except for good cause shown to the City.

5.1.8 Where electric and telephone service is currently above ground, but a subscriber or potential subscriber requests to locate its cable drop underground, Franchisee shall locate the drop underground, but in addition to the then-prevailing installation charge, Franchisee may charge the subscriber for the actual difference in cost of installing the underground, rather than an aerial drop, including the costs, if any, of any easement necessary for such underground cable drop.

5.1.9 Franchisee shall construct and extend its cable system to low income areas at least as quickly as it is extended to higher income areas.

5.2 *Construction Standards* Franchisee agrees that:

5.2.1 The construction, operation, and repair of the cable system shall be governed by the cable ordinance, and in all events shall be performed in accordance with all applicable laws. In addition, without limiting the foregoing, at a minimum, Franchisee shall comply with its Manual of Construction Procedures in effect as of the date of the Franchise Agreement, or such other manual as the City may accept in lieu thereof, IEEE standards, the National Electric Code, the National Electrical Safety Code and any other applicable safety codes. The most stringent applicable code or standard will apply in the event of any conflict (except insofar as that standard, if followed, would result in a system that could not meet requirements of federal, state or local law)

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5.2.2 Subject to this Section 5.2.2, whenever feasible, Franchisee shall install its cable system underground in order to avoid damage from the unique wind storms to which the City is subject. Franchisee shall, at no cost to the City or adjacent subscribers, underground its cable system when poles to which Franchisee's facilities are attached are no longer in use for electrical or telephone plant; provided, however, that Franchisee waives no right to reimbursement from any funds raised for undergrounding pursuant to C.R.S. §29-8-101, *et seq.* Franchisee does not waive the right to claim the City is obligated to raise funds pursuant to C.R.S. §29-8-101, *et seq.* for any particular undergrounding project. Franchisee shall exercise its best efforts to protect its cable system from flood hazards, by undergrounding creek crossings and burying them deeply enough and with sufficient protection to avoid damage in a 100-year flood event. But all of Franchisee's cable system as of the effective date of this Franchise Agreement is acceptable until portions are replaced, when the criteria of this Section shall apply to the replaced portions.

5.2.3 Franchisee shall install, locate, relocate and remove its cable system in accordance with the cable ordinance and all other applicable laws, including, without limitation, all lawful street cut fees. Franchisee shall not place or maintain its cable system, including any poles or other structures, in public rights of way or on private property except in strict accordance with the requirements of the cable ordinance and all other applicable laws.

5.2.4 Franchisee shall restore and replace public and private property that is disturbed or damaged during the construction, operation, maintenance or repair of the cable system within the times and in the manner provided in the cable ordinance. Franchisee shall compensate any entity, only to the extent of any injury or damage caused by Franchisee, whose person or property is damaged by Franchisee, or any contractor, subcontractor or agent of Franchisee in the course of the construction, operation, maintenance or repair of the cable system where the property is not fully restored by Franchisee. This Section is not meant to alter the tort liability, if any, of Franchisee to third parties, or of any contractor or subcontractor to third parties or to Franchisee.

5.2.5 In an emergency, or where the cable system creates or is contributing to an imminent danger to public health, safety, or property, the City may remove, relay, or relocate any or all parts of the cable system without prior notice; however, the City will make reasonable efforts to provide prior notice. The City is not responsible for any loss or expense associated with its removal, relaying or relocation of Franchisee's cable system under this Section, nor is it responsible for restoring the property to its prior condition after the emergency.

5.3 *Continuity of Service.*

5.3.1 Subject to the provisions of Section 5.1, concerning line extensions, it is the right of each subscriber in the City to receive all available cable services from Franchisee as long as the subscriber's financial and other obligations to Franchisee are satisfied. Nothing in this Section

shall limit the right of Franchisee to deny cable service for non-payment of previously provided cable services, refusal to pay any required deposit, theft of cable service, damage to Franchisee's equipment, or abusive and/or threatening behavior toward Franchisee's employees or representatives. Abusive behavior includes, but is not limited to, use of fighting words or behavior taken by the customer that creates a risk or a reasonable expectation that Franchisee's employee may be harmed. In the event a customer complains to the City that Franchisee has unreasonably denied cable service, (a) Franchisee will inform the City of the precise nature of the situation; (b) the City will provide the customer an opportunity to submit a response to the allegations, and (c) Franchisee will allow for a determination by the City as to whether or not the customer shall continue to be denied service. The City's consent to withhold service from an abusive customer will not be unreasonably withheld.

5.3.2 Franchisee shall ensure that all subscribers receive continuous uninterrupted cable service. At the City's request, Franchisee shall operate its system for a temporary period (the "transition period") following the termination of its franchise or any transfer, as necessary to maintain service to subscribers, and shall cooperate with the City to assure an orderly transition from it to another entity. The transition period shall be no longer than the reasonable period required to select another entity and to build a replacement system, and shall not be longer than thirty-six months, unless extended by the City for good cause. During the transition period, Franchisee will continue to be obligated to comply with the terms and conditions of this Franchise Agreement and applicable laws.

5.3.3 The City shall be entitled to, at its option, operate the cable system or designate another entity to operate the system or revoke the franchise, if:

5.3.3.1 Franchisee, for any twenty-four hour period, willfully and without cause, refuses to provide cable service in accordance with this Franchise Agreement over a substantial portion of the City;

5.3.3.2 Franchisee abandons its system.

5.3.4 Nothing in this Section 5.3 shall be read to limit any rights the City may have to purchase the cable system.

5.4 *Rights Upon Franchise Termination or Revocation.* If the City revokes the franchise, or the franchise otherwise terminates, the City shall have the following rights, in addition to the rights specified in this Franchise Agreement or under applicable law:

5.4.1 The City may require Franchisee to remove its facilities and equipment at Franchisee's expense. If Franchisee fails to do so within a reasonable period of time, the City may have the removal done at Franchisee's expense, subject to any right of abandonment that may be provided for under applicable law.

5.4.2 In the event of a lawful non-renewal of the franchise, if the City acquires ownership of the cable system or effects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at fair market value, with no value assigned to the franchise itself. In the event of a lawful revocation, if the City acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be at an equitable price. The terms “equitable price” and “fair market value” shall be interpreted in accordance with 47 U.S.C. §547.

5.5 *Notice of Use.* At least annually Franchisee will notify the City of any agreements for third parties to use of its poles and conduits. Copies of agreements for use of Franchisee’s conduits or poles in public rights of way will be made available for review upon the City’s request subject to any confidentiality restrictions in such agreements.

5.6 *Contractors and Subcontractors* Franchisee shall be responsible for the acts and omissions of all of its contractors and subcontractors as if the work were performed by Franchisee itself, and shall ensure that all work is performed in compliance with and shall correct such acts or omissions that violate this Franchise Agreement, or any ordinance, law and regulation of the City, and shall be jointly and severally liable for all damages and correcting all damages by them as if Franchisee performed that work itself. Franchisee shall ensure that each contractor and subcontractor complies with the requirements of this Franchise Agreement and any ordinance and regulation of the City in the course of constructing, operating, maintaining and repairing the cable system. This Section is not meant to alter the tort liability, if any, of Franchisee to third parties, or of any contractor or subcontractor to third parties or to Franchisee. Franchisee shall ensure that any contractor or subcontractor used for work on construction, operation, or repair of the cable system is properly licensed under laws of the State of Colorado and all applicable City ordinances. Each contractor or subcontractor shall have the same obligations with respect to its work as Franchisee would have under this Franchise Agreement and applicable law if the work were performed by Franchisee. Franchisee shall institute procedures adequate to ensure that the work performed by its contractors and subcontractors complies with the requirements of this Franchise Agreement and any applicable laws.

6. System Facilities, Equipment, and Services

6.1 System Capabilities.

6.1.1 Franchisee shall maintain an activated two-way capable cable system so that all active components on the subscriber network have a rating of no less than 860 MHz and all passive components have a rating of no less than 1 GHz.

6.1.2 Franchisee will maintain a fiber to the node architecture, with an average node size of no greater than 1,500 subscribers per node. Franchisee reserves the right to change node size in accordance with industry standards.

6.1.3 The entire cable system must be two-way activated and must include the facilities and equipment (except customer premises equipment) required to provide broadband interactive cable services.

6.1.4 Franchisee shall maintain a redundant fiber optic link or equivalent technology between the Denver headend and the Boulder secondary hubsite in order to prevent catastrophic service outages to the entire Boulder franchise area due to vandalism, storm damage, construction related breaks, or other interruptions in one of the fiber trunk pathways. If equivalent technology is used, the link must have all the characteristics, including without limitation the reliability, scalability, upgradeability, ease of upgradeability and scalability, capacity and security that would be afforded by a dedicated fiber optic link.

6.1.5 There must be reliable, continuous, auto-start back-up power at the headend. Back-up power shall also be provided at each node as activated through the use of backup power supplies that are suitably sized and located so as to carry their individual loads for a minimum of three hours. In addition, to the extent technically possible, cable system active components shall be designed to parallel the power company grid such that a loss of power at a particular active component would likely be accompanied by a loss of power to the majority of homes served by that component of the cable system.

6.1.6 The cable system must include the facilities and equipment required to provide full system status monitoring of power supplies at the nodes as activated. The status monitoring equipment must, at a minimum, permit Franchisee to identify where and when power outages affecting the node have occurred, and when and where the cable system has switched to battery back-up power supplies.

6.1.7 Franchisee must install and maintain facilities and equipment (including without limitation modulators, antennae, amplifiers and other electronics) that permit and are capable of passing through the signals received at the headend without substantial alteration or deterioration (thus, for example, the system shall include components such that a signal received at the headend in color may be received by a subscriber in color, and a stereo signal in stereo). Facilities and equipment shall be installed and operated so that subscribers can receive closed-captioning and secondary audio. Any program-related data encoded in vertical or horizontal blanking intervals, secondary audio signals, and closed-captioned signals must be available to all customers who subscribe to the services associated with such signals.

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6.1.8 Franchisee shall comply with all applicable laws concerning system compatibility with subscribers' consumer electronics equipment. Franchisee shall provide the facilities and equipment necessary to make its services (including its customer services) reasonably accessible to persons with disabilities. For example, Franchisee should employ TTY or similar technologies to permit communication between the hearing-impaired community and cable system representatives

6.1.9 The system facilities and equipment must be capable of continuous twenty-four hour daily operation, without severe material degradation of signal, except during extremely inclement weather, or immediately following extraordinary storms which adversely affect utility services or which damage major cable system components

6.1.10 The cable system must utilize facilities and equipment generally used in high-quality, reliable, systems of similar design (except where inconsistent with the specific requirements of this Franchise Agreement). The cable system must have the level of reliability required to support a high-quality, broadband information service

6.1.11 Franchisee shall provide as-built maps of the cable system, without notation of electronic components, in a publicly available electronic format compatible with City geographic information systems and other City data systems. The City shall assert protection of confidential commercial data from disclosure under the Colorado Public Records Act, Section 24-72-204, C.R.S.

6.2 *Transmission Technologies.* Franchisee may use any transmission technology (as that term is defined in federal law), provided that the cable system is constructed and maintained so that it will have characteristics that in all relevant respects meet or exceed the characteristics of the cable system described in Section 6.1. Franchisee affirms that it has constructed a cable system that meets or exceeds all the requirements of Section 6.1. If City determines that Franchisee has not constructed the cable system as required by Section 6.1 or has failed to maintain the cable system as required by Section 6.1, and the City determines that the cable system does not or is not likely to satisfy Section 6.1, the City may declare a breach of the franchise, and, in addition to exercising any other remedy available to it, order Franchisee to upgrade the cable system by a time specified by the City, and require such securities as are necessary to ensure the work is timely performed, unless the City determines that the cable system as actually constructed meets or exceeds the following characteristics: (a) the cable system must be highly reliable compared to the most modern cable systems being constructed; (b) the cable system must have adequate, initial activated capacity and be designed so that it can deliver additional bandwidth to and from each subscriber, without substantial delay or construction; (c) the cable system must be able to respond to changing subscriber needs and interests with the minimum delay or disruption, (d) the cable system must be designed so that power outages affect, to the extent possible, only those subscribers who are not receiving power at their home, and (e) the cable system must be designed so that the amount of required maintenance, and

the mean time to repair, is minimized.

6.3 *Emergency Alert System.* Within six months of City's written request, at City's cost, Franchisee must install and maintain an emergency alert system that can override audio and video on all channels to provide an emergency alert that reaches only the City of Boulder, while continuing to allow participation in regional and national emergency alert systems. If such a system is installed at the request of the City, the City agrees that it shall assume all risks associated with operating its EAS and shall be solely responsible for all liability arising out of operating the Boulder-specific EAS. The City will operate the Boulder specific EAS in accordance with all applicable state and federal law. The system must be designed and maintained so that local officials designated by the City can activate the system remotely without the assistance of Franchisee, using a telephone and secure password or by such other technical means as the City may approve. The system must be designed and maintained so that the designated officials, from a touch-tone telephone, can activate a pre-recorded text message, and at such officials' option, an accompanying live audio voice message for up to two minutes. The City and Franchisee shall meet periodically to discuss operational procedures for use of the emergency alert system. As part of those discussions, the parties may agree on alternative capabilities and activation procedures for the emergency alert system. In addition, Franchisee shall provide emergency capabilities required under other applicable laws.

6.4 *Parental Controls.* In addition to satisfying any obligations that it has under applicable law to provide parental control devices, or otherwise block programming on the cable system, Franchisee shall ensure that any system for ordering movies or other pay-per-view programming is designed, through use of systems such as PIN number systems, to prevent children from ordering programming without parental consent. Franchisee shall avoid the use of channels 3 and 4 for analog preview channels that advertise adult programming.

6.5 *Support Equipment and Facilities.*

6.5.1 Franchisee must have sufficient trucks, tools, testing equipment, monitoring devices and other equipment and facilities and the trained and skilled personnel required so that Franchisee complies with each and every requirement of applicable law, including applicable customer service requirements, technical standards, maintenance standards and requirements for responding to system outages. This includes the facilities, equipment and staff required to (a) properly test the system and conduct an ongoing and active program of preventive maintenance and quality control; and (b) be able to quickly respond to customer complaints and resolve system problems.

6.5.2 Franchisee must install and maintain equipment necessary to measure its performance with applicable customer services standards that the City may adopt from time to time; except that Franchisee may obtain relief temporarily from this requirement if it shows that

(a) it has a high level of subscriber satisfaction; (b) there are alternative, adequate ways to review its performance; or (c) for other good cause shown.

6.5.3 Franchisee must ensure that its headend has adequate space, and is otherwise properly designed in order to accommodate the equipment and facilities necessary to meet its obligations under this Franchise Agreement.

6.6 *Technical Standards.* The cable system must meet or exceed the technical standards set forth in 47 C.F.R. §76.601 and any other applicable standards, as amended from time to time, provided that nothing in this provision is intended to permit the City to exercise any authority that it is prohibited from exercising under applicable federal law

6.7 *Future Upgrades* It is Franchisee's responsibility to make such improvements to its cable system as are necessary so that the cable system performs as promised as subscribers to services are added.

6.8 *Testing Requirements.*

6.8.1 Franchisee shall perform acceptance tests on each upgraded and newly constructed area prior to subscriber connection. The tests must demonstrate that the system components are operating as expected and that there is no signal degradation on PEG channels from origination points to subscribers. Franchisee shall have the obligation, without further notice from City, to take corrective action if any segment is not operating as expected

6.8.2 Franchisee conducts the semi-annual performance testing required by the FCC in January/February and July/August of each year. If the City gives notice to Franchisee by December 15 prior to the winter test period or by June 15 prior to the summer test period, the City may observe Franchisee's Proof-of-Performance test required by the FCC. Franchisee shall provide the proof of performance test results promptly to the City upon request.

6.9 *Inspection* The City shall have the right to inspect the cable system during and after its construction to ensure compliance with the cable ordinance, this Franchise Agreement, and applicable law, and may require Franchisee to perform additional tests based on the City's investigation of cable system performance or on subscriber complaints.

6.10 *Interconnection.*

6.10.1 Franchisee shall, in accordance with this subsection, interconnect the access channels of the cable system with any other contiguous cable system upon the directive of the City. Interconnection of channels may be done by direct cable connection, microwave link, satellite or other appropriate methods. The City shall not direct interconnection except under circumstances where it can

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be accomplished without undue burden or excessive costs to the subscribers. Franchisee shall not be required to interconnect with a cable system unless the operator of that system is willing to do so and pays for its own cost of constructing and maintaining the interconnect up to the demarcation point. Franchisee shall continue the interconnections with systems serving Boulder County as of the effective date of this Franchise Agreement.

6.10.2 Franchisee shall only be required to interconnect access channels with another cable or open video system in the City in the event that the City determines in its sole discretion that it would be economically burdensome to its subscribers to construct and maintain return lines directly from the origination point(s) of the access channel(s) versus interconnecting with Franchisee. In the event Franchisee receives a directive from the City to interconnect with another cable or open video system in the City, Franchisee shall immediately initiate negotiations with the other affected cable or open video system or systems and shall report to the City the results of such negotiations no later than sixty days after such initiation. The receiving cable or open video system shall be responsible for Franchisee's costs in constructing and maintaining the interconnect. If the parties cannot reach agreement on the terms of the interconnect, including compensation and timing, the dispute shall be submitted to the City for determination and resolution. Additionally, Franchisee shall only be required to interconnect with a receiving cable or open video system if the receiving cable or open video system is providing similar support for access as required of Franchisee pursuant to this Franchise Agreement. This obligation shall continue until the City determines that it is no longer economically burdensome to its subscribers for other affected cable system or systems to construct and maintain lines directly from the origination link of the access channels.

6.11 *Free Cable Service to Certain Facilities.* Franchisee shall, at no cost to the City, continue to provide one outlet of Basic Service and Expanded Basic Service to all City owned and occupied buildings, and public libraries where such service is provided as of the effective date of this Franchise Agreement, as shown on Exhibit A. In addition, Franchisee shall provide, at no cost to the City or other entity, one outlet of Basic and Expanded Basic Service to owned or leased and occupied City buildings, schools and libraries not included on Exhibit A, upon request if the drop line from the feeder cable to such building does not exceed a standard drop, or if the City or other entity agrees to pay the incremental cost of such drop line in excess of a standard drop. For purposes of the previous sentence, "school" means all State-accredited K-12 public and private schools. Outlets of Basic and Expanded Basic Service provided in accordance with this subsection may be used to distribute cable services throughout such buildings; provided such distribution can be accomplished without causing cable system disruption and signal leakage and general technical standards are maintained. Such outlets may only be used for lawful purposes. Except as shown on Exhibit A, this obligation to provide free cable service shall not extend to public areas of City buildings where Franchisee would normally enter into a commercial contract to provide such cable service (e.g., golf courses, airport restaurants and concourses, and recreation center work-out facilities).

6 12 *Provision of Broad Categories of Services.* This paragraph shall be interpreted consistent with the limitations set forth in 47 U.S.C. §544(b)(2)(B). In addition to such other service requirements as may be contained in this agreement, Franchisee agrees to provide at least twelve locally-available FM radio stations, or if lower, the number of locally available FM radio stations from which Franchisee can obtain retransmission consent at no cost (the term costs refers to a payment made to an FM station for the right to carry the station's signal, and does not include copyright payments that may be required). The availability of FM radio service on the cable system shall be publicized, and the channel line-up of such FM stations shall be included in all channel lineup publications.

6 13 *Uses of System.* Upon request, Franchisee shall advise the City of all active uses of the system, for both entertainment and other purposes, such as data transmission, local area networks, and voice transmission. Nothing in this Section 6 shall be construed to convey any regulatory power to the City. If Franchisee believes that City is exceeding its franchise authority with such a request, Franchisee may seek appropriate redress.

7. Channels and Facilities for PEG Use

7 1 PEG Use

7 1 1 Franchisee shall activate and make available public, educational and governmental ("PEG") channels to each subscriber on the subscriber network as specified in this Section 7. The channels provided under this Section are subject to Franchisee's rights to use the channels for the provision of services when they are not being used for their intended purposes

7 1 2 The management of the PEG channels is the responsibility of the City. The City may designate an entity or entities to manage all or any part of the PEG channels (The entity or entities so designated are referred to as a "designated access provider"). The City may designate designated access providers; it may designate channels provided under this Franchise Agreement for public, educational, government or combined PEG use. Nothing herein shall prevent a designated access provider from allowing PEG capacity designated for a particular PEG use to be used for other PEG uses.

7 1.3 PEG channels shall be provided on the basic service tier (except as the City and Franchisee may otherwise agree), or if there is no basic service tier, as part of the service provided to any subscriber. If channel choices are selected by a menu, PEG channels must be displayed equally as prominently as commercial channel choices offered by Franchisee. It is the responsibility of the designated access providers to provide the necessary channel information to Franchisee or its designated menu programmer in a timely manner. If it is technically feasible, at City's cost, Franchisee will also allow PEG program information to be displayed on any menu

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listings offered by Franchisee that include such detail of commercial channels, provided that Franchisee directly controls such menu listings or can cause such listings to be included. In such event, it will be the responsibility of the designated access providers to provide the program information to Franchisee or its designated menu programmer in a timely manner.

7 1 4 It is the responsibility of Franchisee to transmit PEG signals from points designated by the City, and to deliver them without alteration in content or material degradation in quality to each subscriber, in a form and manner so that the subscriber may receive the signals without additional equipment or cost beyond that required to receive the level of cable services to which the subscriber has subscribed.

7 1 5 Except as expressly permitted by applicable law, Franchisee shall not exercise any editorial control over the content of communications on the designated PEG channels (except for such communications as Franchisee may produce and cablecast on such channels). Subject to all other limitations of this Franchise Agreement, the PEG channels may be used for any communication, in any form, the full signal provided must be carried

7 1 6 PEG channels may not be used to cablecast anything prohibited by federal law. PEG channels may not be used to cablecast commercial matter. "Commercial matter" means time sold or used to propose a commercial transaction or for the express purpose of selling a commercial product or service. Nothing in this Section prevents the levy of a fee to defray costs of the City or a designated access entity associated with the operation, activation or maintenance of PEG channels, facilities and equipment. By way of example and not limitation, the parties do not intend to limit sponsorship announcements comparable to those that might be carried on a non-commercial broadcast station, or to prevent schools from charging course fees, and then delivering the course via the PEG channels; or to solicit financial support for the provision of PEG access by designated access providers and for charitable, educational or governmental purposes. The City agrees that it will not use or authorize use of its designated educational and governmental access channels for any for-profit, commercial purposes by the City or third parties. Franchisee shall have the right to audit the use of such facilities to ensure compliance with this paragraph, which shall be reasonably construed in accordance with Franchisee's practices in other Denver-area jurisdictions. Use by City enterprise funds and agencies is not "for profit" or "commercial" solely because the enterprise or agency has more revenues than expenses, or because the activity in which it is engaged is provided on a for-profit basis by private entities in other communities or the City. Nothing prevents the City from authorizing charges to users or viewers to pay for such non-commercial services, such as fees for instructional programming or charges to recover the cost of special use equipment, or as the City may be required to charge under applicable law.

7 1 7 *Access Channels.*

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7.1.7.1 Subject to the provisions of Sections 7.1.9.2 – 7.1.9.9, on and after the effective date of this Franchise Agreement, Franchisee shall provide four downstream 6 MHz PEG channels: one public access channel, one educational access channel and two local government access channels. The City may require Franchisee to activate an additional 6 MHz channel for PEG use, up to a total maximum of five channels under the procedures specified below.

7.1.7.2 If a designated access provider believes that additional PEG channels are needed, the designated access provider may file a request with the City Manager. The City Manager will determine whether additional PEG channels should be activated, considering, among other factors, the following: the community's needs and interests, the utilization of the existing channels, the plans of designated access providers for utilizing the additional channels, the interest of the community in additional PEG use of the cable system, whether it is feasible for designated access providers to achieve their goals by clustering PEG programming into blocks of time so that the channel space can be compatibly shared between multiple designated access providers, whether several designated access providers should combine their programming onto a single access channel, and the impact of the activation of the additional channels on existing programming.

7.1.7.3 Should the City Manager in his or her sole discretion find that activation of additional channels is justified, then the City Manager shall provide his/her decision in writing, and Franchisee shall activate the channels within ninety days of receiving the decision. Franchisee may appeal the decision of the City Manager to the City Council within thirty days of the date of the City Manager's decision, and if it does so, may delay activation of the channels. The City Council, after reviewing the decision of the City Manager, and after a public hearing, may in its discretion approve, modify or reject the decision of the City Manager in its sole discretion. If the City Council orders Franchisee to activate additional channels, the channels shall be activated within sixty days of the date the City Council makes its decision. The decision shall be final and unappealable.

7.1.7.4 Franchisee and the City agree that it is their mutual goal to effectively and efficiently use PEG channels. Franchisee shall be permitted to use underutilized time on PEG channels, as provided below.

7.1.7.5 If Franchisee believes that any PEG channel has underutilized time, it may file a request with the City Manager to use that time. In response to the request, the City Manager will consider a combination of factors, including without limitation the community's needs and interests, the utilization of the existing channels, the plans of the designated access provider for utilizing the channels (including whether the underutilized capacity is being used for intermittent programming that could otherwise not be easily provided on the same basis), if the channels are being underutilized, the reasons for underutilization, whether it is feasible for the designated access providers to achieve their goals by clustering PEG programming into blocks of time so that the channel space can be compatibly shared between multiple designated access providers, whether

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several designated access providers should combine their programming onto a single access channel, and whether Franchisee is in full compliance with its PEG obligations.

7.1.7.6 The City Manager shall render a decision regarding the request for utilization within sixty days of receiving the request. Should the City Manager find, in his or her sole discretion, that a PEG channel or a portion of a PEG channel may be used by Franchisee, then Franchisee may begin using such time ninety days after receipt of the decision. Franchisee's request shall not be unreasonably denied. Any permission granted pursuant to this subsection for use of a PEG channel or a portion thereof shall be considered temporary.

7.1.7.7 At such time as a designated access provider believes that it wishes to utilize the PEG channel time currently used by Franchisee pursuant to this subsection, a designated access provider may request that the City Manager return such channel or portion of the channel for PEG use. In response to the request, the City Manager will consider a combination of factors, including without limitation the community's needs and interests, the utilization of the existing channels, the plans of the designated access provider for utilizing the channels, the impact of Franchisee use on PEG use of the cable system, whether it is feasible for the designated access providers to achieve their goals by clustering PEG programming into blocks of time so that the channel space can be compatibly shared between multiple designated access providers, and whether several designated access providers should combine their programming onto a single access channel.

7.1.7.8 The City Manager shall render his/her decision regarding the matter within sixty days of receiving the request. Should the City Manager find in his or her sole discretion that the PEG channel or portion of the PEG channel should be returned for PEG use, then Franchisee shall surrender the channel or portion of the channel, as directed, within ninety days of receiving the decision. The designated access provider's request shall not be unreasonably denied.

7.1.7.9 The decision of the City Manager shall be final and unappealable as to both Franchisee and designated access providers. Franchisee may not request a return of a channel, or any portion of a channel within two years of the initial activation of the PEG channels required by Section 7. The City Manager may deny Franchisee the right to utilize all or a portion of a PEG channel, or revoke on thirty days notice an authorization to utilize all or a portion of a PEG channel if Franchisee is not in full compliance with its PEG obligations.

7.1.7.10 In addition to the maximum five channels required above, (a) if Franchisee does not carry C-SPAN as part of its commercial service, and C-SPAN is available for carriage, Franchisee will provide an additional PEG channel for the carriage of C-SPAN. If technically feasible, Franchisee will downlink and insert C-SPAN on the appropriate PEG channel; (b) if Franchisee does not carry C-SPAN2 as part of its commercial service, and C-SPAN2 is available for carriage, Franchisee will provide an additional PEG channel for the carriage of C-SPAN2. If technically feasible, Franchisee will downlink and insert C-SPAN2 on the appropriate

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PEG channel, and (c) if Franchisee does not carry the Radio Reading Service of the Rockies as part of its commercial service, and it is available for carriage, Franchisee will provide an FM band PEG channel for carriage of the service. Any additional PEG channels provided under this Section 7.1 7.10 (a) or (b) will be offered on the Basic or Expanded Basic Service tier.

7.1 7.11 Franchisee and the City will cooperate to help promote the use and viewership of the PEG channels. Consistent with this cooperative approach, except where required by federal law, Franchisee shall not change PEG channel locations without advance notice to the City. Franchisee will also cooperate with other cable systems and open video systems in the City to attempt to develop uniform channel locations for the PEG channels. If Franchisee determines that a change to a PEG channel assignment is necessary, it shall provide the City with a minimum of sixty days notice, and use its best efforts to provide 120 days notice, prior to the time that public, educational, and governmental access channel designations are changed. Franchisee shall pay all costs associated with replacing or adjusting equipment, as necessary for the channel redesignation. In addition, Franchisee shall pay the reasonable cost of replacing materials and supplies, changing signs and remarketing the channels up to a maximum of fifty cents (\$0.50) per subscriber per channel changed. Any such amounts paid by Franchisee may be added, at Franchisee's discretion and in accordance with the applicable FCC regulations, to the price of cable services and collected from such subscribers as "external costs" as such term is required by applicable law. Franchisee, at Franchisee's expense, shall place the City's notices of the channel change on its regular monthly billings, upon the City's request.

7.2 *Return Lines for PEG Use.*

7.2.1 Franchisee shall maintain the activated upstream links set forth in Exhibit B. Franchisee agrees that it will provide and maintain activated capacity to enable transmission of a second PEG channel from each of the PEG facilities located at 1000 Canyon Blvd and 2590 Walnut

7.2.2 The City or any designated access provider may upgrade the connections at its cost. The City shall provide Franchisee of its intent to upgrade its connections in writing. Franchisee shall provide reasonable access to and space at its facilities to accommodate the PEG return line upgrade. The City may use the PEG capital funds provided in this Franchise Agreement for any such upgrade costs. Franchisee shall upgrade such requested connections in a timely manner

7.2.3 If the headend is moved or replaced, Franchisee shall transfer the link(s) to the new location (including, without limitation, moving terminal equipment and splicing fiber, as necessary)

7.2.4 The City may request that Franchisee construct new return lines for PEG use. Such return lines shall be constructed at the City's cost, however, the City may use the PEG capital

funds provided in this Franchise Agreement for any such costs. Franchisee shall construct such requested return lines in a timely manner.

7.3 Support for PEG Access.

7.3.1 Franchisee shall continue to collect and remit the current \$ 0.50 (50 cents) per month per residential and commercial subscriber until a new rate is made effective as set forth below. Following City Council decision, made by motion, Franchisee shall provide the City with up to \$0.75 (75 cents) per month per residential and commercial subscriber for PEG use, capital facilities and equipment support. Any change in the amount of this support will become effective sixty days after Franchisee receives written notice of the City's Council decision. Additional increases may be required by ordinance (including a mandatory public hearing) no sooner than 42 months after the effective date of this Franchise Agreement, to an amount over \$0.75 (75 cents), but in no event will the amount exceed a total of \$1.00 (one dollar) per residential and commercial subscriber per month and such amount must be applicable to all franchised cable operators in the City. Any change in the amount of this support will become effective sixty days after Franchisee receives written notice of the City Council's decision. No fees shall be charged on gratis accounts. The City shall be solely responsible for all liability to any third party arising out of the City's use of PEG use capital funds that will be collected and paid to the City in accordance with this Section. Any payment under this Section shall be due on a quarterly basis, payable concurrently with franchise fees for such quarter.

7.4 Miscellaneous PEG Requirements

7.4.1 Upon reasonable advance notice, but no more often than once per calendar year, Franchisee will provide the City with an insert space in subscribers' cable bills to promote PEG programming. Franchisee shall provide the City with the printing specifications for the inserts. The City shall be responsible for the content and printing costs of the insert, and for the cost of shipping the printed inserts to Franchisee's billing agent. The City shall only pay incremental mailing costs if the City's insert results in an increase to the standard mailing costs normally incurred by Franchisee in sending its subscriber billing statements. In addition, Franchisee shall use reasonable efforts to accommodate PEG promotional spots received from the City on a reasonable basis in Franchisee's cross-channel ad avails, up to a maximum of 100 30-60 spots per year. Any such ad avails provided for PEG promotional spots shall be at no cost to the City or its designated access providers.

7.4.2 If Franchisee makes changes to its cable system that necessitate modifications to PEG facilities and equipment (including without limitation the upstream paths), Franchisee shall provide any additional facilities or equipment necessary to implement such modifications within thirty days of the date that the system changes are made, so that PEG facilities and equipment may be used and operated as intended, including, among other things, so that live and taped communications can be produced and cablecast efficiently to subscribers. By way of example, and

not limitation, should Franchisee cease delivery of all signals in an analog format to subscribers, it will provide the facilities and equipment necessary so that PEG signals can be delivered in a digital format

7.4.3 Any downstream and upstream PEG Channels provided pursuant to this Section may be further subdivided, compressed or decompressed at the sole discretion and sole expense of a designated access provider. As a condition of Franchisee's allowing such use, the designated access provider must fully cooperate with Franchisee in order not to cause any perceptible adverse effect on the performance of Franchisee's cable system, and shall take no action causing Franchisee to be unable to satisfy the performance requirements specified by this Franchise Agreement.

7.4.4 Except as otherwise provided in this Franchise Agreement, the channels provided for PEG use (except as expressly provided with respect to the I-net) shall be at Franchisee's cost

7.5 *Costs Not Franchise Fees* The parties agree that any cost to Franchisee associated with providing any support for PEG use required under this Franchise Agreement (including the provision of the I-Net) and payments made outside this Franchise Agreement for PEG and I-Net support, if any, are not a franchise fee within the meaning of 47 U.S.C. §542 and fall within one or more of the exceptions listed in 47 U.S.C. § 542(g)(2)

8. Institutional Network

8.1 *Institutional Network* Franchisee agrees that it will construct an institutional network ("I-net") in accordance with the Cable Act, as requested by the City, at its actual incremental construction costs. Additionally, the parties may reach an agreement as to Franchisee's maintenance of the City's I-net. The parties agree that the City may use PEG capital funds provided pursuant to Section 7.3.1 to pay Franchisee for I-net capital costs directly related to an I-net built by Franchisee. PEG capital funds collected and paid to the City pursuant to Section 7.3.1 may be used to construct the I-net only if Franchisee constructs the I-net.

9. Operation and Reporting Provisions

9.1 *Open Books and Records.* Without limiting its obligations under Section 2, Franchisee agrees that it will collect and make available books and records for inspection and copying by the City in accordance with the cable ordinance as it existed as of the effective date of this Franchise Agreement. Franchisee shall be responsible for collecting the information and producing it.

9.2 *Time for Production.* Books and records shall be produced to the City at the Boulder Municipal Building, or such other location as the parties may agree. If Franchisee objects to a request for books and records, it must nonetheless produce the books and records requested, unless the City agrees that they need not be produced, or a court of competent jurisdiction rules otherwise. Notwithstanding any provision of the cable ordinance, if documents are too voluminous or for security reasons cannot be produced at the Boulder Municipal Building or mutually agreeable location within the City, then Franchisee may produce the material at another central location, provided it also agrees to pay the additional reasonable travel costs incurred by the City to access the materials. The parties agree that any amounts paid are not a franchise fee within the meaning of 47 U.S.C. § 542 and fall within one of the exceptions thereto.

9.3 *Reports Required.* Franchisee shall file the reports that it is required to provide under the cable ordinance as of the effective date of this Franchise Agreement.

9.4 *Records Maintained.* Franchisee shall maintain the records required by the cable ordinance as of the effective date of this Franchise Agreement. Franchisee shall maintain records required by the cable ordinance; required to prepare all reports required under the cable ordinance; and sufficient to demonstrate whether or not Franchisee has complied with its obligations under this Franchise Agreement or applicable law. Records shall be kept for at least three years.

9.5 *Relation to Privacy Rights.* Franchisee shall take all steps required, if any, to ensure that it is able to provide the City all information which must be provided or may be requested under this Franchise Agreement, including without limitation by providing appropriate subscriber privacy notices. Nothing in this Section 9.5 shall be read to require Franchisee to violate 47 U.S.C. § 551. Franchisee shall be responsible for redacting any data that federal law prevents it from providing to the City.

10. Customer Service Standards

10.1 *Standards.* Franchisee shall meet or exceed the customer service standards of the cable ordinance and applicable law. In the event of a conflict among standards, the stricter standard shall apply.

10.2 *Ascertainment of Programming and Customer Satisfaction.* Upon the request of the City, but no more often than every two years, Franchisee shall, at the sole expense of Franchisee, undertake a survey of community views of cable operations in the City including without limitation programming, response to community needs, satisfaction and dissatisfaction with cable services offered by Franchisee, and customer service. Franchisee shall consult and cooperate with the City in developing and implementing an ascertainment methodology. The final form and content of the survey shall be as mutually agreed upon by Franchisee and the City. Franchisee shall provide the results of such survey to the City within two months after completing the survey. Upon request,

Franchisee shall also provide a copy of results from any other survey of subscribers in the City conducted independently by Franchisee within the previous year. Any survey results conducted within the City which are intended for external publication shall also be provided to the City. Nothing herein shall be construed to limit the right of the City to conduct its own surveys at its own expense. Nothing in this Section shall be construed as requiring the renegotiation of this Franchise Agreement. Any such survey conducted may include subscribers from other communities in addition to the City, provided that the City's results are displayed separately.

11. Rate Regulation

The City may regulate Franchisee's rates and charges as provided by applicable law. All rates that are subject to regulation by the City must be reasonable and, except as applicable law provides otherwise, can only be changed with the prior approval of the City

12. Insurance; Surety; Indemnification

12.1 *Insurance Required.* Franchisee agrees to maintain adequate insurance throughout the entire length of the franchise period as required by the cable ordinance as of the effective date of this Franchise Agreement

12.2 Indemnification.

12.2.1 Franchisee shall, at its sole cost and expense, except for the City's liability as described in Section 6.3, indemnify, hold harmless, and faithfully defend the City, its officials, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its cable system by Franchisee, its employees, affiliates or agents, copyright infringements or a failure by Franchisee to secure consents from the owners, authorized distributors, or Franchisees of programs to be delivered by the cable system, the conduct of Franchisee's business in the City; or in any way arising out of Franchisee's enjoyment or exercise of the franchise granted hereunder, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by applicable law or this Franchise Agreement, except in cases where liability is: (a) solely caused by the gross negligence of the person or persons covered by the indemnity, or (b) results from programming contributed or produced by the City and transmitted over the cable system.

12.2.2 Without limiting the foregoing, Franchisee shall, at its sole cost and expense, fully indemnify, defend, and hold harmless the City, and its officers, agents, and employees from and against any and all claims, suits, actions, liability, and judgments for damages or otherwise subject to Section 638 of the Cable Act, 47 U.S.C. § 558, arising out of or alleged to arise out of the construction, operation, maintenance or repair of its system by Franchisee, its employees, affiliates

or agents, including without limitation any claim against Franchisee for invasion of the right of privacy, defamation of any person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any person, firm, or corporation. This indemnity does not apply to intervention by the City in regulatory proceedings brought by Franchisee or to the programming carried on any channel set aside for public, educational, or government use, or channels leased pursuant to 47 U.S.C. § 532, unless Franchisee was in any respect engaged in determining the editorial content of the program, or adopts a policy of pre-screening programming for the purported purpose of banning or regulating indecent or obscene programming, and except for programming contributed or produced by Franchisee

12.2.3 The indemnity provision includes, but is not limited to, the City's reasonable attorneys' fees consented to by Franchisee and payment for any labor and expenses of the city attorney's office at the going rate for legal services in Boulder County. Such consent shall not be unreasonably withheld

12.3 *No Limit of Liability.* The provisions of this Section 12 shall not be construed to limit the liability of Franchisee for damages

13. Performance Guarantees and Remedies

13.1 *Letter of Credit.*

13.1.1 In satisfaction of the security fund requirements of the cable ordinance, Paragraph 11-6-13(a)(1), B.R.C. 1981, as the same existed on the effective date of this Franchise Agreement, Franchisee shall provide a letter of credit in the amount of \$100,000 prior to the effective date of this Franchise, and shall maintain that letter of credit throughout the franchise term. The letter of credit shall be in a form satisfactory to the City Attorney, (including without limitation specification of venue in Boulder), and with a financial institution satisfactory to the City. The City may require Franchisee to increase the amount of the letter of credit once every three years to reflect increases in the U.S. City Average of the Consumer Price Index. The letter of credit set forth in the Greater Metro Telecommunications Consortium franchise may be used to satisfy this requirement, as long as the Consortium agrees to procedures acceptable to the City for draws on such letter of credit. The City may draw upon the letter of credit for the reasons and after providing the notice specified in the cable ordinance as it existed as of the effective date of this Franchise Agreement. Franchisee's recourse, in the event Franchisee believes any taking of security funds is improper, will be through legal action after the security has been drawn upon, pursuant to the provisions of Section 13.1.3

13.1.2 Franchisee shall provide proof that the letter of credit complies with this Franchise Agreement and with all requirements of the cable ordinance

Attachment A - Current Franchise Agreement

13 1.3 Franchisee agrees that it shall not attempt, through litigation or otherwise, to prevent or inhibit the City from drawing on the letter of credit. Franchisee shall have the right to appeal to the Boulder City Council for reimbursement in the event that it believes that the letter of credit was drawn upon improperly. Franchisee shall also have the right of a de novo court appeal if it believes the letter of credit has not been properly drawn in accordance with this Franchise Agreement. Any funds that the City erroneously or wrongfully withdraws from the letter of credit shall be returned to Franchisee with interest from the date of withdrawal at a rate equal to the prime rate of interest as quoted by the Bank of New York within thirty business days of a final determination that the withdrawal was in error or wrongful.

13 2 *Material Term.* The letter of credit is a material term of this Franchise Agreement.

13.3 *Remedies.* In addition to any other remedies available at law or equity, the City may apply any one of the following remedies in the event Franchisee violates this Franchise Agreement or applicable law.

13 3.1 Revoke the franchise pursuant to the procedures specified in Section 13.5. Provided that, any amendments to the cable ordinance or the quasi-judicial procedures of the City, codified at Chapter 1-3, B.R.C. 1981, must provide the same level of due process as is provided under the procedures provided for under the cable ordinance and quasi-judicial procedures as the same existed on the effective date of this Franchise Agreement.

13.3.2 In addition to or instead of any other remedy, seek legal or equitable relief from any court of competent jurisdiction.

13.3.3 Obtain liquidated damages as provided herein.

13.4 *Liquidated Damages.* Because Franchisee's failure to comply with provisions of this Franchise Agreement will result in injury to the City, and because it will be difficult to estimate the extent of such injury, the City and Franchisee agree to the following liquidated damages for the following violations, which represent both parties' best estimate of the damages to the City resulting from the specified injury. To maintain that estimate, the parties agree that the liquidated damage amounts are in 2003 dollars as of the effective date of this Franchise Agreement (inflated by the US City Average of the Consumer Price Index), and shall be increased each year by the full amount of the increase in the U.S. City Average of the Consumer Price Index, once inflation from the effective date of this Franchise Agreement has exceeded twenty percent. Thus, treating 2003 as the base year, indexed as 100, the liquidated damages shall be increased in the first year when the index reaches 120, and once every year after that year as each annual increase becomes available.

13 4.1 For transferring the franchise without approval \$1,000/day for each violation for each day the violation continues.

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13.4.2 For failure to comply with requirements for public, educational, and governmental use of the System: \$250/day for each violation for each day the violation continues

13.4.3 For violation of customer service standards: \$150 per violation, except for violations of applicable customer service standards for which Franchisee's compliance is not measured in terms of its response to individual customers, \$250 a month for any period during which it fails to meet applicable performance standards

13.4.4 For all other material violations of this Franchise Agreement for which actual damages may not be ascertainable: \$100/day for each violation for each day the violation continues

13.4.5 The City may impose liquidated damages as provided in this Section 13.4.5. Within fifteen days of the date of a notice of violation is sent to Franchisee, Franchisee may request, in writing, a public hearing before the City Council, pursuant to the procedures specified in the cable ordinance. The City may impose liquidated damages, accruing from the date of notice of the violation after the hearing unless it finds that (a) there was no violation; or (b) damages should not be imposed. Any amendments to the quasi-judicial procedures of the City, codified at Chapter 1-3, B.R.C. 1981, must provide the same level of due process as is provided under the procedures provided for under the quasi-judicial procedures as the same existed on the effective date of the Franchise Agreement. Nothing herein prevents Franchisee from raising a defense to the imposition of liquidated damages from the date of violation based upon laches, waiver, statute of limitations, or any other similar defense. Franchisee may appeal any imposition of liquidated damages to a court of competent jurisdiction

13.5 *Procedures Prior to Revoking the Franchise.*

13.5.1 The City shall have the right to revoke the franchise for the reasons specified in the cable ordinance as of the effective date of this Franchise Agreement, and in Section 13.5 of this Franchise Agreement, pursuant to the revocation procedures specified in the cable ordinance. Provided that, any amendments to the cable ordinance must provide the same level of due process as is provided under the procedures provided for under the cable ordinance as the same existed on the effective date of this Franchise Agreement. Prior to initiating a revocation action, the City shall provide Franchisee with a detailed written notice of any franchise violation upon which it proposes to take action, and a sixty day period within which Franchisee may: (a) demonstrate that a violation does not exist or cure an alleged violation, or (b) if the nature of the violation prevents correction of the violation within sixty days, to initiate a reasonable plan of action to correct such violation (including a projected date by which it will be completed) and notify the City of such plan of action, or (c) show that the defect in performance should be excused. However, in any case involving repeated violations, the time period allowed for cure

may be reasonably reduced at the election of the City, and revocation proceedings shall follow the process set forth at Section 11-6-12(d), B.R.C. 1981, as amended.

13.5.2 If Franchisee fails to disprove or correct the violation within sixty days to the City's satisfaction or, in the case of a violation which cannot be corrected in sixty days, if Franchisee has failed to initiate a reasonable plan of corrective action and to correct the violation within a time satisfactory to the City, then the City may declare Franchisee in default, which declaration must be in writing. In the event that the City declares Franchisee in default, the City shall have the right to exercise any other rights and remedies afforded to the City in law or equity.

13.5.3 At any time after fifteen days of sending the written declaration of default to Franchisee, the City may revoke the franchise. However, within fifteen days of the date the declaration is sent to Franchisee, Franchisee may request, in writing, a public hearing before the City Council pursuant to the procedures specified in the cable ordinance. If Franchisee requests the hearing, Franchisee may not be revoked until after the hearing is conducted. The City may revoke after hearing unless it finds that (a) there was no default; or (b) the default has been fully cured, or there is a timetable for cure satisfactory to the City. Provided that, any amendments to the cable ordinance or the quasi-judicial procedures of the City, codified at Chapter 1-3, B.R.C. 1981, must provide the same level of due process as is provided under the procedures provided for under the cable ordinance and quasi-judicial procedures as the same existed on the effective date of this Franchise Agreement. Franchisee shall have the right to appeal the revocation to a court of competent jurisdiction.

13.6 *Revocation or Termination of Franchise* In addition to all other rights of the City under this Franchise Agreement, the City shall have the right to revoke the franchise. For the reasons specified in the cable ordinance as of the effective date of this Franchise Agreement; for a felony conviction for defrauding or attempting to defraud the City or subscribers; if Franchisee abandons the cable system, or, for any 24 hour period, willfully refuses to provide service to the City or any substantial portion of the City in accordance with this Franchise Agreement; and as otherwise provided herein.

13.7 *Remedies Cumulative.* All remedies under the cable ordinance and this Franchise Agreement are cumulative unless otherwise expressly stated. The exercise of one remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of liquidated damages or penalties relieve Franchisee of its obligations to comply with this Franchise Agreement. Remedies may be used singly or in combination; in addition, the City may exercise any rights it has at law or equity at any time. Except that, the City is not entitled to recover damages for the same injury under two separate Sections where doing so would result in a double recovery.

13 8 *Relation to Insurance and Indemnity Requirements.* Recovery by the City of any amounts under insurance, the construction/performance bond, the letter of credit, or otherwise does not limit Franchisee's duty to indemnify the City in any way; nor shall such recovery relieve Franchisee of its obligations under this Franchise Agreement, limit the amounts owed to the City, or in any respect prevent the City from exercising any other right or remedy it may have

14. No Evasion

Franchisee shall not take any action to evade any provision of this Franchise Agreement or the cable ordinance. This provision shall be read to prohibit, among other things, Franchisee requiring any subscriber to waive any right (including without limitation privacy rights) as a condition of obtaining service, but this provision shall not be deemed to prohibit reasonable mandatory arbitration clauses as a condition of subscription.

15. Rights of Individuals Protected

No cable, line, wire, amplifier, converter, or other piece of equipment owned or controlled by Franchisee shall be installed by Franchisee inside a dwelling or other occupied structure without first securing the written permission of the owner of the property involved, except in those cases where Franchisee is permitted by federal or state law to install such facilities and equipment inside the structure without permission.

16. Miscellaneous Provisions

16.1 *Compliance With Laws.* Franchisee and the City shall comply with all applicable laws and regulations as they become effective, unless otherwise stated herein.

16.2 *Governing Law.* This Franchise Agreement shall be governed in all respects by the laws of the State of Colorado.

16.3 *Force Majeure.* Franchisee shall not be deemed in default with provisions of this Franchise Agreement where performance was rendered impossible by war, acts of terrorism, or riots, civil disturbances, unforeseeable shortage of materials or qualified labor, withholding of necessary permits and authorizations, strikes, floods, or other natural catastrophes beyond Franchisee's control, and the franchise shall not be revoked or Franchisee penalized for such non-compliance, provided that Franchisee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with this Franchise Agreement without unduly endangering the health, safety, and integrity of Franchisee's employees or property, or the health, safety, and integrity of the public, public rights of way, public property, or private property.

Attachment A - Current Franchise Agreement

16.4 *Notices* Unless otherwise expressly stated herein, notices required under this Franchise Agreement shall be faxed or mailed first class, postage prepaid, to the addressees below. Each party may change its designee by providing written notice to the other party

16.4.1 Notices to Franchisee shall be mailed to:

Comcast of Colorado IV, LLC
ATTN Local Government Affairs
8000 E. Iliff Ave.
Denver, Colorado 80231

With a copy to.

Comcast of Colorado IV, LLC
Attn. Legal Department
1500 Market Street
Philadelphia, PA 19102

16.4.2 Notices to City shall be mailed to.

City Manager
Post Office Box 791
Boulder, Colorado 80306

16.5 *Calculation of Time.* Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the completion thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration/time.

16.6 *Time of Essence, Maintenance of Records of Essence.* In determining whether Franchisee has substantially complied with this Franchise Agreement, the parties agree that time is of the essence to this Franchise Agreement. The maintenance of records and provision of reports in accordance with this Franchise Agreement is also of the essence to this Franchise Agreement

16.7 *Captions.* The captions and headings of this Franchise Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Franchise Agreement

16.8 *Entire Franchise Agreement.* This Franchise Agreement represents the entire Franchise Agreement between the parties.

Attachment A - Current Franchise Agreement

16.9 *Counterparts.* This Franchise Agreement may be executed in counterparts

16.10 *Effective Date.* The effective date of this Agreement shall be January 1, 2004.

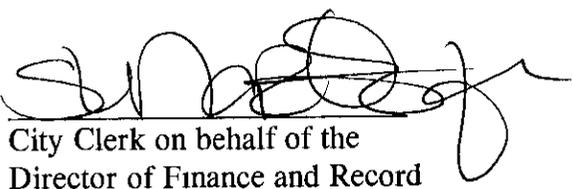
AGREED TO THIS 11 DAY OF February, 2004.

City of Boulder

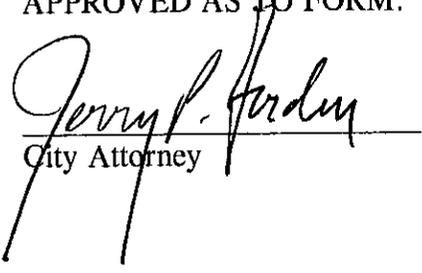
By:


City Manager

ATTEST:

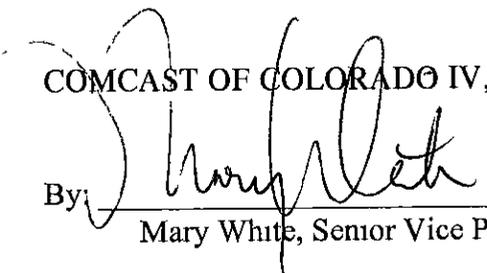

City Clerk on behalf of the
Director of Finance and Record

APPROVED AS TO FORM:


City Attorney

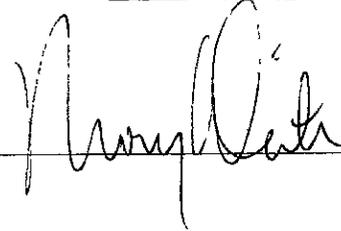
COMCAST OF COLORADO IV, LLC

By:


Mary White, Senior Vice President

ACCEPTANCE

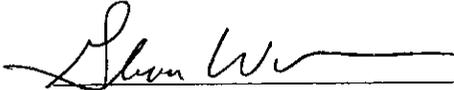
Comcast of Colorado IV, LLC hereby accepts unconditionally and agrees to be bound by all the terms and conditions of this Franchise Agreement, dated this 4th day of February, 2004, as granted by the Boulder City Council.

By: 

STATE OF Colorado)
) ss.
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of February, 2004, by Mary White, SVP

Witness my hand and official seal


Notary Public

My commission expires: 11/31/2007

(seal)

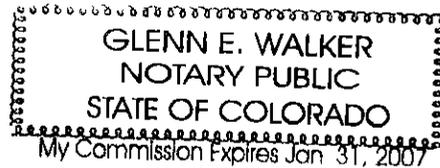


EXHIBIT A

LIST OF LOCATIONS RECEIVING FREE CABLE SERVICE

Offices located at	
Municipal Building	1777 Broadway
Park Central Building	1739 Broadway
New Britain Building	1101 Arapahoe
Atrium Building	1300 Canyon
Main Library Building	1000 Canyon Blvd
Boulder Municipal Courts	6th & Canyon
Public Works Administrative Center	5050 East Pearl
Public Safety Building	1805 33 rd
Spruce Pool and Youth Services Building	2160 Spruce
Parks & Recreation Administrative Offices	3198 Broadway
Parks Maintenance	5200 East Pearl
East Boulder Community Center	660 Sioux
West Senior Center	909 Arapahoe
Carnegie Branch Library	1125 Pine Street
Meadows Branch Library	4800 Baseline
Reynolds Branch Library	3595 Table Mesa Drive
Municipal Channel 8	1000 Canyon Blvd
Dauy Center for the Arts	2590 Walnut St
Fire Station #1	2441 13th St
Fire Station #2	2225 Baseline Rd
Fire Station #3	1585 30th St
Fire Station #4	4100 Dailey
Fire Station #5	4365 19th
Fire Station #6	5145 N 63rd
Fire Station #7	1380 55th
North Boulder Recreation Center	3170 Broadway
South Boulder Recreation Center	1360 Gillespie

EXHIBIT B

RETURN LINES

- 1) 1000 Canyon Blvd to Comcast Boulder headend (33rd & Walnut)
technology fiber, modulator provided and maintained by Comcast
use sole use is upstream transmission of PEG signal
- 2) 1777 Broadway to 1000 Canyon Blvd
technology coax, mod/demod provided and maintained by Comcast
use relay of programming originating in City Council Chambers
- 3) 1805 33rd to Comcast Boulder headend (33rd & Walnut)
technology coax, modulator provided and maintained by Comcast
use x5 year on test basis, designed as back up to main PEG facility
at 1000 Canyon in event of emergency that shuts down main studio
- 4) 2590 Walnut to Comcast Boulder headend (33rd & Walnut)
technology fiber, modulator provided and maintained by Comcast
use upstream carriage of PEG signal
- 5) CU stadium to Comcast Boulder headend (33rd & Walnut)
technology coax, modulator provided and maintained by Comcast
use upstream carriage of educational access programming
- 6) 6500 E Arapahoe to Comcast Boulder headend
technology coax, modulator provided and maintained by Comcast
use upstream carriage of school district board meetings to Comcast Boulder headend for insertion on
Government channel

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Attachment B - Ordinance 7785 (Extension)

ORDINANCE NO. 7785

AN ORDINANCE AMENDING THE CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN THE CITY OF BOULDER AND COMCAST OF COLORADO IV, LLC, TO EXTEND THE TERM OF THE FRANCHISE; AND SETTING FORTH RELATED DETAILS.

The City Council finds that:

A. On February 3, 2004, the Boulder City Council ("City") adopted Ordinance No. 7324 approving the grant of a nonexclusive franchise to Comcast of Colorado IV, LLC ("Comcast") for its construction and operation of a cable television system within the City (the "Franchise").

B. Comcast has preserved its right of renewal by timely filing a request with the City to activate the formal process for renewing the Franchise pursuant to the provisions of the Cable Communications Policy Act of 1984 ("Cable Act").

C. The existing Franchise will expire on December 31, 2011, unless it is extended.

D. City staff and Comcast representatives have discussed the renewal of the Franchise. Each has agreed that its interests will be served by extending the existing Franchise for two years.

E. The city council, having been advised of the benefits of extending the existing Franchise, is agreeable to extending the term of the Franchise until December 31, 2013, and amending the Franchise Agreement accordingly.

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

Section 1. The city council adopts, approves, and authorizes the city manager to enter into the Comcast franchise extension, entitled "Amendment to the Franchise Agreement Between the City of Boulder, Colorado and Comcast of Colorado IV, LLC Dated January 1, 2004," attached as Exhibit A and incorporated by this reference, extending the term of the Franchise until December 31, 2013. The city manager is authorized to approve any minor changes as may be necessary prior to final execution by the parties.

Attachment B - Ordinance 7785 (Extension)

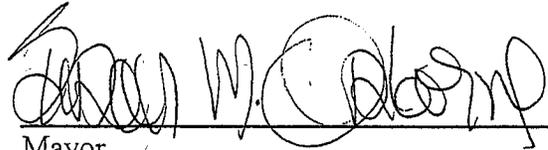
1 Section 2. Except as specifically modified hereby, the Franchise shall remain in full
2 force and effect.

3 Section 3. Neither party waives any right which it enjoys under law as a result of
4 agreeing to this Franchise extension, and Comcast shall not be required to file any additional
5 request or document in order to preserve its right of renewal under Section 626 of the Cable Act.
6

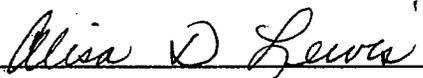
7 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of
8 the residents of the city, and covers matters of local concern.

9 Section 5. The city council deems it appropriate that this ordinance be published by title
10 only and orders that copies of this ordinance be made available in the office of the city clerk for
11 public inspection and acquisition.
12

13 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
14 TITLE ONLY this 1st day of March 2011.

15 
16 _____
17 Mayor

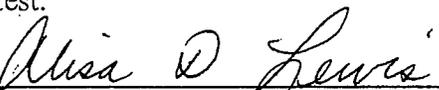
17 Attest:

18 
19 _____
20 City Clerk on behalf of the
21 Director of Finance and Record

22 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
23 PUBLISHED BY TITLE ONLY this 3rd day of May 2011.

24 
25 _____
26 Mayor

26 Attest:

27 
28 _____
29 City Clerk on behalf of the
30 Director of Finance and Record

**AMENDMENT TO THE FRANCHISE AGREEMENT
BETWEEN THE CITY OF BOULDER, COLORADO
AND COMCAST OF COLORADO IV, LLC
DATED JANUARY 1, 2004**

This Amendment is made as of the _____ day of _____, 2011, by and between the City of Boulder, Colorado, a Colorado home rule city ("City"), and Comcast of Colorado IV, LLC ("Comcast"). Hereinafter the City and Comcast may be referred to individually as a "Party" or collectively as the "Parties."

A. The Parties entered into a Franchise Agreement dated January 1, 2004, to permit Comcast to construct, operate, and repair a cable system in, over, along, and under City rights of way within the City for the purpose of providing cable service, and for providing an institutional network and other facilities or services for PEG use of the cable system from January 1, 2004, through and including December 31, 2011 (the "Franchise Agreement").

B. The Parties wish to amend the terms of the Franchise Agreement by extending the scope of the Franchise Agreement for an additional two years through and including December 31, 2013.

NOW THEREFORE, in consideration of the promises and obligations set forth below, the parties agree to amend the Franchise Agreement as follows:

1. The second sentence of Section 2, subsection 1, paragraph 1 of the Franchise Agreement is replaced by the following sentence, to read:

2.1.1 ...This franchise grants the right, subject to conditions, to construct, operate and repair a cable system in, over, along and under City rights of way within the City of Boulder for the purpose of providing cable service, and for providing an institutional network and other facilities or services for PEG use of the cable system from January 1, 2004, through and including December 31, 2013.

2. By this amendment the Parties agree to extend the term of the Franchise Agreement through December 31, 2013. Comcast shall provide the City with a certificate of insurance evidencing coverage each year during the extended term of the Franchise Agreement.

3. Except as amended herein, the Franchise Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have set their hands to this Amendment on the day and year above first written.

[SIGNATURE PAGE FOLLOWS]

COMCAST OF COLORADO IV, LLC

By: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

Acknowledged before me, a notary public, this _____ day of _____ 2011, by _____, as _____ for Comcast of Colorado IV, LLC.

Witness my hand and official seal.
My commission expires:

Notary Public

(SEAL)

CITY OF BOULDER

City Manager

ATTEST:

City Clerk on behalf of the
Director of Finance and Record

APPROVED AS TO FORM:

City Attorney's Office

ORDINANCE NO. 7952

AN ORDINANCE AMENDING THE CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN THE CITY OF BOULDER AND COMCAST OF COLORADO IV, LLC, TO EXTEND THE TERM OF THE FRANCHISE; AND SETTING FORTH RELATED DETAILS.

The City Council finds that:

A. On February 3, 2004, the Boulder City Council ("City") adopted Ordinance No. 7324 approving the grant of a nonexclusive franchise to Comcast of Colorado IV, LLC ("Comcast") for its construction and operation of a cable television system within the City (the "Franchise").

B. Comcast has preserved its right of renewal by timely filing a request with the City to activate the formal process for renewing the Franchise pursuant to the provisions of the Cable Communications Policy Act of 1984 ("Cable Act").

C. The existing Franchise was scheduled to expire on December 31, 2011.

D. On March 1, 2011, the City adopted Ordinance No. 7785 authorizing the city manager to enter into a two-year Franchise extension agreement with Comcast, since executed, to make the existing Franchise scheduled to expire on December 31, 2013.

D. City staff and Comcast representatives have discussed the renewal of the Franchise. Each has agreed that its interests will be served by extending the existing Franchise for one additional year.

E. The City Council, having been advised of the benefits of extending the existing Franchise, is agreeable to extending the term of the Franchise until December 31, 2014, and amending the Franchise Agreement accordingly.

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

Section 1. The City Council adopts, approves, and authorizes the city manager to enter into the Comcast franchise extension, entitled "Second Amendment to the Franchise Agreement Between the City of Boulder, Colorado and Comcast of Colorado IV, LLC Dated January 1, 2004," attached as Exhibit A and incorporated by this reference, extending the term of the

1 Franchise until December 31, 2014. The city manager is authorized to approve any minor
2 changes as may be necessary prior to final execution by the parties.

3
4 Section 2. Except as specifically modified hereby, the Franchise shall remain in full
5 force and effect.

6 Section 3. Neither party waives any right which it enjoys under law as a result of
7 agreeing to this Franchise extension, and Comcast shall not be required to file any additional
8 request or document in order to preserve its right of renewal under Section 626 of the Cable Act.
9

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

12 Section 5. The City Council deems it appropriate that this ordinance be published by title
13 only and orders that copies of this ordinance be made available in the office of the city clerk for
14 public inspection and acquisition.
15

16
17 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
18 TITLE ONLY this 3rd day of December 2013.

19
20 
21 Mayor

21 Attest
22 
23 City Clerk - Deputy

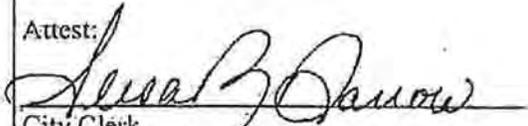
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READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 17th day of December, 2013.



Mayor

Attest:


City Clerk
Deputy

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ORDINANCE NO. 8021

AN ORDINANCE AMENDING THE CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN THE CITY OF BOULDER AND COMCAST OF COLORADO IV, LLC, TO EXTEND THE TERM OF THE FRANCHISE; AND SETTING FORTH RELATED DETAILS.

The City Council finds that:

A. On February 3, 2004, the Boulder City Council (“City”) adopted Ordinance No. 7324 approving the grant of a nonexclusive franchise to Comcast of Colorado IV, LLC (“Comcast”) for its construction and operation of a cable television system within the City (the “Franchise”).

B. Comcast has preserved its right of renewal by timely filing a request with the City to activate the formal process for renewing the Franchise pursuant to the provisions of the Cable Communications Policy Act of 1984 (“Cable Act”).

C. The existing Franchise was scheduled to expire on December 31, 2011.

D. On March 1, 2011, the City adopted Ordinance No. 7785 authorizing the city manager to enter into a two-year Franchise extension agreement with Comcast, since executed, to make the existing Franchise scheduled to expire on December 31, 2013.

E. On Dec. 17, 2013, the City adopted Ordinance No. 7952, authorizing the city manager to enter into a one-year Franchise extension agreement with Comcast, since executed, to make the existing Franchise scheduled to expire on December 31, 2014.

F. City staff and Comcast representatives have discussed the renewal of the Franchise. Each has agreed that its interests will be served by extending the existing Franchise for an additional one hundred twenty days, scheduled to expire on April 30, 2015.

G. The City Council, having been advised of the benefits of extending the existing Franchise, is agreeable to extending the term of the Franchise through and until April 30, 2015, and amending the Franchise Agreement accordingly.

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

Section 1. The City Council adopts, approves, and authorizes the city manager to enter into the Comcast franchise extension, entitled “Third Amendment to the Franchise Agreement Between the City of Boulder, Colorado and Comcast of Colorado IV, LLC,” attached as Exhibit

1 A and incorporated by this reference, extending the term of the Franchise through and until April
2 30, 2015. The city manager is authorized to approve any minor changes as may be necessary
3 prior to final execution by the parties.

4 Section 2. Except as specifically modified hereby, the Franchise shall remain in full
5 force and effect.

6 Section 3. Neither party waives any right which it enjoys under law as a result of
7 agreeing to this Franchise extension, and Comcast shall not be required to file any additional
8 request or document in order to preserve its right of renewal under Section 626 of the Cable Act.

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

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

14 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
15 TITLE ONLY this 2nd day of December 2014.

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20 _____
Mayor

21 Attest:

22 _____
City Clerk

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READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 16th day of December 2014.

Mayor

Attest:

City Clerk

THIRD AMENDMENT TO FRANCHISE AGREEMENT

Between

**City of Boulder, Colorado
and
Comcast of Colorado IV, LLC**

This Third Amendment is made as of the ____ day of December, 2014, by and between the City of Boulder, Colorado, a Colorado home rule city (“City”), and Comcast of Colorado IV, LLC (“Comcast” or “Franchisee”).

A. The City and Comcast entered into Franchise Agreement for the operation of a cable system within the city of Boulder dated February 11, 2004 (“Franchise Agreement”).

B. The Franchise Agreement was set to expire on December 31, 2011.

C. Comcast provided the city with the option to delay the renewal and extend the term of the Franchise Agreement for two years. The City approved a two-year extension of the Franchise Agreement on June 13, 2011, by Ordinance 7785, for the period through and including December 31, 2013.

D. The City again approved an extension of the Franchise Agreement on December 17, 2013, by Ordinance 7952, for the period through and including December 31, 2014.

E. The City and Comcast are currently negotiating a new franchise agreement, but do not expect to reach agreement before the current extension expires.

F. By this Third Amendment, the parties agree to extend the term of the Franchise Agreement for the period through and including April 30, 2015.

NOW THEREFORE, in consideration of the promises and obligations set forth below, the parties agree to extend the term of the Franchise Agreement as follows:

1. The second sentence of Section 2, subsection 1, paragraph 1 of the Franchise Agreement is replaced by the following sentence, to read:

2.1.1 This franchise grants the right, subject to conditions, to construct, operate and repair a cable system in, over, along and under City rights of way within the City of Boulder for the purpose of providing cable service, and for providing an institutional network and other facilities or services for PEG use of the cable system, commencing on the effective date of this Franchise Agreement, January 1, 2004, through and including April 30, 2015.

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 16, 2014

AGENDA TITLE:

Second reading and consideration of a motion to adopt Ordinance No. 8018 amending Title 9, "Land Use Code," B.R.C. 1981, to create an additional method of property valuation for the determination of whether proposed work on a property triggers upgrades to lighting, landscaping, site access and non-conforming drive-throughs under the Land Use Code.

PRESENTERS:

Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Charles Ferro, Land Use Review Manager
Karl Guiler, Senior Planner/Code Amendment Specialist
David Gehr, Deputy City Attorney
Hella Pannewig, Assistant City Attorney

EXECUTIVE SUMMARY

In efforts to implement recommended actions of the [Economic Sustainability Strategy](#), adopted by City Council on Oct. 29, 2013, and to continually update the Land Use Code to implement the Boulder Valley Comprehensive Plan (BVCP) and achieve high quality design results, staff is proposing the following change:

Create an additional method of property valuation for the determination of whether proposed work on a property triggers upgrades to lighting, landscaping, site access and non-conforming drive-throughs under the Land Use Code.

The change is proposed as a way to remove regulatory barriers to reinvestment in existing buildings. As part of the outreach for the Economic Sustainability Strategy it was learned that some property owners have hesitated to make ordinary improvements to their buildings based on the concern that certain zoning requirements (e.g., upgrades to parking lot landscaping, outdoor lighting etc.) can be triggered based on a modestly sized renovation or tenant improvement projects. Owners have indicated that the reason for this is the Boulder County Assessor's relatively low value of buildings as compared to property value. The current code includes zoning thresholds or triggers for upgrades relative to the Boulder County assessed value of

buildings. The proposed change would enable owners to submit a fair market value as determined by a real estate appraiser licensed in Colorado as an alternative. This approach is consistent with how properties are evaluated for the purposes of improving properties located in the floodplain.

The proposed Land Use Code change is found within the attached draft ordinance (**Attachment A**). This code change was passed on first reading on May 20, 2014 when it was included with the proposed change to the density calculations, which is not proceeding at this time. The ordinance was passed on first reading again (due to the time that has transpired since the last first reading) on Dec. 2, 2014, where there were no first reading questions.

Planning Board made a motion to adopt the proposed ordinance, but suggested adding a requirement that appraisals be forwarded to the Boulder County Assessor's office for consideration. Staff contacted the Boulder County Assessor directly and the Assessor indicated that they would support the idea of forwarding professional appraisals to their office in efforts to improve their property data. Staff intends to forward referrals to the county, per this recommendation as part of its regular business process, but finds it unnecessary to add this process step as a requirement in the Land Use Code. This recommendation is discussed in more detail on page 5 of the 'Analysis' section of this memorandum.

STAFF RECOMMENDATION

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

Suggested Motion Language:

Motion to adopt Ordinance No. 8018 amending Title 9, "Land Use Code," B.R.C. 1981, in particular, to create an additional method of property valuation for the determination of whether proposed work on a property triggers upgrades to lighting, landscaping, site access and non-conforming drive-throughs under the Land Use Code.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Adding the option to determine actual building value from a licensed professional to the land use code would remove potential impediments to reinvestment in properties based on low county assessor values created for tax purposes and encourage reinvestment and rehabilitation of buildings.
- Environmental: No anticipated impacts.
- Social: No anticipated impacts.

OTHER IMPACTS

- Fiscal: None identified.
- Staff time: The proposed code changes are within normal staff work plans.

BOARD AND COMMISSION FEEDBACK

Planning Board

The board reviewed the proposed ordinance on May 1, 2014 and recommended approval of the ordinance on a 4-2 vote (see motion below). Audio and complete meeting minutes from the May 1, 2014 meeting can be found on the Planning Board's website at www.bouldercolorado.gov/boards-commissions/planning-board.

The motions were as follows:

J. Putnam, seconded by **B. Bowen**, moved that the Planning Board recommend approval to the City Council of an ordinance implementing recommended actions of the Economic Sustainability Strategy by amending Title 9, “Land Use Code,” B.R.C. 1981, in particular:

1. *Updating the land use regulations that require site improvements and upgrades if a project exceeds a certain percentage of the value of any existing structures on the property by allowing the value of existing structures to be established through a professional appraisal of the fair market value of such structures (Action 3.6, ESS).*

On a subsidiary motion to amend the main motion **J. Gerstle**, seconded by **L. May**, the Planning Board voted 4-2 (**B. Bowen** and **J. Putnam** opposed, **A. Brockett** absent) to recommend that if a private appraisal is used in this process, that information shall be provided to the County Assessor.

The main motion, as amended, passed 4-2 (**B. Bowen** and **J. Putnam** opposed, **A. Brockett** absent).

Planning Board members Bowen and Putnam, despite proposing the original motion, voted against it because of the amendment to the motion requiring a referral of any appraisal to the county.

PUBLIC FEEDBACK

Staff has received little written public feedback on the proposed change.

BACKGROUND

City Council adopted the Economic Sustainability Strategy on Oct. 29, 2013. The Economic Sustainability Strategy is a cross-cutting and “place-based” approach to economic vitality. It seeks to create vibrant, amenity-rich business districts that vary in their focus and intensity, and offer environments that support key industry clusters, retain talented workers and enhance a unique and sustainable “Boulder” quality of life.

In 2012, city staff, along with the University of Colorado Leeds Business Research Division and the Boulder Economic Council, conducted a primary employer study identifying the issues, trends and needs of Boulder’s primary employers relative to the city’s existing industrial and commercial space. In Boulder, “primary employers” are defined as companies that receive at least fifty percent of their revenue from outside Boulder County, thus bringing in a significant amount of “new money” into the Boulder economy. The results of this study are found at www.bouldercolorado.gov/pages/primary-employer-study. The strategies that have come out of this process help to prioritize the action items, which would be updated each year based on resources available (city work plan and budget). The recommended actions of the Economic Sustainability Strategy are informed by the input received as part of this process.

ANALYSIS

Valuation Code Change:

The following code change is intended to implement recommended Action 3.6 of the Economic Sustainability Strategy:

Action 3.6, page 17, Economic Sustainability Strategy - Update the land use regulations for required site improvements and upgrades by changing how the assessed value is calculated by allowing the option of using the professionally appraised fair market value of the structure.

The Land Use Code ties certain site improvement requirements, such as landscaping and outdoor lighting upgrades, for properties that are being redeveloped to the size of an expansion or value of the planned improvements relative to the value of existing structures on the site. For instance, certain site improvements like landscaping and outdoor lighting upgrades would be required if the value of a project exceeds a specified percentage of the value of the existing structure on the site. Oftentimes, the extent of required upgrades is dependent on this percentage. The web links below show the applicable sections where valuations are used and the thresholds that determine the level of upgrade:

- ⇒ [Site Access Control](#) (see section 9-9-5, B.R.C. 1981)
- ⇒ [Landscaping](#) (see section 9-9-12(b), B.R.C. 1981)
- ⇒ [Outdoor lighting](#) (see section 9-9-16(c), B.R. C. 1981)
- ⇒ [Nonconformance standards](#) (see section 9-10-2, B.R.C. 1981)

With the exception of ‘Site Access Control’ which is based on a specific project to determine if site access would need to be modified, the other code sections, including the city’s floodplain regulations, require cumulative valuations. For the code sections listed above, assessed value is limited to actual Boulder County assessed value as the comparative figure to the development project cost whereas the floodplain section of the Land Use Code allows the option to also use fair market appraisals. The fair market value determined by an appraiser is used to determine whether the thresholds for improvements are required under the city’s floodplain regulations. These can be accessed at the following web link: [floodplain regulations concerning valuation](#)

The proposed code change would apply the same allowance for the floodplain regulations to the four code sections above. The reasons this issue was identified is because some customers have pointed out that the value assessed by the County Assessor does not accurately represent the fair market value of a structure as the Assessor assesses the value of a structure for tax purposes while, in reality, the fair market value of a structure is typically higher. This has led to inconsistent property improvements over time.

Staff finds that it is appropriate to allow this alternative method of valuation, because city codes are already considered aggressive in what is required from a qualitative perspective. Even minor changes to a building may trigger expensive site upgrades that can become cost prohibitive and may discourage building retrofits. The site improvements and adjustments may not be proportionate to the level of work proposed for the building when assessing against the Boulder County Assessor figures. Of greatest concern is that such standards may discourage ordinary upkeep and maintenance of buildings and thus, can make leasing difficult.

Staff has been working with property owners to better understand the issue. A local developer/property manager has provided some examples of where building values (see **Attachment B**), created for tax purposes, is assessed at a low value relative to the overall property value – in some cases only around 2 percent of the total land value. With these low assessed values for buildings, the trigger for more expensive improvements on a site is often

easily triggered. If expensive site improvements become required for relatively modest upgrades to buildings, improvements may be deferred or canceled.

Therefore, staff has proposed the following new language that would add this assessment figure as an option to the applicable sections discussed above:

For purposes of this paragraph (1), the applicant may demonstrate the value of the existing structure by submitting, in the discretion of the applicant, either the actual value assessed by the Boulder County Assessor or the fair market value determined by a real estate appraiser licensed in Colorado.

Attachment A includes the specific sections with the proposed language within their context.

Planning Board's recommendation was that a requirement be added for fair market appraisals to be forwarded to the Boulder County Assessor's office. The recommendation did not specify exactly how this would be done.

Staff is not averse to referring the appraisals and intends to do so as information such as building permit information, including valuations on permits, and Geographic Information Systems (GIS) data are routinely sent to the county. The City and County already share a great deal of data with each other. This would be another data source that would be a part of the exchange. The city is committed to transparency in its regulated process. It will be relatively easy to include additional valuation data that it receives to Boulder County.

For the most part, the zoning code is a document that provides how the city regulates the use of land through zoning. It is not used as a tool to direct the city manager to do things that are not directly part of the regulatory process. The code sets up minimum requirements that must be met in the development review process including but not limited to required public notice, required steps in the review process (e.g., decisions, inactive applications etc.) and call-up periods. There are other process matters, such as application completeness checks, application routings, the standard three-week review track, and conveyance of review comments to applicants etc. that are not specified in the code but are done according to standard business practice. Staff finds the referral of the fair market appraisals more akin to these process steps and as it is unrelated to zoning regulation, staff has found it unnecessary to add the referral step into the code language.

STAFF FINDINGS AND RECOMMENDATION:

Staff recommends that the City Council adopt the proposed ordinance based on the following conclusions:

- The proposed change would be appropriate to help deal with the challenge of high land costs and barriers to redevelopment/reinvestment;
- The proposed change would be consistent with how valuations are calculated per the flood regulations, and
- The proposed change would be consistent with Economic Sustainability Strategy recommendations.

ATTACHMENTS:

- A. Ordinance No. 8018
- B. Tax assessment figures

ORDINANCE NO. 8018

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO ADD A VALUATION METHOD FOR EXISTING STRUCTURES FOR DETERMINATION OF UPGRADE REQUIREMENTS UNDER TITLE 9, B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-9-5, "Site Access Control," B.R.C. 1981, is amended to read:

9-9-5 Site Access Control.

(a) Access Control: Vehicular access to property from the public right-of-way shall be controlled in such a manner as to protect the traffic-carrying capacity and safety of the street upon which the property abuts and access is taken, ensuring that the public use and purpose of public rights-of-way is unimpaired as well as to protect the value of the public infrastructure and adjacent property. The requirements of this section apply to all land uses, including single-family residential land uses, as follows:

(1) For all uses, except single-family residential, the standards shall be met prior to a final inspection for any building permit for new development; redevelopment exceeding twenty-five percent of the ~~Boulder County Assessor's actual~~ value of the existing structure; or the addition of a dwelling unit. For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor's Office or the fair market value determined by a real estate appraiser licensed in Colorado.

(2) For single-family residential uses, the standards of this section shall be met prior to a final inspection for any building permit for new development; the demolition of a principal structure; or the conversion of an attached garage or carport to a use other than use as a parking space.

(b) Access for Properties Subject to Annexation: Each parcel of land under a single ownership at the time of its annexation will be reviewed in terms of access as one parcel (regardless of subsequent sales of a portion) unless the property is subdivided at the time of its annexation.

(c) Standards and Criteria for Site Accesses and Curb Cuts: Any access or curb cut to public rights-of-way shall be designed in accordance with the City of Boulder Design and Construction Standards and the following standards and criteria:

1 (1) Number of Access Points Permitted: One access point or curb cut per property will be
2 permitted, unless a site plan or traffic study, approved by the city manager, demonstrates
3 that additional access points and curb cuts are required to adequately address
4 accessibility, circulation, and driveway volumes, and only where additional accesses and
curb cuts would not impair any public use of any public right-of-way, or create safety or
operational problems, or be detrimental to traffic flow on adjacent public streets.

5 (2) Access Restrictions: On arterial and collector streets, or if necessary for the safe and
6 efficient movement of traffic, all accesses shall be designed and constructed with
7 physical improvements and appropriate traffic control measures to assist or restrict
8 turning movements, including, without limitation, acceleration or deceleration lanes,
9 access islands, street medians, and signage, as may be required of the development if the
10 city manager finds that they are necessary to preserve the safety or the traffic-carrying
11 capacity of the existing street. The city manager shall determine the length and degree of
12 the required access restriction measures for the property.

13 (3) Residential Access to Arterial and Collector Streets Restricted: No residential
14 structures shall have direct access onto an arterial. However, if no alternative street
15 access is possible, an access may be permitted subject to the incorporation of any design
16 standards determined to be necessary by the city manager to preserve the safety and the
17 traffic-carrying capacity of the arterial or collector.

18 (4) Access From Lowest Category Street Required: A property that has frontage on more
19 than one street, alley or public access shall locate its access or curb cut on the lowest
20 category street, alley or public access frontage. If more than one access point or curb cut
21 is necessary, an additional access or curb cut will be permitted only where the proposed
22 access or curb cut satisfies the requirements in this section.

23 (5) Property Right to Access: If a property cannot be served by any access point or curb
24 cut that satisfies this section, the city manager will designate the access point or curb cut
25 for the subject property based on optimal traffic safety.

(6) Multiple Access Points for Single-Family Residential: The city manager will permit
multiple access points on the same street for single-family residential lots upon finding
that there is at least one hundred linear feet of lot frontage adjacent to the front yard on
such street, the area has a limited amount of pedestrian activity because of the low
density character, and there is enough on-street parking within three hundred feet of the
property to meet the off-street parking needs of such area. The total cumulative width of
multiple curb cuts shall not exceed the maximum permitted width of a single curb cut.
The minimum spacing between multiple curb cuts on the same property shall not be less
than sixty-five feet.

(7) Shared Driveways for Residential Structures: A detached single-family residential lot
that does not have frontage on the street from which access is taken may be served by a
shared driveway that meets all of the standards and criteria for shared driveways set forth
in the City of Boulder Design and Construction Standards.

(8) Minimum Driveway Width: The minimum width of a driveway leading to an off-street parking space shall not be less than nine feet. A driveway, or portion of a driveway, may be located on an adjacent property if an easement is obtained from the impacted property owner. (See figure 9-1 of this section.)

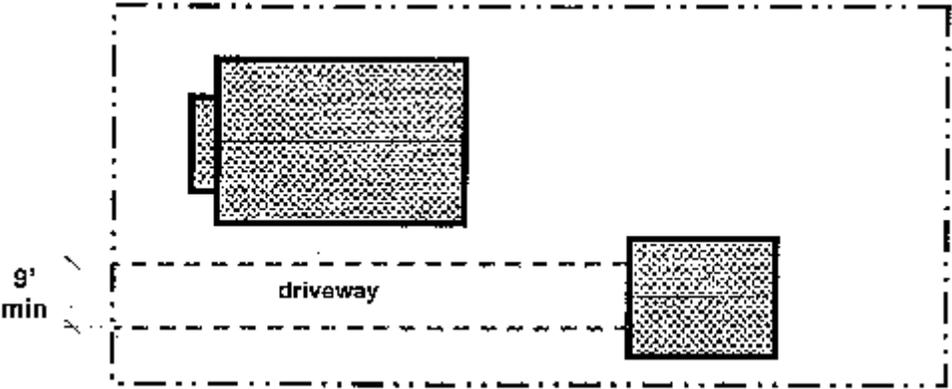


Figure 9-1: Minimum Driveway Width

(9) Exceptions: The requirements of this section may be modified under the provisions of section 9-2-14 Section 9-2-14, "Site Review," B.R.C. 1981, to provide for safe and reasonable access. Exceptions to this section may be made if the city manager determines that:

- (A) The topography, configuration of a lot, or other physical constraints makes taking access from the lowest category street, alley or public access frontage impractical, or the character of the existing area is such that a proposed or existing access to the street, alley or public access frontage is compatible with the access of properties in such area;
- (B) The site access and curb cuts would not impair public use of the public right-of-way; create safety or operational problems or be detrimental to traffic flow on adjacent public streets; and
- (C) The site access and curb cuts will minimize impacts to the existing on-street parking patterns.

...
Section 2. Section 9-9-12, "Landscaping and Screening Standards," B.R.C. 1981, is

amended to read:

9-9-12 Landscaping and Screening Standards.

...

1 (b) Scope: This section and Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981,
 2 apply to all nonresidential and multi-family residential developments unless expressly stated
 otherwise.

3 (1) The standards in this section and Sections 9-9-13, "Streetscape Design Standards,"
 4 and 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981, shall be met prior to a
 final inspection for any building permit for:

5 (A) New development;

6 (B) Redevelopment involving expansion of the total building floor area which
 7 exceeds twenty-five percent of the ~~Boulder County Assessor's actual~~-value of the
 8 existing structure for any use except a property with three or fewer attached
 dwelling units;

9 (C) Redevelopment involving the expansion of the total floor area for a property
 10 that has three or fewer attached dwelling units, shall meet the landscaping
 standards as follows:

11 (i) Redevelopment valued at more than twenty-five percent, but less than
 12 fifty percent of the ~~Boulder County Assessor's actual~~-value of the existing
 structure shall require compliance with the street and alley tree
 requirements and the trash and parking screening requirements;

13 (ii) Redevelopment valued at fifty percent or more, but less than seventy-
 14 five percent of the ~~Boulder County Assessor's actual~~-value of the existing
 15 structure shall require compliance with the street and alley tree
 requirements and the trash and parking screening requirements and the
 16 front yard landscape requirements; and

17 (iii) Redevelopment valued at seventy-five percent or more of the ~~Boulder~~
 18 ~~County Assessor's actual~~-value of the existing structure shall require
 compliance with the landscape regulations.

19 (D) Redevelopment exceeding one hundred percent of the ~~Boulder County~~
 20 ~~Assessor's actual~~-value of the existing structure and not involving expansion of
 the total building floor area; or

21 (E) The addition of a dwelling unit.

22 (F) For purposes of this paragraph (1), the applicant shall demonstrate the value
 23 of the existing structure by submitting, at the discretion of the applicant, either the
actual value assessed by the Boulder County Assessor's Office or the fair market
value determined by a real estate appraiser licensed in Colorado.

24 (2) When additional parking spaces are provided, or for a change of use where new off-
 25 street parking spaces are provided, the provisions of Section 9-9-14, "Parking Lot
 Landscaping Standards," B.R.C. 1981, shall be applied as follows:

1 (A) When the number of additional parking spaces that will be provided exceeds
2 twenty-five percent of the number of existing parking spaces on the site, all
3 standards in Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981,
4 shall be met for the entire parking lot (existing and new portions) prior to the final
5 inspection for a change of use or concurrent with the addition of the parking
6 spaces.

7 (B) When the number of additional parking spaces that will be provided is less
8 than twenty five percent of the number of existing parking spaces on the site, the
9 standards in Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981,
10 shall be met for the new portions of the parking lot prior to the final inspection for
11 a change of use or concurrent with the addition of the parking spaces.

12 ...

13 Section 3. Section 9-9-16, "Lighting, Outdoor," B.R.C. 1981, is amended to read:

14 **9-9-16 Lighting, Outdoor.**

15 ...

16 (c) Scope: This section shall apply to all exterior lighting, including illumination from outdoor
17 signs that impact the outdoor environment. No person shall install any light fixture unless such
18 fixture meets the requirements of this section.

19 (1) Conformance at the Time of Building Permit Application: Compliance with the
20 requirements of this chapter shall be required for all new development. The following
21 outdoor lighting improvements shall be installed prior to a final inspection for any
22 building permit for any redevelopment which exceeds the following thresholds:

23 (A) When development or redevelopment exceeds twenty-five percent of the
24 ~~Boulder County Assessor's actual~~ value of the existing structure, then all existing
25 unshielded exterior light fixtures shall be retrofitted with shielding to prevent light
26 trespass.

27 (B) When development or redevelopment exceeds fifty percent of the ~~Boulder
28 County Assessor's actual~~ value of the existing structure, then:

29 (i) All exterior lighting, except existing parking lot lighting, shall be
30 brought into conformance with the requirements of this section; and

31 (ii) All existing parking lot light fixtures shall be retrofitted with shielding
32 to prevent light trespass.

33 (C) When development or redevelopment exceeds seventy-five percent of the
34 ~~Boulder County Assessor's actual~~ value of the existing structure, then all exterior
35 lighting fixtures shall be brought into full conformance with the requirements of
36 this section.

(D) For purposes of this paragraph (1), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor’s Office or the fair market value determined by a real estate appraiser licensed in Colorado.

(2) Replacement of Fixtures: If an existing light fixture is removed, it shall only be replaced with a conforming light fixture.

...

Section 4. Section 9-10-2, “Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures and Lots,” B.R.C. 1981, is amended to read:

9-10-2 Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures and Lots.

...

(d) Drive-Thru Facilities: A drive-thru facility that was established prior to July 31, 1986, on a property not abutting Canyon Boulevard in the DT zoning districts, and has not expired pursuant to subsection (a) of this section, shall be considered a nonconforming use, and may:

(1) Be renovated or remodeled, by improvements the cumulative total of which increases the structure's fair market value by no more than twenty-five percent of the ~~Boulder County Assessor's actual~~ value of the structure, without meeting the criteria for drive-thru uses in ~~subsection~~ Subsection 9-6-9(c), B.R.C. 1981;

(2) Be renovated or remodeled by improvements the cumulative total of which increases the facility's structure's fair market value by more than twenty-five percent of the ~~Boulder County Assessor's actual~~ value of the structure; or be relocated on site if the development meets the criteria for drive-thru uses in ~~subsection~~ Subsection 9-6-9(c), B.R.C. 1981; or

(3) Be relocated off site or expanded on site, subject to the conditional use requirements for drive-thru uses. For the purposes of this paragraph, "expanded" means creation of an additional drive-thru bay, lane, or teller window.

(4) For purposes of this subsection (d), the applicant shall demonstrate the value of the existing structure by submitting, at the discretion of the applicant, either the actual value assessed by the Boulder County Assessor’s Office or the fair market value determined by a real estate appraiser licensed in Colorado.

Section 5. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Summary of info from Assessment Information Reports

7-Apr-14

			<u>structure</u> <u>sf</u>	<u>actual value</u> <u>from assessment</u>	<u>% of actual</u> <u>value</u>	<u>structure</u> <u>value psf</u>
Account#: 0004324	1580 Canyon	land		\$1,316,000.00	97.79%	
		structure	6528	\$29,800.00	2.21%	\$4.56
		total		\$1,345,800.00	100.00%	
Account#: 0033583	236 Pearl	land		\$686,181.00	98.37%	
		structure	1248	\$11,400.00	1.63%	\$9.13
		total		\$697,581.00	100.00%	
Account#: 0069297	2633 30th	land		\$314,600.00	38.57%	
		structure	10408	\$501,100.00	61.43%	\$48.15
		total		\$815,700.00	100.00%	

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 16, 2014

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance No. 8016 amending Chapter 4-11, "Mall Permits and Leases," Sections 4-1-9 "Authority to Deny Issuance of Licenses," 4-20-11 "Mall License and Permit Fees," and 8-6-6 "Requirements for Revocable Permits, Short-term Leases and Long-term Leases," B.R.C. 1981, to update the code to be consistent with current mall practices and needs, and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager

Thomas A. Carr, City Attorney

David Driskell, Executive Director, Community Planning and Sustainability

Molly M. Winter, Director, Downtown & University Hill Management

Division/Parking Services

Sandra Llanes, Senior Assistant City Attorney

Lane Landrith, Business Coordinator, Downtown & University Hill Management

Division/Parking Services

Ashlee Herring, Communications and Special Events Oversight Coordinator, Downtown & University Hill Management Division/Parking Services

Sloane Walbert, Planner 1, Planning and Development Services

EXECUTIVE SUMMARY

The purpose of this council agenda item is to propose amendments to the code related to Pearl Street Mall permits (**Attachment A – Ordinance No. 8016**). These amendments are necessary to align with current mall permit procedures, guidelines, and practices; to accommodate additional community requests for more events on the mall; to adapt to physical changes to the mall; to increase diligence on maintaining an overall benefit to the community; and to clarify circumstances under which permits can be denied.

City Council approved first reading of the draft ordinance on November 18, 2014 and did not have any questions for staff.

Section 4-11-1 “Legislative Intent” of Chapter 4-11 “Mall Permits and Leases” B.R.C. 1981 provides this informational summary:

The purpose of this chapter is to promote the public interest by enhancing the attractiveness of the mall environment; providing opportunities for creative, colorful, pedestrian-focused commercial activities on a day/night, year-round and seasonal basis; encouraging commercial activity and entertainment that adds charm, vitality, diversity, and good design to the mall area; encouraging the upgrading of storefronts and the development of compatible and well-designed improvements; providing revenue to offset in part the cost of maintaining the mall area; providing reasonable time, place, and manner restrictions on constitutionally protected activities so that they may flourish without detracting from the purpose of the mall as a commercial forum and a means of access to businesses on the mall; and limiting private development on the mall to those proposals of the highest quality that advance these purposes.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance No. 8016 amending Chapter 4-11, Mall Permits and Leases,” Sections 4-1-9 “Authority to Deny Issuance of Licenses,” 4-20-11 “Mall License and Permit Fees,” and 8-6-6 “Requirements for Revocable Permits, Short-term Leases and Long-term Leases,” B.R.C. 1981, to update the code to be consistent with current mall practices and needs.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Special events collect and remit sales tax and bring visitors and vitality to downtown.
- Environmental: The Pearl Street Mall provides zero waste receptacles and strongly encourages special events to adhere to a zero waste event. Best practices for waste water disposal are also used with each event permit.
- Social: The Pearl Street Mall provides a unique gathering space for cultural, musical, artistic, and educational events at no charge to the public.

OTHER IMPACTS

Fiscal - City staff time for review and oversight of all special event permit applications and events.

BOARD AND COMMISSION FEEDBACK

- Downtown Management Commission (DMC) reviewed the proposed mall code changes and recommended the changes (4-0) at their November 3rd meeting, and offered that Mall Entertainment permits not become too restrictive as to limit the types and number of potential performers. It is worth mentioning that the only

proposed code change to Entertainment permits is to increase the term of the permit from three days to one month.

- Downtown Boulder, Inc. (DBI) supported the staff recommendation to amend the city code as proposed.
- Downtown Boulder Business Improvement District Board (BID) supported the staff recommendation to amend the city code as proposed.

ANALYSIS

In addition to city code requirements, guidelines are applied to special event applications to ensure the safety of the public, to balance the number of community events with the needs of the downtown businesses, and to facilitate good customer service and clarity with event producers. Refer to **Attachment C** for mall event guidelines.

Based on experience over the years and feedback from mall businesses, staff currently operates under the guideline of scheduling special events every other weekend during peak months, primarily from May through October. This creates the balance of providing activities for the public and maintaining access to retail businesses during the busy summer and fall seasons.

Proposed Code Changes

The code sections addressing the Pearl Street Mall permits have not been updated for many years. These proposed code changes are needed to bring the code in alignment with current procedural practices, to accommodate additional community request for more events on the Pearl Street Mall, to increase diligence on maintaining an overall benefit to the community, to adapt to physical changes to the mall, and to address circumstances under which permits can be denied.

Listed below is a summary and rationale for proposed mall code section changes. Please see **Attachment B** for additional information on the proposed amendments.

4-11-7 & 4-11-8 “Permits for patios and building encroachments”: Currently any encroachments proposed for the mall are reviewed as a revocable permit or lease under Chapter 8-6 which is administered by Community Planning and Sustainability. The change in Section 4 reflects this existing practice.

4-11-2 “Definitions”; Definition of “special activity”: The changes proposed include, 1) change the terminology to reflect the more common practice of using the term “special event” rather than “special activity”; 2) designating the city manager (staff) as responsible for scheduling events rather than DMC; 3) removing specific requirements for sales conducted as a fundraising activity by a nonprofit group; and, 4) and finally adding “artist using non-airborne mediums” to the Ambulatory vendor permit definition to control the location due to health risks with spray paint.

4-11-4 “Uses prohibited without a permit”: Amended section (c) proposes to allow amplified music on the mall only as part of an approved special event permit. Acoustic music is allowed without the need for any permit.

4-11-12 “Mobile Vending Cart Permit”: Under section (b), changed maximum number of carts allowed on mall from 14 to 13. The mall’s capacity is at 13 carts due to Mall renovations and added amenities in 2000. Section (i) establishes a more user-friendly process of renewing Mobile Vending Cart permits that are in good standing rather than having to reapply as a new vendor.

4-11-16 “Special Event Permit”: Section (b) is amended to reflect the current practice of approving more than six days per year to the same organization during a calendar year. Over the course of the last 30 years, the Mall has evolved into a popular event venue. The Business Improvement District, formed in 1999, created the mechanism for producing more festivals, art fairs, parades, music series and special events that have enhanced the vitality of downtown Boulder.

4-11-18 “General Permit and Lease Requirements”: Reaffirmed in section (c) that the provisions of 4-1-9 “Authority to Deny Issuance of Permits and Licenses” are applicable to the mall, giving staff the ability to deny or revoke a permit where the specified conditions have been violated.

4-11-19 “Application Procedures”: Includes monthly mall permits in the list of permits that the DMC does not approve. The standard practice of staff reviewing and approving permit and is now being reflected in the code.

4-11-22 “Termination of Permits”: Amended section (c) provides staff with discretion to deny a permit for 3 years subsequent to being revoked, pending due process and a formal review.

4-1-9 “Authority to Deny Issuance of Permits and Licenses”;

This proposed amendment provides staff with additional criteria for denial of permit:

- Providing false information or misrepresenting a material fact on application;
- The applicant has within the past three years, from application date, violated a law or condition in a permit governing the activities permitted by the permit;
- The applicant has previously unlawfully conducted activities that require a permit without obtaining such permission in advance;
- The applicant had a city issued permit revoked within the past three years.

Please refer to **Attachment B** for a complete listing of the proposed Mall ordinance updates.

RECOMMENDATION

Staff requests council consideration of this matter and adoption of Ordinance No. 8016 to amend the Boulder Revised Code (**Attachment A**). These proposed changes more accurately reflect the physical modifications in Mall infrastructure, and the current operational standards set forth for safety and enjoyment of all when balancing the diverse needs of our nationally recognized downtown mall.

ATTACHMENTS

A: Ordinance No. 8016

B: Mall Ordinance Updates – Summary of Amendments

C: Mall Event Guidelines

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ORDINANCE NO. 8016

AN ORDINANCE AMENDING CHAPTER 4-11, "MALL PERMITS AND LEASES," SECTIONS 4-1-9 "AUTHORITY TO DENY ISSUANCE OF LICENSES," 4-20-11 "MALL LICENSE AND PERMIT FEES," AND 8-6-6 "REQUIREMENTS FOR REVOCABLE PERMITS, SHORT-TERM LEASES AND LONG-TERM LEASES," B.R.C. 1981, TO UPDATE THE CODE TO BE CONSISTENT WITH CURRENT MALL PRACTICES AND NEEDS, AND SETTING FORTH RELATED DETAILS.

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

COLORADO:

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

....

4-11-2. Definitions.

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

"Advocacy adjunct" means lightweight tables, chairs, and signs capable of being moved easily in case of emergency which are entirely within an advocacy area and do not exceed six feet in height.

"Advocacy area" means those designated areas of the mall where tables, chairs, and signs otherwise prohibited may be employed pursuant to the provisions of this chapter as an adjunct to political advocacy, noncommercial fundraising, and petitioning the government.

"Ambulatory vendor" means a portrait, caricature or landscape artist using non-airborne mediums, or any person who engages in the business of selling balloons, balloon sculptures, flowers or shoe shines.

~~"Building extension" means any structure that is an extension of an existing building front or basement adjacent to the mall and that encroaches upon the mall.~~

~~"Building ornament" means any awning, sign, planter box, or other ornament on a building adjacent to the mall that encroaches upon the air space above the mall.~~

"Encroachment" means a private improvement, structure or obstruction extending into or located within, upon, above or under any public right of way or public easement.

"DMC" means the Downtown Management Commission established by section 2-3-5,

"Downtown Management Commission," B.R.C. 1981.

1 "Educational activity" means all noncommercial activity of any person or group directed at
2 informing or persuading the public which is consistent with the provisions of this code and the
3 laws of the state and the United States, and specifically includes the passage of petitions and the
4 advocacy of candidates and issues in any election.

5 "Entertainment" means a performance or show designed to entertain the public but excludes
6 services provided on a one to one basis.

7 "Entertainment vending" means the sale of a recorded performance of an entertainer by that
8 entertainer while that entertainer is performing.

9 ~~"Festive activity" means a cultural event of community wide interest, including, without
10 limitation, events involving sales, the primary purpose of which is not for profit, which is
11 consistent with the legislative intent of this chapter, and which is scheduled by the DMC and
12 approved by the city manager.~~

13 "Kiosk" means a freestanding structure erected by the City within a pedestrian circulation area
14 and used for the posting of notices or advertisements. It also means a small building located in
15 Mall Zone 3 and operated under lease for the sale of food, flowers, newspapers, or other goods
16 approved by the ~~city manager~~ DMC.

17 "Mall" means the Boulder downtown pedestrian mall established by Ordinance No. 4022,
18 adopted February 18, 1975.

19 "Noncommercial" means that which does not involve the sale of real or personal property or a
20 service.

21 "Nonprofit group" means an entity which has received a tax status determination by the United
22 States Internal Revenue Service as a section 501 tax exempt organization, or which is
23 incorporated as a nonprofit corporation under the laws of the state of Colorado, or which is
24 incorporated as a nonprofit corporation under the laws of another state and has been issued a
25 certificate of authority by the secretary of state for Colorado to conduct affairs in Colorado.

"Personal services vendor" means any person providing personal services on a one on one basis
which does not involve the sale of goods.

"Sale" or "sell" means the exchange of goods or services for money or other consideration, and
includes the offering of goods or services for a donation except when a writing is offered for a
donation to express bona fide religious, social, political, or other ideological views, and the
writing is carried by the person offering it and not set on the ground or any structure.

22 "~~Special activity~~Event" means an educational or cultural event of community-wide interest,
23 including, without limitation, events involving sales, the primary purpose of which is not for
24 profit, which is consistent with the legislative intent of this chapter, and which is scheduled and
25 approved by the city manager, ~~festive activity,~~ or an activity not involving sales and sponsored
by a nonprofit group, that involves the use of a booth, blanket, table, structure, cart, or other
equipment on the mall. It also means sales conducted as a fundraising activity by a nonprofit
group, ~~if:~~

1 ~~(a) The group has volunteer members actively engaged in carrying out the objects of the~~
2 ~~entity;~~

3 ~~(b) The sales on the mall are made only by the group's volunteer members;~~

4 ~~(c) Such volunteer members receive no remuneration, direct or indirect, from the sales or~~
5 ~~sales activities; and~~

6 ~~(d) Any goods sold either bear conspicuously on their exterior the name of the group or its~~
7 ~~registered trademark, or such goods are unique to the group and are not readily available~~
8 ~~through retail stores in the City.~~

9 "Special entertainment" means any activity which involves the juggling, casting, throwing or
10 propelling of a knife or burning projectile on the mall, or involves the use of equipment on the
11 mall which is more than six feet above the surface of the mall when at rest or when bearing a
12 load while being used in the act.

13

14 **4-11-4. Uses Prohibited Without Permit.**

15 (a) (1) No person shall sell, display for sale, or advertise for sale any goods or services to the
16 public on the mall without a valid permit or lease therefor issued under this chapter. This
17 subsection does not apply to a sign, including, without limitation, a sandwich board, carried
18 by a person and not set on or affixed to the ground.

19

20 (c) No person shall install or construct ~~a building extension, building ornament an~~
21 encroachment, or kiosk on the mall without a valid permit or lease therefor issued under this
22 chapter and/or Chapter 8-6, "Public Right of Way and Easement Encroachments, Revocable
23 Permits, Leases, and Vacations" B.R.C. 1981.

24 (d) No person shall use amplified sound on the mall ~~without obtaining~~ unless it is part of an
25 approved special activity Special Event permit issued under this chapter allowing such
amplified sound ~~an amplified sound permit.~~

....

4-11-4.5. Advocacy Area Permit.

(a) The city manager shall designate four areas per block within Zones 3 or 4 in the 1100,
1200, and 1400 blocks, and ten areas within the 1300 block as advocacy areas. Each area shall
be five feet by six feet.

....

1 (e) If a ~~special activity~~Special Event permit is issued for an arts related event and covering
2 every block of the mall, the manager shall designate and provide alternative locations within
3 the same block if feasible, or elsewhere on the mall if feasible, and otherwise as close to the
4 mall as practicable to all applicants, not exceeding twenty-two, who qualify for advocacy area
5 permits. The manager may so displace users of advocacy areas for only one such ~~special~~
6 ~~activity~~Special Event permit in any calendar year.

7

8 (h) Sales of goods or services for any purpose are permitted under an advocacy area permit
9 only if the permittee also has a ~~special activity~~Special Event permit, but a permittee may
10 solicit donations so long as no portion of the donation goes to the financial benefit of any
11 natural person who is soliciting the donation. If the permittee is soliciting donations and is
12 also giving out goods or services related to the advocacy, such goods or services must not be
13 given on condition that a donation is made, and must be available free to anyone requesting
14 such goods or services, although the permittee may limit the number any one person may
15 receive so long as such limit is not conditioned upon the donation.

16

17 **4-11-5. Ambulatory Vending Permit.**

18 (a) Ambulatory vending is permitted only in Zones 1, 2, and 3. An applicant for an
19 ambulatory vending permit, any of which is to be used in Zone 1, shall first obtain the written
20 consent of the tenant occupying the building in front of which the applicant desires to locate.

21

22 (f) Sales shall be limited to items created at point of sale.

23 **4-11-6. Amplified Sound Permit. Repealed**

24 ~~(a) Amplified sound permits may be issued for all zones. An applicant for an amplified sound
25 permit which is to include any part of Zone 1 shall obtain the written consent of the tenant
occupying the building in front of which the applicant desires to locate.~~

~~(b) The city manager may permit the use of amplified sound only if the amplified sound is
essential to the exercise of a use allowed under this chapter and will benefit the public or
enhance the ambiance of the mall. Every use of amplified sound shall comply with section 5-
9-3, "Exceeding Decibel Sound Levels Prohibited," B.R.C. 1981. The manager may attach
such other reasonable conditions on the use of an amplified sound permit as may reduce
friction among competing uses of the mall or serve the purposes of this subsection.~~

~~(c) An amplified sound permit is valid only for the period and location specified in the permit.
No applicant may be issued more than one permit for a day. No fee will be charged for
issuance of an amplified sound permit.~~

1 **4-11-7. Building Extension Permit or Lease. Repealed**

2 (a) Building extensions are permitted only in Zone 1.

3 (b) A person who wishes to construct a permanent building extension on mall property shall
4 obtain a lease from the City in accordance with section 2-2-8, "Conveyance of City Real
5 Property Interests," B.R.C. 1981. The lease may be renewed and shall contain provisions for
6 the eventual acquisition of title to the permanent building extension by the City or for the
7 removal of such construction at the owner's expense along with restoration of the mall to its
8 original condition at the termination or expiration of the lease.

9 (c) Every lease also shall provide that if the city requires the use of the leased property before
10 expiration of the lease period, it may terminate the lease upon reasonable notice to the owner
11 and reasonable compensation for the expenses of removing the building extension.

12 (d) Each application for a lease shall be reviewed by the DMC, which shall recommend to the
13 city manager approval, approval with conditions to be incorporated in the lease agreement, or
14 denial of the application. The manager then will decide whether to grant the lease application
15 and prescribe the lease terms.

16 (e) The city will not issue a lease for a basement level building extension, except those
17 approved prior to September 15, 1981.

18 (f) A permanent building extension shall remain open to the public during the minimum
19 number of retail business hours specified in the lease agreement.

20 (g) A building extension permit or lease may be issued only if:

21 (1) The existing building front conforms, or is improved so as to conform, to the City of
22 Boulder Downtown Boulder Private Development Guidelines for Architecture and Signs,
23 June 1976; and

24 (2) The proposed building extension will benefit the public or enhance the ambiance of
25 the mall.

(h) The construction of a building extension shall be completed within the time period
established in the permit or lease, which shall in no event exceed one year, or the permit or
lease will automatically expire.

(i) All building extensions, including, without limitation, basement stairwells, shall be
illuminated as necessary to ensure public safety during hours of operation and non-operation
from dusk until 3:00 a.m.

(j) A building extension permit is valid for the period of May 1 to April 30 of the following
year, upon payment of the fee prescribed by section 4-20-11, "Mall License and Permit Fees,"
B.R.C. 1981. For the first year of the permit, this fee will be prorated for the balance of the
permit period. A building extension permit is renewable automatically every year upon

1 payment of the applicable fee, unless terminated or revoked in accordance with section 4-11-
22, "Termination of Permits," B.R.C. 1981.

2 (k) The holder of a building extension permit or lease shall indemnify and hold harmless the
3 city, its officers, employees, and agents against any and all claims arising from any occurrence
4 occasioned by the permitted use, and shall maintain during the period of the permit or lease
5 comprehensive general public liability and property damage insurance, as prescribed by
6 section 4-1-8, "Insurance Required," B.R.C. 1981, naming the city, its officers, employees,
7 and agents as insureds; providing that the insurance is primary insurance and that no other
8 insurance maintained by the city will be called upon to contribute to a loss covered by the
9 policy; and providing for thirty days' notice of cancellation or material change to the city.

7 **4-11-8. Building Ornament Permit. Repealed**

8 (a) Building ornaments are permitted only in Zone 1.

9 (b) A building ornament permit may be issued only if:

10 (1) The existing building front conforms, or is improved so as to conform, to the City of
11 Boulder Downtown Boulder Private Development Guidelines for Architecture and Signs,
12 June 1976; and

13 (2) The proposed building ornament will benefit the public or enhance the ambiance of
14 the mall.

15 (c) No fee will be charged for the issuance of a building ornament permit, whose term is
16 perpetual.

15 **4-11-9. Entertainment Vending Permit.**

16 (a) Entertainment vending permits may be issued for all zones. An applicant for an
17 entertainment vending permit which is to include any part of Zone 1 shall obtain the written
18 consent of the tenant occupying the building in front of which the applicant desires to locate.

19

20 (d) A musical entertainment vending permit is valid for three continuous days or up to one
21 month upon payment of the fee prescribed by section 4-20-11, "Mall License and Permit
22 Fees," B.R.C. 1981.

23

24

1 **4-11-12. Mobile Vending Cart Permit.**

2 (a) Mobile vending carts are allowed only in Zones 1, 2, and 3. ~~An applicant for a mobile~~
3 ~~vending cart permit which is to include any part of Zone 1 shall obtain the written consent of~~
4 ~~the tenant occupying the building in front of which the applicant desires to locate.~~

5 (b) The city manager may issue as many mobile vending cart permits as the manager deems
6 appropriate, but the manager shall not permit the operation of more than ~~fourteen~~ thirteen
7 mobile vending carts on the mall at the same time.

8

9 (f) No operator of a mobile vending cart shall conduct the operator's primary trade at locations
10 other than those authorized in the permit. But the operator may sell goods in transit upon
11 request. If an authorized location conflicts with a ~~special activity~~ Special Event, the city
12 manager may temporarily relocate the vendor. The city manager may also approve permanent
13 changes of location as other locations become available, if two permittees agree in writing to
14 exchange locations or temporarily on a month to month basis during September through May
15 if the city manager has reason to believe that the regular vendor will not be using the location.

16

17 (i) A mobile vending cart permit is valid for a one year period, beginning April 1 and ending
18 March 31, with two options to renew for additional one year periods, upon timely payment of
19 the fee prescribed by section 4-20-11, "Mall License and Permit Fees," B.R.C. 1981. A
20 mobile vending cart permit is not automatically renewable thereafter. A permittee who wishes
21 to continue operating after the expiration of the permit shall follow the application procedures
22 required of a continuing vendor as established by city manager rule in accordance with section
23 4-11-19, "Application Procedures," B.R.C. 1981. ~~new applicant.~~

24

25 (k) Each cart shall display a sign at least one foot by one foot visible to the public which
contains the required dates and hours of operation, the items for sale, and the prices of the
items. The sign shall be presented to the city manager for approval before it is used. All items
~~and their prices~~ must be approved by the city manager as part of the application process. The
city manager may approve item changes or substitutions upon receiving written application
for such change.

(l) No person shall fail to maintain, and provide proof when requested, of the permit
authorizing such use.

26 **4-11-15. Sidewalk Sales Permits.**

27 (a) The city manager may, ~~after receiving the advice of the DMC,~~ issue a mall sidewalk sale
28 permit to any nonprofit organization whose principal purpose is the advancement of the

1 cultural or economic interests of the downtown area of the City and which has a demonstrated
2 history of at least three years of substantial, active efforts advancing those goals.

3

4 ~~(d) The applicant may condition individual sub-permit eligibility only on the assent of~~
5 ~~individual owners to the sharing of the reasonable promotional costs of the applicant for the~~
6 ~~sale event on a flat rate, per participant basis, not to exceed \$50.00 for each day per sub-~~
7 ~~permit, and the payment of such amount to the applicant. The applicant shall specify such~~
8 ~~amount on the application, and the city manager shall issue the permit only if the amount is~~
9 ~~reasonable.~~

7 **4-11-16. ~~Special Activity~~Special Event Permit.**

8 (a) ~~Special activity~~Special Event permits may be issued for all zones. An applicant for a
9 ~~special activity~~Special Event permit which is to include any part of Zone 1 shall obtain the
10 written consent of the tenant occupying the building in front of which the applicant desires to
11 locate.

11 (b) A ~~special activity~~Special Event permit is valid for ~~one to six days per year~~the approved
12 number of days upon payment of the fee prescribed by section 4-20-11, "Mall License and
13 Permit Fees," B.R.C. 1981. ~~No more than six days total may be permitted to the same person~~
14 ~~during a calendar year.~~

13 (c) A ~~special activity~~Special Event permit issued to a government is valid for one to ten days
14 per year without a fee.

15 (d) The city manager may, by contract, provide for one or more series of artistic performances
16 for the entertainment of the mall public, which series shall involve regularly scheduled
17 performances over four weeks, with a minimum number of performances of once per week,
18 with each performance lasting a minimum of one hour and a maximum of four hours. Such a
19 contract shall serve as a ~~special activity~~Special Event permit, allowing the use of a stage or
20 other equipment, and amplified sound, as specified in the contract.

19 (e) The city manager may only permit the use of amplified sound in connection with a Special
20 Event, and only if the amplified sound is essential to the exercise of a use allowed under this
21 chapter, and will benefit the public or enhance the ambiance of the mall. Every use of
22 amplified sound will comply with Chapter -5-9, "Noise," B.R.C. 1981. The manager may
23 attach such other reasonable conditions on the use of amplified sound as may reduce friction
24 among competing uses of the mall or serve the purposes of this chapter.

22 **4-11-17. Special Entertainment Permit.**

23 (a) Special entertainment permits may be issued only for Zones 1, 2, and 4. An applicant for a
24 special entertainment permit which is to include any part of Zone 1 shall obtain the written
25 consent of the tenant occupying the building in front of which the applicant desires to locate.

....

(c) A special entertainment permit is valid for the period and the hours specified in the permit, which shall be for reasonable hours and a reasonable period no greater than ~~three~~ one months per permit; no fee will be charged for its issuance. Such a permit is not an exclusive license for use of the area of the mall designated therein. The manager may attach such other reasonable conditions on the use of a special entertainment permit as may reduce friction among competing uses of the mall or serve the purposes of this subsection.

....

4-11-18. General Permit and Lease Requirements.

(a) The city manager shall not approve a permit or lease application pursuant to this chapter unless it complies with the following general design requirements:

(1) The proposed design conforms with every applicable city code; and

(2) The proposed design conforms with the applicable design criteria in the City of Boulder Downtown Boulder Private Development Guidelines for Architecture and Signs, June, 1976.

(b) ~~A lessee or permittee is responsible for~~ No person shall fail to maintain the area within and in proximity to the location of the leased premises or permitted location in a neat, clean, and hazard-free condition, including, without limitation, disposing of all trash off-site.

(c) The provisions of Section 4-1-9, "Authority to Deny Issuance of Permits and Licenses," B.R.C. 1981, shall be applicable to this chapter. In addition, t~~The city manager may deny a permit, except for a newspaper vending machine permit, if the application does not meet the purposes and requirements of this chapter, would violate any law, or the proposed use would constitute a physical hazard to the public health, safety, or welfare, or would violate any law.~~

4-11-19. Application Procedures.

(a) The DMC shall review each mobile vending cart application for a permit ~~or lease~~ in accordance with the purposes and requirements of this chapter and recommend to the city manager approval, approval with conditions, or denial of the application. ~~This subsection does not apply to newspaper vending machine permit applications or applications for daily permits other than special activity permits, or applications for advocacy area permits, or to any class of permit which the DMC has, by resolution, determined not to review.~~

(b) The city manager, after receiving a completed application and if applicable, a recommendation from the DMC as provided in subsection (a) of this section, shall determine whether each application for a permit or lease meets the purposes and requirements of this chapter and, approve with conditions, ~~or disapprove~~ deny the application.

....

....

1 **4-11-22. Termination of Permits.**

2 (a) Any permit issued hereunder may be revoked by the city manager ~~under the procedures as~~
3 prescribed by section 4-1-10, "Revocation of Licenses," B.R.C. 1981, for any violation of this
4 ~~chapter law~~, or a breach of a condition in the permit.

5 (b) Upon revocation or expiration of any permit, the permittee shall immediately remove all
6 structures or improvements from the permit area and restore the area to its condition existing
7 prior to issuance of the permit.

8 (c) If a permit is revoked, the permittee may not be approved apply for the same type of permit
9 for ~~three~~ one years after the effective date of the revocation. Approval of applications
10 submitted subsequent to the three year ban are discretionary and subject to the applicant's
11 ability to demonstrate rehabilitation and the likelihood of future permit compliance.

12 **4-11-23. Amendments.**

13 The DMC may recommend amendments to this chapter to the city council.

14 Section 2. Section 4-1-9, B.R.C. 1981, is amended to read:

15 **4-1-9. Authority to Deny Issuance of Permits and Licenses.**

16 (a) The city manager may deny an application for a permit or license under this title upon a
17 determination that:

18 (1) The applicant has failed to supply any of the information required on the application;

19 (2) The applicant has provided false information or misrepresented a material fact in
20 connection with an application;

21 (3) The applicant has failed to obtain required insurance;

22 (4) The applicant has failed to pay the required license fee;

23 (5) The applicant has, within the past three years from application date, violated a law or
24 condition in a license governing the activities permitted by the license;

25 (6) The applicant has previously unlawfully conducted activities that require a permit or
license without obtaining such permission in advance;

(7) The applicant had a city-issued license revoked within the past three years;

(8) The applicant is not qualified by experience, training, or education to engage in the
activity authorized by the license; or

(9) The applicant has been finally convicted of an offense and would create danger to
the public health, safety, or welfare if the applicant were to engage in such offensive
conduct after the license were issued.

....
Section 3. Section 4-20-11, B.R.C. 1981, is amended to read:

4-20-11. Mall License and Permit Fees.

The following fees shall be paid before issuance of a mall ~~building extension~~, kiosk, mobile vending cart, ambulatory vendor, entertainment vending, personal services vending, or animal permit, ~~or special activity permit~~, and rental of advertising space on informational kiosks:

- (a) ~~For building extension permits, an annual fee of \$15.50 per square foot of occupied space;~~
- (~~b~~a) For kiosk permits, an annual fee to be negotiated by contract with the city manager;
- (~~b~~b) For mobile vending carts, \$2,075.00 per year, payable in two equal payments by April 1 and August 1, or, for substitution or other permits which begin later in the year and are prorated, within thirty days of permit approval;
- (~~d~~c) For ambulatory vendor permits, \$103.50 per month from May through September, and \$51.00 per month from October through April;
- (~~e~~d) For any permits requiring use of utilities to be provided by the city, up to a maximum of \$18.00 per day;
- (~~f~~e) For rental of advertising space on informational kiosks, \$975.00 per quarter section per year;
- (~~g~~f) For animal permits, \$0.00 per permit;
- (~~h~~g) For entertainment vending permits, \$14.50 per month;
- (~~h~~h) For personal services vending permits, \$103.50 per month from May through September, and \$51.00 from October through April; and
- (~~j~~i) For a newspaper vending machine permit, \$66.50 per year.

Section 4. Section 8-6-6, B.R.C. 1981, is amended to read:

8-6-6. Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases.

(a) Purpose and Scope: Public rights-of-way and public easements are held by the City in trust for public use to ensure the health, safety and welfare of the residents of the City. The city council intends that all decisions regarding the granting of permission to place an encroachment into public right-of-way or public easements are legislative in nature. The City may determine from time to time at its discretion to issue a revocable permit, short-term lease or long-term lease subject to the requirements set forth in this section for certain encroachments into public rights-of-way and public easements that do not adversely affect its present or future use.

1

2 (~~k~~) ~~Mall Permit Required: Nothing in this section shall be deemed to waive or supersede the~~
3 ~~requirement to obtain a license or permit to place structures on the Downtown Boulder Mall,~~
4 ~~as required by chapter 4-11, "Mall Permits and Leases," B.R.C. 1981.~~

5 Section 5. This ordinance is necessary to protect the public health, safety, and welfare of
6 the residents of the city, and covers matters of local concern.

7 Section 6. The city council deems it appropriate that this ordinance be published by title
8 only and orders that copies of this ordinance be made available in the office of the city clerk for
9 public inspection and acquisition.

10 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
11 TITLE ONLY this 18th day of November, 2014.

12
13 Attest: _____
Mayor

14
15 _____
City Clerk

16 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
17 PUBLISHED BY TITLE ONLY this 16th day of December, 2014.

18
19
20 Attest: _____
Mayor

21
22 _____
City Clerk

ATTACHMENT B: MALL ORDINANCE UPDATES – SUMMARY OF AMENDMENTS

<p>4-11-7 & 4-11-8 “Permits for patio’s and building encroachments”</p>	<p>– moved from Chapter 4-11 “Mall Permits and Leases” to 8-6-6 “Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases”</p> <p>- From P&DS: After doing some research I would recommend removing all sections related to “Building Extensions” or “Building Ornaments” in Title 4. In 1997 Ordinance 5919 created Chapter 8-6 and defined the use of revocable permits and leases to manage any encroachments in the public right-of-way. It appears this ordinance also moved the authority to review and approve encroachments from the DMC to Public Works. As far as I am aware we have not approved a Building Extension or Building Ornament (as defined in Title 4) on the mall since this ordinance was adopted. Currently any encroachments proposed for the mall would be reviewed as a revocable permit or lease under Chapter 8-6. See BRC 8-6-3 and 8-6-6. Directing all proposed encroachments on the mall to the criteria in Chapter 8-6 would consolidate and codify the policies and practices for managing encroachments into the right-of-way, which was the objective of Ordinance 5919.</p>
<p>4-11-2 “Definitions”</p>	<p>- The definition of “special activity” was changed to reflect the more common practice of using the term “special event”. This change was implemented throughout the chapter. Other changes to the term “special event” include providing that the city manager (staff) schedule events rather than DMC and removing specific requirements for sales conducted as a fundraising activity by a nonprofit group. “Festive activity” was removed and combined with “special event”.</p> <p>- Removal of “building extension” and “building ornament” because no longer applicable to this chapter.</p> <p>- added “artist using non-airborne mediums” to Ambulatory vendor due to health risks with spray paint.</p> <p>- Added the term, “encroachment” as referenced in 4-11-4(c).</p>

ATTACHMENT B: MALL ORDINANCE UPDATES – SUMMARY OF AMENDMENTS

4-11-4 “Uses prohibited without a permit”	<ul style="list-style-type: none"> – amended section (c) to only allow amplified music on the mall as part of an approved special event permit. - Repealed 4-11-6 “Amplified Sound Permit” to be consistent with the amended section above (allowing amplified sound permits only as part of a special event).
4-11-9 “Entertainment Vending Permit”	<ul style="list-style-type: none"> – amended section (d) to allow approval of permit for up to one month rather than “3 continuous days or one month”. - From a consistency perspective all permits are only approved for one month.
4-11-12 “Mobile Vending Cart Permit”	<ul style="list-style-type: none"> – Removed ability to locate carts in zone 1. There has never been an approval for a cart in zone 1. Zone 1 is right up against a store front and requires written consent from tenant. - Under section (b), changed maximum number of carts allowed on mall from 14 to 13. The Mall’s capacity is at 13. This is due to Mall renovations in 2000. - Under section (i), established a more user friendly process of renewing vending cart permits rather than having to reapply as a new vendor. - Under section (l), added a requirement that permittee provide proof when requested of permit. This will be helpful to enforcement.
4-11-15 “Sidewalk Sales Permits”	<ul style="list-style-type: none"> – removed section (d) which provided details about how the applicant could determine sub permit eligibility based on cost sharing with other permittees and city manager made final determination on whether the amount was reasonable. Staff does not want to be involved in making these business type decisions for permittee.
4-11-16 “Special Event Permit”	<ul style="list-style-type: none"> – amended section (c) to reflect the current practice of approving permits for one month rather than three months per permit. -amended section (b) to reflect the current practice of approving more than six days per year to the same person during a calendar year.
4-11-18 “General Permit and Lease requirements”	<ul style="list-style-type: none"> – clarified in section (c) that the provisions of 4-1-9 “Authority to Deny Issuance of Permits and Licenses” is applicable to the

ATTACHMENT B: MALL ORDINANCE UPDATES – SUMMARY OF AMENDMENTS

	Mall.
4-11-19 “Application Procedures”	- included monthly permits to the list of permits that DMC does not approve. This has been the standard practice and is now being reflected in the code.
4-11-22 “Termination of Permits”	– Amended section (c) to provide staff with discretion to deny a permit for 3 years subsequent to being revoked.
4-1-9 “Authority to Deny Issuance of Permits and Licenses”	– amended code to provide additional basis for denial of permit to include: - Providing false information or misrepresenting a material fact on application; - The applicant has within the past three years, from application date, violated a law or condition in a license governing the activities permitted by the license; - The applicant has previously unlawfully conducted activities that require a permit or license without obtaining such permission in advance; - The applicant had a city issued license revoked within the past three years.

Attachment C – Mall Event Guidelines

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

<p>Pearl Street Mall Special Event Permits are limited to allow a minimum 10 days of non-event activity between permit dates. During the summer and early fall, staff follows the guideline of permitting events every other weekend to maintain a balance between providing events for the public and maintaining access to retail businesses. Required attachments for Application:</p>	<p>Small Event Less than 100 people</p>	<p>Large Event Over 100 people</p>
<p>Proof of non-profit status 501© letter from IRS OR State articles of incorporation</p>	<p align="center">yes</p>	<p align="center">yes</p>
<p>Map indicating: *Location of tents/tables/chairs, stage, trash/electrical cords *Rally route (if applicable) *Base maps are available at our office. *Booths must be open on all sides</p>	<p align="center">yes</p>	<p align="center">yes</p>
<p>Damage Deposits</p>	<p align="center">Up to \$500 may be required</p>	<p align="center">\$500</p>
<p>Insurance Certificate naming the City of Boulder, its employees and elected officials, as additional insured. A general liability insurance policy with a combined single limit of \$1 million per occurrence, and \$2 million aggregate. Separate alcohol service liability riders may be required.</p> <p>The following verbiage must be in the description area of the insurance rider: “The City of Boulder, its employees and elected officials, are named as an additional insured on general liability for (name the event, the date, location).” The City will not accept insurance riders if this language does not appear.</p>	<p align="center">yes</p>	<p align="center">yes</p>
<p>Performers Schedule Name of group (s) Approximate Performance Times</p>	<p align="center">yes</p>	<p align="center">yes</p>
<p>Music or other amplified sound will not commence before 7:00 a.m. or continue after 12:00 a.m. Amplified sound may be limited to a specific time. Compliance with the city’s noise regulations as described in city code <u>Chapter 5-9, “Noise” B.R.C. 1981</u>. A copy of the law may be obtained from the City of Boulder website at www.bouldercolorado.gov, under Codes and Regulations.</p> <p>If a complaint is received, the Boulder Police Department may respond and a warning and/or summons may be issued to the Event Organizer resulting in a requirement that all music, bands and amplification be turned down or turned off immediately.</p>		
<p>If Electrical is needed (optional) (all electrical cords must be taped down during event). No plug strips allowed; Planter/pole outlets = 8 amps or 1000 watt limit. 110 OUTLETS ONLY Key deposit (optional). Daily rate is set yearly in annual city budget.</p>	<p align="center">\$18.00/day in 2014 \$200</p>	<p align="center">\$18.00/day in 2014 \$200</p>

Attachment C – Mall Event Guidelines

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

Other Information A to Z

Amplified Sound Hours:	Pearl Street Mall, CAGID and DBBID: Amplified sound permitted between the hours of 7:00am to 12:00am midnight. The use of amplified sound may be restricted on a case by case basis pursuant to the discretion allowed in City Code Chapter 4-11: Mall Permits and Leases, BRC.
Banners and Signs:	May not be placed across streets intersecting the Mall. No A-Frame Signs. No chalking or painting on city property, including the bricks on the Pearl Street Mall.
Courthouse Lawn:	Apply to Boulder County: Sheree Stroud – 303-441-4571; sstroud@bouldercounty.org
Damages:	Provided full cleaning and maintenance are completed to return the permitted area to its original state, event deposit will be returned.
Deposits:	Deposits will be cashed by the city upon approval of the application. Deposits will be refunded by check 10 days after the event. Any deductions due to failure to comply with these requirements will be noted.
Electricity:	Only 110 outlets are available on the Pearl Street Mall. Cost is per day, set annually by the Boulder City Council. No power strips allowed. Electrical key must be returned to Boulder Parking Services front desk within 48 hours after the completion of the event.
Food:	If food is served, approval is required from the Boulder County Health Department: 303-441-1150.
Flyers:	Events will be required to flyer stores/restaurants one week before date of event with all pertinent information, including food and merchandise sales. Event organizer must get city staff approval of vendor information that will be sent out, prior to releasing it to the public.
Mobile Carts:	Do not set up within 10 feet of mobile vending carts. Mobile Vending Carts must be accommodated and notified of the event’s location in writing a minimum of 7 days prior to your event permit date.
No Gaming Activities:	No raffle tickets, games of chance, etc. are allowed on the Mall.
Public Restroom Cleaning:	Additional Mall restroom cleanings during a Special Event are required. The current contractual service provider must be hired for a fee of \$60 per visit, payable to CITY OF BOULDER. Regularly scheduled restroom cleanings will take place at 1:00, 5:00, and 9:00 PM, and Special Events must pay for additional cleanings at 3:00 PM and 7:00 PM, depending upon the event ending time.

Attachment C – Mall Event Guidelines

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

Parking: No cars/trucks are allowed on the Pearl Street Mall after 10:00 a.m. Park only in the fire lanes for loading/unloading (herringbone pattern on the brick).

Parking Procedures for Special Events

Each special events organization that requires street closure and parking restrictions shall enter into a contract with Downtown University Hill Management Division/Parking Services, for the overtime hiring of parking officers.

Requests for parking service officers must be made 30 days in advance of the scheduled date of the event. The contract shall be completed and returned 2 weeks prior the scheduled date of the event along with the required fees.

Without a valid contract in place prior to the scheduled event, DUHMD/PS will not respond to or provide services related to the relocation of vehicles located within the closed street.

An event coordinator, who has been approved to hold an event, requiring street closure and parking restrictions, will be contacted by Parking Services for the completion of the contract for parking officers. It is the discretion of the Assistant Parking Manager to determine the number of parking officers assigned to work such an event.

Organizations who sponsor an event shall comply with the specification outlined in the City of Boulder Downtown & University Hill Event & Street Closure Application and the Request for Parking Service Officer Contract.

Contract specifications for the use of Parking Service Officers:

- It is the responsibility of the event coordinator to post the required signs at least 72 hours in advance in a metered or pay station area. Additionally, other areas require signs to be posted at least 72 hours in advance.
- Each city block shall have no less than six no parking signs and shall be affixed so the sign is visible from a parked position. Two of the signs shall be posted at each end of the respective block. The signs shall be attached to either permanent posts, (meter posts or sign posts) or removable posts such as wooden or metal stakes or similar material. No signs shall be located or attached to pay station kiosk or traffic control device. Signs shall be affixed to their respective posts by plastic ties or wire. No signs shall be taped to any object.
- Once posted it is the responsibility of the event staff to maintain the signage. (DUHMD/PS recommends that the event staff check signage at least twice each day and if possible, take photos or video of the posted signs.)
- All vehicles that remain in a closed area after the required signs have been posted will be relocated. Costs associated with the relocation of vehicles are the responsibility of the event coordinator. Relocation fees are determined by the tow company at the rate of \$70.00 for a single axle and \$110.00 for dollied vehicle.
- The assigned parking service officer and/or the tow company will provide the event coordinator with a list of vehicles relocated and there location.
- Parking service officers are only hired to issue citations for parking violations and coordinate the relocation of vehicles.
- Costs associated for the use of Parking Services are based on budgetary considerations, which are evaluated annually. Current charges are \$50.00 per hour at a minimum of three hours for each parking officer hired. Additionally costs include a vehicle fee of \$20.00 and a 10% administrative fee. Events occurring on a recognized holiday will be charged at the rate of \$100.00 per hour at a minimum of three hours for each parking officer hired along with the vehicle fee and administrative fee.
- Cancellation of a contract with less than 72 hours notice will result in an additional cost of 10% of the total amount due. Cancellation of a contract with less than 24 hours notice will result in an additional cost of 100% of the total amount due.

Attachment C – Mall Event Guidelines
City of Boulder
PEARL STREET MALL EVENT REGULATIONS

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- Porta-Lets: If event attendance is over 1000 people per day, and/or alcohol service has been permitted, porta-lets will be required.
- Sales Tax: Call the City of Boulder Sales Tax Office to determine these requirements. 303-441-3050.
Sales and Admissions Tax Licenses
- Any charges for entrance into events are subject to the City’s admissions tax and any sale of tangible personal property is subject to the City’s sales tax. The event organizer is responsible for the collection of sales and admissions tax even if the tax is collected by vendors unless the tax department authorizes self-pay by a licensed vendor. Call the City’s Tax Department (303-441-4026) for licensing information and procedures for collection and remittance of tax. **Promoters must be in good standing with City Sales Tax prior to approval of this permit application.**
- Teardown & Trash Removal: Must be completed by midnight of the final day of the event. Organizer is responsible for removing ALL event trash/recycling/compost from the area or fees will be assessed to the security deposit.
- Tents & Fire Code Compliance: A permit is required to erect and use a tent in excess of 20 Ft. x 20 Ft. feet or a canopy in excess of 400 square feet or a canopy in excess of 400 square feet if the perimeter is open for at least 75%. A canopy with 100% of the perimeter open requires a permit in excess of 700' square feet. Please contact Planning and Development Services, located at 1739 Broadway on the third floor for a permit application. A representative from the Boulder Fire Department will conduct the physical inspection of the tent/canopy prior to use. Should you have any questions, please contact Boulder Fire Department special events chief @ 303.441.4356.
- Use sand bags to tie down tents; water-filled barrels must not be emptied onto the Mall or adjacent streets; use a sewer drain only.
- Vendor inventory must be stored under tables, not behind tents.
- Tents must be open on all sides, especially on the south side of the mall to allow Mall merchants to be accessible through vendor tents.
- Trash and Recycling: **City trash cans are not to be covered during events.** You are required to recycle during your event. Zero waste events are strongly encouraged. Call the Local Environmental Action Division at 303-441-1878 if you have additional questions. Events will not be approved if an authorized recycling plan is not attached to this permit application.
- Attach a copy of the approved plan to this application.**

Attachment C – Mall Event Guidelines

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

You will also be required to comply with Boulder County’s Storm water Best Practices <http://www.bouldercounty.org/env/water/pages/stormwater.aspx>

By county ordinance, it is a crime to place any foreign substance whether solid or liquid into any body of water or watercourse.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 16, 2014

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 8012 authorizing and directing the acquisition of property located along the Wonderland Creek corridor between Winding Trail Drive and Foothills Parkway, by purchase or eminent domain proceedings, for the construction of the Wonderland Creek Greenways Improvement Project.

PRESENTER/S

Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Jeff Arthur, Director of Public Works for Utilities
Bob Harberg, Principal Engineer - Utilities
Annie Noble, Flood and Greenways Engineering Coordinator
Kurt Bauer, Engineering Project Manager

EXECUTIVE SUMMARY

The city is in the process of designing a Greenways improvement project along Wonderland Creek from Foothills Parkway to Winding Trail Drive. The project will include extending the multi-use path along Wonderland Creek, providing three new pedestrian and bicycle underpasses, and constructing flood mitigation along the project reach. The September 2013 flood event resulted in substantial damages along Wonderland Creek, and this Greenways project will help mitigate future flood risks.

Construction of the project requires the purchase of numerous temporary and permanent easements. The project has received \$2.9 million in federal grant money which has a deadline of June 30, 2015 to advertise for construction. In order to avoid losing federal funds, the city must acquire all of the necessary easements prior to advertising the project for construction. The city has begun to purchase the required easements and so far has no indication of unwilling sellers. However, if the city is not able to acquire all of the easements by the required deadline, the project and federal funding will be jeopardized. Due to the lengthy process associated with eminent domain proceedings, staff is

requesting council approval in advance in case the city must acquire the remaining easements through eminent domain. City Council will be presented with a second reading of the proposed ordinance at a public hearing scheduled for Dec. 16, 2014.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance 8012 authorizing and directing the acquisition of property located along the Wonderland Creek corridor between Winding Trail Drive and Foothills Parkway, by purchase or eminent domain proceedings, for the construction of the Wonderland Creek Greenways Improvement Project.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – The Wonderland Creek channel between Foothills Parkway and Winding Trail Drive is inadequate to convey stormwater resulting from major storms. The September 2013 flood resulted in substantial flood damage along a portion of Wonderland Creek within the project corridor. This project will provide flood mitigation along the project reach and in neighborhoods such as Winding Trail and Kings Ridge, reducing the risk to life and property and disruptions to businesses.
- **Environmental** - The proposed multi-use path would help reduce greenhouse gas emissions by promoting non-motorized transportation. Reducing vehicle miles traveled helps meet the goals of the Transportation Master Plan and Climate Commitment. Use of the trail by commuters will also help reduce dependency on oil and other natural resources. Other project objectives include water quality and habitat improvements and mitigation of the environmental damages associated with flooding.
- **Social** - The proposed multi-use path would provide a connection to the rest of the city's path system, including a safe railroad crossing that can be used by all members of the community. The flood mitigation measures would reduce the risk to life and damage to property along a portion of Wonderland Creek, including an assisted living facility.

OTHER IMPACTS

- **Fiscal** – The total cost for this project is estimated to be \$21 million. Federal Transportation Improvement Program (TIP) funding has been granted for this project in two phases, for a total of \$2.9 million. The city's contribution is being funded through the Flood and Greenways Capital Improvement Program (CIP). Funding was initially approved by City Council as part of the [2014-2019 CIP](#) and was subsequently changed in late 2013, when funds previously allocated for the Wonderland Creek project were used for flood recovery efforts. While staff anticipates that FEMA will reimburse some of these funds, the timing of the reimbursement is uncertain. As a result, the current CIP shows \$16 million in bonds for the Wonderland Creek project. About \$2.1 million in funding is also provided by

the Urban Drainage and Flood Control District (UDFCD). Property acquisition associated with this project is estimated to cost approximately \$275,000.

- **Staff time** – Staff time for this project is included in the current work plan.

BOARD AND COMMISSION FEEDBACK

Staff has prepared two separate Community and Environmental Assessment Process (CEAP) reports, one for the reach from Foothills Parkway to the Diagonal Highway and one for the reach from the Diagonal Highway to Winding Trail Drive. The Greenways Advisory Committee unanimously recommended approval of the [Wonderland Creek Foothills Parkway to Diagonal Highway CEAP](#) on Aug. 31, 2010 and unanimously approved the [Wonderland Creek Diagonal Highway to Winding Trail Drive CEAP](#) on Jan. 10, 2013. The Greenways Advisory Committee is comprised of representatives of six advisory boards that have an interest in the Greenways Program. The CEAPs were provided to all of the members of the six advisory boards for review and comment. Both CEAPs were also accepted by council.

PUBLIC FEEDBACK

An open house was conducted on Jan. 14, 2010 for the Wonderland Creek Foothills Parkway to Diagonal Highway project. Staff also conducted a meeting for the Boulders at Talisman Homeowners' Association (representing 104 units) on Feb. 16, 2010. An open house was conducted on Oct. 11, 2012 for the Wonderland Creek Diagonal Highway to Winding Trail Drive project. An open house was held on Aug. 25, 2014 to present the project design to the public. Onsite meetings were also held with all of the property management agencies and homeowners' associations affected by the project. The majority of comments received at the meetings favored all aspects of the project. Some comments noted concerns with trail crossing locations and the screening of project features. The project team has responded with the reason for the proposed trail crossing locations and is working to resolve screening issues with stakeholders. Residents that were impacted by the September 2013 flood, including those located in the Winding Trail and Kings Ridge neighborhoods, have expressed great interest in completing this flood mitigation project.

BACKGROUND

The flood mitigation aspects of the Wonderland Creek Greenways Improvement Project were identified in the Fourmile Canyon Creek and Wonderland Creek Flood Mitigation Final Plan, which was approved by City Council on Nov. 10, 2009. The multi-use path and underpass components of the project are shown in the Greenways Master Plan and the Transportation Master Plan.

The September 2013 flood event resulted in substantial damages along Wonderland Creek, including damage to multifamily units located at 28th Street and Winding Trail Drive (Birchwood Condominiums) and in the King's Ridge neighborhood. This Greenways project will provide 100-year flood conveyance capacity throughout the project reach, reducing the risk of flooding for 130 structures and 583 dwelling units. The project will also separate the creek flows from the Boulder and White Rock irrigation ditches, mitigating the flood risk in the King's Ridge neighborhood.

The project will reduce flood risk and extend and enhance the multi-use path system from Foothills Parkway to Winding Trail Drive. The project includes:

- Providing three bicycle and pedestrian underpasses at the BNSF railroad, Kalmia Avenue, and 28th Street;
- Extending the multi-use path system from Foothills Parkway to 30th Street; and
- Providing channel improvements along the project corridor.

Two separate CEAPs have been prepared and accepted, one for the reach from Foothills Parkway to the Diagonal Highway and one for the reach from the Diagonal Highway to Winding Trail. A CEAP was prepared in 2010 for the reach from Foothills Parkway to 30th Street and in 2013 for the reach from the Diagonal Highway to Winding Trail Drive. Both CEAPs were accepted by City Council. The city selected a consultant team in 2012 and is currently working on final design of the project elements. The project is estimated to cost \$21 million (including the costs associated with property acquisition) and has received a total of \$2.9 million in federal TIP funding, with the remainder being funded by the Flood and Greenways CIP and the Urban Drainage and Flood Control District. **Attachment B** shows the project location.

ANALYSIS

In order to complete the Wonderland Creek Greenways Improvement Project, the city needs to secure 44 easements (14 permanent and 30 temporary) from 15 different property owners, including five homeowners' associations. The federal grant requires the project to be advertised for construction by the end of June 2015, and the city will need to acquire all of the necessary easements prior to advertising the project for construction.

The federal grant requires development and approval of right of way plans prior to acquiring any easements. The right of way plans for the project segment from Foothills Parkway to the Diagonal Highway were approved through the federal process in June 2013 and the right of way plans for the segment from the Diagonal Highway to Winding Trail Drive were approved in June 2014. The federal grant also stipulates a specific process for property acquisition. The city has hired Western States Land Services, Inc. to assist in this acquisition process, which includes:

- Determining fair market value through an appraisal process;
- Presenting an offer of fair market value to each property owner; and
- Presenting any counter offers to the city for consideration.

The average size of the permanent easements required for the project is 3,900 square feet, with an average cost of approximately \$16,000. There is no requirement to purchase structures. As of Nov. 24, 2014, Western States, on behalf of the city, has secured nine permanent easements and 11 temporary easements from six property owners. In addition, the following five permanent and five temporary easements are very close to closing:

- RE-2, RE2A, owned by BNSF Railway;

- PE-1, TE-1, owned by the University Corporation for Atmospheric Research;
- TE-5, owned by the Housing Authority of the City of Boulder;
- PE-3Rev, PE-3A, TE-3, TE-3A, TE-3B, owned by the Hayden Place Owners Association.

Attachment C presents a tabular and graphical summary of the easements that will need to be secured to complete the project, including the status of the purchasing process.

Attachment D presents the legal descriptions of these easements.

Although the city currently does not have any indication that there may be unwilling sellers of the easements necessary to construct the project, staff recommends City Council approval to use eminent domain, if needed, to protect the project and its federal funding. **Attachment A** presents the proposed ordinance authorizing acquisition of right of way property necessary for the Wonderland Creek Greenways Improvement Project by purchase or eminent domain proceedings. The city will continue to negotiate in good faith with those property owners from whom easements have not yet been secured, and the city does not intend to initiate any condemnation action unless it has exhausted efforts at negotiation. In order to ensure all easements are secured by the federal grant deadline, approval to use eminent domain would be required no later than Jan. 1, 2015.

Alternatives to condemnation of the remaining easements needed to advance this project, if negotiations with any property owner fail, are shown below.

1. Modify the project design to accommodate any missing easements. This option would be difficult, as considerable effort has been made during the design process to minimize the need to purchase easements. Modification of the design will therefore compromise the objectives of the project, including possible reduction in the flood mitigation and/or multi-use path enhancements. In addition, the federal grant requires specific project elements be constructed, including path connections and pedestrian and bicycle underpasses.
2. Abandon the project and forfeit the federal funds. Failure to fulfill the grant stipulations could jeopardize future TIP funding opportunities for the city.

ATTACHMENTS

A: Proposed Ordinance

B: Project Location Map

C: Ownership Tabulation and Right-of-Way Exhibits

D: Legal Descriptions for Outstanding Easements

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE ACQUISITION OF RIGHT OF WAY PROPERTY LOCATED ALONG WONDERLAND CREEK FROM FOOTHILLS PARKWAY TO WINDING TRAIL BY PURCHASE OR EMINENT DOMAIN PROCEEDINGS, FOR CONSTRUCTION OF THE WONDERLAND CREEK GREENWAYS IMPROVEMENT PROJECT.

WHEREAS THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO

FINDS AND RECITES THAT:

A. The city has adopted the Boulder Valley Comprehensive Plan, the purpose of which is to protect and promote the public health, safety and welfare. Providing for appropriate trailway, drainage and utility systems is central to policies and goals of the Plan, including but not limited to those related to economic sustainability, a multimodal transportation system, recreation, environmental protection, flood control, stormwater drainage, water quality, and the city's ecological objectives.

B. The Wonderland Creek Greenways Improvement Project (the "Project") has been identified in the Greenways Master Plan ("GMP" 2011), the Transportation Master Plan ("TMP" 2008), the Fourmile Canyon Creek and Wonderland Creek Major Drainageway Planning Final Plan ("Final Plan" 2011), the Wonderland Creek Greenways Improvement Project Foothills Parkway to Diagonal Highway Community Environmental Assessment Process ("CEAP" 2010), and the Wonderland Creek Diagonal Highway to Winding Trail Community Environmental Assessment Process ("CEAP" 2012).

C. The Project is funded through the Stormwater and Flood Management Utility and the Tributary Greenways capital improvements programs ("CIP" 2015-2020) which includes funding from the Urban Drainage and Flood Control District and the Federal Transportation Improvement Program. The total estimated project cost is \$21 million dollars.

D. The acquisition of certain rights of way described in Attachments C and D is necessary for the construction of the Project from Foothills Parkway to Winding Trail. The construction of the Project will accomplish a number of important public purposes, including:

- 1) Mitigation of flooding along the Project reach during a 100-year storm event;
- 2) Construction of a multi-use path along the creek corridor; and
- 3) Enhancement of traveler safety and traffic management by providing grade separated multi-use underpasses at the Burlington Northern and Sante Fe Railroad, Kalmia Avenue, and 28th Street.

E. Council finds that the acquisition of interest in the property described in Attachments C and D is necessary for the construction of the Wonderland Creek Greenways Improvement Project.

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

Section 1. City Council authorizes the city manager and/or the city manager's designee and agents to formally negotiate for the acquisition of the property described in Attachments C and D or any part thereof. Council authorizes the acquisitions of such property as easements.

Section 2. City Council authorizes the acquisition of the property or properties described herein for the city by the city manager and the city attorney and/or his or her designee by the exercise of the city's power of eminent domain should negotiations for the acquisition of the property interests not be successful, and further authorizes the initiation of condemnation proceedings to acquire the above-designated property for the city.

Section 3. City Council adopts the findings and recitals set forth above into this ordinance by this ordinance. City Council deems this ordinance necessary to protect the public health, safety, and welfare of the residents of the city.

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this ____ day of _____, 2014.

Attest:

Mayor

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this ____ day of _____, 2014.

Attest:

Mayor

City Clerk



Winding Trail

Kalmia Avenue

Wonderland Creek Project Location

Wonderland Creek

Diagonal Highway

Iris Avenue

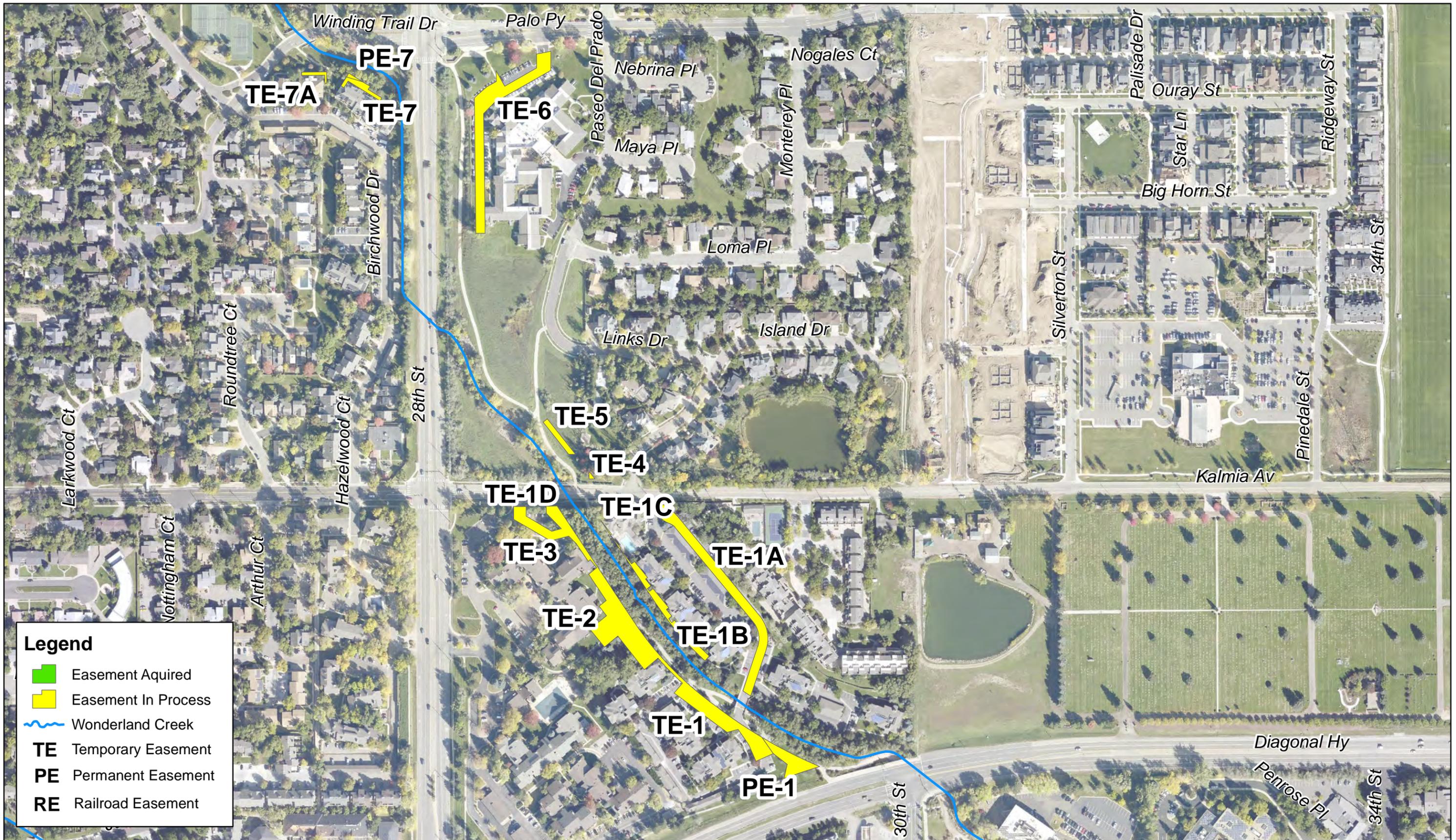
28th Street

Foothills Parkway

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Easement ID	Aquired Area (sq. ft.)	Owner Address	Owner Name	Purpose	Status
Diagonal Highway to Winding Trail Portion of the Project					
PE-1	5,053	2850 Kalmia, Boulder, CO 80301	Boulders Apartments Colorado, LLC	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path, drainage, channel improvements and utilities.	IN PROCESS
TE-1	20,081	2850 Kalmia, Boulder, CO 80301	Boulders Apartments Colorado, LLC	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-1A	16,596	2850 Kalmia, Boulder, CO 80301	Boulders Apartments Colorado, LLC	For the purposes of temporary access for construction.	IN PROCESS
TE-1B	5,619	2850 Kalmia, Boulder, CO 80301	Boulders Apartments Colorado, LLC	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-1C	30	2850 Kalmia, Boulder, CO 80301	Boulders Apartments Colorado, LLC	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-1D	142	2850 Kalmia, Boulder, CO 80301	Boulders Apartments Colorado, LLC	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-2	11,020	525 Canyon Blvd., Boulder, CO 80301	Aspen Grove HOA	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-3	9,278	525 Canyon Blvd., Boulder, CO 80301	Aspen Grove HOA	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-4	181	2875 Island Drive, Boulder, CO 80301	Meraly J. Brown	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-5	1,822	PO Box 79, Boulder, CO 80306	WCT, LLC	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-6	18,668	333 N. Summit St., Toledo, OH 43604	HCR ManorCare Properties, LLC	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
TE-7	1,748	575 Canyon Blvd., Boulder, CO 80302	Birchwood Drive Condo Associaiton	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
PE-7	267	575 Canyon Blvd., Boulder, CO 80302	Birchwood Drive Condo Associaiton	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path, drainage, channel improvements and utilities.	IN PROCESS
TE-7A	746	575 Canyon Blvd., Boulder, CO 80302	Birchwood Drive Condo Associaiton	For the purposes of temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.	IN PROCESS
Foothills Parkway to Diagonal Highway Portion of the Project					
PE-1	7,234	PO Box 3000, Boulder, CO 80307-3000	University Corporation For Atmospheric Research, a Colorado not-for-profit corp	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path, drainage, channel improvements and utilities.	IN PROCESS
TE-1	21,809	PO Box 3000, Boulder, CO 80307-3000	University Corporation For Atmospheric Research, a Colorado not-for-profit corp	For the purposes of temporary access for grading and construction.	IN PROCESS
TE-2	15,303	176 E. 5th Street, Room 1120, St. Paul, MN 55101	BNSF Railway Company (Colorado Central Railroad Co)	For purposes of abandoning and filling a segment of the Boulder and White Rock Ditch.	IN PROCESS
TE-2A	8,727	176 E. 5th Street, Room 1120, St. Paul, MN 55101	BNSF Railway Company (Colorado Central Railroad Co)	For purposes of abandoning and filling a segment of the Boulder and White Rock Ditch.	IN PROCESS
RE-2	12,948	176 E. 5th Street, Room 1120, St. Paul, MN 55101	BNSF Railway Company (Colorado Central Railroad Co)	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path, drainage, channel improvements and utilities.	IN PROCESS
RE-2A	8,790	176 E. 5th Street, Room 1120, St. Paul, MN 55101	BNSF Railway Company (Colorado Central Railroad Co)	For purposes of construction, permanent placement, access, use and maintenance of the relocated segment of the Boulder and White Rock Ditch and utilities.	IN PROCESS
TE-3	2,634	5545 Juhls Dr., Boulder, CO 80301	Hayden Place Owners Association	For purposes of construction of drainage and channel improvements and multi-use path/irrigation ditch maintenance path.	IN PROCESS
TE-3A	6,030	5545 Juhls Dr., Boulder, CO 80301	Hayden Place Owners Association	For purposes of construction of drainage and channel improvements and multi-use path/irrigation ditch maintenance path.	IN PROCESS
TE-3B	5,754	5545 Juhls Dr., Boulder, CO 80301	Hayden Place Owners Association	For purposes of construction of a multi-use path and drainage and channel improvements and reconstruction of a parking lot.	IN PROCESS
PE-3A	32,047	5545 Juhls Dr., Boulder, CO 80301	Hayden Place Owners Association	For purposes of construction of a relocated segment of the Boulder and White Rock Ditch including permanent placement of the ditch, access, use and maintenance of the ditch.	IN PROCESS

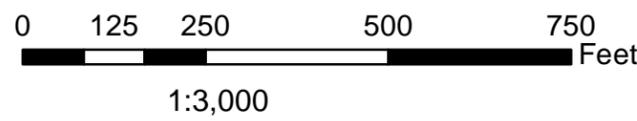
Easement ID	Aquired Area (sq. ft.)	Owner Address	Owner Name	Purpose	Status
PE-3REV	48,843	5545 Juhls Dr., Boulder, CO 80301	Hayden Place Owners Association	For purposes of construction, permanent placement, access use and maintenance of a multi-use path/irrigation ditch maintenance path and drainage and channel improvements.	IN PROCESS
PE-4	19,620		City of Boulder	For purposes of construction, relocating, permanent placement, access, use and maintenance of the Boulder and White Rock Ditch and utilities.	AQUIRED
TE-5	300	4800 North Broadway, Boulder, CO 80304	Housing Authority of the City of Boulder, Colorado a Colorado Housing Authority	For purposes of construction of a multi-use path and drainage and channel improvements.	IN PROCESS
TE-6REV	3,813	7901 Plateau Road, Longmont, CO 80503	Cahalan Hayden LLC, a Colorado limited liability company	For purposes of reconstructing a parking lot.	AQUIRED
TE-7	371	PO Box 325, Eldorado Springs, CO 80025	The Spring Creek Homeowners Association, Bartlett Management (Angela Bartlet)	For purposes of construction of utilities, drainage and channel improvements.	AQUIRED
PE-7	1,454	PO Box 325, Eldorado Springs, CO 80025	The Spring Creek Homeowners Association, Bartlett Management (Angela Bartlet)	For purposes of construction, permanent placement, access, use and maintenance of utilities and drainage and channel improvements.	AQUIRED
PE-7A	572	PO Box 325, Eldorado Springs, CO 80025	The Spring Creek Homeowners Association, Bartlett Management (Angela Bartlet)	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path.	AQUIRED
TE-8A	3,206	2400 28th Street, Boulder, CO 80301	The Boulders Homeowners Association, a Colorado non-profit corporation	For purposes of slope construction.	AQUIRED
PE-8A	2,506	2400 28th Street, Boulder, CO 80301	The Boulders Homeowners Association, a Colorado non-profit corporation	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path and channel improvements and utilities	AQUIRED
TE-8	608	2400 28th Street, Boulder, CO 80301	The Boulders Homeowners Association, a Colorado non-profit corporation	For purposes of slope construction.	AQUIRED
PE-8	2,809	2400 28th Street, Boulder, CO 80301	The Boulders Homeowners Association, a Colorado non-profit corporation	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path and channel improvements and utilities	AQUIRED
PE-9	13,657	2400 28th Street, Boulder, CO 80301	The Boulders Homeowners Association, a Colorado non-profit corporation	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path, drainage and channel improvements and utilities	AQUIRED
PE-10	397	47th Steet, Suite 220, Boulder, CO 80301	3393 Iris Avenue, LLC, a Colorado limited liability company	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path and utilities	AQUIRED
TE-10	2,380	47th Steet, Suite 220, Boulder, CO 80301	3393 Iris Avenue, LLC, a Colorado limited liability company	For purposes of construction of a multi-use path.	AQUIRED
TE-11REV	4,081	5340 Waterstone Drive, Boulder, CO 80301	3333 Iris Egel, LLLP, a Colorado Limited Liability Limited Partnership	For purposes of construction of a multi-use path.	AQUIRED
PE-11	923	5340 Waterstone Drive, Boulder, CO 80301	3333 Iris Egel, LLLP, a Colorado Limited Liability Limited Partnership	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path and utilities.	AQUIRED
TE-12	1,232	PO Box 9140, Boulder, CO 80301-9140	The Geological Society of America Inc., a Non-profit New York Corporation	For purposes of grading for drainage and channel improvements.	AQUIRED
TE-13	6,411	PO Box 9140, Boulder, CO 80301-9140	The Geological Society of America Inc., a Non-profit New York Corporation	For the purpose of slope construction.	AQUIRED
TE-14	2,073	2595 Canyon Blvd., Suite 2030, Boulder, CO 80302	DellaCava Family Limited Liability Company, a Colorado Limited Liability Company	For the purpose of slope construction of a multi-use path and drainage and channel improvements.	AQUIRED
TE-15	3,886	2595 Canyon Blvd., Suite 2030, Boulder, CO 80302	DellaCava Family Limited Liability Company, a Colorado Limited Liability Company	For purposes of construction of a multi-use path	AQUIRED
PE-15	1,565	2595 Canyon Blvd., Suite 2030, Boulder, CO 80302	DellaCava Family Limited Liability Company, a Colorado Limited Liability Company	For purposes of construction, permanent placement, access, use and maintenance of a multi-use path and utilities.	AQUIRED
TE-15A	637	2595 Canyon Blvd., Suite 2030, Boulder, CO 80302	DellaCava Family Limited Liability Company, a Colorado Limited Liability Company	For purposes of construction of a multi-use path	AQUIRED



Legend

- Easement Aquired
- Easement In Process
- Wonderland Creek
- TE** Temporary Easement
- PE** Permanent Easement
- RE** Railroad Easement

Wonderland Creek
Easment Status and Type
 For Drainage Improvement Project North



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EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
PERMANENT EASEMENT NUMBER: PE-1
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Permanent Easement No. PE-1 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 5,037 sq. ft. (0.116 acres) of land, more or less, being a portion of that property described in the Special Warranty Deed recorded May 27, 2011 at Reception No. 03150995, located in Aspen Grove, a subdivision plat, recorded October 14, 1980, in Plan File P-10, F-3, #12 and #13 and Aspen Grove - Partial Correction Plat No. 1, a subdivision plat, recorded June 2, 1991, in Plan File P-11, F-2, #24 of the Boulder County Records, in the S.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence S.53°24'32"E., a distance of 1,140.57 feet to a point on the westerly line of an 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529 of the Boulder County Records and the **POINT OF BEGINNING**;

1. Thence along said westerly easement line on a non-tangent curve to the left having a central angle of 07°42'47", a radius of 1340.00 feet, an arc length of 180.39 feet, the chord of which bears S.63°10'13" E., a distance of 180.25 feet to a point on the northerly line of a City of Boulder Sidewalk Easement recorded in Film 1732 at Reception No. 1183530 of the Boulder County Records;
2. Thence along said northerly easement line on a non-tangent curve to the left having a central angle of 02°03'17", a radius of 2965.00 feet, an arc length of 106.33 feet, the chord of which bears S.71°41'27" W., a distance of 106.32 feet;
3. Thence N.13°51'06" E., a distance of 41.11 feet;
4. Thence N.52°10'22" W., a distance of 49.37 feet;
5. Thence N.34°36'34" W., a distance of 54.15 feet, more or less, to the **POINT OF BEGINNING**.

The above described Permanent Easement contains 5,037 sq. ft. (0.116 acres) of land, more or less.



The purpose of the above-described Permanent Easement is for the construction, permanent placement, access, use and maintenance of a multi-use path, drainage, channel improvements and utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap set in concrete, in range box ,stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID** bearing of **N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
PERMANENT EASEMENT NUMBER: PE-7
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Permanent Easement No. PE-7 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 267 sq. ft. (0.006 acres) of land, more or less, being a portion of Lot 8, Replat of Winding Trail Village, a subdivision plat, recorded April 17, 1981, in Plan File P-11, F-1, #26 - #29 of the Boulder County Records, located in the N.W. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence N.11°52'16"W., a distance of 1,193.45 feet to a point on the westerly line of said Lot 8 and the **POINT OF BEGINNING**;

1. Thence along said westerly line of Lot 8, N.31°52'46"E., a distance of 13.33 feet to the N.W. corner of Lot 8;
2. Thence along the northerly line of Lot 8, S.58°07'14"E., a distance of 40.00 feet;
3. Thence N.76°33'04"W., a distance of 42.16 feet, more or less, to the **POINT OF BEGINNING**.

The above described Permanent Easement contains 267 sq. ft. (0.006 acres) of land, more or less.

The purpose of the above-described Permanent Easement is for the construction, permanent placement, access, use and maintenance of a multi-use path, drainage, channel facilities and utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID** bearing of **N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228

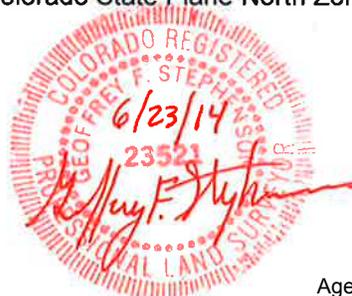


EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-1
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Temporary Easement No. TE-1 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 20,099 sq. ft. (0.461 acres) of land, more or less, being a portion of that property described in the Special Warranty Deed recorded May 27, 2011 at Reception No. 03150995, located in Aspen Grove, a subdivision plat, recorded October 14, 1980, in Plan File P-10, F-3, #12 and #13 and Aspen Grove - Partial Correction Plat No. 1, a subdivision plat, recorded June 2, 1991, in Plan File P-11, F-2, #24 of the Boulder County Records, in the S.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence S.53°24'32"E., a distance of 1,140.57 feet to a point on the westerly line of an 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529 of the Boulder County Records and the **POINT OF BEGINNING**;

1. Thence S.34°36'34"E., a distance of 54.15 feet;
2. Thence S.66°26'19"W., a distance of 53.36 feet;
3. Thence N.23°33'33"W., a distance of 49.84 feet;
4. Thence N.34°44'36"W., a distance of 52.53 feet;
5. Thence S.75°23'50"W., a distance of 32.24 feet;
6. Thence N.53°07'15"W., a distance of 185.02 feet;
7. Thence N.41°22'18"E., a distance of 35.89 feet;
8. Thence along a non-tangent curve to the right having a central angle of 06°06'28", a radius of 923.65 feet, an arc length of 98.46 feet, the chord of which bears N.44°23'32"W., a distance of 98.42 feet;



9. Thence S.49°34'07"W., a distance of 50.23 feet;
10. Thence N.38°00'56"W., a distance of 120.48 feet;
11. Thence N.50°34'06"E., a distance of 47.99 feet;
12. Thence N.05°34'06"E., a distance of 18.44 feet to a point on the westerly line of said 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529;
13. Thence along said westerly easement line, S.33°33'44"E., a distance of 8.35 feet;
14. Thence continuing along said westerly easement line on a curve to the left having a central angle of 19°30'00", a radius of 915.00', an arc length of 311.41 feet, the chord of which bears S.43°18'44"E., a distance of 309.91 feet;
15. Thence continuing along said westerly easement line, S.53°03'44"E., a distance of 34.15 feet;
16. Thence continuing along said westerly easement line on a curve to the left having a central angle of 06°15'06", a radius of 1340.00 feet, an arc length of 146.21 feet, the chord of which bears S.56°11'17"E., a distance of 146.14 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 20,099 sq. ft. (0.461 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID** bearing of **N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-1A
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Temporary Easement No. TE-1A of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 16,612 sq. ft. (0.381 acres) of land, more or less, being a portion of that property described in the Special Warranty Deed recorded May 27, 2011 at Reception No. 03150995, located in Aspen Grove, a subdivision plat, recorded October 14, 1980, in Plan File P-10, F-3, #12 and #13 and Aspen Grove - Partial Correction Plat No. 1, a subdivision plat, recorded June 2, 1991, in Plan File P-11, F-2, #24 of the Boulder County Records, in the S.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence S.57°30'22"E., a distance of 1,021.73 feet to a point of intersection with the easterly line of an 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529 and the northerly line of a City of Boulder Emergency Access Easement as described in File 1732 at Reception No. 01183350 of the Boulder County Records and the **POINT OF BEGINNING**; Thence along the northerly and westerly lines of said Emergency Access Easement the following courses;

1. Thence N.18°52'18"E., a distance of 128.72 feet;
2. Thence along a curve to the left having a central angle of 58°23'02", a radius of 74.50 feet, an arc length of 75.91 feet, the chord of which bears N.10°19'13"W., a distance of 72.67 feet;
3. Thence N.39°30'44"W., a distance of 341.39 feet;
4. Thence along a curve to the left having a central angle of 30°49'51", a radius of 37.50 feet, an arc length of 20.18 feet, the chord of which bears N.54°55'39"W., a distance of 19.94 feet;
5. Thence along a reverse curve to the right having a central angle of 60°20'39", a radius of 66.92 feet, an arc length of 70.48 feet, the chord of which bears N.40°10'15"W., a distance of 67.27 feet to a point on the south line of Kalmia Avenue;
6. Thence along the south line of Kalmia Avenue, N.89°34'00"E., a distance of 41.20 feet to the N.E. corner of said Emergency Access Easement; Thence along the easterly and southerly lines of said emergency access easement the following courses;



7. Thence along a non-tangent curve to the left having a central angle of 43°08'22", a radius of 14.50 feet, an arc length of 10.92 feet, the chord of which bears S.22°06'15"E., a distance of 10.66 feet;
8. Thence S.43°40'26"E., a distance of 31.40 feet;
9. Thence S.39°30'44"E., a distance of 360.41 feet;
10. Thence along a curve to the right having a central angle of 58°23'02", a radius of 99.50 feet, an arc length of 101.39 feet, the chord of which bears S.10°19'13"E., a distance of 97.06 feet;
11. Thence S.18°52'18"W., a distance of 136.07 feet to a point on the easterly line of the aforementioned City of Boulder Drainage Easement;
12. Thence along said City of Boulder Drainage Easement on a non-tangent curve to the right having a central angle of 01°11'06", a radius of 1260.00 feet, an arc length of 26.06 feet, the chord of which bears N.54°44'52"W., a distance of 26.06 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 16,612 sq. ft. (0.381 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access for construction.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID** bearing of **N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-1B
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION

A Temporary Easement No. TE-1B of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 5,600 sq. ft. (0.129 acres) of land, more or less, being a portion of that property described in the Special Warranty Deed recorded May 27, 2011 at Reception No. 03150995, located in Aspen Grove, a subdivision plat, recorded October 14, 1980, in Plan File P-10, F-3, #12 and #13 and Aspen Grove - Partial Correction Plat No. 1, a subdivision plat, recorded June 2, 1991, in Plan File P-11, F-2, #24 of the Boulder County Records, in the S.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence S.81°11'10"E., a distance of 469.89 feet to a point on the easterly line of an 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529 of the Boulder County Records and the **POINT OF BEGINNING**;

1. Thence S.37°48'26"E., a distance of 48.73 feet;
2. Thence S.51°33'47"W., a distance of 3.39 feet;
3. Thence S.38°14'59"E., a distance of 46.41 feet;
4. Thence S.48°37'39"W., a distance of 3.73 feet;
5. Thence S.37°34'46"E., a distance of 53.08 feet;
6. Thence N.51°46'24"E., a distance of 11.38 feet;
7. Thence S.39°14'47"E., a distance of 57.97 feet;
8. Thence S.51°52'44"W., a distance of 7.94 feet;
9. Thence S.39°11'27"E., a distance of 23.85 feet;
10. Thence S.53°13'02"W., a distance of 12.51 feet;
11. Thence S.39°31'55"E., a distance of 10.43 feet;
12. Thence N.50°48'51"E., a distance of 12.49 feet;
13. Thence S.39°11'09"E., a distance of 69.73 feet;



14. Thence S.54°28'59"W., a distance of 8.54 feet;
15. Thence S.38°48'55"E., a distance of 23.60 feet;
16. Thence S.51°11'05"W., a distance of 11.16 feet;
17. Thence S.39°28'21"E., a distance of 13.74 feet;
18. Thence N.50°52'40"E., a distance of 9.61 feet;
19. Thence S.39°10'27"E., a distance of 54.74 feet;
20. Thence S.50°49'33"W., a distance of 9.48 feet;
21. Thence S.38°59'28"E., a distance of 13.51 feet;
22. Thence N.50°54'22"E., a distance of 10.31 feet;
23. Thence S.39°20'00"E., a distance of 23.96 feet;
24. Thence N.50°40'00"E., a distance of 5.82 feet;
25. Thence S.46°20'15"E., a distance of 47.72 feet;
26. Thence S.43°39'45"W., a distance of 18.11 feet to a point on the easterly line of said City of Boulder Drainage Easement;
27. Thence along the easterly line of said City of Boulder Drainage Easement on a non-tangent curve to the right having a central angle of 14°10'57", a radius of 835.00 feet, an arc length of 206.69 feet, the chord of which bears N.40°39'12"W., a distance of 206.16 feet;
28. Thence continuing along the easterly line of said City of Boulder Drainage Easement, N.33°33'44"W., a distance of 283.60 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 5,600 sq. ft. (0.129 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID bearing of N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
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EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-1C
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Temporary Easement No. TE-1C of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 30 sq. ft. (0.001 acres) of land, more or less, being a portion of that property described in the Special Warranty Deed recorded May 27, 2011 at Reception No. 03150995, located in Aspen Grove, a subdivision plat, recorded October 14, 1980, in Plan File P-10, F-3, #12 and #13 and Aspen Grove - Partial Correction Plat No. 1, a subdivision plat, recorded June 2, 1991, in Plan File P-11, F-2, #24 of the Boulder County Records, in the S.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence S.85°58'54"E., a distance of 438.02 feet to a point of intersection with the easterly line of an 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529 of the Boulder County Records and the existing south right-of-way line of Kalmia Avenue (May, 2014) being the **POINT OF BEGINNING**;

1. Thence along said south right-of-way line of Kalmia Avenue (May,2014), N.89°34'00"E., a distance of 4.45 feet;
2. Thence S.18°14'21"E., a distance of 14.11 feet to a point on the easterly line of said City of Boulder Drainage Easement;
3. Thence along the easterly line of said City of Boulder Drainage Easement, N.33°33'44"W., a distance of 16.04 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 30 sq. ft. (0.001 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID** bearing of **N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-1D
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION

A Temporary Easement No. TE-1D of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 142 sq. ft. (0.003 acres) of land, more or less, being a portion of that property described in the Special Warranty Deed recorded May 27, 2011 at Reception No. 03150995, located in Aspen Grove, a subdivision plat, recorded October 14, 1980, in Plan File P-10, F-3, #12 and #13 and Aspen Grove - Partial Correction Plat No. 1, a subdivision plat, recorded June 2, 1991, in Plan File P-11, F-2, #24 of the Boulder County Records, in the S.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence S.84°44'33"E., a distance of 342.86 feet to a point of intersection with the westerly line of an 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529 of the Boulder County Records and the existing south right-of-way line of Kalmia Avenue (May, 2014) being the **POINT OF BEGINNING**;

1. Thence along the easterly line of said City of Boulder Drainage Easement, S.33°34'06"E., a distance of 50.86 feet;
2. Thence N.39°25'54"W., a distance of 54.80 feet to a point on said south right-of-way line of Kalmia Avenue (May,2014);
3. Thence along said south right-of-way line of Kalmia Avenue (May, 2014), N.89°34'00"E., a distance of 6.69 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 142 sq. ft. (0.003 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID bearing of N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228
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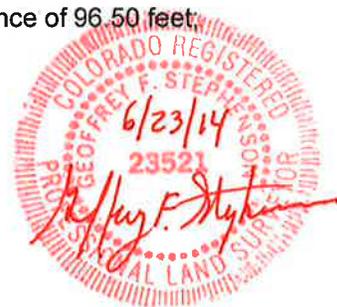
EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-2
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Temporary Easement No. TE-2 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 11,011 sq. ft. (0.253 acres) of land, more or less, being a portion of First Supplemental Condominium Map of The Aspen Grove Condominiums, recorded December 29, 1981, in Plan File P-12, F-1, #27 of the Boulder County Records, located in the S.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence S.64°42'49"E., a distance of 516.39 feet to a point of intersection with the westerly line of an 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529 of the Boulder County Records and the northerly line of said First Supplemental Condominium Map of The Aspen Grove Condominiums also being the **POINT OF BEGINNING**;

1. Thence along the westerly line of said City of Boulder Drainage Easement, S.33°33'44"E., a distance of 150.04 feet to point on the southerly line of said First Supplemental Condominium Map of The Aspen Grove Condominiums;
2. Thence along said southerly line, S.05°34'06"W., a distance of 18.44 feet;
3. Thence continuing along said southerly line, S.50°34'06"W., a distance of 96.50 feet;
4. Thence N.39°27'01"W., a distance of 64.81 feet;
5. Thence N.51°19'01"E., a distance of 60.12 feet;
6. Thence N.38°00'56"W., a distance of 33.37 feet;
7. Thence N.50°54'37"E., a distance of 25.52 feet;
8. Thence N.33°29'45"W., a distance of 65.41 feet to a point on the northerly line of said First Supplemental Condominium Map of The Aspen Grove Condominiums;
9. Thence along said northerly line, N.50°34'06"E., a distance of 31.68 feet, more or less, to the **POINT OF BEGINNING**.



The above described Temporary Easement contains 11,011 sq. ft. (0.253 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID bearing of N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-3
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Temporary Easement No. TE-3 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 9,289 sq. ft. (0.213 acres) of land, more or less, being a portion of Condominium Map of The Aspen Grove Condominiums, recorded April 14, 1981, in Plan File P-11, F-1, #21 of the Boulder County Records, located in the S.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence S.64°42'49"E., a distance of 516.39 feet to a point intersection with the westerly line of an 80 foot wide City of Boulder Drainage Easement as described in Film 1732 at Reception No. 01183529 of the Boulder County Records and the southerly line of said Condominium Map of The Aspen Grove Condominiums also being the **POINT OF BEGINNING**;

1. Thence along said southerly line, S.50°34'06"W., a distance of 31.68 feet;
2. Thence N.33°29'45"W., a distance of 22.37 feet;
3. Thence N.50°36'33"E., a distance of 29.09 feet;
4. Thence N.39°12'10"W., a distance of 29.04 feet;
5. Thence S.49°02'55"W., a distance of 7.44 feet;
6. Thence N.34°03'41"W., a distance of 59.74 feet;
7. Thence N.44°39'31"W., a distance of 30.22 feet;
8. Thence S.75°04'11"W., a distance of 53.04 feet;
9. Thence N.59°21'24"W., a distance of 119.42 feet;
10. Thence N.00°00'00"W., a distance of 35.43 feet to a point on the existing south right-of-way line of Kalmia Avenue (May,2014);
11. Thence along the south line Kalmia Avenue, N.89°34'00"E., a distance of 34.65 feet;



12. Thence S.00°00'00"E., a distance of 27.17 feet;
13. Thence S.59°21'24"E., a distance of 83.45 feet;
14. Thence N.75°04'11"E., a distance of 28.26 feet;
15. Thence N.44°39'31"W., a distance of 60.13 feet;
16. Thence N.00°25'44"W., a distance of 20.08 feet to a point on said south right-of-way line of Kalmia Avenue (May,2014);
17. Thence along said south right-of-way line of Kalmia Avenue (May,2014), N.89°34'00"E., a distance of 23.48 feet;
18. Thence S.39°25'54"E., a distance of 54.80 feet to a point on the westerly line of the aforementioned City of Boulder Drainage Easement;
19. Thence along said City of Boulder Drainage Easement, S.33°33'44"E., a distance of 176.13 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 9,289 sq. ft. (0.213 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID** bearing of **N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

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For and on behalf of The Lund Partnership, Inc.
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EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-4
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Temporary Easement No. TE-4 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 181 sq. ft. (0.004 acres) of land, more or less, being a portion of Lot 17, Sale Lake Subdivision, recorded September 1, 1993, in Plan File P-30, F-1, #23 of the Boulder County Records, located in the N.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence N.84°12'48"E., a distance of 434.13 feet to the S.W. corner of said Lot 17 and the **POINT OF BEGINNING**;

1. Thence along the west line of said Lot 17, N.00°30'25"W., a distance of 21.58 feet;
2. Thence S.38°23'19"E., a distance of 27.37 feet to a point on the existing north right-of-way line of Kalmia Avenue (May, 2014);
3. Thence along said north right-of-way line of Kalmia Avenue (May, 2014), S.89°34'00"W., a distance of 16.80 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 181 sq. ft. (0.004 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID bearing of N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

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For and on behalf of The Lund Partnership, Inc.
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EXHIBIT "A"

PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-5
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION

A Temporary Easement No. TE-5 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 1,822 sq. ft. (0.042 acres) of land, more or less, being a portion of Lot 2, Manor Care Subdivision, recorded October 29, 2008, in Plan File P-70, F-4, #21 of the Boulder County Records, located in the N.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence N.56°11'11"E., a distance of 365.14 feet to a point on the easterly line of a Permanent Bicycle Path, Drainage and Flood Control Easement recorded in Film 1615 at Reception No. 01029228 of the Boulder County Records and the **POINT OF BEGINNING**;

1. Thence N.51°36'41"E., a distance of 15.00 feet;
2. Thence S.38°23'19"E., a distance of 127.31 feet to a point on the north line of a an existing Platted Storm Drainage Easement per Refiling of Palo Park Filing No. 1, recorded in Plan File R 33-1-28 of the Boulder County Records;
3. Thence along the north line of said Platted Easement, S.89°36'41"W., a distance of 19.04 feet to a point on the easterly line of the aforementioned Permanent Bicycle Path, Drainage and Flood Control Easement;
4. Thence along said easterly line, N.38°23'19"W., a distance of 115.59 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 1,822 sq. ft. (0.042 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID bearing of N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

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For and on behalf of The Lund Partnership, Inc.
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EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-6
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Temporary Easement No. TE-6 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 18,668 sq. ft. (0.429 acres) of land, more or less, being a portion of Lot 1, Manor Care Subdivision, recorded October 29, 2008, in Plan File P-70, F-4, #21 of the Boulder County Records, located in the N.E. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence N.11°02'50"E., a distance of 744.78 feet to a point on the southerly line of Lot 1, Manor Care Subdivision and the **POINT OF BEGINNING**;

1. Thence along the south line of said Lot 1, S.89°35'59"W., a distance of 25.97 feet;
2. Thence N.00°28'12"W., a distance of 378.51 feet;
3. Thence N.49°39'28"E., a distance of 46.66 feet;
4. Thence N.60°59'35"E., a distance of 30.38 feet;
5. Thence N.00°28'06"W., a distance of 30.00 feet;
6. Thence S.29°09'50"E., a distance of 49.13 feet;
7. Thence N.60°50'10"E., a distance of 103.03 feet;
8. Thence N.00°27'16"W., a distance of 39.60 feet to a point on the northerly line of said Lot 1;
9. Thence along the north line of Lot 1, N.89°32'44"E., a distance of 0.96 feet;
10. Thence continuing along the north line of Lot 1, N.79°55'27"E., a distance of 40.24 feet;
11. Thence S.00°13'38"W., a distance of 53.01 feet;
12. Thence S.60°50'10"W., a distance of 181.58 feet;
13. Thence S.44°31'54"W., a distance of 44.16 feet;



14. Thence S.00°28'12"E., a distance of 334.23 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 18,668 sq. ft. (0.429 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID bearing of N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

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For and on behalf of The Lund Partnership, Inc.
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EXHIBIT "A"

**PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-7
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION**

A Temporary Easement No. TE-7 of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 1,748 sq. ft. (0.040 acres) of land, more or less, being a portion of Lot 7 and Lot 8, Replat of Winding Trail Village, a subdivision plat, recorded April 17, 1981, in Plan File P-11, F-1, #26 - #29 of the Boulder County Records, located in the N.W. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence N.11°52'16"W., a distance of 1,193.45 feet to a point on the westerly line of said Lot 8 and the **POINT OF BEGINNING**;

1. Thence S.76°33'04"E., a distance of 42.16 feet to a point on the northerly line of said Lot 8;
2. Thence along the northerly line of Lot 8, S.58°07'14"E., a distance of 30.00 feet to the N.E. corner of Lot 8;
3. Thence along the easterly line of Lot 8, S.31°52'46"W., a distance of 10.00 feet to the N.W. corner of said Lot 7;
4. Thence along the northerly line of Lot 7, S.58°07'14"E., a distance of 45.01 feet;
5. Thence S.31°52'46"W., a distance of 9.44 feet;
6. Thence N.58°13'04"W., a distance of 104.92 feet;
7. Thence S.32°19'44"W., a distance of 21.79 feet;
8. Thence N.58°05'11"W., a distance of 9.93 feet to a point on westerly line of said Lot 8;
9. Thence along the westerly line of Lot 8, N.31°52'46"E., a distance of 28.07 feet, more or less, to the **POINT OF BEGINNING**.



The above described Temporary Easement contains 1,748 sq. ft. (0.040 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID** bearing of **N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

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For and on behalf of The Lund Partnership, Inc.
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EXHIBIT "A"

PROJECT NUMBER: AQC M110-087
TEMPORARY EASEMENT NUMBER: TE-7A
PROJECT CODE: 19748
DATE: JUNE 23, 2014
DESCRIPTION

A Temporary Easement No. TE-7A of the City of Boulder, State of Colorado Project No. AQC M110-087 (PC 19748) containing 746 sq. ft. (0.017 acres) of land, more or less, being a portion of Lot 9, Replat of Winding Trail Village, a subdivision plat, recorded April 17, 1981, in Plan File P-11, F-1, #26 - #29 of the Boulder County Records, located in the N.W. 1/4 of the N.W. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the NW 1/16th corner of Section 20, being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012", Whence the W 1/16 corner of Section 17 and Section 20, being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008" bears N.00°20'55"W., a distance of 1328.79 feet; Thence N.17°24'36"W., a distance of 1,239.28 feet to the N.W. corner of said Lot 9 and the **POINT OF BEGINNING**;

1. Thence along the north line of Lot 9, N.89°52'46"E., a distance of 70.00 feet to the N.E. corner of Lot 9;
2. Thence along the east line of Lot 9, S.00°07'14"E., a distance of 31.59 feet;
3. Thence S.89°52'46"W., a distance of 4.83 feet;
4. Thence N.01°44'07"W., a distance of 22.60 feet;
5. Thence S.89°52'46"W., a distance of 64.54 feet to a point on the west line of Lot 9;
6. Thence along the west line of Lot 9, N.00°07'14"W., a distance of 9.00 feet, more or less, to the **POINT OF BEGINNING**.

The above described Temporary Easement contains 746 sq. ft. (0.017 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access, construction of a multi-use path, grading of channel and drainage improvements, and modifications to existing utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the NW 1/16 corner of Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, set in concrete, in range box, stamped in part "Flatirons Surveying LS 16406, 2012") and the W 1/16 corner of Section 17 and Section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 3.25" diameter aluminum cap, in range box, stamped in part "DB&CO PLS 29413, 2008") being a **GRID** bearing of **N. 00°20'25" W. 1328.79'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

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For and on behalf of The Lund Partnership, Inc.
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EXHIBIT "A"

**PROJECT NUMBER: STM M110-081
PERMANENT EASEMENT NUMBER: PE-3A
PROJECT CODE: 18405
DATE: JULY 25, 2013
DESCRIPTION**

A Permanent Easement No. PE-3A of the City of Boulder, State of Colorado Project No. STM M110-81 (PC 18405) containing 32,047 sq. ft. (0.736 acres) of land, more or less, being a portion of Tract "C" Meadow Wood a subdivision plat recorded May 21, 1975, in Plan File R P-5, F-1, #27 of the Boulder County Records, located in the S.E. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the C-E 1/16th corner of Section 20, being a found illegible 2.5" diameter aluminum cap in water box, whence the C 1/4 corner of Section 20, being a found 2.5" diameter aluminum cap in survey box stamped in part "City of Boulder Control" bears S. 89°38'05" W., a distance of 1329.40 feet; Thence S. 49°31'35" E., a distance of 1,231.39 feet to a point on the easterly line of said Tract "C" Meadow Wood and the **TRUE POINT OF BEGINNING**;

1. Thence along a non-tangent curve to the left, having a central angle of 70°00'27", a radius of 155.00 feet, an arc length of 189.39 feet, the chord of which bears S. 48°54'32" W., a distance of 177.83 feet;
2. Thence S. 13°54'18" W., a distance of 77.48 feet to the south line of Tract "C" Meadow Wood;
3. Thence along the south line of Tract "C" Meadow Wood, S. 89°44'42" W., a distance of 87.66 feet;
4. Thence N. 13°54'18" E., a distance of 98.92 feet;
5. Thence along a curve to the right, having a central angle of 60°14'09", a radius of 240.00 feet, an arc length of 252.31 feet, the chord of which bears N. 44°01'22" E., a distance of 240.85 feet;
6. Thence N. 32°03'42" E., a distance of 21.06 feet;
7. Thence along a non-tangent curve to the left, having a central angle of 63°36'28", a radius of 45.77 feet, an arc length of 50.81 feet, the chord of which bears N. 00°43'58" E., a distance of 48.24 feet to the south line of Talisman Filing No. Two, a subdivision plat recorded March 16, 1977, in Plan File P-5, F-4, #36 of the Boulder County Records;
8. Thence along the south line of said Talisman Filing No. Two, N. 89°39'02" E., a distance of 32.48 feet;



9. Thence along a non-tangent curve to the right, having a central angle of 45°50'40", a radius of 75.35 feet, an arc length of 60.29 feet, the chord of which bears S. 04°16'34" W., a distance of 58.69 feet;
10. Thence along a non-tangent curve to the right, having a central angle of 11°39'43", a radius of 240.00 feet, an arc length of 48.85 feet, the chord of which bears N. 89°41'18" E., a distance of 48.76 feet to the easterly line of said Tract "C" Meadow Wood;
11. Thence along the easterly line of Tract "C" Meadow Wood, S. 24°59'51" W., a distance of 93.52 feet, more or less, to the **TRUE POINT OF BEGINNING**.

The above described Permanent Easement contains 32,047 sq. ft. (0.736 acres) of land, more or less.

The purpose of the above-described Permanent Easement is for the construction of a relocated segment of the Boulder and White Rock Ditch including permanent placement of the ditch, access, use and maintenance of the ditch.

BASIS OF BEARINGS: All bearings are based on the line connecting the C 1/4 corner of section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 2.5" diameter aluminum cap in survey box, stamped in part "City of Boulder Control") and the C-E 1/16 corner of section 20, T. 1 N., R. 69 W. of the 6th P.M. (being a found illegible 2.5" diameter aluminum cap in water box) being a **GRID** bearing of **N. 89°38'05" E. 1329.40'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

PROJECT NUMBER: STM M110-081
PERMANENT EASEMENT NUMBER: PE-3REV
PROJECT CODE: 18405
DATE: MARCH 21, 2014
DESCRIPTION

A Permanent Easement No. PE-3REV of the City of Boulder, State of Colorado Project No. STM M110-81 (PC 18405) containing 48,843 sq. ft. (1.121 acres) of land, more or less, being a portion of Tract "C" and Tract "B" Meadow Wood a subdivision plat recorded May 21, 1975, in Plan File R P-5, F-1, #27 of the Boulder County Records, located in the S.E. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the C-E 1/16th corner of Section 20, being a found illegible 2.5" diameter aluminum cap in water box, whence the C 1/4 corner of Section 20, being a found 2.5" diameter aluminum cap in survey box stamped in part "City of Boulder Control" bears S. 89°38'05" W., a distance of 1329.40 feet; Thence S. 34°35'22" E., a distance of 1,204.78 feet to the southwest corner of Tract "C", Meadow Wood and the **TRUE POINT OF BEGINNING**;

1. Thence along the westerly line of Tract "C", N. 00°19'00" W., a distance of 222.14 feet;
2. Thence continuing along the westerly line of Tract "C", S. 89°41'00" W., a distance of 11.93 feet;
3. Thence continuing along the westerly line of Tract "C" and Tract "B", N. 00°19'00" W., a distance of 35.70 feet;
4. Thence N. 60°07'34" W., a distance of 151.36 feet to the south line of Spring Creek Townhouses Replat, Amended, a subdivision plat recorded May 26, 1982, in Plan File P-12, F-3, #38 of the Boulder County Records;
5. Thence along said south line of Spring Creek Townhouses Replat Amended and the south line of Talisman Filing No. Two, a subdivision plat recorded March 16, 1977, in Plan File P-5, F-4, #36 of the Boulder County Records, N. 89°39'02" E., a distance of 101.93 feet;
6. Thence S. 43°47'36" E., a distance of 206.52 feet;
7. Thence along a non-tangent curve to the right, having a central angle of 23°22'38", a radius of 223.50 feet, an arc length of 91.19 feet, the chord of which bears N. 52°34'39" E., a distance of 90.56 feet;
8. Thence N. 43°47'36" W., a distance of 60.78 feet;
9. Thence N. 90°00'00" E., a distance of 92.80 feet;

Attachment D: Legal Descriptions for Outstanding Easements

10. Thence N. 00°00'00" E., a distance of 51.79 feet to said south line of Talisman Filing No. Two;
11. Thence along said south line of Talisman Filing No. Two, N. 89°39'02" E., a distance of 25.00 feet;
12. Thence S. 00°00'00" W., a distance of 106.14 feet;
13. Thence S. 24°59'51" W., a distance of 50.98 feet;
14. Thence N. 43°47'36" W., a distance of 63.53 feet;
15. Thence along a non-tangent curve to the left, having a central angle of 24°59'13", a radius of 209.50 feet, an arc length of 91.36 feet, the chord of which bears S. 53°01'33" W., a distance of 90.64 feet;
16. Thence S. 43°47'36" E., a distance of 102.56 feet;
17. Thence N. 80°34'33" E., a distance of 31.77 feet to the easterly line of said Meadow Wood, Tract "C";
18. Thence along said easterly line of Tract "C", S. 24°59'51" W., a distance of 26.81 feet;
19. Thence S. 80°34'33" W., a distance of 24.25 feet;
20. Thence S. 24°59'51" W., a distance of 84.77 feet to the south line of Tract "C" Meadow Wood;
21. Thence along the south line of Tract "C" Meadow Wood, S. 89°44'42" W., a distance of 141.24 feet, more or less, to the **TRUE POINT OF BEGINNING**.

The above described Permanent Easement contains 48,843 sq. ft. (1.121 acres) of land, more or less.

The purpose of the above-described Permanent Easement is for the construction, permanent placement, access, use and maintenance of a multi-use path/irrigation ditch maintenance path and drainage and channel improvements.

BASIS OF BEARINGS: All bearings are based on the line connecting the C 1/4 corner of section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 2.5" diameter aluminum cap in survey box, stamped in part "City of Boulder Control") and the C-E 1/16 corner of section 20, T. 1 N., R. 69 W. of the 6th P.M. (being a found illegible 2.5" diameter aluminum cap in water box) being a **GRID** bearing of **N. 89°38'05" E. 1329.40'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

**PROJECT NUMBER: STM M110-081
TEMPORARY EASEMENT NUMBER: TE-3
PROJECT CODE: 18405
DATE: JULY 25, 2013
DESCRIPTION**

A Temporary Easement No. TE-3 of the City of Boulder, State of Colorado Project No. STM M110-81 (PC 18405) containing 2,634 sq. ft. (0.060 acres) of land, more or less, being a portion of Tract "C" Meadow Wood a subdivision plat recorded May 21, 1975, in Plan File R P-5, F-1, #27 of the Boulder County Records, located in the S.E. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the C-E 1/16th corner of Section 20, being a found illegible 2.5" diameter aluminum cap in water box, whence the C 1/4 corner of Section 20, being a found 2.5" diameter aluminum cap in survey box stamped in part "City of Boulder Control" bears S. 89°38'05" W., a distance of 1329.40 feet; Thence S. 56°14'37" E., a distance of 1,180.51 feet to a point on the south line of Talisman Filing No. Two, a subdivision plat recorded March 16, 1977, in Plan File P-5, F-4, #36 of the Boulder County Records and the **TRUE POINT OF BEGINNING**;

1. Thence S. 24°59'51" W., a distance of 117.44 feet;
2. Thence N. 00°00'00" E., a distance of 106.14 feet to said south line Talisman Filing No. Two;
3. Thence along said south line of Talisman Filing No. Two, N. 89°39'02" E., a distance of 49.63 feet, more or less, to the **TRUE POINT OF BEGINNING**.

The above described parcel contains 2,634 square feet (0.060 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for the construction of drainage and channel improvements and multi-use path/irrigation ditch maintenance path.

BASIS OF BEARINGS: All bearings are based on the line connecting the C 1/4 corner of section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 2.5" diameter aluminum cap in survey box, stamped in part "City of Boulder Control") and the C-E 1/16 corner of section 20, T. 1 N., R. 69 W. of the 6th P.M. (being a found illegible 2.5" diameter aluminum cap in water box) being a **GRID** bearing of **N. 89°38'05" E. 1329.40'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

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For and on behalf of The Lund Partnership, Inc.
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EXHIBIT "A"

**PROJECT NUMBER: STM M110-081
TEMPORARY EASEMENT NUMBER: TE-3A
PROJECT CODE: 18405
DATE: JULY 25, 2013
DESCRIPTION**

A Temporary Easement No. TE-3A of the City of Boulder, State of Colorado Project No. STM M110-81 (PC 18405) containing 6,030 sq. ft. (0.138 acres) of land, more or less, being a portion of Tract "C" Meadow Wood a subdivision plat recorded May 21, 1975, in Plan File R P-5, F-1, #27 of the Boulder County Records, located in the S.E. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the C-E 1/16th corner of Section 20, being a found illegible 2.5" diameter aluminum cap in water box, whence the C 1/4 corner of Section 20, being a found 2.5" diameter aluminum cap in survey box stamped in part "City of Boulder Control" bears S. 89°38'05" W., a distance of 1329.40 feet; Thence S. 49°20'23" E., a distance of 1,008.76 feet to a point on the south line of Talisman Filing No. Two, a subdivision plat recorded March 16, 1977, in Plan File P-5, F-4, #36 of the Boulder County Records and the **TRUE POINT OF BEGINNING**;

1. Thence along said south line of Talisman Filing No. Two, N. 89°39'02" E., a distance of 141.63 feet;
2. Thence S. 00°00'00" W., a distance of 51.79 feet;
3. Thence N. 90°00'00" W., a distance of 92.80 feet;
4. Thence N. 43°47'36" W., a distance of 70.55 feet, more or less, to the **TRUE POINT OF BEGINNING**.

The above described parcel contains 6,030 square feet (0.138 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for the construction of drainage and channel improvements and multi-use path/irrigation ditch maintenance path.

BASIS OF BEARINGS: All bearings are based on the line connecting the C 1/4 corner of section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 2.5" diameter aluminum cap in survey box, stamped in part "City of Boulder Control") and the C-E 1/16 corner of section 20, T. 1 N., R. 69 W. of the 6th P.M. (being a found illegible 2.5" diameter aluminum cap in water box) being a **GRID** bearing of **N. 89°38'05" E. 1329.40'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

PROJECT NUMBER: STM M110-081
TEMPORARY EASEMENT NUMBER: TE-3B
PROJECT CODE: 18405
DATE: JULY 25, 2013
DESCRIPTION

A Temporary Easement No. TE-3B of the City of Boulder, State of Colorado Project No. STM M110-81 (PC 18405) containing 5,754 sq. ft. (0.132 acres) of land, more or less, being a portion of Tract "C" and Tract "B" Meadow Wood a subdivision plat recorded May 21, 1975, in Plan File R P-5, F-1, #27 of the Boulder County Records, located in the S.E. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the C-E 1/16th corner of Section 20, being a found illegible 2.5" diameter aluminum cap in water box, whence the C 1/4 corner of Section 20, being a found 2.5" diameter aluminum cap in survey box stamped in part "City of Boulder Control" bears S. 89°38'05" W., a distance of 1329.40 feet; Thence S. 38°17'38" E., a distance of 941.88 feet to the S.W. corner of said Tract "B" Meadow Wood and the **TRUE POINT OF BEGINNING**;

1. Thence along the southerly line of Tract "B" and Tract "C" Meadow Wood on a non-tangent curve to the left, having a central angle of 89°24'19", a radius of 40.00 feet, an arc length of 62.42 feet, the chord of which bears N. 79°05'42" W., a distance of 56.27 feet;
2. Thence N. 00°15'43" W., a distance of 69.85 feet to the south line of Spring Creek Townhouses Replat, Amended, a subdivision plat recorded May 26, 1982, in Plan File P-12, F-3, #38 of the Boulder County Records;
3. Thence along said south line of Spring Creek Townhouses Replat, Amended, N. 89°39'02" E., a distance of 11.24 feet;
4. Thence S. 60°07'34" E., a distance of 151.36 feet to a point on the east line of said Tract "B" Meadow Wood;
5. Thence along the east line of Tract "B" Meadow Wood, S. 00°19'00" E., a distance of 4.70 feet to the S.E. corner of Tract "B" Meadow Wood;
6. Thence along the south line of Tract "B" Meadow Wood, S. 89°41'00" W., a distance of 86.94 feet, more or less, to the **TRUE POINT OF BEGINNING**.

The above described parcel contains 5,754 square feet (0.132 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for the construction of a multi-use path and drainage and channel improvements and reconstruction of a parking lot.

BASIS OF BEARINGS: All bearings are based on the line connecting the C 1/4 corner of section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 2.5" diameter aluminum cap in survey box, stamped in part "City of Boulder Control") and the C-E 1/16 corner of section 20, T. 1 N., R. 69 W. of the 6th P.M. (being a found illegible 2.5" diameter aluminum cap in water box) being a **GRID bearing of N. 89°38'05" E. 1329.40'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228
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EXHIBIT "A"

**PROJECT NUMBER: STM M110-081
PERMANENT EASEMENT NUMBER: PE-1
PROJECT CODE: 18405
DATE: JULY 25, 2013
DESCRIPTION**

A Permanent Easement No. PE-1 of the City of Boulder, State of Colorado Project No. STM M110-81 (PC 18405) containing 7,234 sq. ft. (0.166 acres) of land, more or less, being a portion of Lot 6A, Center Green Replat "A", recorded March 2, 1989, in Plan File P-23, F-1, #24, and further described in the Special Warranty Deed recorded September 9, 2002 at Reception No. 2329000 of the Boulder County Records, located in the S.E. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the C-E 1/16th corner of Section 20, being a found illegible 2.5" diameter aluminum cap in water box, whence the C 1/4 corner of Section 20, being a found 2.5" diameter aluminum cap in survey box stamped in part "City of Boulder Control" bears S. 89°38'05" W., a distance of 1329.40 feet; Thence S. 42°08'05" E., a distance of 1,396.50 feet to a point on the westerly line of said Lot 6A and the **TRUE POINT OF BEGINNING**;

1. Thence along the west line of Lot 6A, N. 24°59'51" E., a distance of 156.38 feet to the northerly most point of Lot 6A;
2. Thence along the east line of Lot 6A, S. 05°36'37" E., a distance of 181.70 feet;
3. Thence N. 65°00'09" W., a distance of 92.51 feet, more or less, to the **TRUE POINT OF BEGINNING**.

The above described Permanent Easement contains 7,234 sq. ft. (0.166 acres) of land, more or less.

The purpose of the above-described Permanent Easement is for the construction, permanent placement, access, use and maintenance of a multi-use path and drainage and channel improvements and utilities.

BASIS OF BEARINGS: All bearings are based on the line connecting the C 1/4 corner of section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 2.5" diameter aluminum cap in survey box, stamped in part "City of Boulder Control") and the C-E 1/16 corner of section 20, T. 1 N., R. 69 W. of the 6th P.M. (being a found illegible 2.5" diameter aluminum cap in water box) being a **GRID** bearing of **N. 89°38'05" E. 1329.40'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

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12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228



EXHIBIT "A"

PROJECT NUMBER: STM M110-081
TEMPORARY EASEMENT NUMBER: TE-1
PROJECT CODE: 18405
DATE: MARCH 21, 2014
DESCRIPTION

A Temporary Easement No. TE-1 of the City of Boulder, State of Colorado Project No. STM M110-81 (PC 18405) containing 21,809 sq. ft. (0.501 acres) of land, more or less, being a portion of Lot 6A, Center Green Replat "A", recorded March 2, 1989, in Plan File P-23, F-1, #24, and further described in the Special Warranty Deed recorded September 9, 2002 at Reception No. 2329000 of the Boulder County Records, located in the S.E. 1/4 of Section 20, Township 1 N., Range 70 W., of the 6th Principal Meridian, in the City and County of Boulder, Colorado, said tract or parcel being more particularly described as follows:

COMMENCING at the C-E 1/16th corner of Section 20, being a found illegible 2.5" diameter aluminum cap in water box, whence the C 1/4 corner of Section 20, being a found 2.5" diameter aluminum cap in survey box stamped in part "City of Boulder Control" bears S. 89°38'05" W., a distance of 1329.40 feet; Thence S. 42°08'05" E., a distance of 1,396.50 feet to a point on the westerly line of said Lot 6A and the **TRUE POINT OF BEGINNING**;

1. Thence along the westerly line of Lot 6A, S. 24°59'51" W., a distance of 36.44 feet;
2. Thence S. 65°09'30" E., a distance of 21.43 feet;
3. Thence S. 25°06'14" W., a distance of 457.36 feet;
4. Thence S. 15°32'04" E., a distance of 337.34 feet to the north line of Center Green Drive as shown on said Center Green Replat "A";
5. Thence along said north line on a non-tangent curve to the right having a central angle of 24°07'25", a radius of 60.00 feet, an arc length of 25.26 feet, the chord of which bears S. 88°41'19" E., a distance of 25.08 feet;
6. Thence N. 15°32'04" W. a distance of 335.72 feet;
7. Thence N. 25°06'14" E. a distance of 448.47 feet;
8. Thence S. 65°20'28" E., a distance of 34.40 feet;
9. Thence N. 23°21'02" E., a distance of 36.23 feet;
10. Thence N. 65°00'09" W., a distance of 78.79 feet, more or less, to the **TRUE POINT OF BEGINNING**.

The above described Temporary Easement contains 21,809 sq. ft. (0.501 acres) of land, more or less.

The purpose of the above-described Temporary Easement is for temporary access for grading and construction.

BASIS OF BEARINGS: All bearings are based on the line connecting the C 1/4 corner of section 20, T. 1 N., R. 70 W. of the 6th P.M. (being a found 2.5" diameter aluminum cap in survey box, stamped in part "City of Boulder Control") and the C-E 1/16 corner of section 20, T. 1 N., R. 69 W. of the 6th P.M. (being a found illegible 2.5" diameter aluminum cap in water box) being a **GRID** bearing of **N. 89°38'05" E. 1329.40'** as obtained from a global positioning system (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN). Said grid bearing is NAD 83 (2007) Colorado State Plane North Zone 501.

Geoffrey F. Stephenson, PLS 23521
For and on behalf of The Lund Partnership, Inc.
12265 W. Bayaud Avenue, Suite 130
Lakewood, CO 80228





**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 16, 2014

AGENDA TITLE:

Second reading and consideration of a motion to order published by title only two emergency ordinances numbered 8020 and 8027 both amending Chapter 6-16, B.R.C. 1981, amending Sections 6-16-2 “Definitions,” and 6-16-3 “License Required” with Ordinance No. 8020 extending the time for medical marijuana businesses to convert to recreational marijuana businesses from December 31, 2014 to March 31, 2015 and Ordinance No. 8027 amending those sections to eliminate the deadline for conversion of those businesses that existed on October 22, 2013.

PRESENTERS:

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
David Gehr, Deputy City Attorney
Kathy Haddock, Senior Assistant City Attorney
Mishawn J. Cook, Licensing and Collection Manager

EXECUTIVE SUMMARY

At the council meeting on November 6, 2014, council directed staff to prepare an ordinance extending the time for existing medical marijuana businesses to convert to recreational marijuana businesses. Proposed ordinance number 8020 would extend the deadline until March 31, 2015. A council member requested that staff prepare an alternative version for introduction and adoption on first reading that would eliminate the deadline for conversion. At the December 2, 2014 council meeting, council passed both ordinance number 8020 amending the deadline and the alternate version, ordinance number 8027 eliminating the deadline on first reading. This agenda item proposed the ordinances for consideration on second reading. In addition, at the December 2, 2014 meeting, council directed staff to prepare language striking restrictions on sales of merchandise with the name and logo of the medical or recreational marijuana businesses. The

versions of ordinances 8020 and 8027 eliminating the merchandising restriction are attached as attachments C and D.

At the meeting last October when the issue was raised about council considering changing the restrictions on merchandising, council advised the public it would consider the changes to merchandising in February, 2015 and a comprehensive review later in the year.

Staff's recommendation is that council amend the date in ordinance 8020 from March 31, 2015 to December 31, 2015. Extending the date for a year allows council to determine the appropriate time in its 2015 work plan to do a comprehensive review of the marijuana codes. Staff recommends that such a review be scheduled after June 2015. That will allow a year to determine what of the June 2014 code revisions need to be changed and will be after the 2015 legislative session so any changes to the city code necessitated by state law changes can be included. Staff does not recommend that council eliminate the advertising restrictions. Council carefully considered the advertising provisions when they were adopted on November 12, 2013 and declined to eliminate them when the recreational marijuana code was amended on June 3, 2014. Staff recommends that council provide time for adequate analysis before eliminating those provisions.

POTENTIAL MOTIONS

If council chooses to follow staff's recommendation, council could adopt Ordinance No. 8020 as follows:

Second reading and consideration of a motion to order published by title only emergency Ordinance No. 8020, as amended, amending Chapter 6-16, B.R.C. 1981, amending Sections 6-16-2 "Definitions," and 6-16-3 "License Required" to extend the time for medical marijuana businesses to convert to recreational marijuana businesses from December 31, 2014 to December 31, 2015.

If council chooses not to follow staff's recommendation, council could adopt one of the four alternative ordinances through a motion as follows:

Second reading and consideration of a motion to order published by title only emergency Ordinance No. 8020 amending Chapter 6-16, B.R.C. 1981, amending Sections 6-16-2 "Definitions," and 6-16-3 "License Required" to extend the time for medical marijuana businesses to convert to recreational marijuana businesses from December 31, 2014 to March 31, 2015.

Second reading and consideration of a motion to order published by title only emergency Ordinance No. 8027 amending Chapter 6-16, B.R.C. 1981, amending Sections 6-16-2 "Definitions," and 6-16-3 "License Required" eliminating the deadline for medical marijuana businesses to convert to recreational marijuana businesses.

Second reading and consideration of a motion to order published by title only emergency Ordinance No. 8020 amending Chapter 6-16, B.R.C. 1981, and Chapter 6-18, B.R.C. 1981 amending Sections 6-16-2 “Definitions,” and 6-16-3 “License Required” to extend the time for medical marijuana businesses to convert to recreational marijuana businesses from December 31, 2014 to March 31, 2015 and amending Sections 6-14-8 “Requirements Related to Operation of Medical Marijuana Businesses,” and 6-16-8 “Requirements Related to Operation of Recreational Marijuana Businesses” to eliminate the restriction on selling certain merchandise.

Second reading and consideration of a motion to order published by title only emergency Ordinance No. 8027 amending Chapter 6-16, B.R.C. 1981, and Chapter 6-18, B.R.C. 1981 amending Sections 6-16-2 “Definitions,” and 6-16-3 “License Required” eliminating the deadline for medical marijuana businesses to convert to recreational marijuana businesses and amending Sections 6-14-8 “Requirements Related to Operation of Medical Marijuana Businesses,” and 6-16-8 “Requirements Related to Operation of Recreational Marijuana Businesses” to eliminate the restriction on selling certain merchandise.

BACKGROUND

On November 6, 2012, voters passed Amendment 64 to the Colorado Constitution, legalizing recreational marijuana. On November 12, 2013, council passed ordinance number 7930 adding Chapter 6-16 to the Boulder Revised Code regulating recreational marijuana in Boulder. Ordinance 7930 allowed only medical marijuana businesses licensed or who had filed to be licensed by October 20, 2013 to convert to recreational businesses. Ordinance 7930 also exempted existing medical marijuana businesses from some of the separation requirements imposed on new recreational marijuana businesses. Until June 1, 2014, only existing medical marijuana businesses were permitted to file for recreational marijuana licenses. Ordinance 7930 also restricted recreational marijuana businesses from selling any merchandise with the business logo. Boulder County Health recommended this restriction to help limit the impact of recreational marijuana on youth.

On June 3, 2014, council passed ordinance number 7970 amending Chapters 6-14 and 6-16. The main purpose for ordinance number 7970 was to address issues identified with the medical marijuana and recreational marijuana code. In the original proposed ordinance, staff recommended that the ability for existing medical marijuana businesses to convert terminated as of May 31, 2014. The reason for the recommendation was that as of June 1, 2014, individuals not holding medical marijuana licenses could apply for recreational marijuana licenses. The application requirements are different for new as compared to converted or co-located recreational marijuana businesses. To avoid confusion, staff recommended that as of June 1, 2014 all businesses be subject to the same requirements. Council amended the proposed ordinance to impose a cut off of December 31, 2014. The proposed ordinances would extend that date until March 31, 2015 or eliminate it completely.

In June 2014 council was urged by a few members of the industry to eliminate the advertising limitations. Council rejected this proposal.

ANALYSIS

Sixty-two medical marijuana businesses were eligible for conversion. The conversion does not affect the six marijuana infused product businesses (MIPs). MIPs are wholesale sellers. Accordingly there is no difference if their products are distributed to recreational or medical dispensaries. Accordingly, Ordinance 7930 licensed all MIPs in Chapter 6-16 only, rather than under both Chapters 6-14 and 6-16. They were all converted automatically without any need for an application. The remaining 56 medical marijuana businesses are cultivation facilities or retail centers of which 35 filed to convert or co-locate. That leaves 21 medical marijuana businesses that have not yet filed an application to convert or co-locate. Staff has contacted each of these businesses to remind them of the December 31st deadline and to learn if any of the businesses planned to convert or co-locate. Four applications for conversion are pending. Eight businesses are ineligible, either because of their location or because they already own a recreational marijuana business. One has informed staff that they are primarily interested in medical marijuana so they do not plan to convert. Three have informed staff that they will file for conversion by the end of December. Thus, if those three businesses file, there will be only five businesses affected by this legislation.

The sale of recreational marijuana became legal on January 1, 2014. Most businesses did not convert or co-locate immediately. Only existing medical marijuana businesses were allowed to grow or sell recreational marijuana before June 1, 2014. Thus, the vast majority of the business activity in recreational marijuana did not occur until the third quarter of 2014. Because of the limited number of businesses reporting, sales tax staff was unable to report recreational sales tax revenue until the September revenue reporting period. Reporting earlier could have violated state law by identifying the sales tax revenue of individual businesses. The results show a significant increase over medical marijuana sales tax revenue, which itself saw a significant increase compared to the similar period in 2013. Year to date sales tax revenue for medical marijuana through September 30, 2014 was \$849,863. This represented a 20.19% increase over the first three quarters of 2013. Recreational marijuana sales tax revenue was \$912,280 or 7% more than medical marijuana sales tax. Of course, the tax on recreational marijuana is higher than the tax on medical marijuana. It is fair to say, however, that these preliminary numbers demonstrate some level of vitality in the recreational marijuana business.

The justification for eliminating the advertising limitations is that these restrictions put Boulder recreational marijuana businesses at a competitive disadvantage with similar businesses outside of Boulder. However, there was also mention that some council members do not want to allow such merchandise that is in child sizes or appeals to minors. The issue is further complicated by the state law restrictions on what a marijuana business can sell. Claims were also made that the businesses are being harmed because they cannot obtain trademarks on their logos or copyrights on advertising. Since federal law prevents trademarks or copyrights for marijuana products of advertising, this assertion had no basis in fact. Staff recommends that council consider allowing for a more thorough analysis of effect of changing the rules regarding selling of merchandise to be better able to weigh the policy considerations at issue with respect to this proposed change. Staff's recommendation is that council delay any change until the third quarter of 2015 to allow for a detailed analysis of a full year's worth of data on recreational marijuana sales and their

impacts and learn of the changes to the marijuana laws at the state level that will be adopted during the 2015 legislative session.

Following is a chart of the attached ordinances and their contents:

		Passed on first reading	Date to convert or co-locate	Removes restriction on advertising
A	Ord 8020	December 2	March 31, 2015	No
B	Ord 8027	December 2	Removed	No
C	Ord 8020-a	n/a	March 31, 2015	Yes
D	Ord 8027-a	n/a	Removed	Yes

ATTACHMENT

Attachment A - Proposed Ordinance 8020

Attachment B – Proposed Ordinance 8027

Attachment C – Proposed Ordinance 8020-a

Attachment D – Proposed Ordinance 8027-a

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ORDINANCE NO. 8020

AN EMERGENCY ORDINANCE AMENDING CHAPTER 6-16. B.R.C. 1981, AMENDING SECTIONS 6-16-2 "DEFINITIONS," AND 6-16-3 "LICENSE REQUIRED" TO EXTEND THE TIME FOR MEDICAL MARIJUANA BUSINESSES TO CONVERT TO RECREATIONAL MARIJUANA BUSINESSES FROM DECEMBER 31, 2014 TO MARCH 31, 2015.

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

Section 1. Section 6-16-2 "Definitions," B.R.C. 1981, is amended as follows:

6-16-2. Definitions.

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

* * *

"Co-located marijuana business" means a medical marijuana wellness center or cultivation facility that held a license from the city on October 22, 2013, and applied for co-location by ~~December 31, 2014~~ March 31, 2015, that is permitted by the owner of the building and all applicable laws, to divide the licensed medical marijuana business to allow for both a medical and a recreational marijuana wellness center or cultivation facility as separate business premises with separate licenses from the city within the same footprint and owned by the same person as the medical marijuana wellness center or cultivation facility. The licensees with an ownership or financial interest of either part of a co-located marijuana business may not be changed to be different from the other.

* * *

Section 2. Section 6-16-3 "License Required," B.R.C. 1981, is amended as follows:

6-16-3. License Required.

* * *

(f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana establishment may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open, and operating on October 22, 2013, or that had submitted a complete application for a medical marijuana business on October 22, 2013, may be converted to the same type of marijuana establishment by complying with the requirements of this chapter for a renewal of a marijuana license and paying the application fee specified in Section 4-20-67,

1 "Recreational Marijuana Businesses, " B.R.C. 1981, if it makes application for the
 2 conversion by ~~December 31, 2014~~March 31, 2015. The license for the medical marijuana
 3 business must be surrendered to the city before the recreational marijuana business
 license will be issued. The term of the license shall be the same as the existing medical
 marijuana business license.

4 (g) Conversion to a Co-located Marijuana Business Within the Footprint of the Medical
 5 Marijuana Business. A licensee of a medical marijuana wellness center or cultivation
 6 facility may apply for a co-located marijuana business license by ~~December 31,~~
~~2014~~March 31, 2015, by submitting an application for a co-located marijuana business on
 7 forms approved by the city. At a minimum, the application form shall include a
 8 modification of the existing medical marijuana business to conform to the new footprint
 of the medical marijuana portion of the co-located marijuana business and all components
 9 of the application described in Section 6-16-5, "Application, " B.R.C. 1981, determined
 applicable by the city manager for the recreational marijuana portion of the co-located
 10 marijuana business, and paying the modification of premises fee and operating fee
 specified in Section 4-20-67, "Recreational Marijuana Businesses, " B.R.C. 1981. The
 11 license for the medical marijuana business must be surrendered to the city before the co-
 located marijuana business license will be issued. The term of the co-located marijuana
 12 business license shall be the same as the existing medical marijuana business license. For
 purposes of separation from other marijuana businesses in Paragraph 6-16-7(e)(2) of this
 13 chapter, the co-located medical and recreational marijuana business shall be considered
 one marijuana business. No co-located medical and recreational marijuana business may
 be sold separately from the other and must maintain identical ownership at all times.

14 * * *

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

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

20 **Section 5.** The city council finds this is necessary for the immediate preservation of
 21 public peace, health, safety, and property justifying the adoption of this ordinance as an
 22 emergency measure. Emergency adoption of this ordinance is necessary to prevent an
 23 interruption in the application process. This ordinance shall become effective immediately upon
 24 passage at second reading.
 25

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 2nd day of December, 2014.

3
4
5 Attest: Mayor

6
7 City Clerk

8
9 READ ON SECOND READING, PASSED, ADOPTED, AS AN EMERGENCY
10 MEASURE BY TWO-THIRDS OF COUNCIL MEMBERS PRESENT, AND ORDERED
11 PUBLISHED BY TITLE ONLY this 16th day of December, 2014.

12
13
14 Attest: Mayor

15
16
17 City Clerk

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ORDINANCE NO. 8027

AN EMERGENCY ORDINANCE AMENDING CHAPTER 6-16. B.R.C. 1981, AMENDING SECTIONS 6-16-2 "DEFINITIONS," AND 6-16-3 "LICENSE REQUIRED" TO ELIMINATE THE DEADLINE FOR MEDICAL MARIJUANA BUSINESSES EXISTING ON OCTOBER 22, 2013 TO CONVERT TO RECREATIONAL MARIJUANA BUSINESSES.

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

Section 1. Section 6-16-2 "Definitions," B.R.C. 1981, is amended as follows:

6-16-2. Definitions.

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

* * *

"Co-located marijuana business" means a medical marijuana wellness center or cultivation facility that held a license from the city on October 22, 2013, ~~and applied for co-location by December 31, 2014,~~ that is permitted by the owner of the building and all applicable laws, to divide the licensed medical marijuana business to allow for both a medical and a recreational marijuana wellness center or cultivation facility as separate business premises with separate licenses from the city within the same footprint and owned by the same person as the medical marijuana wellness center or cultivation facility. The licensees with an ownership or financial interest of either part of a co-located marijuana business may not be changed to be different from the other.

* * *

Section 2. Section 6-16-3 "License Required," B.R.C. 1981, is amended as follows:

6-16-3. License Required.

* * *

(f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana establishment may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open, and operating on October 22, 2013, or that had submitted a complete application for a medical marijuana business on October 22, 2013, may be converted to the same type of marijuana establishment by complying with the requirements of this chapter for a renewal of a marijuana license and paying the application fee specified in Section 4-20-67,

1 "Recreational Marijuana Businesses, " B.R.C. 1981, ~~if it makes application for the~~
 2 ~~conversion by December 31, 2014.~~ The license for the medical marijuana business must
 3 be surrendered to the city before the recreational marijuana business license will be
 4 issued. The term of the license shall be the same as the existing medical marijuana
 5 business license.

6 (g) Conversion to a Co-located Marijuana Business Within the Footprint of the Medical
 7 Marijuana Business. A licensee of a medical marijuana wellness center or cultivation
 8 facility may apply for a co-located marijuana business ~~license by December 31, 2014,~~ by
 9 submitting an application for a co-located marijuana business on forms approved by the
 10 city. At a minimum, the application form shall include a modification of the existing
 11 medical marijuana business to conform to the new footprint of the medical marijuana
 12 portion of the co-located marijuana business and all components of the application
 13 described in Section 6-16-5, "Application, " B.R.C. 1981, determined applicable by the
 14 city manager for the recreational marijuana portion of the co-located marijuana business,
 15 and paying the modification of premises fee and operating fee specified in Section 4-20-
 16 67, "Recreational Marijuana Businesses, " B.R.C. 1981. The license for the medical
 17 marijuana business must be surrendered to the city before the co-located marijuana
 18 business license will be issued. The term of the co-located marijuana business license
 19 shall be the same as the existing medical marijuana business license. For purposes of
 20 separation from other marijuana businesses in Paragraph 6-16-7(e)(2) of this chapter, the
 21 co-located medical and recreational marijuana business shall be considered one marijuana
 22 business. No co-located medical and recreational marijuana business may be sold
 23 separately from the other and must maintain identical ownership at all times.

24 * * *

25 **Section 3.** 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 4. The city council deems it appropriate that this ordinance be published by title
 only and orders that copies of this ordinance be made available in the office of the city clerk for
 public inspection and acquisition.

Section 5. The city council finds this is necessary for the immediate preservation of
 public peace, health, safety, and property justifying the adoption of this ordinance as an
 emergency measure. Emergency adoption of this ordinance is necessary to prevent an
 interruption in the application process. This ordinance shall become effective immediately upon
 passage at second reading.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 2nd day of December, 2014.

3
4
5 Attest: Mayor

6
7 City Clerk

8
9 READ ON SECOND READING, PASSED, ADOPTED, AS AN EMERGENCY
10 MEASURE BY TWO-THIRDS OF COUNCIL MEMBERS PRESENT, AND ORDERED
11 PUBLISHED BY TITLE ONLY this 16th day of December, 2014.

12
13
14 Attest: Mayor

15
16
17 City Clerk

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ORDINANCE NO. 8020

AN EMERGENCY ORDINANCE AMENDING CHAPTER 6-16. B.R.C. 1981, AMENDING SECTIONS 6-16-2 "DEFINITIONS," AND 6-16-3 "LICENSE REQUIRED" TO EXTEND THE TIME FOR MEDICAL MARIJUANA BUSINESSES TO CONVERT TO RECREATIONAL MARIJUANA BUSINESSES FROM DECEMBER 31, 2014 TO MARCH 31, 2015 AND AMENDING SECTIONS 6-14-8 "REQUIREMENTS RELATED TO OPERATION OF MEDICAL MARIJUANA BUSINESSES" AND 6-16-8 "REQUIREMENTS RELATED TO OPERATION OF RECREATIONAL MARIJUANA BUSINESSES" TO ELIMINATE THE RESTRICTION ON SALE OF MERCHANDISE WITH THE NAME OR LOGO OF THE BUSINESS.

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

Section 1. Section 6-16-2 "Definitions," B.R.C. 1981, is amended as follows:

6-16-2. Definitions.

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

* * *

"Co-located marijuana business" means a medical marijuana wellness center or cultivation facility that held a license from the city on October 22, 2013, and applied for co-location by ~~December 31, 2014~~ March 31, 2015, that is permitted by the owner of the building and all applicable laws, to divide the licensed medical marijuana business to allow for both a medical and a recreational marijuana wellness center or cultivation facility as separate business premises with separate licenses from the city within the same footprint and owned by the same person as the medical marijuana wellness center or cultivation facility. The licensees with an ownership or financial interest of either part of a co-located marijuana business may not be changed to be different from the other.

* * *

Section 2. Section 6-16-3 "License Required," B.R.C. 1981, is amended as follows:

6-16-3. License Required.

* * *

(f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana establishment may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open, and operating on

1 October 22, 2013, or that had submitted a complete application for a medical marijuana
2 business on October 22, 2013, may be converted to the same type of marijuana
3 establishment by complying with the requirements of this chapter for a renewal of a
4 marijuana license and paying the application fee specified in Section 4-20-67,
5 "Recreational Marijuana Businesses, " B.R.C. 1981, if it makes application for the
6 conversion by ~~December 31, 2014~~March 31, 2015. The license for the medical marijuana
7 business must be surrendered to the city before the recreational marijuana business
8 license will be issued. The term of the license shall be the same as the existing medical
9 marijuana business license.

6 (g) Conversion to a Co-located Marijuana Business Within the Footprint of the Medical
7 Marijuana Business. A licensee of a medical marijuana wellness center or cultivation
8 facility may apply for a co-located marijuana business license by ~~December 31,~~
9 2014March 31, 2015, by submitting an application for a co-located marijuana business on
10 forms approved by the city. At a minimum, the application form shall include a
11 modification of the existing medical marijuana business to conform to the new footprint
12 of the medical marijuana portion of the co-located marijuana business and all components
13 of the application described in Section 6-16-5, "Application, " B.R.C. 1981, determined
14 applicable by the city manager for the recreational marijuana portion of the co-located
15 marijuana business, and paying the modification of premises fee and operating fee
16 specified in Section 4-20-67, "Recreational Marijuana Businesses, " B.R.C. 1981. The
17 license for the medical marijuana business must be surrendered to the city before the co-
18 located marijuana business license will be issued. The term of the co-located marijuana
19 business license shall be the same as the existing medical marijuana business license. For
20 purposes of separation from other marijuana businesses in Paragraph 6-16-7(e)(2) of this
21 chapter, the co-located medical and recreational marijuana business shall be considered
22 one marijuana business. No co-located medical and recreational marijuana business may
23 be sold separately from the other and must maintain identical ownership at all times.

16 * * *

17 **Section 3.** Section 6-14-8 "Requirements Related to Operation of Medical Marijuana
18 Businesses," B.R.C. 1981, is amended as follows:

19 **6-14-8. Requirements Related to Operation of Medical Marijuana Businesses.**

20 * * *

21 (p) Advertisement. A medical marijuana business may not advertise in a manner that is
22 inconsistent with the medicinal use of medical marijuana. A medical marijuana business
23 may not advertise in a manner that is misleading, deceptive, false or is designed to appeal
24 to minors. Advertisement that promotes medical marijuana for recreational or any use
25 other than for medicinal purposes shall be a violation of this code. The following
conditions shall apply:

1 (1) Any person licensed as a medical marijuana center shall include in any
2 advertisement for medical marijuana or any medical marijuana-infused product the
3 following language: "For registered Colorado medical marijuana patients only."
4 Provided, however, this language shall not be required to be displayed upon any sign
5 identifying a medical marijuana center, as permitted by Subparagraph (2)(A) of this
6 section.

7 (2) Except as otherwise provided in this paragraph, it shall be unlawful for any
8 person licensed under this chapter or any other person to advertise any medical
9 marijuana or medical marijuana-infused product anywhere in the city where the
10 advertisement is in plain view of or in a place open to the general public, including
11 advertising utilizing any of the following media: any billboard or other outdoor
12 general advertising device as defined by the zoning code; any sign mounted on a
13 vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly
14 handed to any person in a public place, left upon a motor vehicle, or posted upon any
15 public or private property. The prohibition set forth in this paragraph shall not apply
16 to:

17 (A) Any sign located on the same zone lot as a medical marijuana center which
18 exists solely for the purpose of identifying the location of the medical marijuana
19 center and which otherwise complies with this code and any other applicable city
20 laws and regulations, which sign includes only the name and address of the
21 center;

22 (B) Any advertisement contained within a newspaper, magazine, or other
23 periodical of general circulation within the city or on the internet; or

24 (C) Any products marked with the name or logo of the licensed medical
25 marijuana center, including wearable or non-consumable usable product
merchandise, packaging in which marijuana is sold, or on medical marijuana
accessories sold; or

(D) Advertising which is purely incidental to sponsorship of a charitable event
by a medical marijuana center or a medical marijuana-infused products
manufacturer.

(3) It is an affirmative defense if a medical marijuana business employee provided
another individual, upon request, a business card for the purpose of providing that
person's name and business affiliation, including, without restriction, title, mailing
address, email address, and telephone number.

(4) No medical marijuana business shall distribute or allow the distribution of any
marijuana or products marked with its name or logo without charge within a
marijuana business or any place open to the public for the purpose of promotion or
advertising.

1 (5) No medical marijuana business shall distribute or allow the distribution of any
2 coupon or similar writing, electronically or on paper, which purports to allow the
bearer to exchange the same for any marijuana product, either free or at a discount.

3 (6) No medical marijuana business shall sell, distribute, or provide, or allow the sale,
4 distribution, or provision of, products marked with its name or logo, in child sizes,
5 designed for the use of minors, or which is misleading, deceptive, false, or appealing
6 to minors. ~~other than packaging in which medical marijuana is sold or on medical~~
7 ~~marijuana products. This prohibition shall not prevent employees of the business from~~
8 ~~wearing uniforms with the name or logo while working for the business on the~~
9 ~~business premises.~~

7 **Section 4.** Section 6-16-8 “Requirements Related to Operation of Recreational
8 Marijuana Businesses,” B.R.C. 1981, is amended as follows:

9 **6-16-8. Requirements Related to Operation of Recreational Marijuana Businesses.**

10 * * *

11 (p) Advertisement. A recreational marijuana business may not advertise in a manner that
12 is misleading, deceptive, false, or designed to appeal to minors.

13 The following conditions shall apply:

14 (1) Except as otherwise provided in this paragraph, it shall be unlawful for any
15 person licensed under this chapter or any other person to advertise any recreational
16 marijuana or recreational marijuana-infused product anywhere in the city where the
17 advertisement is in plain view of, or in, a place open to the general public, including
18 advertising utilizing any of the following media: any billboard or other outdoor
19 general advertising device as defined by the zoning code; any sign mounted on a
vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly
handed to any person in a public place, left upon a motor vehicle, or posted upon any
public or private property.

20 The prohibition set forth in this paragraph shall not apply to:

21 (A) Any sign located on the same zone lot as a recreational marijuana center
22 which exists solely for the purpose of identifying the location of the recreational
23 marijuana center and which otherwise complies with this code and any other
applicable city laws and regulations, which sign includes only the name and
address of the center;

24 (B) Any advertisement contained within a newspaper, magazine, or other
25 periodical of general circulation within the city or on the internet;

1 (C) Any products marked with the name or logo of the licensed recreational
2 marijuana center, including wearable or non-consumable usable product
3 merchandise, packaging in which marijuana is sold, or on recreational marijuana
4 accessories sold; or

5 (D) Advertising which is purely incidental to sponsorship of a charitable event
6 by a recreational marijuana center or a recreational marijuana-infused products
7 manufacturer.

8 (2) It is an affirmative defense if a recreational marijuana business employee
9 provided another individual, upon request, a business card for the purpose of
10 providing that person's name and business affiliation, including, without restriction,
11 title, mailing address, email address, and telephone number;

12 (3) No marijuana business shall distribute or allow the distribution of any marijuana
13 or products marked with its name or logo without charge within a marijuana business
14 or any place open to the public for the purpose of promotion or advertising;

15 (4) No marijuana business shall distribute or allow the distribution of any coupon or
16 similar writing, electronically or on paper, which purports to allow the bearer to
17 exchange the same for any marijuana product either free or at a discount; and

18 (5) No recreational marijuana business shall sell, distribute, or provide, or allow the
19 sale, distribution, or provision of, products marked with its name or logo, ~~other than~~
20 packaging in which marijuana is sold or on recreational marijuana products in child
21 sizes, designed for the use of minors, or which is misleading, deceptive, false, or are
22 appealing to minors. ~~This prohibition shall not prevent employees of the business~~
23 ~~from wearing uniforms with the name or logo while working for the business on the~~
24 ~~business premises.~~

25 **Section 5.** This ordinance is necessary to protect the public health, safety, and welfare of
the residents of the city, and covers matters of local concern.

Section 6. The city council deems it appropriate that this ordinance be published by title
only and orders that copies of this ordinance be made available in the office of the city clerk for
public inspection and acquisition.

Section 7. The city council finds this is necessary for the immediate preservation of
public peace, health, safety, and property justifying the adoption of this ordinance as an
emergency measure. Emergency adoption of this ordinance is necessary to prevent an

1 interruption in the application process. This ordinance shall become effective immediately upon
2 passage at first reading.

3 READ ON FIRST READING, PASSED, ADOPTED, AS AN EMERGENCY
4 MEASURE BY TWO-THIRDS OF COUNCIL MEMBERS PRESENT, AND ORDERED
5 PUBLISHED BY TITLE ONLY this 16th day of December, 2014.
6

7
8
9 _____
Mayor

10 Attest:

11 _____
City Clerk

ORDINANCE NO. 8027

AN EMERGENCY ORDINANCE AMENDING CHAPTER 6-16. B.R.C. 1981, AMENDING SECTIONS 6-16-2 "DEFINITIONS," AND 6-16-3 "LICENSE REQUIRED" TO ELIMINATE THE DEADLINE FOR MEDICAL MARIJUANA BUSINESSES EXISTING ON OCTOBER 22, 2013 TO CONVERT TO RECREATIONAL MARIJUANA BUSINESSES AND AMENDING SECTIONS 6-14-8 "REQUIREMENTS RELATED TO OPERATION OF MEDICAL MARIJUANA BUSINESSES" AND 6-16-8 "REQUIREMENTS RELATED TO OPERATION OF RECREATIONAL MARIJUANA BUSINESSES" TO ELIMINATE THE RESTRICTION ON SALE OF MERCHANDISE WITH THE NAME OR LOGO OF THE BUSINESS.

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

Section 1. Section 6-16-2 "Definitions," B.R.C. 1981, is amended as follows:

6-16-2. Definitions.

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

* * *

"Co-located marijuana business" means a medical marijuana wellness center or cultivation facility that held a license from the city on October 22, 2013, ~~and applied for co-location by December 31, 2014,~~ that is permitted by the owner of the building and all applicable laws, to divide the licensed medical marijuana business to allow for both a medical and a recreational marijuana wellness center or cultivation facility as separate business premises with separate licenses from the city within the same footprint and owned by the same person as the medical marijuana wellness center or cultivation facility. The licensees with an ownership or financial interest of either part of a co-located marijuana business may not be changed to be different from the other.

* * *

Section 2. Section 6-16-3 "License Required," B.R.C. 1981, is amended as follows:

6-16-3. License Required.

* * *

(f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana establishment may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open, and operating on

1 October 22, 2013, or that had submitted a complete application for a medical marijuana
 2 business on October 22, 2013, may be converted to the same type of marijuana
 3 establishment by complying with the requirements of this chapter for a renewal of a
 4 marijuana license and paying the application fee specified in Section 4-20-67,
 5 "Recreational Marijuana Businesses, " B.R.C. 1981, ~~if it makes application for the
 conversion by December 31, 2014.~~ The license for the medical marijuana business must
 be surrendered to the city before the recreational marijuana business license will be
 issued. The term of the license shall be the same as the existing medical marijuana
 business license.

6 (g) Conversion to a Co-located Marijuana Business Within the Footprint of the Medical
 7 Marijuana Business. A licensee of a medical marijuana wellness center or cultivation
 8 facility may apply for a co-located marijuana business license ~~by December 31, 2014,~~ by
 9 submitting an application for a co-located marijuana business on forms approved by the
 10 city. At a minimum, the application form shall include a modification of the existing
 11 medical marijuana business to conform to the new footprint of the medical marijuana
 12 portion of the co-located marijuana business and all components of the application
 13 described in Section 6-16-5, "Application, " B.R.C. 1981, determined applicable by the
 14 city manager for the recreational marijuana portion of the co-located marijuana business,
 15 and paying the modification of premises fee and operating fee specified in Section 4-20-
 67, "Recreational Marijuana Businesses, " B.R.C. 1981. The license for the medical
 marijuana business must be surrendered to the city before the co-located marijuana
 business license will be issued. The term of the co-located marijuana business license
 shall be the same as the existing medical marijuana business license. For purposes of
 separation from other marijuana businesses in Paragraph 6-16-7(e)(2) of this chapter, the
 co-located medical and recreational marijuana business shall be considered one marijuana
 business. No co-located medical and recreational marijuana business may be sold
 separately from the other and must maintain identical ownership at all times.

16 * * *

17 **Section 3.** Section 6-14-8 "Requirements Related to Operation of Medical Marijuana
 18 Businesses," B.R.C. 1981, is amended as follows:

19 **6-14-8. Requirements Related to Operation of Medical Marijuana Businesses.**

20 * * *

21 (p) Advertisement. A medical marijuana business may not advertise in a manner that is
 22 inconsistent with the medicinal use of medical marijuana. A medical marijuana business
 23 may not advertise in a manner that is misleading, deceptive, false or is designed to appeal
 24 to minors. Advertisement that promotes medical marijuana for recreational or any use
 25 other than for medicinal purposes shall be a violation of this code. The following
 conditions shall apply:

1 (1) Any person licensed as a medical marijuana center shall include in any
2 advertisement for medical marijuana or any medical marijuana-infused product the
3 following language: "For registered Colorado medical marijuana patients only."
4 Provided, however, this language shall not be required to be displayed upon any sign
5 identifying a medical marijuana center, as permitted by Subparagraph (2)(A) of this
6 section.

7 (2) Except as otherwise provided in this paragraph, it shall be unlawful for any
8 person licensed under this chapter or any other person to advertise any medical
9 marijuana or medical marijuana-infused product anywhere in the city where the
10 advertisement is in plain view of or in a place open to the general public, including
11 advertising utilizing any of the following media: any billboard or other outdoor
12 general advertising device as defined by the zoning code; any sign mounted on a
13 vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly
14 handed to any person in a public place, left upon a motor vehicle, or posted upon any
15 public or private property. The prohibition set forth in this paragraph shall not apply
16 to:

17 (A) Any sign located on the same zone lot as a medical marijuana center which
18 exists solely for the purpose of identifying the location of the medical marijuana
19 center and which otherwise complies with this code and any other applicable city
20 laws and regulations, which sign includes only the name and address of the
21 center;

22 (B) Any advertisement contained within a newspaper, magazine, or other
23 periodical of general circulation within the city or on the internet; or

24 (C) Any products marked with the name or logo of the licensed medical
25 marijuana center, including wearable or non-consumable usable product
merchandise, packaging in which marijuana is sold, or on medical marijuana
accessories sold; or

(D) Advertising which is purely incidental to sponsorship of a charitable event
by a medical marijuana center or a medical marijuana-infused products
manufacturer.

(3) It is an affirmative defense if a medical marijuana business employee provided
another individual, upon request, a business card for the purpose of providing that
person's name and business affiliation, including, without restriction, title, mailing
address, email address, and telephone number.

(4) No medical marijuana business shall distribute or allow the distribution of any
marijuana or products marked with its name or logo without charge within a
marijuana business or any place open to the public for the purpose of promotion or
advertising.

1 (5) No medical marijuana business shall distribute or allow the distribution of any
2 coupon or similar writing, electronically or on paper, which purports to allow the
bearer to exchange the same for any marijuana product, either free or at a discount.

3 (6) No medical marijuana business shall sell, distribute, or provide, or allow the sale,
4 distribution, or provision of, products marked with its name or logo, in child sizes,
5 designed for the use of minors, or which is misleading, deceptive, false, or appealing
6 to minors. ~~other than packaging in which medical marijuana is sold or on medical~~
7 ~~marijuana products. This prohibition shall not prevent employees of the business from~~
8 ~~wearing uniforms with the name or logo while working for the business on the~~
9 ~~business premises.~~

7 **Section 4.** Section 6-16-8 “Requirements Related to Operation of Recreational
8 Marijuana Businesses,” B.R.C. 1981, is amended as follows:

9 **6-16-8. Requirements Related to Operation of Recreational Marijuana Businesses.**

10 * * *

11 (p) Advertisement. A recreational marijuana business may not advertise in a manner that
12 is misleading, deceptive, false, or designed to appeal to minors.

13 The following conditions shall apply:

14 (1) Except as otherwise provided in this paragraph, it shall be unlawful for any
15 person licensed under this chapter or any other person to advertise any recreational
16 marijuana or recreational marijuana-infused product anywhere in the city where the
17 advertisement is in plain view of, or in, a place open to the general public, including
18 advertising utilizing any of the following media: any billboard or other outdoor
19 general advertising device as defined by the zoning code; any sign mounted on a
vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly
handed to any person in a public place, left upon a motor vehicle, or posted upon any
public or private property.

20 The prohibition set forth in this paragraph shall not apply to:

21 (A) Any sign located on the same zone lot as a recreational marijuana center
22 which exists solely for the purpose of identifying the location of the recreational
23 marijuana center and which otherwise complies with this code and any other
applicable city laws and regulations, which sign includes only the name and
address of the center;

24 (B) Any advertisement contained within a newspaper, magazine, or other
25 periodical of general circulation within the city or on the internet;

1 (C) Any products marked with the name or logo of the licensed recreational
2 marijuana center, including wearable or non-consumable usable product
3 merchandise, packaging in which marijuana is sold, or on recreational marijuana
4 accessories sold; or

5 (D) Advertising which is purely incidental to sponsorship of a charitable event
6 by a recreational marijuana center or a recreational marijuana-infused products
7 manufacturer.

8 (2) It is an affirmative defense if a recreational marijuana business employee
9 provided another individual, upon request, a business card for the purpose of
10 providing that person's name and business affiliation, including, without restriction,
11 title, mailing address, email address, and telephone number;

12 (3) No marijuana business shall distribute or allow the distribution of any marijuana
13 or products marked with its name or logo without charge within a marijuana business
14 or any place open to the public for the purpose of promotion or advertising;

15 (4) No marijuana business shall distribute or allow the distribution of any coupon or
16 similar writing, electronically or on paper, which purports to allow the bearer to
17 exchange the same for any marijuana product either free or at a discount; and

18 (5) No recreational marijuana business shall sell, distribute, or provide, or allow the
19 sale, distribution, or provision of, products marked with its name or logo, ~~other than~~
20 packaging in which marijuana is sold or on recreational marijuana products in child
21 sizes, designed for the use of minors, or which is misleading, deceptive, false, or are
22 appealing to minors. ~~This prohibition shall not prevent employees of the business~~
23 ~~from wearing uniforms with the name or logo while working for the business on the~~
24 ~~business premises.~~

25 **Section 5.** This ordinance is necessary to protect the public health, safety, and welfare of
the residents of the city, and covers matters of local concern.

Section 6. The city council deems it appropriate that this ordinance be published by title
only and orders that copies of this ordinance be made available in the office of the city clerk for
public inspection and acquisition.

Section 7. The city council finds this is necessary for the immediate preservation of
public peace, health, safety, and property justifying the adoption of this ordinance as an
emergency measure. Emergency adoption of this ordinance is necessary to prevent an

1 interruption in the application process. This ordinance shall become effective immediately upon
2 passage at first reading.

3 READ ON FIRST READING, PASSED, ADOPTED, AS AN EMERGENCY
4 MEASURE BY TWO-THIRDS OF COUNCIL MEMBERS PRESENT, AND ORDERED
5 PUBLISHED BY TITLE ONLY this 16th day of December, 2014.
6

7
8
9 _____
Mayor

10 Attest:

11 _____
City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: Dec. 16, 2014

AGENDA TITLE Motion to accept the City Manager's recommendation to disburse 2015 Human Services Fund allocations to community human service agencies.

PRESENTERS

Jane S. Brautigam, City Manager
Karen Rahn, Director, Human Services Department
Wendy Schwartz, Human Services Planning and Program Development Manager

EXECUTIVE SUMMARY

This memorandum informs City Council of the 2015 Human Services Fund (HSF) awards of \$2,056,188 to 46 programs administered by 36 community agencies. The HSF Advisory Committee (HSFAC) completed funding deliberations in October. The city manager approved the recommendations on Nov. 19.

CITY MANAGER PRELIMINARY DECISION

The City Manager recommends that council accept the funding recommendations proposed by the HSFAC and approved by the City Manager, and authorize the City Manager to disburse \$2,056,188 in HSF funds.

Suggested Motion Language:

The City Manager requests council consideration of this matter and action in the form of the following motion:

Motion to accept the City Manager's recommendation to disburse 2015 Human Services Fund allocations to community human service agencies.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** More than \$2 million will be allocated for programmatic operating expenses to human services agencies serving Boulder residents in 2015. Many

services provide support that allows lower-income families and individuals to remain housed, employed and productive members of the community.

- **Social:** HSF funding provides a safety net of basic services, including physical and mental health care, emergency shelter, transitional and permanent supportive housing, and programming to assist Boulder residents in meeting basic needs and achieving self-sufficiency. HSF support also promotes a system of prevention and early intervention services designed to preclude more costly treatment services before problems become acute. Residents served by agencies receiving HSF funding are primarily diverse, low-income or at-risk populations.

BACKGROUND

The 2015 allocation represents the twenty-first year of the HSF, established after passage of the 0.15 percent sales and use tax in 1992. Beginning in 1992, 40 percent of the funds collected through this tax were used to fund human services. In 2009, a ballot initiative extended the 0.15 percent sales and use tax indefinitely, and without restriction, to continue “to fund, without limitation, fire, police, library, parks, human services and other general fund purposes.” The HSF allocations are guided by the Housing and Human Services Master Plan (HHSMP), approved by City Council in 2005. The HHSMP identifies five priority areas for human services funding through the HSF.

The 2015 funding cycle was the second year using e-CImpact, a regional online grant management and application system (GMS) in collaboration with Boulder County, the City of Longmont and Foothills United Way. The Human Services Department serves as the project leader and systems administrator for the GMS, managing the development and ongoing maintenance of the system and providing technical assistance to the funding partners and applicants. The GMS fulfills a key objective of the city and its partners, and is a goal in the Human Services Master Plan (HSMP) and regional Boulder County Human Services Strategic Plan (HSSP) aimed at advancing regional planning and coordination.

The shared system allows community nonprofits to apply to one or more funders using one online application, and assists funders in aligning their funding processes countywide. The shared online system includes consistent impact areas with community outcomes and indicators for all four funders (**Attachment A**). These impact areas incorporate the five priority areas identified in the HSMP. Impact areas will be revised, as necessary, to align with priorities in the updated Human Services Strategy, expected to be completed in 2015.

Applications to the HSF are made through a competitive Request for Proposals (RFP) during the late spring/early summer. The process for deliberations and developing recommendations was:

- technical assistance and trainings for local agencies interested in applying;
- HSFAC and staff review and analysis of applications;
- HSFAC interviews with applicant agencies regarding proposals;
- HSFAC deliberations and recommendations;

- preliminary recommendations communicated to applicants; requests for appeals considered; and
- recommendations to city manager.

ANALYSIS

The City of Boulder received funding requests totaling \$2,868,368 for 62 programs from 48 agencies. \$2,056,188 was available for 2015 funding. The competition for funds resulted in assessment of proposals and funding decisions based on the established criteria. Out of 62 program applications, 44 received less than their requested funding or were not funded. Eighteen programs received full requests and seven of those programs received increased funding. **Attachment B** lists the 2015 HSF funding awards approved by city manager, and programs not funded, by impact area. **Attachment C** lists the 2015 awards in alphabetical order with agency totals for those agencies receiving multiple funding awards.

In addition to assessing alignment to the impact areas, outcomes and indicators, the HSFAC (**Attachment D**) evaluated proposals based on technical criteria established in the Request for Proposals (RFP), the funding application, and funding guidelines.

NEXT STEPS

- January, 2015 - Negotiation and execution of contracts with funded agencies
- July, 2015 - Funded agencies submit mid-year progress reports
- June, 2015 - RFP released for 2016 fund round

ATTACHMENTS

- A. 2015 Regional impact areas with community outcomes and indicators
- B. 2015 HSF Awards and requests by impact area
- C. 2015 HSF Awards, alphabetical order
- D. HSFAC members

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2015 Impact Areas, Outcomes and Indicators**Revised June 2014****Impact Area 1: Preparing low-income and at-risk children and youth for success****A. Outcome:** Children are school-ready upon entering kindergarten**Indicators:**

- Percentage of families with access to quality, and/or affordable, and/or culturally competent child care options
- Percentage of parents acquiring knowledge and skills to prepare children for school
- Percentage of parental involvement and engagement in their child's early childhood education
- Percentage of young children who exhibit developmentally-appropriate language, learning, cognitive and literacy skills
- Percentage of young children with social-emotional competence
- Percentage of young children with access to preventive and comprehensive medical, dental, mental and behavioral health care

B. Outcome: Youth are healthy and successful in school and have the skills necessary for self-sufficiency and success as an adult**Indicators:**

- Percentage of students who have four or more absences during any one month or 10 days during a school year
- Percentage of youth engaging in risk behaviors (as defined by the Youth Risk Behavior Survey)
- Percentage of youth who graduate from high school
- Percentage of dropout youth who obtain their GED
- Percentage of youth who complete career technical training or post-secondary education
- Percentage of parental involvement and engagement in their child's education
- Percentage of youth with significant or chronic disabilities or special needs with a transition plan to adult-centered services and/or adult life

Impact Area 2: Improving economic well-being, independence and self-reliance for adults**A. Outcome:** Individuals and families have a path toward greater financial independence and security**Indicators:**

- Percentage of adults who complete basic adult literacy and/or GED
- Percentage of individuals completing career or job readiness training
- Percentage of lower-income individuals acquiring skills to maintain stable housing, employment, education and/or assets
- Percentage of individuals who establish a support network of resources and services in order to avoid crisis
- Percentage of individuals moving toward increased wages or stable income to meet basic needs and away from (or decreased) public or private assistance

B. Outcome: Individuals who have continuing and long-term needs achieve or maintain healthy, safe and independent lives to the maximum extent possible**Indicators:**

- Percentage of individuals with access to community-based services and resources
- Percentage of individuals with access to transportation

- Percentage of elderly and/or individuals with disabilities who are able to maintain independent living

Impact Area 3: Meeting basic needs for individuals and families

Outcome: Individuals and families at-risk or in crisis access services to help meet immediate and/or basic needs

Indicators:

- Percentage of individuals and/or families with access to affordable, nutritious food
- Percentage of individuals and/or families with access to transportation
- Percentage of individuals and/or families with access to preventive support and treatment for dental, mental and physical health care
- Percentage of individuals and/or families enrolling in public benefits
- Percentage of homeless individuals and/or families provided emergency shelter or housing
- Percentage of individuals and/or families provided short term assistance who are homeless or at risk of homelessness
- Percentage of homeless individuals and/or families moving into transitional, permanent supportive or permanent housing
- Percentage of clients that develop, implement and/or complete recovery/treatment/service plans
- Percentage of individuals and/or families with a medical home

Impact Area 4: Building a safer community

Outcome: Individuals and families access services to prevent and reduce interpersonal violence in their lives; remain safe and crime-free in their neighborhoods; and have the tools and resources to prevent future harm.

Indicators:

- Percentage of individuals and/or families with access to services that provide safety
- Percentage of individuals and/or families with access to prevention and education resources*
- Percentage of individuals and/or families who establish a support network to help remain free from abuse or recidivism
- Percentage of individuals who establish a support network and do not re-offend 12 months after completion of restorative justice or release from correctional institutions*
- Percentage of individuals engaged in education, job training activities, or employment during 12 months after release from a correctional institution*

**The City of Boulder does not currently fund these indicators.*

2015 Human Services Fund Awards by Impact Area

Impact Area: Children and Youth				
Agency	Program	2014 Award	2015 Requested	2015 Approved
Acorn School	Wilderness Center for Early Childhood Education	\$25,000	\$50,000	\$15,000
Alternatives For Youth	Boulder County iTHRIVE	\$10,000	\$20,000	\$10,000
Boulder County Public Health	GENESIS/GENESISTER	\$50,000	\$75,000	\$40,000
Boulder Day Nursery	Early Learning Programs	\$65,000	\$65,000	\$65,000
Boulder Institute for Psychotherapy and Research	Early Childhood Program: Bright Beginnings + Zero to Five	\$0	\$20,000	\$0
Boulder Valley School District	Boulder High School Adelante! Program	\$25,000	\$58,600	\$30,000
	Teen Parent Program	\$20,000	\$40,000	\$15,000
Centro AMISTAD, El	El Centro AMISTAD	\$10,000	\$25,000	\$0
Children's House Preschool	First Chance Scholarship	\$22,050	\$25,000	\$25,000
Community Cycles	Kids Bikes for School and Recreation	\$0	\$7,500	\$0
Family Learning Center, The	School Readiness	\$56,989	\$62,888	\$54,000
	Youth Development	\$11,762	\$13,738	\$13,738
I Have A Dream Foundation	Positive Futures	\$0	\$50,000	\$0
New Horizons Cooperative Preschool	Bilingual Early Childhood Education	\$42,000	\$42,000	\$42,000
Project YES (Youth Envisioning Social Change)	Expanding Youth Empowerment Services	\$0	\$10,000	\$0
Voices For Children CASA	Special Truancy Advocates	\$0	\$5,000	\$0
YMCA of Boulder Valley	Youth and Teen Programs	\$0	\$10,000	\$0
YWCA of Boulder County	YWCA Youth Programs - Latina Achievement Support and Reading to End Racism	\$25,000	\$50,000	\$25,000
Total Children and Youth			\$629,726	\$334,738

Impact Area: Self-Sufficiency				
Agency	Program	2014 Award	2015 Requested	2015 Approved
Association for Community Living in Boulder County	Adult Empowerment	\$0	\$5,000	\$5,000
Bridge House	Employment Services and Ready to Work	\$40,000	\$80,000	\$50,000
Bridge to Justice	Post-Decree Services	\$0	\$28,121	\$5,000
CareConnect	Safety Net and Community Outreach Services	\$32,000	\$42,500	\$29,000
Center for People with Disabilities	Core Services	\$40,000	\$65,000	\$40,000
Community Action Development Corporation	Circles	\$10,000	\$11,265	\$11,265
Community Cycles	Bikes for Work	\$0	\$30,000	\$0
Foothills United Way	Personal Investment Enterprise (PIE)	\$0	\$40,000	\$27,935
	Volunteer Connection	\$0	\$23,430	\$0
Immigrant Legal Center of Boulder County	Immigrant Legal Services	\$25,000	\$25,000	\$23,000
Intercambio	Uniting Communities Programs	\$20,000	\$30,000	\$20,000
TRU Community Care	Indigent Care Fund	\$0	\$5,000	\$0
Veterans Helping Veterans Now	Veteran and Family Mental Health and Wellness Services	\$15,000	\$21,500	\$15,000
YMCA of Boulder Valley	Parkinson's Fitness Program	\$0	\$10,000	\$0
YWCA of Boulder County	Children's Alley Child Care	\$0	\$70,000	\$65,000
Total Self-Sufficiency			\$486,816	\$291,200

ATTACHMENT B: 2015 HSF Awards by Impact Area

Impact Area: Basic Needs				
Agency	Program	2014 Award	2015 Requested	2015 Approved
Agape Family Services	Emergency Homeless Shelter (Warming Center)	\$0	\$10,000	\$0
Attention Homes	Meeting Basic Needs for At-Risk Youth	\$40,000	\$60,000	\$40,000
Boulder County AIDS Project	HIV Care and Prevention Services	\$30,000	\$30,000	\$25,000
Boulder County Legal Services	Critical Legal Services for Low-Income City of Boulder Residents	\$19,000	\$19,000	\$19,000
Boulder Institute for Psychotherapy and Research	Mental Health Outpatient Clinic	\$0	\$35,000	\$0
Boulder Outreach for Homeless Overflow	Emergency Warming Centers	\$20,000	\$20,000	\$20,000
Boulder Shelter for the Homeless	Boulder County Cares	\$15,000	\$15,000	\$15,000
	Housing First	\$12,000	\$12,000	\$12,000
	Transition Program	\$28,000	\$28,000	\$28,000
	Transitional Housing (formerly BCATH)	\$10,000	\$10,000	\$10,000
	Winter Sheltering	\$55,000	\$60,000	\$55,000
Boulder Valley Women's Health Center	Subsidized Reproductive & Sexual Health Services and Education Program	\$100,000	\$110,000	\$100,000
Bridge House	Basic Needs and Case Management	\$30,000	\$70,000	\$40,000
Clinica Campesina Family Health Services	Health Care for Low-Income City of Boulder Residents	\$300,000	\$350,000	\$300,000
Community Food Share	Food Procurement and Food Distribution Program	\$5,000	\$10,000	\$5,000
Dental Aid	Safety Net Dental Services	\$121,295	\$140,000	\$125,000
Emergency Family Assistance Association	Shelter and Basic Needs	\$110,000	\$125,000	\$125,000
Mental Health Center of Boulder County	Mental Health Wellness Services for Severely Mentally Ill Individuals	\$350,000	\$442,326	\$350,000
Mother House	Mother House	\$10,000	\$10,000	\$10,000
Safehouse Progressive Alliance for Nonviolence	Domestic Violence Victim Services	\$55,500	\$54,250	\$54,250
St. Benedict Health and Healing Ministry	St. Benedict	\$0	\$5,000	\$0
Second Wind Fund of Boulder County	Second Wind Fund programs	\$0	\$2,000	\$0
Total Basic Needs			\$1,617,576	\$1,333,250

ATTACHMENT B: 2015 HSF Awards by Impact Area

Impact Area: Safety				
Agency	Program	2014 Award	2015 Requested	2015 Approved
Blue Sky Bridge	Child and Family Advocacy Program	\$25,000	\$30,000	\$25,000
Boulder County Legal Services	Legal Services for Victims of Domestic Violence	\$18,000	\$18,000	\$18,000
Children First of the Rockies (formerly St. Vrain Family Center)	SAFE Services	\$5,000	\$6,000	\$5,000
FOCUS Reentry	FOCUS Reentry	\$5,000	\$5,000	\$5,000
Rocky Mountain Legal Center	Rocky Mountain Legal Center	\$0	\$15,000	\$0
Safehouse Progressive Alliance for Nonviolence	Counseling, Advocacy & Outreach	\$39,000	\$55,250	\$39,000
Voices For Children	Court-Appointed Special Advocate (CASA)	\$5,000	\$10,000	\$5,000
Total Safety			\$134,250	\$97,000
Total HSF			\$2,868,368	\$2,056,188

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2015 Human Services Fund Awards by Alphabetical Order

Agency	Program	2014 Award	2015 Requested	2015 Approved
Acorn School	Wilderness Center for Early Childhood Education	\$25,000	\$50,000	\$15,000
Agape Family Services	Emergency Homeless Shelter (Warming Center)	\$0	\$10,000	\$0
Alternatives For Youth	Boulder County iTHRIVE	\$10,000	\$20,000	\$10,000
Association for Community Living in Boulder County	Adult Empowerment	\$0	\$5,000	\$5,000
Attention Homes	Meeting Basic Needs for At-Risk Youth	\$40,000	\$60,000	\$40,000
Blue Sky Bridge	Child and Family Advocacy Program	\$25,000	\$30,000	\$25,000
Boulder County AIDS Project	HIV Care and Prevention Services	\$30,000	\$30,000	\$25,000
Boulder County Legal Services (Total 2014 agency funding \$37,000) (Total 2015 agency funding \$37,000)	Critical Legal Services for Low-Income City of Boulder Residents	\$19,000	\$19,000	\$19,000
	Legal Services for Victims of Domestic Violence	\$18,000	\$18,000	\$18,000
Boulder County Public Health	GENESIS/GENESIS/TER	\$50,000	\$75,000	\$40,000
Boulder Day Nursery	Early Learning Programs	\$65,000	\$65,000	\$65,000
Boulder Institute for Psychotherapy and Research (Total 2014 agency funding \$0) (Total 2015 agency funding \$0)	Early Childhood Program: Bright Beginnings + Zero to Five	\$0	\$20,000	\$0
	Mental Health Outpatient Clinic	\$0	\$35,000	\$0
Boulder Outreach for Homeless Overflow	Emergency Warming Centers	\$20,000	\$20,000	\$20,000
Boulder Shelter for the Homeless (Total 2014 agency funding \$120,000) (Total 2015 agency funding \$120,000)	Boulder County Cares	\$15,000	\$15,000	\$15,000
	Housing First	\$12,000	\$12,000	\$12,000
	Transition Program	\$28,000	\$28,000	\$28,000
	Transitional Housing (formerly BCATH)	\$10,000	\$10,000	\$10,000
	Winter Sheltering	\$55,000	\$60,000	\$55,000
Boulder Valley School District (Total 2014 agency funding \$45,000) (Total 2015 agency funding \$45,000)	Boulder High School Adelante! Program	\$25,000	\$58,600	\$30,000
	Teen Parent Program	\$20,000	\$40,000	\$15,000
Boulder Valley Women's Health Center	Subsidized Reproductive & Sexual Health Services and Education Program	\$100,000	\$110,000	\$100,000
Bridge House (Total 2014 agency funding \$70,000) (Total 2015 agency funding \$90,000)	Basic Needs and Case Management	\$30,000	\$70,000	\$40,000
	Employment Services and Ready to Work	\$40,000	\$80,000	\$50,000
Bridge to Justice	Post-Decree Services	\$0	\$28,121	\$5,000
CareConnect	Safety Net and Community Outreach Services	\$32,000	\$42,500	\$29,000
Center for People with Disabilities	Core Services	\$40,000	\$65,000	\$40,000
Centro AMISTAD, El	El Centro AMISTAD	\$10,000	\$25,000	\$0
Children First of the Rockies (formerly St. Vrain Family Center)	SAFE Services	\$5,000	\$6,000	\$5,000
Children's House Preschool	First Chance Scholarship	\$22,050	\$25,000	\$25,000
Clinica Campesina Family Health Services	Health Care for Low-Income City of Boulder Residents	\$300,000	\$350,000	\$300,000
Community Action Development Corporation	Circles	\$10,000	\$11,265	\$11,265
Community Cycles (Total 2014 agency funding \$0) (Total 2015 agency funding \$0)	Bikes for Work	\$0	\$30,000	\$0
	Kids Bikes for School and Recreation	\$0	\$7,500	\$0

ATTACHMENT C: 2015 HSF Awards by Alphabetical Order

Agency	Program	2014 Award	2015 Requested	2015 Approved
Community Food Share	Food Procurement and Food Distribution Program	\$5,000	\$10,000	\$5,000
Dental Aid	Safety Net Dental Services	\$121,295	\$140,000	\$125,000
Emergency Family Assistance Association	Shelter and Basic Needs	\$110,00	\$125,000	\$125,000
Family Learning Center (Total 2014 agency funding \$68,751) (Total 2015 agency funding \$67,738)	School Readiness	\$56,989	\$62,888	\$54,000
	Youth Development	\$11,762	\$13,738	\$13,738
FOCUS Reentry	FOCUS Reentry	\$5,000	\$5,000	\$5,000
Foothills United Way (Total 2014 agency funding \$0) (Total 2015 agency funding 27,935)	Personal Investment Enterprise (PIE)	\$0	\$40,000	\$27,935
	Volunteer Connection	\$0	\$23,430	\$0
I Have A Dream Foundation	Positive Futures	\$0	\$50,000	\$0
Immigrant Legal Center of Boulder County	Immigrant Legal Services	\$25,000	\$25,000	\$23,000
Intercambio	Uniting Communities Programs	\$20,000	\$30,000	\$20,000
Mental Health Center of Boulder County	Mental Health Wellness Services for Severely Mentally Ill Individuals	\$350,000	\$442,326	\$350,000
Mother House	Mother House	\$10,000	\$10,000	\$10,000
New Horizons Cooperative Preschool	Bilingual Early Childhood Education	\$42,000	\$42,000	\$42,000
Project YES (Youth Envisioning Social Change)	Expanding Youth Empowerment Services	\$0	\$10,000	\$0
Rocky Mountain Legal Center	Rocky Mountain Legal Center	\$0	\$15,000	\$0
Safehouse Progressive Alliance For Nonviolence (Total 2014 agency funding \$94,500) (Total 2015 agency funding 93,250)	Counseling, Advocacy & Outreach	\$39,000	\$55,250	\$39,000
	Domestic Violence Victim Services	\$55,500	\$54,250	\$54,250
St. Benedict Health and Healing Ministry	St. Benedict	\$0	\$5,000	\$0
Second Wind Fund of Boulder County	Second Wind Fund programs	\$0	\$2,000	\$0
TRU Community Care	Indigent Care Fund	\$0	\$5,000	\$0
Veterans Helping Veterans Now	Veteran and Family Mental Health and Wellness Services	\$15,000	\$21,500	\$15,000
Voices For Children CASA (Total 2014 agency funding \$5,000) (Total 2015 agency funding \$5,000)	Court-Appointed Special Advocate (CASA)	\$5,000	\$10,000	\$5,000
	Special Truancy Advocates	\$0	\$5,000	\$0
YMCA of Boulder Valley (Total 2014 agency funding \$0) (Total 2015 agency funding \$0)	Parkinson's Fitness Program	\$0	\$10,000	\$0
	Youth and Teen Programs	\$0	\$10,000	\$0
YWCA of Boulder County (Total 2014 agency funding \$95,000) (Total 2015 agency funding \$90,000)	Children's Alley Child Care	\$0	\$70,000	\$65,000
	Latina Achievement Support and Reading to End Racism	\$25,000	\$50,000	\$25,000
Total HSF			\$2,868,368	\$2,056,188

Human Services Fund Advisory Committee members

Mary Friedrichs , LCSW, BCD	Licensed clinical social worker with expertise in mental health services throughout the different stages of the developmental lifecycle
Lynn Gilbert, RN, CPNP, PhD, FAAN	Retired nurse practitioner with expertise in early childhood development
Dr. Stephanie Greenberg	Human services research consultant and analyst
Will Murray	Community member with local nonprofit expertise
Amy Zuckerman	Human Relations Committee member with expertise in business leadership

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 16, 2014

AGENDA TITLE: Consideration of a Response to City and County of Denver's Request for Support for its National Western Center Project

PRESENTERS

Jane S. Brautigam, City Manager
Carl Castillo, Policy Advisor

EXECUTIVE SUMMARY

Mayor Appelbaum received a request (**Attachment A**) from Denver Mayor Hancock for Boulder to sign on as a supporter of Denver's efforts to secure funding for its National Western Center Project (**Attachment B**) and, specifically, Denver's application for Regional Tourism Act (RTA) funding from the state of Colorado. The purpose of this agenda item is to allow council to discuss whether the city should provide Denver with the requested support.

The RTA establishes a program that gives local governments the opportunity to apply with the Economic Development Commission for approval of a large scale Regional Tourism Project that is of an extraordinary and unique nature, is anticipated to result in a substantial increase in out-of-state tourism, and that generates a significant portion of the sales tax revenue by transactions with nonresidents of the zone. Local governments applying for these funds must provide reliable economic data demonstrating that, in the absence of State Sales Tax Increment Revenue, the project is not reasonably anticipated to be developed within the foreseeable future. A fact sheet on the RTA is included as **Attachment C**.

ATTACHMENTS

Attachment A – Letter from Mayor Hancock
Attachment B – National Western Center Project Summary
Attachment C – Regional Tourism Act Fact Sheet

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Michael B. Hancock
MAYOR



City and County of Denver

OFFICE OF THE MAYOR
CITY AND COUNTY BUILDING
DENVER, COLORADO • 80202-5390
TELEPHONE: 720-865-9000 • FAX: 720-865-8787
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December 1, 2014

Dear Regional Partners:

This coming January, the National Western Stock Show (NWSS) will celebrate its 109th year of hosting the state's most important agricultural convention. Over the course of 16 days, cowboys, cowgirls, farmers and ranchers from around the globe gather at the National Western Complex to share stories, conduct business and honor the spirit of the American West. Collectively, the agricultural sector generates nearly \$42 billion for Colorado and is responsible for tens of thousands of jobs.

As important as this industry is to all of us, the National Western Complex, where the show has been hosted since its inception, is at a critical crossroads. I am writing to ask your support as a Front Range Mayor in our efforts to secure necessary funding from the state through the Regional Tourism Act to create a new, year-round center.

In April, Denver helped launch a formal master planning effort, in collaboration with Colorado State University, the Denver Museum of Nature & Science, History Colorado and the Western Stock Show Association, to embark upon a journey to collectively re-imagine this aging and obsolete complex into something that would assure the survival and growth of the NWSS while also creating a new center that strategically binds agricultural commerce, education, research and entertainment in one place for the benefit of our state and the Rocky Mountain West. Many of you may recall the presentation Kelly Leid gave regarding the North Denver Cornerstone Collaborative earlier this year, which included an update on the planning in and around the National Western.

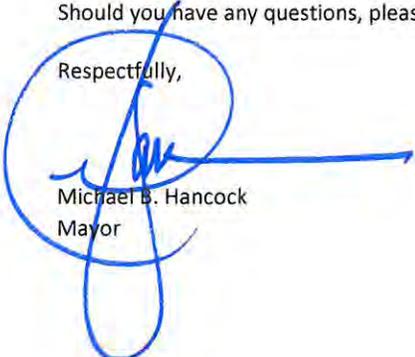
We are imagining a large "campus" celebrating the historic NWSS event as well as the innovative ways Colorado is addressing the challenges of food, water, energy and the environment. The campus would represent local, regional, national and international partnerships between the public and private sectors, bringing together entertainment, competition, education and industry to help solve global issues that will attract additional out-of-state tourists and a whole new generation of followers.

In mid-December, the National Western Center partners will release the draft master plan for the new center. The planning team has overcome significant physical barriers and site constraints in preparing a bold new vision that we will begin to move toward Denver City Council adoption in early 2015.

In order to secure funding for the National Western Center, the City and County of Denver is applying for Regional Tourism Act funding from the state. We believe strongly that the new center will generate significant new tourism for Colorado and the region. I am attaching a summary of the project to give you a sense of what has been envisioned. I am also attaching a joint proclamation that we would like to include with our application, which is due in early February 2015. I respectfully request that you consider joining other regional mayors in signing your name to that letter. Please let me know by email if you are willing to sign on before the end of the year.

Should you have any questions, please feel free to give me a call. Thank you in advance for your consideration.

Respectfully,


Michael B. Hancock
Mayor

**Joint Proclamation
In Support of the City and County of Denver's
Regional Tourism Act Application
for the National Western Center Project**

WHEREAS, in January of 2015, the National Western Stock Show will celebrate 109 years of hosting Colorado's most important agricultural convention, tourism and western heritage event at the National Western Complex; and

WHEREAS, agricultural enthusiasts, cowboys, cowgirls, farmers and ranchers from around the globe gather at the National Western Complex to share stories, conduct business and honor the spirit of the American West, representing an agricultural sector that generates nearly \$42 billion for Colorado and is responsible for tens of thousands of jobs; and

WHEREAS, The City and County of Denver has partnered with the Western Stock Show Association, Colorado State University, the Denver Museum of Nature and Science, and History Colorado in a joint effort to re-invent the National Western Complex and Denver Coliseum sites under one coordinated vision as part of retaining and increasing tourism and convention opportunities for the Metropolitan Denver Area and the State of Colorado; and

WHEREAS, the National Western Center represents a visionary transformation of the National Western Complex and Denver Coliseum into a must-see tourist destination and regional asset that will enhance these historic landmarks through creative year-round activity; and

WHEREAS, with a combined 130 acres of initial land for redevelopment, the National Western Center will support Colorado's global standing as a world-class hub for the Western way of life by celebrating the pioneering spirit and promise of the West through year-round experiential lifelong learning, the arts, entertainment, competition, commerce and tourism; and

WHEREAS, the economic effects of redeveloping the National Western site will extend well beyond the boundaries of the City and County of Denver to benefit the many surrounding metropolitan areas; and

WHEREAS, the Colorado Regional Tourism Act, Part 3 of Article 46, Title 24, C.R.S. (the "RTA"), authorizes the City and County of Denver to submit an application to the Colorado Economic Development Commission for a Regional Tourism Project, as defined in the RTA

NOW, THEREFORE, BE IT PROCLAIMED by the undersigned municipalities:

We hereby stand in joint support of the City and County of Denver's application for Regional Tourism Act funding for the National Western Center Project as a testament to the significant benefit, both economic and cultural, this project will bring to both our own communities and the State of Colorado. Respectfully submitted:

THE NATIONAL WESTERN CENTER PROJECT



The National Western Complex, Denver Coliseum and National Western Stock Show are at a crossroads. The site is old, antiquated and has seen no significant investment since the 1990's. At the same time, younger generations are very much aware of and concerned with what we might term great global challenges. There are the generations that will have to feed more than 9 billion people, solve the issue of fresh water shortages and respond to climate change. At the intersection of these issues lies a rare and precious opportunity to transform the National Western Complex and Denver Coliseum site into the "National Western Center." While honoring the National Western Stock Show's (NWSS) 100-year history, five partners—Colorado State University, Denver Museum of Nature and Science, History Colorado, Western Stock Show Association and the City and County of Denver—are singularly focused on the opportunity to reinvent the site for the next 100 years. As part of the core master planning process, which began in April 2013, we envision a large "campus" celebrating the historic NWSS event, but also showcasing the innovative ways Colorado is addressing the challenges of food, water, energy and the environment; integrating local, regional, national and international partnerships between the public and private sectors; and blurring the lines between entertainment, competition, education and industry to help solve global issues. We believe the creation of the National Western Center will have a significant impact on Colorado tourism and will spawn a whole new generation of supporters.

There are two over-arching objectives for the existing 130-acre site (and larger study area), located at Brighton Blvd and I-70, which will be presented as part of Denver's RTA application:

✓ **Preserving a Colorado treasure in the National Western Stock Show**

At its core, the project's objectives are to preserve and ultimately significantly grow the National Western Stock Show event, (*currently the state's largest agricultural convention*) across four functional areas – equestrian, livestock, rodeo, and tradeshow. Based upon extensive market research, the program will include new and adaptively reused event facilities and site improvements to elevate the NWSS for the next 100 years, driving increased visitors from around the country to the "Super Bowl" of stock shows, both for the January show as well as through expanded year round program offerings.

✓ **Creating a Year-Round Entertainment & Education Destination**

Beyond meeting the needs of the NWSS event, the master plan for the proposed NWC Campus would include both new and adaptively reused facilities for a full range of events, including but not limited to amateur sporting events, concerts, family shows, etc. In addition, the NWC will focus on formal and informal educational experiences, will convene international conferences, host a regional food and artisan market, and support business incubation. Finally, the plan intends to strategically align the new campus with the broader needs of the Colorado Convention Center through a new programming and events partnership, to help drive more out-of-state visitors to Denver.

The founding NWC MOU Partners have all committed to using the depth and breadth of our resources, now and in the future, to assure successful attainment of our shared vision for the National Western Center.

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Regional Tourism Act (RTA)

Purpose

The Regional Tourism Act creates a mechanism for a local government to undertake a regional tourism project to attract out-of-state visitors, to create a regional tourism zone in which the project will be built, and to create a regional tourism authority (or to designate other financing entities) with the power to receive and utilize the increment of revenues derived from the state sales tax collected in the zone, that is above a designated base amount, to be used to finance eligible improvements to the project.

The State's Role

The Colorado Office of Economic Development and International Trade (OEDIT) provides administrative support for the Colorado Economic Development Commission (EDC). The EDC has oversight authority for this program. A local community should work with OEDIT to determine application requirements and deadlines to submit completed applications for review by OEDIT. The Business Funding and Incentives Staff will facilitate the application review process, application presentation with structuring recommendations to the EDC, resolution drafting and project monitoring.

Requirements

- The EDC shall not approve any project that would likely create an annual state sales tax revenue dedication of more than \$50 million to all regional tourism projects.
- The EDC cannot initially approve more than two projects. Once the EDC approves two initial projects, the EDC may approve two additional projects during the next calendar year. Once the EDC approves two additional projects, the EDC may approve two additional projects during the following calendar year.
- The EDC will:
 - Review applications forwarded with OEDIT recommendations and may approve or reject the project based on a demonstration that the following criteria are materially met:
 - The project is of an extraordinary/unique nature and is reasonably anticipated to contribute significantly to economic development and tourism in the state and communities where the project is located.
 - The project is reasonably anticipated to result in a substantial increase in out-of-state tourism.
 - A significant portion of sales tax revenue generated by the project is reasonably anticipated to be attributable to transactions with nonresidents of the zone.
 - The local government has provided reliable economic data demonstrating that in the absence of state sales tax increment revenue, the project is not reasonably anticipated to be developed within the foreseeable future.
 - Adopt a resolution for approved applications specifying the following:
 - The local government approved to undertake a regional tourism project.
 - The area of the regional tourism zone.
 - Requested by the local government, authorize the creation of an authority to receive and spend state sales tax increment revenue.
 - The percentage of the state sales tax increment revenue that will be dedicated to the project.
 - Authorize the collection and use of the state sales tax increment revenue for a designated number of years.
 - Authorize the utilization of the state sales tax increment revenue by the financing entity pursuant to the RTA and conditions of approval determined by the EDC.
 - Appoint board members to the approved authority when applicable.

- Have the ability to revoke or modify its approval of a project if substantial work on the project does not commence within five years of approval by the EDC.
- Other terms and conditions required by the EDC.

Process

A local government will need to submit a regional tourism project application to OEDIT within the application cycle deadline. OEDIT will review the application for general completeness and to make an initial determination regarding whether the application has met the general criteria for a regional tourism project. An economic review and report on the application will be completed by an independent Third Party Analyst hired by the Office of State Planning and Budgeting. Applications will be forwarded to any county or counties and adjacent municipalities where the project will be implemented for an opportunity to review the application and submit comments to the EDC within 30 days prior to the scheduled EDC meeting. The EDC will make final approval or denial determinations.



TO: Members of Council
FROM: Mary Moline, City Clerk's Office
DATE: December 16, 2014
SUBJECT: Information Packet

1. CALL UPS

- A. 5675 Arapahoe Ave. Site and Use Review Approval Extension (LUR2008-00034)
- B. Disapproval of an application to designate the property at 445 College Ave. as an individual local historic landmark per Section 9-11-5 of the Boulder Revised Code 1981 (HIS2014-00085). This decision is subject to City Council call-up no later than **December 16, 2014**.
- C. Landmark Alteration to construct a 753 sq. ft. addition to a contributing house and to construct a 336 sq. ft. one-car garage at 735 Mapleton Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00192). This Landmark Alteration Certificate is subject to City Council call-up no later than **December 16, 2014**.
- D. Landmark Alteration Certificate to alter windows to create an entrance at the north (primary) elevation of 1029 Broadway St. (pending landmark), per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00354). This Landmark Alteration Certificate is subject to City Council call-up no later than **December 16, 2014**.
- E. Site review for the proposed removal of existing structures and a two-phased redevelopment with three, four-story buildings of Class A office in a campus format with below grade parking for the property located at 2095, 2111 and 2121 30th Street along with 2920 and 2930 Pearl Street. A total of 330,000 gross square feet is proposed to be developed in two phases (220,000 square feet in initial phase) with maximum 55' building height and four-stories. Site Review case no. LUR2014-00035. The applicant intends to pursue Vested Rights per section 9-2-19, B.R.C. 1981. (*Information will be available on Friday, December 12*).

2. INFORMATION ITEMS

- A. Update on Mobile Food Truck Late Night Food "Podding" in Downtown Boulder
- B. Boulder Valley Comprehensive Plan 2015 Major Update – Assessment and Options for Scope of Work and Update on Resilience Strategy

3. BOARDS AND COMMISSIONS

- A. Human Relations Committee – December 4, 2014
- B. Landmarks – November 5, 2014
- C. Landmarks – December 3, 2014
- D. Library Commission – October 7, 2014

4. DECLARATIONS

None



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Susan Richstone, Deputy Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Elaine McLaughlin, Senior Planner

Date: December 9, 2014

Subject: Call-Up Item: 5675 Arapahoe Ave. Site and Use Review Approval Extension (LUR2008-00034)

EXECUTIVE SUMMARY

On Dec. 4, 2014, the Planning Board unanimously approved the above-referenced application as provided in the attached Notice of Disposition (**Attachment A**). In approving the application, the board found the project consistent with Land Use Code criteria 9-2-12 (b)(2), B.R.C. 1981, "*Planning Board Level Extension.*" The Planning Board decision is subject to City Council call-up within 30 days. The call up period expires on Jan. 5, 2015. There is one City Council meeting within this time period for call-up consideration on Dec. 16, 2014. The staff memorandum of recommendation to Planning Board and other related background materials are available on the city website for Planning Board, follow the link: <https://bouldercolorado.gov/boards-commissions/planning-board-agenda>

BACKGROUND

On Jan. 2, 2011 the application was approved for the reuse of an existing warehouse building along with a second story addition for a climate controlled storage facility and construction of several self storage units at the rear of the property as a Phase I. A Phase II was approved with several additional self storage units at the rear and Phase III was approved for a larger addition to the back of the climate controlled storage warehouse building along with additional self storage units at the rear. A parking reduction for 82 percent was also approved based on the operational characteristics of a self storage facility where parking demand is sporadic and drive aisle widths wide enough to accommodate vehicle loading and unloading. Additional information can be found in the staff memo for the original approval, found in the above referenced link.

Figures 1 and 2 illustrate the Site Plan in context and the site when viewed from Arapahoe Avenue with the open space that will remain on the site with reuse and remodeling of the existing building and additional storage units at the rear of the property away from the pond, wetlands and trees.



Figure 2:
Existing Building to be reused with foreground open space
viewed from Arapahoe Ave. toward northwest



Figure 1:
Full Build Out of Project Site in Aerial Context

Since the approval in 2011, the applicant postponed their initial schedule for the project due to the global financial crisis. As a result, two staff level approval extensions were granted as permitted in the Land Use Code, section 9-2-12, B.R.C. 1981. Because the applicant exhausted any additional administrative extensions to complete the development, and given need for additional time to complete

updated flood analysis required as part of technical document review, the applicant filed a request for approval to the Planning Board.

SUMMARY OF ANALYSIS

An extension to an approved discretionary review application may be granted upon a request by an applicant and findings of consistency of the request with land use code section 9-2-12 (b)(2), B.R.C. 1981 as follows:

“(A) Criteria for Demonstrating Reasonable Diligence: An applicant may show that it has exercised reasonable diligence by providing evidence that it has done substantial work towards completing the project. Such evidence may include, without limitation, drafting plans for building permit or technical document review, applications for building permits or other permits that are required prior to the issuance of building permits, site preparation and grading, or commencement of the construction of a portion of the project.”

and

“(B) Criteria for Demonstrating Good Cause: An applicant may show good cause as to why an extension should be granted by providing evidence that includes, without limitation, the following: a demonstration of the applicant’s ability to complete the project within the extension; the extension is needed because of the size of the project or phasing of the development; or economic cycles and market conditions prevented the construction of the project during the original approval period.”

The criteria also has a provision to permit Planning Board to impose additional conditions on the applicant in order to ensure compliance with any amendments to Title 9, "Land Use Regulation," B.R.C. 1981, enacted after the date of the original approval.

The applicant indicated that their reasonable diligence includes preparation and submittal to the city of the technical document review plans as well as obtaining a grading permit for early site preparations.

Once the project was reinitiated, the previous flood plain development permit had expired and the applicant was advised that a new permit was required before the project could proceed. A portion of the supporting technical information for the original permit could not be located by the city or the applicant and the information that was available was not adequate for determine compliance with the floodplain regulations. This necessitated additional technical floodplain modeling, which the applicant has been working with staff on for the past year. Through this new modeling, grading and drainage on the site required redesign to meet the regulations. The redesign and modeling have necessitated additional time for completion and hence the request for extension of the development approval.

PLANNING BOARD HEARING

The Planning Board had a brief discussion about the proposed preservation of the existing pond, wetlands, and mature trees on the site, as well as the building’s 250-foot setback from Arapahoe Avenue; and a brief discussion about the minor modification approved on the building. On a

motion made by **C. Gray**, seconded by **J. Putnam**, the Planning Board voted 7-0 to approve the extension request for the combined Site and Use reviews, case no. LUR2008-00034, as described in the staff memorandum incorporating the staff memorandum as findings of fact. The Planning Board did not impose any additional conditions on the applications.

PUBLIC COMMENT AND PARTICIPATION

Required public notice for Site Review was given in the form of written notification mailed to all property owners within 600 feet of the subject site and the public notification sign was posted on the property for at least 10 days, per the public notification requirements of Section 9-4-3, B.R.C. 1981. Staff received no comments from members of the public.

CONCLUSION

By a unanimous vote (7-0) the Planning Board approved the application to extend the Site and Use Review approvals. Consistent with the land use code section 9-4-4(c), B.R.C. 1981, if the City Council disagrees with the decision of the Planning Board, it may call up the application within a 30-day call up period which expires on Jan. 5, 2015, and with one City Council meeting during that time, it may consider this application for call-up at its **Dec. 16, 2014** public meeting.

ATTACHMENT:

A. Planning Board Notice of Disposition dated Dec. 4, 2014



CITY OF BOULDER
Community Planning & Sustainability

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

BOULDER PLANNING BOARD
NOTICE OF DISPOSITION

You are hereby advised that on December 4, 2014 the following action was taken by the Planning Board based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION: **Approved**
PROJECT NAME: **FLATIRONS STORAGE**
DESCRIPTION: **THREE YEAR EXTENSION OF PHASE 1 of the Site and Use Review approvals under LUR2008-00034 pursuant to Section 9-2-13(b)(2), B.R.C. 1981. The Site and Use Review approvals under LUR2008-00034 are for a storage facility project that includes self-storage, climate controlled storage and an 82 percent parking reduction.**
LOCATION: **5675 ARAPAHOE RD**
COOR: **N03E01**
LEGAL DESCRIPTION: **See Exhibit A attached**
APPLICANT: **WW REYNOLDS**
OWNER: **LOOKOUT LLC; STORAGE CONTAINERS LTD.; ACE HOLDINGS LLC; AND CANAL AVENUE PARK LLC**
APPLICATION: **Extension of Site and Use Review Approvals under LUR2008-00034**
ZONING: **IG**
CASE MANAGER: **Elaine McLaughlin**

This decision may be called up before the City Council on or before **January 5, 2015**. If no call-up occurs, the decision is deemed final thirty days after the Planning Board's decision.

THE DEVELOPMENT APPROVALS REMAIN SUBJECT TO THE CONDITIONS OF APPROVAL IMPOSED AS PART OF THE SITE AND USE REVIEW APPROVALS FOR LUR2008-00034 ON DECEMBER 2, 2010, EXCEPT AS THOSE MAY BE MODIFIED BY THIS APPROVAL. THE NOTICE OF DISPOSITION FOR LUR2008-00034, INCLUDING THE CONDITIONS OF APPROVAL, IS ATTACHED TO THIS DISPOSITION.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete Phase 1 of the approved development within three years from the date of approval of this three year extension of Phase 1 and begin and substantially complete Phase 2 and Phase 3 in compliance with the approved phasing plan. Failure to "substantially complete" (as defined in Section 9-2-12, Boulder Revised Code 1981) the development in compliance with the approved phasing plan, as revised by this approval, shall cause the approvals to expire.

At its public hearing on December 4, 2014, the Planning Board approved the requested extension of Phase 1 of the development for a period of three years with the following motion:

On a motion by C. Gray, seconded by J. Putnam, the Planning Board voted 7-0 to approve the extension for the development approval of case no LUR2008-00034 based on the condition that the applicant begin and substantially complete the construction process within three years of the date of the Planning Board hearing, December 4, 2014.

By: David Driskell / by Sam Fedentare
David Driskell, Secretary of the Planning Board

Exhibit A: Legal Description

A tract of land located in the Southwest $\frac{1}{4}$ of Section 27, Township 1 North, Range 70 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the Southwest corner of said Section 27; thence North $89^{\circ} 41' 45''$ East, 1007.00 feet along the South line of the Southwest $\frac{1}{4}$ of said Section 27 to the Southwest corner of that tract of land conveyed to Willard H. McGinnes as described in Warranty Deed recorded in Book 307 at Page 375 of the records of Boulder County, Colorado; thence North $00^{\circ} 29' 30''$ West, 47.27 feet along the West line of that tract of land as described in said Book 307 at Page 375 to the Northwest corner of Parcel No. 26 conveyed to the Department of Highways, State of Colorado, as described in Special Warranty Deed recorded on Film 634 as Reception No. 877768 of the records of Boulder County, Colorado, and the true point of beginning;

Thence continuing North $00^{\circ} 29' 30''$ West, 1174.16 feet along the West line of that tract of land as described in said Book 307 at Page 375 to the Southerly right-of-way line of the Burlington Northern Railroad (former Colorado and Southern Railroad and formerly Colorado Central Railroad Company) as described in instrument recorded in Book X at Page 106 of the records of Boulder County, Colorado;

Thence South $82^{\circ} 21' 17''$ East, 365.62 feet along the Southerly line of said Burlington Northern Railroad right-of-way to the Northwest corner of Burning Tree Subdivision, a subdivision recorded October 10, 1980 in Plan File P-10, F-3, No. 11 of the records of Boulder County, Colorado, a point on the West line of that tract of land conveyed to James W. McIntyre as described in Quit Claim Deed recorded in Book 323 at page 229 of the records of Boulder County, Colorado;

Thence South $00^{\circ} 19' 55''$ East, 1123.13 feet along the West line and along the West line extended Southerly of said Burning Tree Subdivision and along the West line of that tract of land described in said Book 323 at Page 229 to the North line of said Parcel No. 26;

Thence South $89^{\circ} 37' 15''$ West, 328.81 feet along the North line of said Parcel No. 26;

Thence South $89^{\circ} 38' 45''$ West, 30.00 feet along the North line of said Parcel No. 26 to the true point of beginning.



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Deb Kalish, Senior Assistant City Attorney
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

Date: December 16, 2014

Call-up Item: Disapproval of an application to designate the property at 445 College Ave. as an individual local historic landmark per Section 9-11-5 of the Boulder Revised Code 1981 (HIS2014-00085). This decision is subject to City Council call-up no later than **December 16, 2014**.

Executive Summary

On October 1, 2014, the Landmarks Board voted to initiate landmark designation of 445 College Avenue (3-2, M. Gerwing and K. Remley opposed). At the December 5, 2014 designation hearing, the application was disapproved by the Landmarks Board (5-0). The decision to disapprove the application was based upon the board's consideration that the proposed designation did not meet the requirements in Section 9-11-1, B.R.C. 1981. The board also cited staff's analysis of the property finding that it did not represent the highest level of historic and architectural significance typically required for designation over an owner's objection, that there was very little public support for landmarking the property and, that in this case, designating over the owners objection would not represent a reasonable balance of private property rights and the public interest.

The board's disapproval is subject to a 45-day call-up period by City Council. The disapproval of this Landmark Designation is subject to City Council call-up no later than **December 16, 2014**.

ATTACHMENTS:

- A. Notice of Disposition dated December 16, 2014
- B. Photographs of 445 College Ave.

Notice of Disposition

You are hereby advised that on December 3, 2014 the following action was taken:

- ACTION:** Disapproved by a vote of 5-0
- APPLICATION:** Public hearing and consideration of the proposed designation of the property at 445 College Ave. as an individual local historic landmark per Section 9-11-5 of the Boulder Revised Code 1981 (HIS2014-00085).
- LOCATION:** 445 College Ave.
- ZONING:** RL-1 (Residential Low-1)
- APPLICANT/OWNER:** Landmarks Board / George and Stephanie Stark

This decision was arrived at based on the purposes and intent of the Historic Preservation Code as set forth in 9-11-1, B.R.C., 1981, as applied to the Landmark Designation application.

Public Hearing

Karl Kellogg, 2249 Tin Cup Circle, Boulder, CO spoke in opposition to landmark designation.

Marion Thurnauer, 440 College Avenue, Boulder, CO spoke in opposition to landmark designation.

Mark Gelband, 505 College Avenue, Boulder, CO spoke in opposition to landmark designation.

Dale Thoms, 425 College Avenue, Boulder, CO spoke in opposition to landmark designation.

Inger Barron, 430 College Avenue, Boulder, CO spoke in opposition to landmark designation.

Eileen Kintsch, 435 College Avenue, Boulder, CO spoke in opposition to landmark designation.

Abby Daniels, 1123 Spruce Street, Boulder, Co., Executive Director, Historic Boulder, spoke on behalf of the Historic Boulder Board voiced in opposition to landmark designation of this property.

Dale Thoms, 425 College Avenue, Boulder, CO spoke in opposition to landmark designation.

Kathryn Barth, 2940 20th Street, Boulder, CO., spoke in support of landmark designation.

George Stark, 1321 Marshall Street, Boulder, CO spoke in opposition to landmark designation.

Nancy Kellogg, 299 Tin Cup Circle, Boulder, CO spoke in opposition to landmark designation.

Joan Lieberman, 1335 Marshall Street, Boulder, Co spoke in opposition to the landmark designation.

Gretchen King, 415 College Avenue, Boulder, Co spoke in opposition to the landmark designation.

Stephanie Stark, 1321 Marshall Street, Boulder, Co spoke in opposition to the landmark designation.

Motion

On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board disapproved **(5-0)** the designation of the property at 445 College Ave. as an individual local historic landmark, finding that although, pursuant to Sec. 9-11-1(a), B.R.C. 1981, the proposal would protect, enhance, and perpetuate a building of the city reminiscent of past eras, events, and persons, it does not meet the legislative intent of Section 9-11-1(b) in that approving the application would not draw a reasonable balance between private property rights and the public interest. I further move that the Landmarks Board adopt this staff memorandum as findings of the Board, order staff to issue the demolition permit and recommend that prior to issuance of the demolition permit, staff require the applicant to submit to CP&S staff for recording with Carnegie Library:

1. A site plan showing the location of all existing improvements on the subject property;
2. Measured elevation drawings of all faces of the buildings depicting existing conditions, fully annotated with architectural details and materials indicated on the plans; and
3. Medium format archival quality color photographs of all exterior elevations.

The Board's decision was based upon staff's analysis of the property finding that it did not represent the highest level of historic and architectural significance typically required for designation over an owners objection, that there was very little public support for landmarking the property and, that in this case, designating over the owners objection would not represent a reasonable balance of private property rights and the public interest.



Figure 1. Map of 445 College Ave.

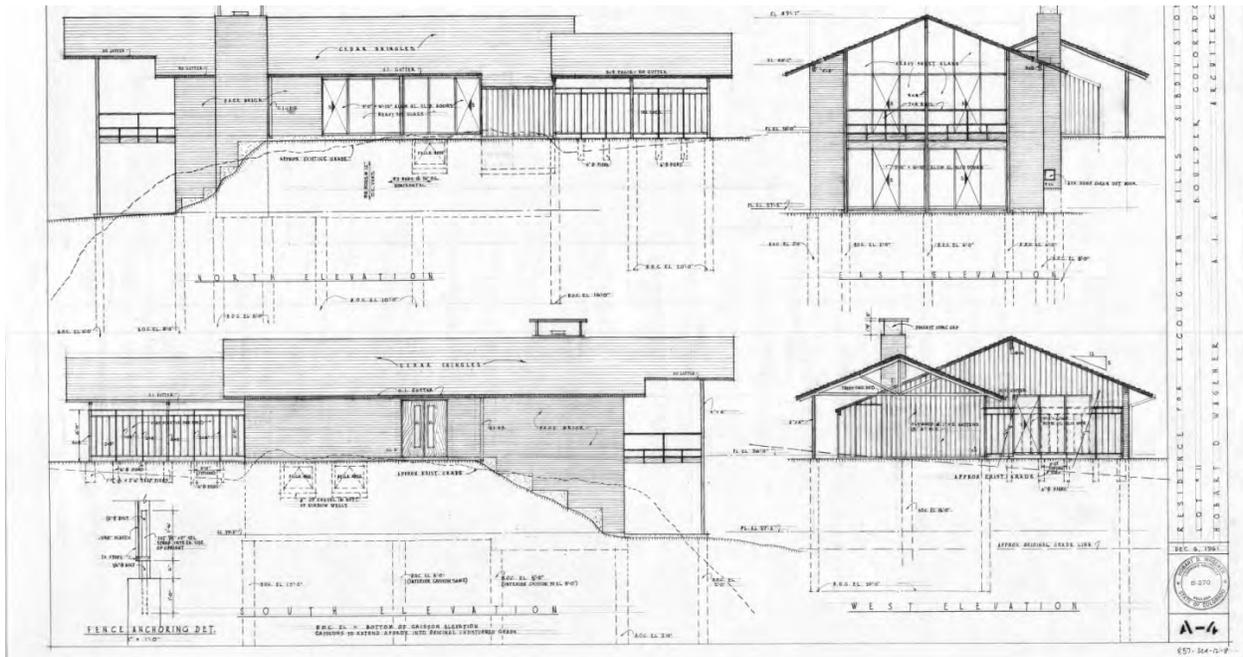


Figure 2. Original drawings by Hobart Wagener showing house designed for Lot 11, Kecoughtan Hills Subdivision, 1961.

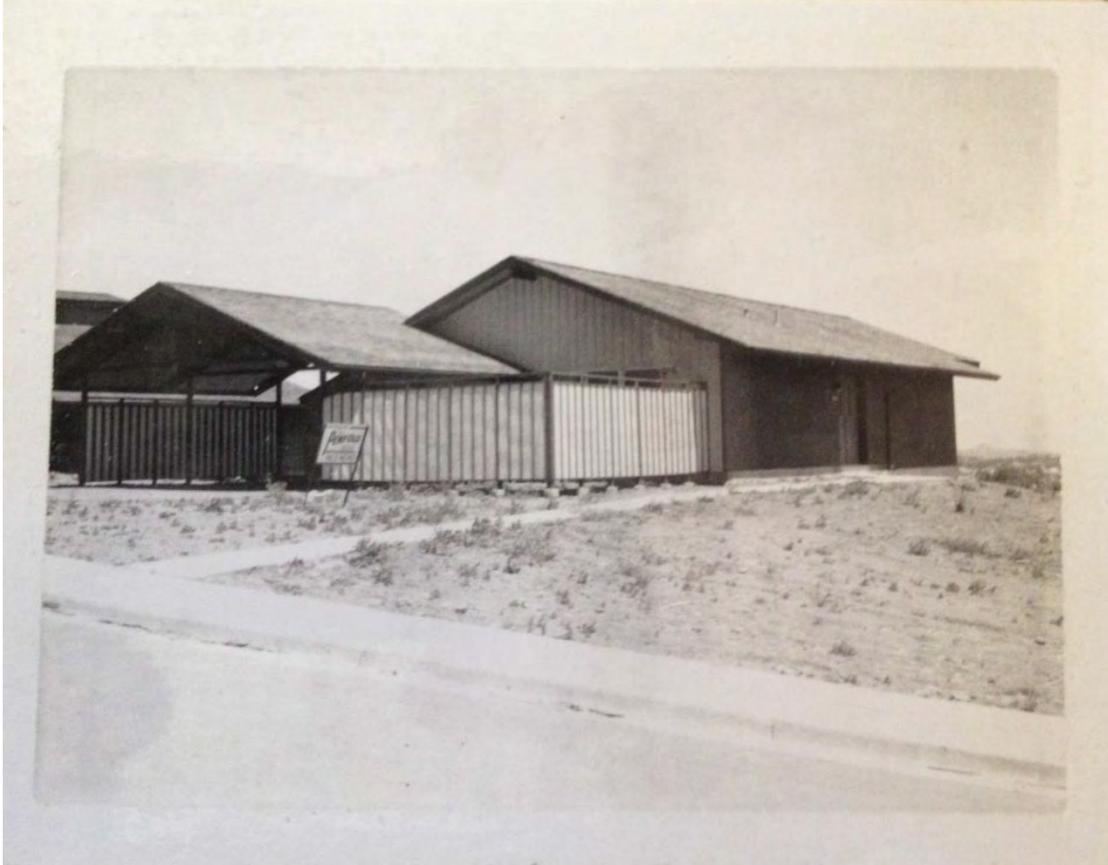


Figure 3. Tax Assessor Card Photograph, 445 College Ave., 1963.



Figure 4. 445 College Ave., South façade, 2014.



Figure 5. 445 College Ave., West elevation, 2014.



Figure 6. 445 College Ave., East elevation, 2014.



Figure 7. 445 College Ave., North elevation, 2014.



Figure 8. 445 College Ave., Non-historic accessory building 2014.



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Deb Kalish, Senior Assistant City Attorney
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

Date: December 16, 2014

Call-up Item: Landmark Alteration Certificate to construct a 753 sq. ft. addition to a contributing house and to construct a 336 sq. ft. one-car garage at 735 Mapleton Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00192). This Landmark Alteration Certificate is subject to City Council call-up no later than **December 16, 2014**.

Executive Summary

The proposal to construct a 753 sq. ft. addition to a contributing house and to construct a 336 sq. ft. one-car garage at 735 Mapleton Ave., ensuring that the development shall be constructed in compliance with approved plans dated 09/23/14, was approved with conditions by the Landmarks Board (4-0), F. Sheets recused herself, at the December 3, 2014 meeting. The decision was based upon the board's consideration that the proposed construction meets the requirements in Section 9-11-18, B.R.C. 1981.

The board's approval is subject to a 14-day call-up period by City Council. The approval of this Landmark Alteration Certificate is subject to City Council call-up no later than **December 16, 2014**.

ATTACHMENTS:

- A. Notice of Disposition dated December 16, 2014
- B. Photographs and Drawings of 735 Mapleton Ave.

Notice of Disposition

You are hereby advised that on December 3, 2014 the following action was taken:

- ACTION:** Approved by a vote of 4-0, F. Sheets recused
- APPLICATION:** Public hearing and consideration of an application for a Landmark Alteration Certificate to construct a 753 sq. ft. addition to a contributing house and to construct a 336 sq. ft. one-car garage at 735 Mapleton Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00192).
- LOCATION:** 735 Mapleton Ave.
- ZONING:** RL-1 (Residential Low-1)
- APPLICANT/OWNER:** David Waugh / Mary Beth Emerson

This decision was arrived at based on the purposes and intent of the Historic Preservation Code as set forth in 9-11-18, B.R.C., 1981, as applied to the Landmark Alteration Certificate application.

Public Hearing

Michael Mikuta, 2433 8th St., spoke in support of the Landmark Alteration Certificate application but voiced concerned about location of proposed garage to ensure back-out distance and requested it be moved 1' south into the property. Spoke in support of removing the historic garage to allow for more flexibility and better design.

Motion

On a motion by **M. Gerwing**, seconded by **M. Schreiner**, the Landmarks Board approved (4-0) the proposed construction shown on plans dated 09/23/2014, finding that it generally meets the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The applicant shall be responsible for constructing the addition and new one-car garage in compliance with the approved plans dated 09/23/2014, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit a revised design that:
 - a. Retains a greater portion of the north (rear) wall of the historic house and creates a more defined connection between the historic house and new addition;

- b. Preserves the east wall of the existing garage
 - c. Applicant shall submit a revised design that studies turning the gable to match the roof form of the existing garage.
3. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall provide details on the rehabilitation of the existing house.
 4. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: window and door details, wall material details, siding material details, paint colors, roofing material details and details regarding any exterior lighting and hardscaping on the property to ensure that the approval is consistent with the General Design Guidelines and the Mapleton Hill Historic District Guidelines and the intent of this approval.



Figure 1. Tax Assessor photo of 735 Mapleton Avenue, c. 1949.



*Figure 2. 745 (right) and 735 Mapleton Ave. (at left), 1929.
Photograph Courtesy the Carnegie Branch Library for Local History.*

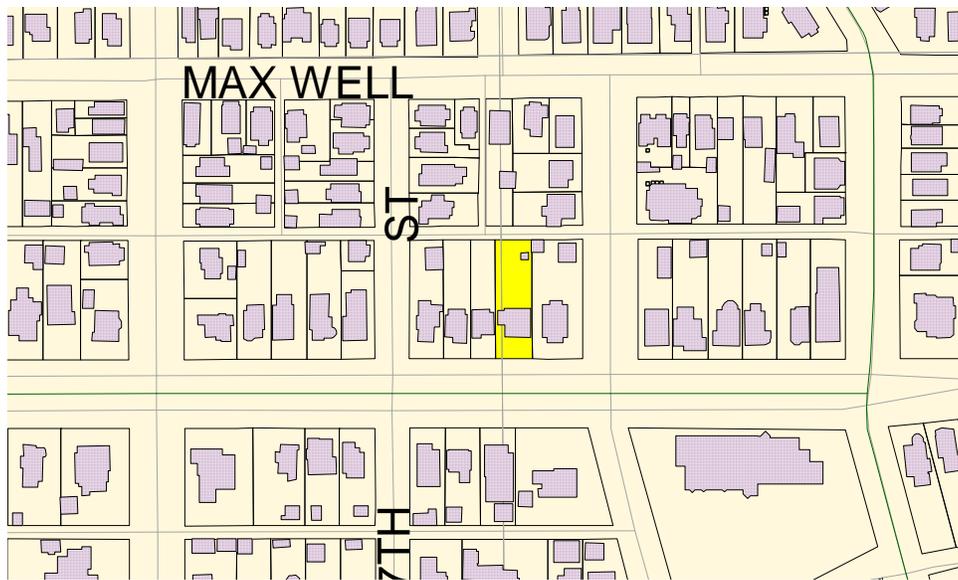


Figure 3. Location Map, 735 Mapleton Ave.



Figure 4. Façade 735 Mapleton Avenue, 2014.



Figure 5. East elevation, 735 Mapleton Avenue, 2014.



Figure 6. North (rear) of house from alley, 735 Pine St., 2014.



Figure 7. Existing garage, 735 Pine St., 2014.

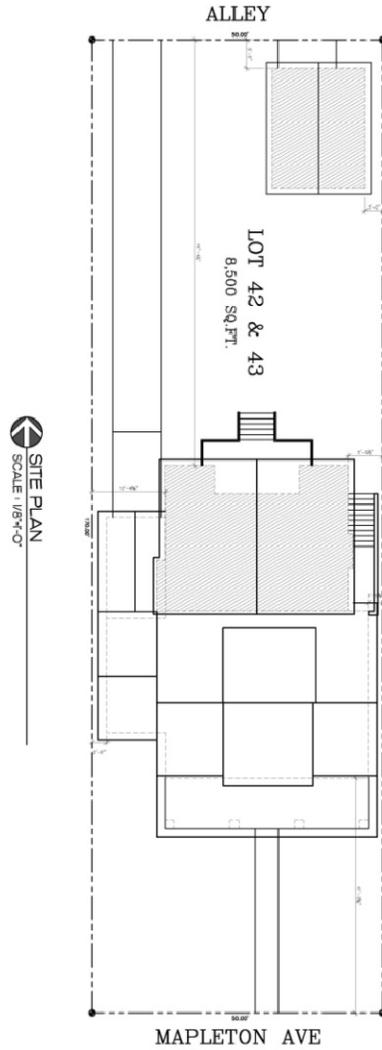


Figure 8. Proposed Site Plan, Dec.3, 2014 (right). Not to scale.



Figure 9. Existing South Elevation (façade)- Fenestration not accurately depicted- see photographs.



Figure 10. Proposed South Elevation, 2014 (façade); addition not visible.



Figure 9. Existing East Elevation.



Figure 11. Current Proposal for East Elevation, Dec. 3, 2014.



Figure 12. Existing North Elevation.



Figure 13. Proposed North Elevation.



Figure 14. Existing West Elevation.



Figure 15. Proposed West Elevation, Dec. 3rd, 2014.

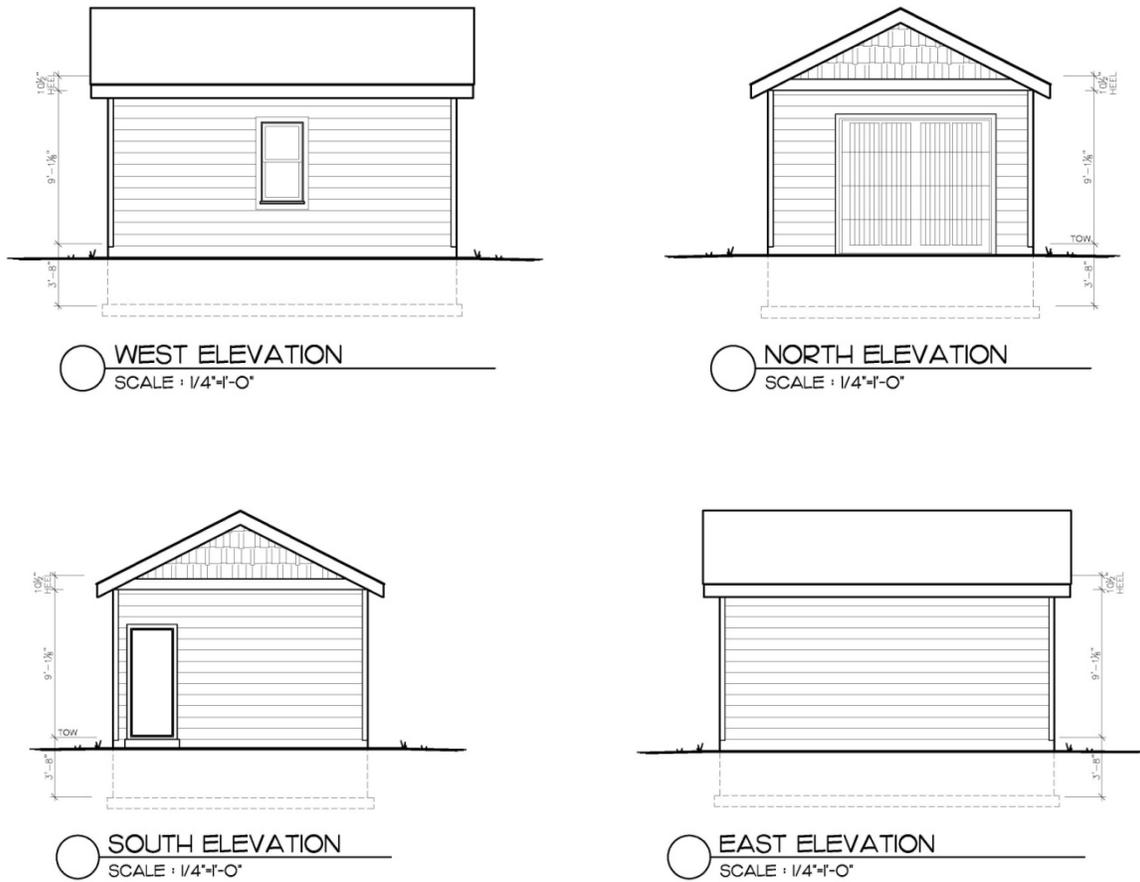


Figure 16. Elevations of proposed garage, Dec. 3rd, 2014.



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Deb Kalish, Senior Assistant City Attorney
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

Date: December 16, 2014

Call-up Item: Landmark Alteration Certificate to alter windows to create an entrance at the north (primary) elevation of 1029 Broadway St. (pending landmark), per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00354). This Landmark Alteration Certificate is subject to City Council call-up no later than **December 16, 2014**.

Executive Summary

The proposal to alter windows to create an entrance at the north (primary) elevation of 1029 Broadway St. (pending landmark), ensuring that the development shall be constructed in compliance with approved plans dated 09/16/14, was approved with conditions by the Landmarks Board (5-0), at the December 3, 2014 meeting. The decision was based upon the board's consideration that the proposed construction meets the requirements in Section 9-11-18, B.R.C. 1981.

The board's approval is subject to a 14-day call-up period by City Council. The approval of this Landmark Alteration Certificate is subject to City Council call-up no later than **December 16, 2014**.

ATTACHMENTS:

- A. Notice of Disposition dated December 16, 2014
- B. Photographs and Drawings of 1029 Broadway St.

Notice of Disposition

You are hereby advised that on December 3, 2014 the following action was taken:

- ACTION:** Approved by a vote of 5-0
- APPLICATION:** Public hearing and consideration of a Landmark Alteration Certificate to alter windows to create an entrance at the north (primary) elevation of 1029 Broadway St. (pending landmark), per section 9-11-18 of the Boulder Revised Code (HIS2014-00354).
- LOCATION:** 1029 Broadway St.
- ZONING:** RH-5 (Residential High Density-5)
- APPLICANT/OWNER:** Catherine Quintero, Burkett Design / Evans Scholar Program

This decision was arrived at based on the purposes and intent of the Historic Preservation Code as set forth in 9-11-18, B.R.C., 1981, as applied to the Landmark Alteration Certificate application.

Public Hearing

Abby Daniels, Historic Boulder, Inc., 1123 Spruce St., spoke in support of the staff recommendation.

Motion

On a motion by **M. Schreiner**, seconded by **M. Gerwing**, the Landmarks Board approved (5-0) a Landmark Alteration Certificate for the proposed alteration shown on plans dated 09/16/2014 and 9/24/2014, finding that it generally meets the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The applicant shall be responsible for making modifications to the north face of the building in compliance with the approved plans dated 09/16/2014 and 09/24/2014, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit a revised design that:
 - (A) Locates the entrance to the west side of the north addition;
 - (B) Revises the replacement of non-historic windows on the north addition to more closely replicate the appearance of the screened in porch visible in the 1930s photograph;
 - (C) Eliminates the proposed new windows and door at the north wall of the main building;

3. The Landmarks design review committee shall review details of the remodel, including doors and window details, moldings and proposed insets, paint colors, and any associated hardscaping to ensure that the approval is consistent with the *General Design Guidelines* and the historic preservation ordinance.

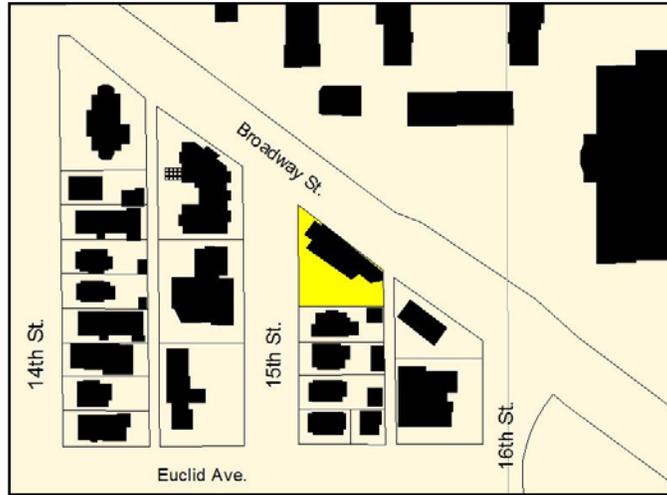


Figure 1. Location Map, 1029 Broadway

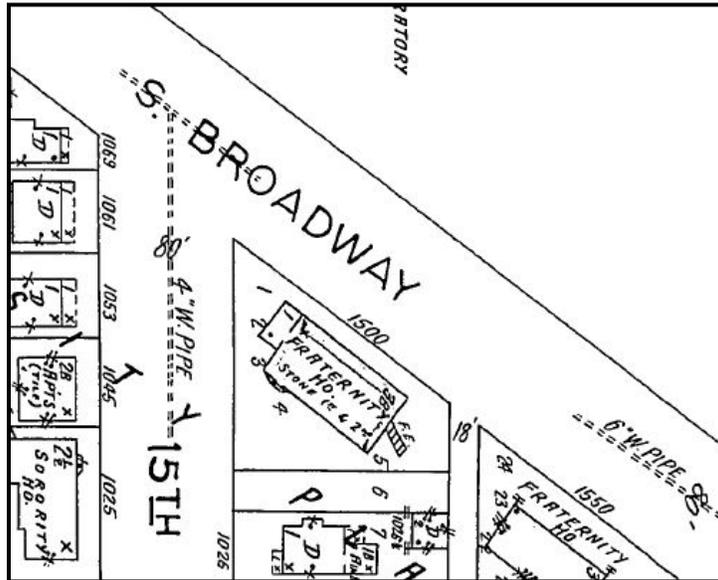


Figure 2. 1931 Sanborn map of 1500 (later 1029) S. Broadway.

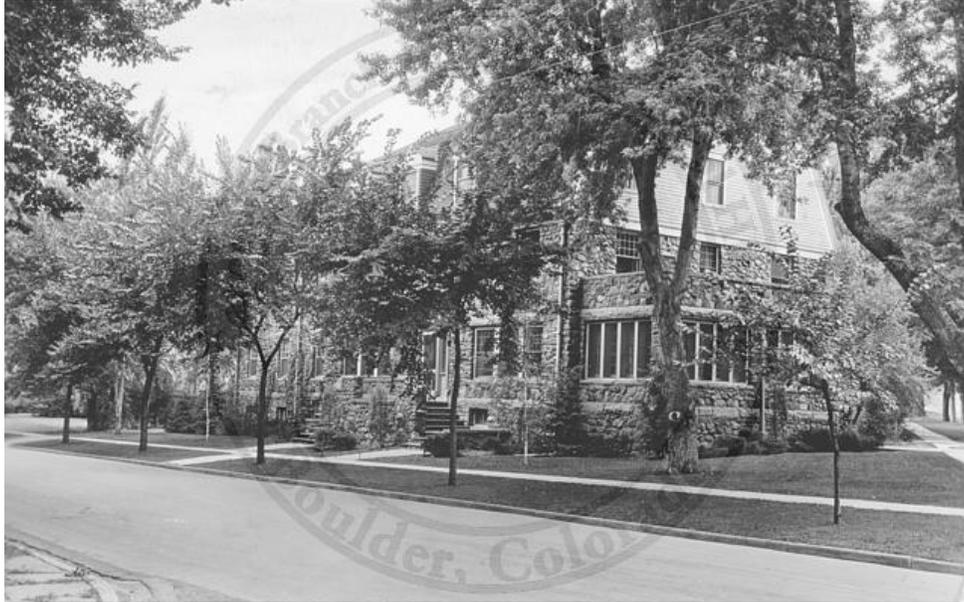


Figure 3: 1029 Broadway, Northeast corner, 1930s



Figure 4: 1029 Broadway, Tax Assessor Card photograph c.1949.



Figure 5: Façade, 1029 Broadway, 2014.



Figure 6: north elevation, from Broadway and 15th Street, 2014.



Figure 7: northwest corner from 15th Street

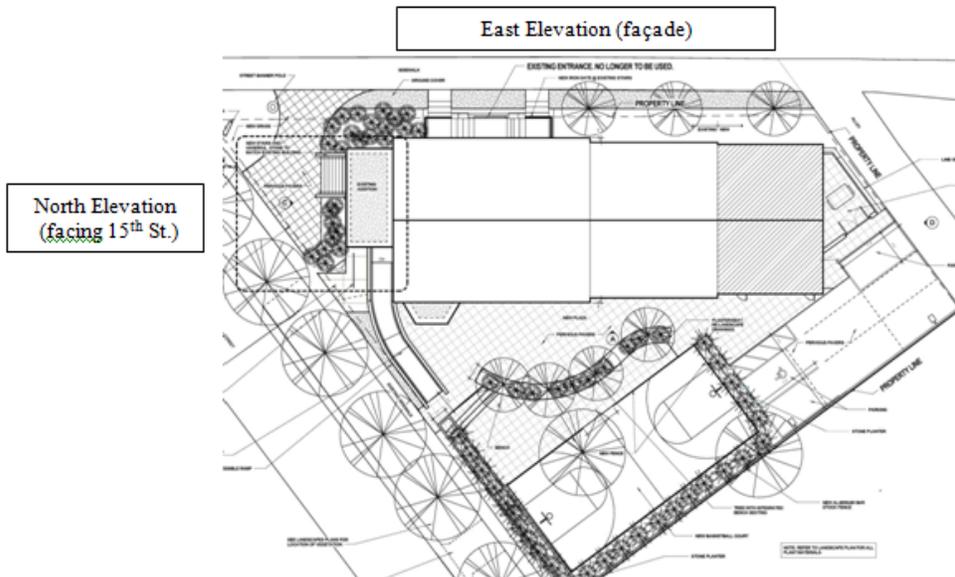


Figure 8: Proposed site plan



Figure 9: north elevation windows



Figure 10: north elevation, from Broadway and 15th Street, 2014.

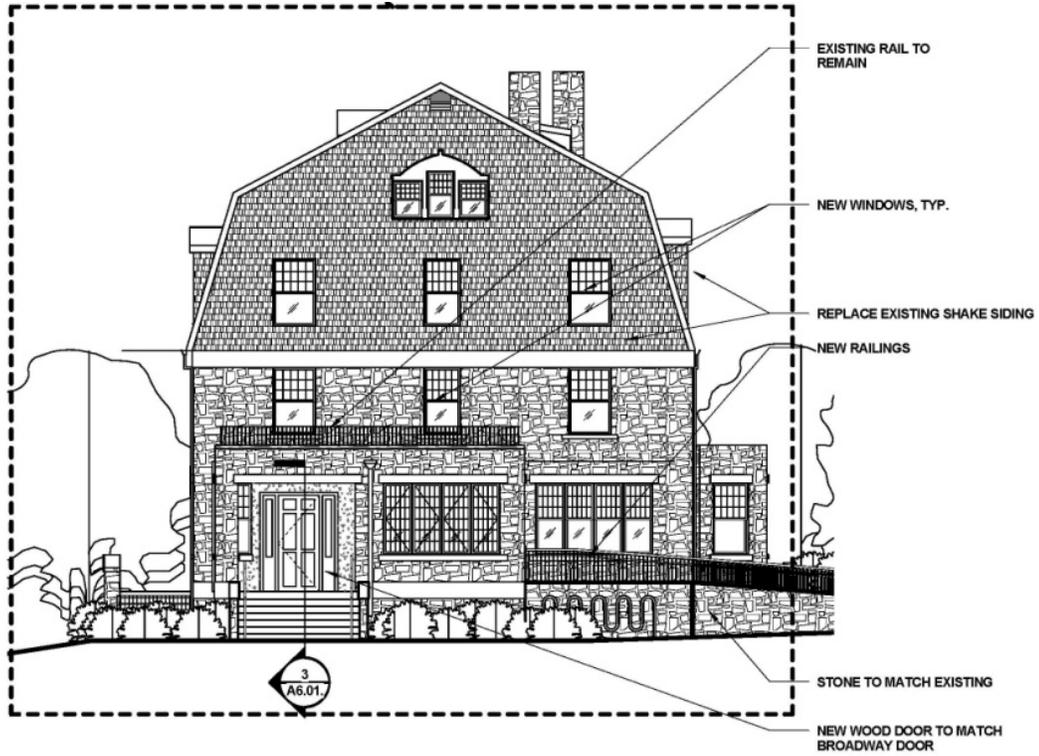


Figure 11: Proposed West elevation



Figure 12: west face of north addition

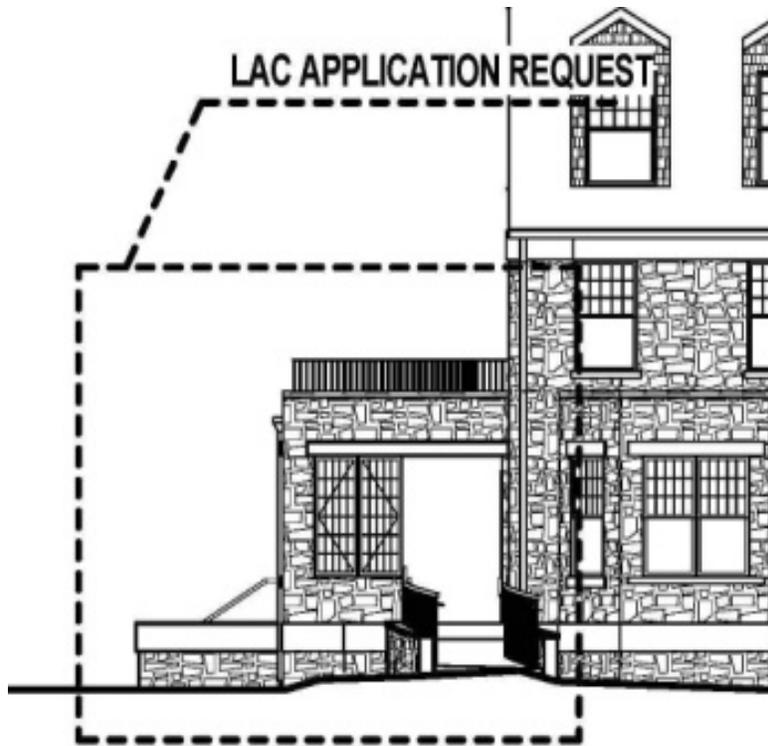


Figure 13: west face of north addition



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Molly M. Winter, Director, Downtown & University Hill Management
Division/Parking Services
Sandra M. Llanes, Senior Assistant City Attorney
Curtis Johnson, Deputy Police Chief
Bill Cowern, Traffic Engineer, Transportation
Mishawn Cook, Tax and License Manager, Finance Department
Lane Landrith, Business Coordinator, Downtown & University Hill Management
Division/Parking Services
Sarah DeSouza, Senior Manager for Community Outreach, Parks and Recreation

Date: December 10, 2014

Subject: Information Item: Update on Mobile Food Truck Late Night Food “Podding” in
Downtown Boulder

EXECUTIVE SUMMARY

The purpose of this information item is to provide City Council an update regarding late night Mobile Food Vehicle (MFV) options in Boulder’s downtown area. City staff assessed MFV operator interest in a participating in a pilot program, analyzed potential “podding” locations and recommended one location, the Municipal Parking Lot, to the MFV community. Due to limited interest, a fall late night pilot MFV service was not pursued. City staff has encouraged MFV operators to develop a business plan for partnering with the city to offer a late night MFV pilot program in spring 2015. Prior to initiating any late night food service pilot program, staff will conduct outreach efforts to residents, property and business owners adjacent to the Municipal Parking Lot to inform them of the program and allow them the opportunity to provide feedback on the proposal.

FISCAL IMPACT

With the exception of the one-time costs associated with creating parking lot signs and the ongoing costs of placing parking lot barricades in the Municipal Lot, all other costs associated

with implementing a pilot late night food service program in the downtown area will be absorbed by the participating MFVs. These costs are expected to include, but are not limited to, event marketing and publicity, parking lot monitoring and parking enforcement (towing and/or relocating services).

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** All MFVs operating in the City of Boulder are required to obtain required business and MFV licenses and pay sales tax.
- **Environmental:** If implemented, a pilot late night program in the City’s municipal parking lot would require all MFVs to utilize zero waste practices.
- **Social:** A late night MFV program would provide additional late night food service options for people exiting bars and other establishments in the City’s downtown. From a safety perspective, Boulder Police Department prefers that the crowds be dispersed from the downtown area rather than be encouraged to congregate.

BACKGROUND

In May 2014, Council approved Ordinance 7971, an amendment to Section 9-6-5, “Temporary Lodging, Dining, Entertainment, and Cultural Uses,” B.R.C. 1981 that increased the number of mobile food vehicles allowed on private property in designated zone districts. At the public hearing, some Mobile Food Vehicle (MFV) operators spoke in support of the Ordinance and requested that in addition, Council consider allowing MFVs late night access in the areas currently restricted by ordinance in the city’s downtown core. In response to the request, Council directed staff to identify possible locations for late night service in the populated downtown area near Pearl Street. Staff was directed to return to Council with an update.

ANALYSIS

In July 2014 staff conducted a [survey](#) of all licensed MFV to determine interest in late night food service in Boulder’s downtown. Fourteen of 21 vendors (67 percent) indicated interest in participating in a pilot program. Based upon the high level of interest, a thorough opportunity and constraints analysis of potential downtown locations was conducted by staff including Curtis Johnson, Deputy Chief of Police, Molly Winter and Lane Landrith, Downtown and University Hill Management Division/Parking Services Director, Mishawn Cook, Tax and License Manager, Bill Cowern, Traffic Engineer, and Sarah DeSouza, Senior Manager for Community Outreach, Parks and Recreation Department (**Attachment A**). Based on the analysis of four downtown locations (Walnut Street and 11th Street, the Municipal Parking Lot, 11th Street and Canyon Boulevard, and the Randolph Building (1126 Walnut Street), the Municipal Parking Lot, located between the main library and the Municipal Building on the south side of Canyon Boulevard, was identified as the safest and most appropriate site for late night MFV activity. This location was chosen based on the least amount of negative impacts relating to public safety, adjacent neighborhoods, food truck viability, existing brick and mortar establishments, parking, traffic and general logistics.

On September 10th, interested licensed MFV operators were invited to attend a meeting to discuss the specifics of initiating a pilot late night food service program at the recommended

location. One operator, representing two MFV's, attended the meeting and the following considerations were discussed:

The city is interested in partnering with MFV operators to establish a pilot late night MFV service in downtown Boulder. The city's role in the partnership is to facilitate a location for the activity. Staff has identified a city-owned parking lot (the Municipal Parking lot at Canyon and Broadway) that can accommodate a number of trucks without violating any existing ordinance or creating safety or parking concerns for the general public. While the city understands the desire of MF vendors to be situated closer to Pearl Street, there are no city-owned locations that can accommodate "podding" in that location. Any food service in that area would require taking highly utilized parking places "off line" for the entire evening, inconveniencing the general public. And the Boulder Police Department has concerns that such a location would impede crowd dispersal. Listed below are considerations for a pilot program:

- As the operating partner, the MFV vendors will need to develop an equitable and inclusive "business plan" or strategy that will best position this pilot venture for success.
- As business owners, the MFV vendors will be responsible for all of the costs associated with marketing and implementing the business operation. The city will provide the location and will produce parking lot signage, barricades and trash/litter service for the "podding" area.
- Scheduling and managing the rotation of trucks will be facilitated by the MFV vendors.
- The Mobile Food Vehicle staff will facilitate the towing or relocation of vehicles through Boulder Police, and the city will not pay for any costs associated with vehicle relocation. These costs will be assumed by the participating MFV vendors. It must be understood that the Boulder Police may have other higher priority issues to deal with at that time.
- Based on feedback from the food truck operators, it was suggested that the pilot program would begin with three trucks operating on Friday nights from 7 p.m. to 1:00 a.m.
- The city can make available a portion (up to half) of the "Municipal" parking lot located on the south side of Canyon Boulevard. The parking lot would require signage indicating what nights it would be closed early and barricades to block off the "podding area" to prevent people from parking.
- The Municipal lot is a public parking area after work hours, Monday through Friday, and on the weekends. Any cars parked in the designated area will have to be either ticketed and towed or ticketed and moved. The difference between these two options is how the fees for either towing or relocation, are assessed. If cars are relocated, an option that is more desirable to the parking public, the cost of the towing is paid by the event promoters. If their cars are towed, vehicle owners will be responsible for their own impoundment fees. There are public relations associated with this issue as many people use this area to park, and are likely to be upset if their cars are towed for parking in this public lot.

- The Boulder Police Department supports the late night food service pilot program. Their primary concern during the late night hours in downtown Boulder is the safety of the public, especially in the areas that have a high concentration of liquor licenses. The Police Department will work with the MFV operators to ensure that customers purchase a food item on their pathway home and not linger around food trucks. Locating the MFV operators in the Municipal Building Parking Lot helps ensure that patrons will have a safer place to purchase food, away from the street.
- All currently city of Boulder licensed MFV operators have provided a certificate of insurance naming the city as an additional insured for auto, general liability, and property damage. The certificate of insurance would indemnify the city against undue risk for this type of permitted activity.

As only one MFV operator attended the meeting, staff reached out by email to the other 12 interested vendors asking for their input regarding the proposed pilot program. MFV operators were asked to respond by Monday, October 6th indicating their interest in participating in a fall pilot program and specifically asking for volunteers from the MFV community to assume leadership of the effort. City staff offered to coordinate and facilitate a meeting of MFV operators to discuss the pilot program. Three MFV operators indicated interest in participating but not organizing a future pilot program. Since there was no interest in holding a coordination meeting, one was not scheduled. As a result, the fall pilot program in downtown Boulder was not realized due to lack of support from the MFV community. A member of the MFV community suggested waiting until spring to pursue a pilot program. Another consideration for the future will be the impact of the implementation of the Civic Area Plan.

NEXT STEPS

At both the September meeting and in subsequent follow up emails, licensed MFV operators were told that if the fall pilot program did not occur, the city would be willing to partner on a spring late night mobile food service program in the downtown area. In order to proceed with a spring pilot program in 2015, MFV operators will need to determine their collective interest in planning, promoting and facilitating this recurring late night event. Additionally, prior to initiating any late night food service pilot program, staff will conduct outreach efforts to residents, property and business owners adjacent to the Municipal Parking Lot to inform them of the program and allow them the opportunity to provide feedback on the proposal.

ATTACHMENTS:

Attachment A: Downtown Mobile Food Truck Options for Late Night Service Matrix

Attachment A: Downtown Mobile Food Truck Options for Late Night Service Matrix

Downtown Mobile Food Truck Options for Late Night Service Matrix				
	Walnut and 11th	Municipal Lot	11th and Canyon	Randolph Building
Public Safety Impacts	Area already filled with people; Desire to disperse crowds; Concern about people in roadway with food; drunkenness; brawling; would require more PD officers	Adequate lighting, crosswalks to support pedestrian crossing of Canyon; Safe; could require additional PD officers	Concern about people in roadway with food; Not very much room for food trucks; would probalby require more PD officers	Concern about people in roadway with food; Not very much room for food trucks; would probalby require more PD officers
Neighborhood Impacts	Residential neighborhood is half block away; trash and noise concerns	Residential neighborhood is relatively close by (1155 Canyon); trash concerns	High end residential property above; public spilling into; concern about people spilling into street, trash and noise concerns	Further away from residential but still within range; trash and noise concerns
Mobile Food Vehicle Viability	2 Food Trucks; high density of people in the area	6+ Food Trucks; farther away from Pearl Street	1-2 Food Trucks	? Food Trucks
Impacts to Brick and Mortar Establishments	Old Chicago open for late night food service	Mustard's Last Stand closes at 10:00 pm; no restaurants to the north	Still within proximity to food establishments although none immediately competing	Close to Walnut (Absinthe)
Parking Viability	Diagonal parking north side only;	Impact to parking lot on Thursday, Friday and Saturday nigh	On street parking usually full; angle parking on west side	On street parking is usually full
Traffic Impacts	North side of Walnut east of 11th - Wide roadway with room for a food truck to park. Pedestrian impacts on sidewalk.	East side of parking lot - No public ROW issues - No pedestrian issues	11th north of Canyon - Wide roadway with room for a food truck to park on either the east or the west side. Pedestrian impacts on sidewalk.	East side of 11th south of Walnut - Wide roadway with room for a food truck to park. Pedestrian impacts on sidewalk.
Logistics	Conduct lottery (?); lost parking spaces (revenue); cost of permit; towing vs removing vehicles	Conduct lottery (?); lost parking spaces (revenue); cost of permit; towing vs removing vehicles	Conduct lottery (?); lost parking spaces (revenue); cost of permit; towing vs removing vehicles	Conduct lottery (?); lost parking spaces (revenue); cost of permit; towing vs removing vehicles

High Impact
Medium Impact
Low Impact



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane Brautigam, City Manager
David Driskell, Director of Community Planning & Sustainability (CP&S)
Susan Richstone, Deputy Director of CP&S
Lesli Ellis, AICP CEP, Comprehensive Planning Manager, CP&S
Greg Guibert, Chief Resilience Officer, CP&S
Jean Gatzka, Sustainability Planner II, CP&S

Date: December 16, 2014

**Re: Information Packet on Boulder Valley Comprehensive Plan 2015 Major Update –
Assessment and Options for Scope of Work and Update on Resilience Strategy**

EXECUTIVE SUMMARY

The Boulder Valley Comprehensive Plan (BVCP) is adopted jointly by the City of Boulder (“city”) (Planning Board and City Council) and Boulder County “county” (County Commissioners and Planning Commission) in their legislative capacities. A link to the 2010 plan and maps is located at www.bouldervalleycompplan.net. The BVCP is updated periodically to respond to changed circumstances or evolving community needs and priorities. In 2015, the plan is due for its major five year update.

The purpose of this information packet is to describe the 2015 Boulder Valley Comprehensive Plan (BVCP) update assessment and scoping process; provide background and feedback regarding the update process; and summarize the consultant assessment of the 2010 Boulder Valley Comprehensive Plan. (See Boulder Valley Comprehensive Plan Assessment report, **Attachment A**.) The draft report identifies strengths and weaknesses of the Plan and offers suggestions for improvement. This packet builds upon the Oct. 14, 2014 joint study session with City Council and Planning Board and the Nov. 3, 2014 joint study session with the Board of County Commissioners and Planning Commission, incorporating feedback from all four bodies as well as others. It also provides a draft a process and timeline for the 2015 update in preparation for the work plan discussion in January and ideas for community engagement. (See **Attachments B and C**.)

In addition, the memo provides an update on the city’s Resilience Strategy next steps and work plan and materials from 100 Resilient Cities (100RC) (Rockefeller Foundation). (See **Attachment D**.)

If you have ideas or questions, please contact Lesli Ellis, Comprehensive Planning Manager: (303) 441-1898 or ellisl@bouldercolorado.gov.

FISCAL IMPACTS

- The 2015 BVCP update will be conducted by staff in house with support from technical consultants and other services (utilizing an approved 2015 budget of \$100,000). The Resilience Strategy is almost entirely funded by 100RC (Rockefeller Foundation) grant.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – The BVCP guides city decisions relative to annexation, zoning, and overall city form and contains policies on economic vitality. It has economic impacts on the business community in that it provides predictability about patterns for future growth and policies, and it has positive impacts on city revenues because of its emphasis on sustainability including economic vitality. Additionally, it addresses planning for services and their related costs. The Resilience Strategy will address financial and economic resources and resilience.
- **Environmental** – The BVCP addresses environmental concerns, including future growth and open space preservation, transportation, climate and greenhouse gas emissions, local food and agriculture, quality of the built environment, and overall ecological quality. The Resilience Strategy will address shocks and stresses from flooding and other natural hazards and the community’s ability to recover quickly. Additionally, it is an important regional policy document adopted by both the city and Boulder County.
- **Social** – The BVCP contains policies to address community well being and diverse needs of people with different ethnicities, cultures, abilities, ages, and income. It also addresses housing and human services. The process to develop the plan engages a broad segment of the community for input and how to engage all community members. The Resilience Strategy in its multifaceted definition will be inclusive and address health and wellbeing and needs of under-represented populations.

BACKGROUND

Boulder Valley Comprehensive Plan 2015 Update

Plan Assessment and Scoping Process

In June 2014, the city issued a Request for Proposals, received five proposals, and hired a consultant team (Clarion Associates/Godschalk) to conduct research and analysis in support of an assessment of the 2010 Plan, understand community goals for the update, and to provide fresh ideas about how communities make plans highly strategic and effective. The consultants have completed most of their assessment and the draft report is attached. (See [Attachment A](#).)

2010 BVCP Background

Since 1970, the city and county have jointly adopted and regularly updated a comprehensive plan that guides land use decisions in the Boulder Valley. Each five years, the city and county undertake a review to determine how to ensure the plan remains responsive to evolving conditions, needs and priorities.

The last update in 2010 addressed demographic challenges, recommended ramping up climate action, and addressed economic challenges. Two broad areas were strengthened during the update: (1) Sustainability polices encompassing social equity, environmental health and economic vitality, and (2) urban form and community design policies. The city and county also discussed clarifying the process for considering service area expansion into the Area III-Planning Reserve but did not ultimately change the plan requirement for four-body review of service area expansions (i.e., City Council, County Commissioners, Planning Board and County Planning Commission).

The plan is framed as the overarching policy guide for the community that is implemented by departmental strategic/master plans (over 20), subcommunity and area plans, Priority Based Budgeting, the Capital

Improvements Program, and Development Standards and Zoning. The Land Use Code and zoning is largely instrumental in guiding development to achieve plan goals consistent with the land use map.

FEEDBACK

Board of County Commissioners and Planning Commission – Nov. 3 Study Session

The County Commissioners and Planning Commission held a joint meeting on Nov. 3, 2014 to review preliminary observations from the consultant and provide input regarding the scope and extent of the plan update. The summary is located in [Attachment B1](#). Joint county input regarding the upcoming BVCP update is summarized as follows:

1. Select a limited range of topics that are important to the community and do them well. A mid-range BVCP update effort is appropriate.
2. Make the document accessible, visual, and readable to encourage the next generation to engage.
3. Maintain the long standing partnership between the city and county (while expanding systems thinking and regionalism).
4. Add resilience as a core concept in addition to sustainability.
5. Create clear linkages to metrics and/or regulations. It is important to set baselines and be able to measure progress toward goals.
6. Give the plan a clearer link with the land use code and implementation – make it easier to use when reviewing development proposals.
7. Examples of urban form would be helpful. It will be important for the city to determine what level of density is acceptable for the county’s rural policies to work.

City Council and Planning Board – Oct. 14 Study Session

The City Council and Planning Board met on Oct. 14, 2014 to review preliminary observations from the consultant and provide input regarding the scope of issues and extent of the plan effort. The approved summary is located in [Attachment B2](#). Points of input regarding the Plan included but were not limited to:

1. Support a mid-range BVCP work effort with focus on implementation tools (with some opting for a minor work effort, and others supporting a more major effort in 2015).
2. Integrate resilience with sustainability.
3. Do not redefine the vision or rehash values, but make the plan more graphic and less wordy and clarify policies in some cases.
4. Integrate metrics and outcomes.
5. Add new or emerging topics, such as built environment clarification, climate commitment, arts and culture, and local foods.
6. Engage the community widely, including neighborhoods (coordination with the city’s new neighborhood liaison) and include vulnerable or under represented populations.

City Boards and Commissions

All board and commission meeting summaries are located in [Attachment B3](#).

- Transportation Advisory Board discussed the update on Oct. 13, 2014.
- The Environmental Advisory Board discussed the update on Oct. 1, 2014.
- The Planning Board met on Sept. 18, 2014 in preparation for the Study Session with City Council on Oct. 14, 2014.

Other Input

The consultants and staff conducted interviews and scoping sessions with city board members and with staff from city and county organizations, including the following (summarized in [Attachment B4](#)):

- Two members from the Arts Commission
- Two members from the Open Space Board
- Two members from Downtown Management Commission
- Growing up Boulder staff
- City staff from all departments that provide community services, including master plan coordinating committee and ecological planning team
- County staff from multiple departments

CONSULTANT ASSESSMENT SUMMARY

To assist with discussions in October and November, the consultant prepared initial assessment observations. The draft report summarizes these observations as well as input received from the city and county over the past few months. It is presented in five parts:

1. **Introduction** – describes the BVCP Plan analysis and provides general background on the history, successes and strengths of the Plan.
2. **Analysis of Plan and Themes for Improvement** – includes seven key themes identified during the Plan analysis that guide the recommendations for the 2015 Plan update process.
3. **Best Practices** – provides general background on features of effective community plans, and includes a set of “best practices” around some of the key themes to help inform the Plan update process.
4. **Work Plan and Community Engagement Recommendations** – includes sequence of steps for the Plan update, including initial ideas about phasing of tasks in 2015 and 2016 and ideas to engage the community.
5. **Possible Structure(s) for Plan Update** – includes options for a revised structure for the Plan to incorporate consultant recommendations, with two outlines presented in the appendix

Recommendations for Plan Improvement—Key Themes

While the consultant report recognizes many long time strengths of the Plan, it also identifies potential areas of improvement, including:

- Include 21st century challenges and opportunities, such as resilience and unpredictable change, climate mitigation and adaptation, planning for energy needs, and others;
- Present the vision in a more compelling way;
- Include outcomes and metrics to help track progress towards reaching the community’s goals;
- Illustrate desired urban form of the city;
- Strengthen linkages between the plan and implementation tools;
- Clarify policies in key areas; and
- Integrate resilience during the update process and throughout the Plan.

Each of these themes is discussed in more detail below and in the report (See [Attachment A.](#))

1—Include 21st Century Challenges and Opportunities and Expand Systems and Regional Thinking

The Plan has its origins in the primary challenges facing the community in the 20th century; growth management, containment of sprawl, and preservation of open lands. The city and county are nationally renowned for achieving “best-in-class” results in tackling these challenges. However, the Plan’s scope now needs to broaden if it is to serve the community’s current needs and challenges, and vision for the future. While the Plan’s core values and vision from the 1970s are still solid, a new and evolving set of challenges is now before the community, such as:

- resilience and the dynamic and unpredictable pace of change and disruptive events;

- climate adaptation and mitigation and planning for fundamental energy system transformation;
- equity, income disparity, and aging population;
- housing affordability;
- expanding on local and regional partnerships to leverage scarce resources and plan to achieve mutual goals; and
- community arts and culture.

Some of these topics can best be addressed through work that is underway while others may need to be addressed through alliances or other initiatives.

2—Recast the Document Format to Present the Vision in a More Compelling Way

The Plan contains many powerful and innovative ideas, each of which can lead the city towards a better future. Opportunities include making the format more user-friendly and less wordy, doing a better job of telling the Boulder story, and conveying the vision in a more graphic way.

3—Address Outcomes and Metrics in the Plan

For the most part, the current plan and its policies do not have direct and well defined measures of outcomes, results, and actions. While this encourages flexibility of implementation, it discourages public understanding, accountability, collaboration, and organizational learning. For more specifics, one must look to the various Master Plans created for transportation, public safety, and other functional areas. The Plan could serve a stronger role in integrating the various plans as well as by including a set of high level outcomes and metrics.

4—Illustrate the City's Desired Urban Form

The Plan does not clearly illustrate the desired sustainable urban form and how it will be affected by individual projects or public policies. The Plan needs to use new tools to show what the desired outcome is (e.g., graphic images, pictures, perhaps 3D modeling). This will help inform ongoing efforts to update the city's development regulations and procedures and provide a clear picture of the types of change that are expected. The report presents opportunities to illustrate or modify the land use plan to focus on desired physical characteristics for places and to illustrate how all areas of the city fit together.

5—Strengthen Linkages between the Plan and Implementation Tools

The Plan should serve as the guiding document for the tools that are used to implement planning in the community, including master plans; area and sub-community plans; priority-based budgeting that drives programs and services; and development regulations contained in the Land Use Code. More could be done to strengthen and more clearly articulate the Plan's role and linkages especially to the code.

6—Clarify Policies in a Few Key Areas

The Plan contains a large number and range of policies. While for the most part they are clear and well-written, users of the Plan will say that at times they can be all things to all people. The 2015 update could focus on clarifying a narrow range of policies.

7—Integrate Resilience

Community resilience is generally defined as the ability of a city to bounce back after a shock or stress or the sustained ability of a community to use available resources to respond to, withstand, and recover from adverse situations. Resilience and sustainability are closely related; a sustainable city is resilient and a resilient city is sustainable. The city and county leaders were supportive of including resilience in the Plan, and opportunities for the update include integrating resilience throughout the Plan update by leveraging the 100 Resilient Cities effort, network, and analysis (described later in this memo) to develop a new model for addressing resilience in a comprehensive plan.

Proposed Approach and Schedule to Update the BVCP

In October and November, the consultant presented different approaches and levels of effort to address the Plan update, ranging from minimal (e.g., retaining the current plan and focusing on related implementation tools) to much higher levels of effort (e.g., potentially significant changes to the plan and repackaging, with extensive engagement of the community and key partners).

Given the multitude of other initiatives and high priority work items and also ideas to improve the BVCP and address current conditions, in October and November the city and county leadership generally supported a moderate scope for the update to focus on aspects of the plan that could be successfully completed (as noted in key themes above) as well as focusing on parallel or subsequent implementation tools, including Design Excellence code changes and growth management implementation.

The 2015 BVCP update is anticipated to take 18-24 months with major phases that roughly coincide with the Resilience Strategy phases and that will be solidified after work plan discussions with City Council and the county in January 2015:

Phase 1—Foundation Work and Community Engagement Plan (tasks described below)

Phase 2—Issues Focus and Community Kick off

Phase 3—Policy and Map Updates

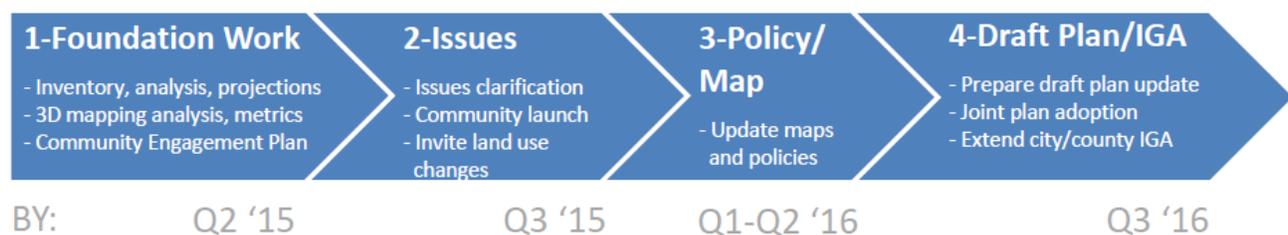
Phase 4—Draft Plan and IGA Renewal

The draft Timeline for the Plan and Resilience Strategy is also located in [Attachment C](#).

Because the topic of four-body review of service expansions or changes to Area III/Planning Reserve was not discussed or supported during city and county Study Sessions, staff does not anticipate revisiting the topic that was previously unresolved.

Additionally, because the City of Boulder/Boulder County Comprehensive Development Plan Intergovernmental Agreement (IGA) expires on Dec. 31, 2017, staff suggests the city and county extend/renew the IGA after the plan update is complete in 2016.

BVCP – 2015 Update



Draft 2015/2016 Timeline for BVCP Update

Foundation Work (Phase 1 – Early 2015)

Staff anticipates certain steps that are part of a five year update regardless of its overall scope plus some additional proposed foundation work in response to the key themes and recommendations identified as part of the initial plan assessment and discussions. The following tasks are planned for early 2015:

1. Finalize the work plan with the city and county (Jan. 2015) with consideration of other work plan priorities.
2. Update community profile and demographic information.
3. Prepare map-based (Geographic Information System) analysis of growth capacity considering current land use plan and zoning and other regional forecast information.

4. Evaluate 3D mapping options and prepare 3D mapping analysis.
5. Develop a Community Engagement Plan that will be creative, transparent, and involve all segments of the community around key issues. (See [Attachment A](#), p. 35, and [Attachment B](#) for additional community engagement ideas.)
6. Prepare approach to including metrics in the Plan, including those currently in use in Boulder and exploration of how other communities have included metrics in plans.
7. Coordinate with new neighborhood liaison to identify best ways to involve neighborhoods.
8. Invite requests for land use map changes as part of phase 2.

Tasks for the subsequent three phases of the update effort will be defined as part of Task 1 above (finalizing the work plan).

RESILIENCE STRATEGY

As part of the Rockefeller Foundation’s 100 Resilient Cities (100RC) campaign, Boulder will be devoting considerable attention and work effort over the coming two years toward becoming more resilient to the physical, social, and economic challenges of the 21st century. (More information is available in [Attachment D](#).) 100RC supports the adoption and incorporation of a view of resilience that includes not just the shocks the community faces – fire, flood, disease – but also the chronic stresses that persistently weaken the city and sap our full potential. The 100RC program supports resilience building activities at the city level along four pathways:

- **Chief Resilience Officer:** Financial support for the creation of a new position in the government who will lead the effort. This position was filled in the Fall of 2014 with the hiring of Greg Guibert as Boulder’s first Chief Resilience Officer.
- **Tools and Methods:** Technical and logistical support for the development of a resilience strategy that will serve as the city’s roadmap to resilience activities and priorities
- **Platform Partners:** Access to tools and specialized partnerships to help developed a sophisticated understanding the city’s risks, assets, weaknesses, and opportunities and how they interlink in unanticipated ways
- **Network:** Inclusion into a network of 99 other cities from which best practices, innovation, and peer-to-peer learning can advance the practice of resilience globally

100RC has developed a general approach and methodology for developing resilience strategies that Boulder with three stages that Boulder will need to customize according to its individualized needs, community goals, and capacity and develop in tandem with the BVCP scope of work.

- **Phase I** can be generally characterized as foundational and included a workshop with 100RC staff in April 2014 and the hiring of the CRO in September 2014. The first major process phase, however, began in late October 2014 and it will include a series of diagnostic and analytical activities designed to more comprehensively assess the city’s risk profile, catalogue the existing portfolio of resilience-related projects, policies, and programs, and map a robust and inclusive stakeholder engagement plan for subsequent phases.
- **Phase II** will deliver the resilience strategy by identifying specific priorities and initiatives for implementation.
- **Phase III** will be dedicated to early implementation activities and ensuring the financial sustainability of the effort beyond the initial 100RC investments.

The success of the resilience strategy process for the city will rest in the ability to integrate the tools and methodologies pioneered by 100RC with the needs, processes, and priorities of the Boulder community. While the diagnostic, assessment, and engagement tools will undoubtedly surface important contributions to the overall strategy, it must build on a foundation of existing city efforts and successes. Some early

opportunities for integration include incorporation of resilience principles and metrics into the BVCP Update and the development of the Local Food policy. Similarly, some of the mapping and assessment tools proposed by 100RC, such as the creation of a stakeholder map, have the potential to add real value to other efforts across city departments, including the 2015 Plan update.

As part of the 100RC program, Boulder will have access to a series of specialized technical partners known as Platform Partners. The type and level of service will vary among Platform Partners, with some making specific ‘off the shelf’ tools available for city use, such as SwissRE’s catastrophe modeling software. Other opportunities will be co-developed in consultation with the city and a partner. In Norfolk, for example, the city has partnered with Palantir, a data innovation and management company, to develop information architecture that will allow the city to digest vast quantities of data to improve situational awareness during disasters. Similarly, Norfolk has also partnered with Sandia National Labs to develop a cutting-edge full cost accounting method of Cost-Benefit Analysis for various development pathway options to maximize their resilience to climate change and sea level rise. Finally, Boulder’s resilience strategy development process may indicate specific technical analysis not yet supported by the 100RC Platform in which case the city will have the opportunity to work with 100RC to locate suitable partners whose services can be replicated across the Network. Engagement with Platform Partners is largely envisioned for Phase 2 and 3, once priority areas have been identified through community input and interaction. However, Boulder is partnering with Ushahidi (<http://www.ushahidi.com/>), an open-source location-based community engagement technology platform, in early phases as intentional expansion of the engagement effort to local technologists, tech start-ups and entrepreneurs, among others.

On December 3, 2014, 100RC announced the second round of cities into the Network. As part of the inaugural class announced in 2013, Boulder is relatively well advanced in the planning process. A smaller subset of cities were designated as pilot cities and provided useful input and modification to the draft tools and methodologies now being replicated across the Network. Because Boulder is already engaged in a number of resilience building activities independent of the 100RC effort (in many cases due to the 2013 Flood recovery efforts), we have made important early contributions to 100RC tools and guidance documents, suggesting significant modifications to the stakeholder engagement and “shocks and stresses” assessment tools, for example. The expectation remains that Boulder will continue to be a peer leader having made early connections with Melbourne, AUS; San Francisco, CA; Berkeley, CA; and Rotterdam, NL around areas of mutual interest, including climate impact assessments, cyber-security and infrastructure, and equity and housing affordability, among others.



Draft 2015/2016 Timeline for Resilience Strategy

IMMEDIATE NEXT STEPS

- Jan. 2015 Finalize work plan for 2015 BVCP Update and Resilience Strategy
- Jan. 23, 2015 Council retreat discussion of work plan
- Early 2015 Phase 1 Plan Update and Resilience Strategy technical work; Develop Community Engagement Strategy

ATTACHMENTS

- A. Boulder Valley Comprehensive Plan Assessment - Report from Consultant
- B. Summary of Feedback and Input
 - B1. Boulder County, Nov. 3, 2014 Joint Meeting of the County Commissioners and Planning Commission
 - B2. City of Boulder, Oct. 14, 2014 Joint Meeting of the City Council and Planning Board
 - B3. Board and Commissions Summary
 - B4. Summary of Interviews and Staff Input
- C. Draft Timeline for BVCP 2015 Major Update and Resilience Strategy
- D. Updated Resilience Strategy Materials



BOULDER VALLEY COMPREHENSIVE PLAN ASSESSMENT

DRAFT

December 8, 2014

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INTRODUCTION

Project Description

The City of Boulder retained Clarion Associates and David Godschalk, national planning consultants, to complete an assessment of the 2010 Boulder Valley Comprehensive (plan) in anticipation of its five-year plan update. The intent was to provide a third party review of the plan identifying strengths and weaknesses of the document, and offering suggestions for improvement based on national best practices and community-identified concerns. It will set the foundation for the plan update commencing in 2015, which planning staff will largely conduct in-house.

Project Process

The Plan Assessment project consisted of three primary tasks as follows.

Task 1: Preliminary Assessment

To begin the project, the consultants met with city and county staff from multiple departments over the course of several days, and reviewed background materials. Consultants and city staff also met with boards and commissions to get their input. Consultants then reviewed the plan document and prepared a set of preliminary observations. These served as the basis for study sessions with city and county leadership during Task 2.

Task 2: Review Preliminary Findings

The consultants met with city and county leadership to review and discuss their preliminary findings. Meetings included a study session with the Boulder Planning Board; a joint study session of the Planning Board and City Council; and a joint study session with the County Planning Commission and Board of County Commissioners. Participants at the meetings discussed a wide variety of issues and concerns for Boulder and their relationship to the 2015 plan update.

Task 3: Preliminary Report

During the final phase of this project, the consultants refined their findings and recommendations for proceeding with the 2015 plan update. The result is this analysis, which includes the following:

- Key Themes – Analysis of Current Plan and Recommendations for Improvement
- Summary of Best Practices Related to BVCP Update Issues
- Work Plan Recommendations
- Recommended Structure for Updated Plan

Organization of this Analysis

This Analysis is organized in five parts plus an appendix:

Introduction – describes the plan analysis effort and provides general background on the history and successes and strengths of the plan.

Key Themes – provides general background on elements of “cutting-edge” plans, and describes seven key themes identified during the Plan analysis that guide the recommendations for the 2015 plan update process.

Best Practices – includes a set of “best practices” examples to help inform the plan update process.

Work Plan Recommendations– includes a recommended sequence of step for the plan update, including phasing of tasks in 2015 and 2016, as well as ideas for community engagement.

Recommended Structure for Plan Update – includes recommendations for a revised structure for the plan, to incorporate our recommendations.

Included in the appendix are outline examples of a revised BVCP based on the recommendations contained in this report. Also available under separate cover are summaries of issues identified during consultant/staff interviews, and a summary of study sessions with city and county elected and appointed officials.

Boulder Valley Comprehensive Plan Overview¹

Early Planning Efforts

Boulder has long valued its surroundings at the base of the Front Range foothills. After examining the city for the Boulder Civic Improvement Association, Frederick Law Olmsted, Jr. recommended in 1910 that the foothills of the city be preserved in their natural state. Boulder's first urban service boundary, the "Blue Line," was established in 1959 as a citizen-initiated City Charter amendment. The purpose of the Blue Line is to protect the foothills from development which was considered imminent and extremely detrimental to the natural beauty of Boulder. It insured that city water service could not be used to further urban development up into the foothills by prohibiting the supply of county water to areas lying above a certain elevation. Effectively, this line prevented the city from annexing or serving the land west of its municipal limits.

¹ Note: this section is based on “Growth Management in Boulder, Colorado: a Case Study”, prepared by J.Raismes, H. Hoyt, P.Pollock, J. Gordon, And D. Gehr, 1999

Once the city had adopted the Blue Line as an urban growth boundary along its western side, it began planning for its utility capacity to serve new growth. The city's primary planning document was called the "Guide for Growth," adopted in January, 1958. It consisted of a land use and circulation map, a summary of basic studies, plans for circulation, land use, schools, recreation, central district and utilities, and action programs.

Other early planning documents included "Boulder's Fringe Area Objectives" (1964) and "The Service Area Concept: A Program for Boulder's Planned Development" (1965), often referred to as "The Spokes of the Wheel." The assumption of both of these plans was to guide growth in the fringe areas, to prevent disorderly sprawl, through contracts for water and sewer service outside of the city's boundaries.

Boulder Valley Comprehensive Plan – a New Beginning City/County Cooperative Planning

The adoption of the 1970 Boulder Valley Comprehensive Plan was important in that it set the stage for city and county cooperation and introduced the concept of staged urban growth in the Boulder Valley. The plan was primarily a land use and service area map which also defined future open spaces around the city. It largely placed the burden on the city to implement the plan through annexation and utility service policies, since the current plan was first adopted in 1977. Since then, six major updates have been completed: 1982, 1990, 1995, 2000, 2005 and 2010.

With the adoption of the 1977 Boulder Valley Comprehensive Plan, the city changed its service area concept to one that is based on staged development. It divided Boulder Valley into three service areas:

- Area I, land within existing city limits, which were receiving all municipal services;
- Area II, land eligible for annexation within the next fifteen years; and
- Area III, land not planned for urban development within the fifteen year planning period.

Also adopted was a land use map that specifically defined the type and intensity of land use. The county agreed to zone the unincorporated areas in a manner that was consistent with the Comprehensive Plan. Ultimately, in 1984, county staff brought forward a proposal to implement the comprehensive plan's recommendations through downzoning most of the unincorporated area of the county. Much of the county had over the years been zoned to various residential and commercial districts, and most of this rezoning had been done on a speculative basis, resulting in large areas zoned for urban uses and densities, but only scattered, and minimal actual development. The county's rezoning of 25,340 acres in 1985 and 1986 was a bold step in implementing the Boulder Valley Comprehensive Plan, and is one of the major factors for its success. Both the city and the county have lived with a stable Comprehensive Plan framework since 1977, with periodic updates approximately every five years. The most recent update was in 2010.

Successes and Strengths of the Plan

By most measures, Boulder's growth management strategy clearly has been successful. It has helped preserve important elements of the natural environment. It has focused community attention on the

relationship between development and the infrastructure necessary to support that development. The sense that both the valley's natural beauty and its urban form may be protected over time has contributed to the desirability of the city as a place in which to live and work.

Unlike many cities that sprawled into the countryside, Boulder has created a sharp edge between urban and rural development. The definition of areas where services are provided allows a direct link between land use planning and infrastructure planning. The urban service areas also help to focus investment on redevelopment within the city. Through redevelopment of underutilized areas and infill development, the city has been able to capitalize on its existing public investments in infrastructure, and has transformed many of its corridors and centers into vibrant, urban places.

The city's coordination of planning efforts with the county is the bedrock foundation upon which all of these planning efforts have been implemented. The city and county have maintained relations that led to cooperative planning efforts from the days of the Boulder Regional Planning Commission in the early 1950's to today. City and county cooperation has prevented leapfrog development patterns in the Boulder Valley and other problems that occur when governments compete with each other rather than cooperate. City and county cooperation also set the stage for the highly successful Open Space Program that to date has preserved more than 70 square miles of city open space land, with an additional 150 square miles administered by the county. The result has been the preservation of two-thirds of the Boulder Valley.

While Boulder has been successful in preserving a ring of open space around its borders and limiting outward sprawl, many working people now find it challenging to live within the city due to the high cost of housing. Infill and redevelopment opportunities within which to retain some demographic balance are limited, therefore the city faces the challenge of making sure that the city's planning does not lead to social elitism and other unintended changes in the quality of life and character in Boulder, due to high costs of housing and other factors such as high levels of workforce in-commuting. The city has continuously revisited the question of balance between housing and jobs over the years, and has made adjustments to the BVCP land use plan in response. However, the dynamic between places to live and work is now a regional issue, as are transportation challenges, and Boulder will need to continue to engage with other communities as well as regional partners on this topic.

Current Status and Policy Directions

The Boulder Valley Comprehensive Plan provides a general statement of the community's desires for future development and preservation of the Boulder Valley, and is largely a policy document. The principle of sustainability drives the overall framework of the plan. The sustainability framework contained in the current plan is primarily based on the Triple Bottom Line: environmental sustainability (energy, climate, agriculture and food, and natural environment); economic sustainability (economy and transportation); and social sustainability (housing and community well-being). More recently, City Council has adopted a comprehensive sustainability framework that is based on seven broad categories:

1. Safe Community
2. Healthy and Socially Thriving Community
3. Livable Community
4. Accessible and Connected Community
5. Environmentally Sustainable Community
6. Economically Vital Community
7. Good Governance

The core components of the plan are:

Policies: The bulk of the plan contains policies that guide decisions about growth, development, preservation, environmental protection, economic development, affordable housing, culture and the arts, urban design, neighborhood character and transportation. The policies also inform decisions about the manner in which services are provided such as police, fire, emergency medical services, water utilities, flood control and human services.

Amendment Procedures: This section of the plan describes the procedures for various types of amendments to the Plan, including five-year updates.

Land Use Map Description: The Boulder Valley Comprehensive Plan Land Use and Area I, II, III maps define the desired land use pattern for the Boulder Valley regarding location, type and intensity of development.

Implementation: This section describes the various master plans, subarea and community plans that provide a more detailed framework for implementation of the plan.

Referral Process: Establishes the referral process for land use and public improvement activities.

Urban Services Criteria and Standards: Describes the urban service criteria and standards that are used to determine adequacy of services for land use and public improvement activities in Area II as well as for annexation.

The most recent update to the plan, completed in 2010, focused on three areas:

1. Sustainability policy changes throughout the document, with a particular focus on urban form/community design;
2. Land Use and Area I, II, and III map changes, particularly the consolidation of Area IIA and IIB designations; and
3. Process changes for amendments to the Area III Planning Reserve; these were ultimately not approved by the County Planning Commission, thus these changes were not included in the 2010 update.

Summary of Preliminary Findings

Overall, the plan contains a number of strengths that serve as a positive foundation for the update. These include:

- A solid foundation in growth management and land conservation, with a track record of success that is widely supported by the community;
- A long-term, successful track record of cooperation between the city and county in planning and implementation;
- A compact development pattern with policy support for diverse housing types;
- A comprehensive set of master plans, subarea plans, and other detailed documents that help implement the BVCP;
- Regular updates to the plan (five years) to keep it current and relevant;
- A multi-modal transportation network that is well on its way towards implementation; and
- A wide range of topics related to sustainability and other contemporary issues to build on for the update.

In addition to these strengths, we have identified a number of key themes for improvement to be considered during the upcoming update process. These include the following:

- Include 21st century challenges and opportunities in the update, such as resilience, climate mitigation and adaptation, planning for energy needs in the future, and others;
- Present the vision in a more compelling way;
- Consider including outcomes and metrics to help track progress towards reaching the community's goals;
- Make the desired urban form of the city more clear, and illustrate it so that all can understand it;
- Strengthen linkages to implementation tools and actions;
- Clarify policies in key areas; and
- Integrate resilience throughout the plan during the update process.

Each of these themes is discussed in more detail in the next section of this report.

ANALYSIS OF CURRENT PLAN AND RECOMMENDATIONS FOR IMPROVEMENT

Introduction

The following observations from the consultant team are based on our assessment of the plan, interviews with board members and city staff, and observing other community discussions regarding planning policy. They are based on the personal experience and national research of the authors about best practices related to effective and cutting-edge comprehensive plans. Our preliminary observations were reviewed in study sessions with city and county planning commission members and appointed officials, and our recommendations below reflect the input and discussions from these study sessions.

Elements of “Cutting-Edge” Plans

Based on our experience with plans that have been prepared in recent years, we believe that cutting-edge, successful plans should include the following:

Compelling Vision: The plan contains a clear and compelling vision for the future of the community that is easy to identify and describe.

Strong Rationale for Plan Direction and Policies: Effective plans include strong, clear rationale for recommended policies and actions. Elected officials and citizens must understand why a particular course of action is needed or desired if they are going to support its implementation.

Visually-Oriented and User-Friendly: The plan should use state-of-the-art graphics and images as much as possible to depict planning concepts. Maps should be legible and useful, conveying desired outcomes, not just land use categories.

Contemporary Planning Issues and Opportunities: The plan should also advance best practices in the planning and development fields for contemporary issues such as resilience and sustainability, neighborhood design and mixed-use development, partnerships and coordination, and social equity. It is also important that plans incorporate such topics in compelling and meaningful ways.

Integrated Approach: The plan should serve to tie together other plans in the community.

Clear-Cut Implementation Strategies: An effective plan should include a clear set of actions and strategies to carry it out. In many instances, elements of plan implementation can be carried out concurrent with the planning process, setting the stage for action and demonstrating early progress towards plan goals.

Outcome-Focused and Include Measures for Progress: Successful plans set clear, desired outcomes and include mechanisms for tracking progress.



Cutting-edge plans for communities integrate multiple aspects of a community's sustainability goals

Key Themes and Areas for Improvement

While recognizing many long time strengths of the plan, this assessment identifies a number of potential areas of improvement. Each is described below.

Include 21st Century Challenges and Opportunities in the Update

The plan has its origins in the primary challenges facing the community in the 20th century; growth management, containment of sprawl, and preservation of open lands. In its current form, the plan is largely a land use and preservation plan, and has been so dating back to its origins in the 1970's. The city and county are nationally renowned for achieving "best-in-class" results in tackling these challenges. However, the plan's scope now needs to broaden if it is to serve the community's current needs and challenges, and vision for the future. While many of these challenges and opportunities are being addressed in some way through separate initiatives, the 2015 update could serve to bring together many of these topics in a cohesive, unified manner. Opportunities include:

1. Address new century challenges. While the plan's core values and vision are still solid, a new and evolving set of challenges is now before the community, such as:

- resilience and the dynamic and unpredictable pace of change
- climate adaptation and mitigation and planning for energy needs of the future
- equity, income disparity, and aging population
- housing affordability
- expand on local and regional partnerships to leverage scarce resources and plan to achieve mutual goals
- the role of arts and culture

Some of these topics can best be addressed through work that is now underway, such as the ongoing housing strategy and through efforts to integrate the City's ongoing resilience strategy with the plan update process. Other topics will need to be addressed through other initiatives or alliances to address topics such as social equity, or arts and culture, which could be integrated with the city's cultural plan.

2. Expand systems and regional scope. In our discussions with city and county leadership, they noted that many of the systems that serve the community and demographic and growth influences that affect it (e.g., water, transportation, air quality and climate, natural systems, energy infrastructure and supply, population growth) have a geographic scope that reaches beyond the boundaries of the plan. With an increased emphasis on resilience, it may be appropriate during the update to consider these systems in their larger context, beyond the boundaries of the plan area. This will be particularly important to consider as part of the resilience strategy. Note that this recommendation does not imply that the plan needs to be recast as a regional plan; rather, what we are suggesting is that many of the built and natural systems that support the city are part of a larger regional framework that needs to be considered. However, it may be appropriate for some of the maps in the plan to be more regional in scale.

Recast the Document Format to Present the Vision in a More Compelling Way

The plan contains many powerful and innovative ideas, each of which can lead the city towards a better future. However, they are imbedded in the Plan document in a rather disconnected manner, not stated as a unifying vision with a clear, strategic structure. Simply stated, Boulder has a great story to tell about its vision for the future, and we believe that the Plan is the right place for this to come together. We have found in our experience with other progressive communities that a cohesive vision can serve as a unifying element of the plan. The Vision and supporting Core Values can be part of a strong section that can also stand-alone outside of the plan document, and serve as a guide for high-level policy and decision-making. These relatively simple changes could go a long way towards unifying the plan update and enabling it to serve as a unifying document for the community's development. Opportunities include:

1. Make the format more user-friendly. The plan in its current form it is not presented in a manner that is a compelling read for much of the community, particularly non-planners, because it is heavy on text, contains few graphics and maps, and is organized in standalone chapters or elements that do not relate to a broader vision for the city. A fresher format that is more visually oriented, in addition to other recommendations outlined below, could help make the document more appealing to readers.

2. Do a better job of telling the Boulder story. Boulder has an incredible story to tell – its past, present, and future – and the plan can present so much more in a way that is more inspirational and accessible to the broader community. This can help build a greater understanding of the purpose of the plan. This could include a retrospective section that explains what the plan has done to shape the community over time, and how its values have been maintained over the 40+ year history of planning in the Valley. For example, a graphically illustrated timeline of areas of land conserved over time would help give the reader a better sense of accomplishments related to the vision contained in the Plan.

3. Convey a compelling vision. The plan and other documents (Sustainability Framework, for example) contain much that speak to the community's values and vision, but this is not presented in a clear, cohesive, form that gives meaning to most people in the community. In the current form of the plan, there really is no identifiable vision per se. City and county leadership have told us that they would like to see the vision be more obvious and clear in the document. The community's vision for the future could be more evident, setting the tone for the plan and carrying forward in some manner throughout the document. Note that our recommendation does not imply that the underlying elements of the vision needs to change, but rather that it could be made more obvious and clear. Simply stated, the vision should set the aspirations of the community, and the rest of the plan should describe what it will take to get there.

For Boulder, a new, creative approach to its vision might include elements of the past, present, and desired future in a series of "big idea" statements, including graphics and illustrations to fully convey the desired future vision.

For example, Portland's draft Vision for 2035² (see figure below) is a simple narrative statement. It is supported by seven key directions to achieve the vision, that help to frame up the rest of the plan's content:

1. Create complete neighborhoods
2. Encourage job growth
3. Create a low-carbon community
4. Improve natural areas and open spaces
5. Provide reliable infrastructure
6. Improve resiliency
7. One size does not fit all

VISION FOR 2035

Portland is a prosperous, healthy, equitable and resilient city where everyone has access to opportunity and is engaged in shaping decisions that affect their lives.

Our diverse population, innovative businesses and forward-thinking leaders create a vibrant and unique community.

- A thriving low-carbon economy provides jobs and supports the prosperity of a diverse population.
- Portlanders feel more connected to each other, the city, and their communities and they are involved in community decisions.
- Nature is woven into the city, and a healthy environment sustains people, neighborhoods and wildlife.
- Distinctive neighborhoods and the vibrant downtown are safe, energizing civic and cultural spaces.
- Environmental risks are managed and resiliency increases, helping Portlanders prepare for change and recover from disasters.

Source: [Portland 2035 Comprehensive Plan Proposed Draft](#)

² <http://www.portlandoregon.gov/bps/57352>

Another example is found in The Auckland Plan – a recently completed plan for Auckland, New Zealand³. Its vision is found in a section of the plan called “Auckland Now and Into the Future”. The vision statement is a simple one:

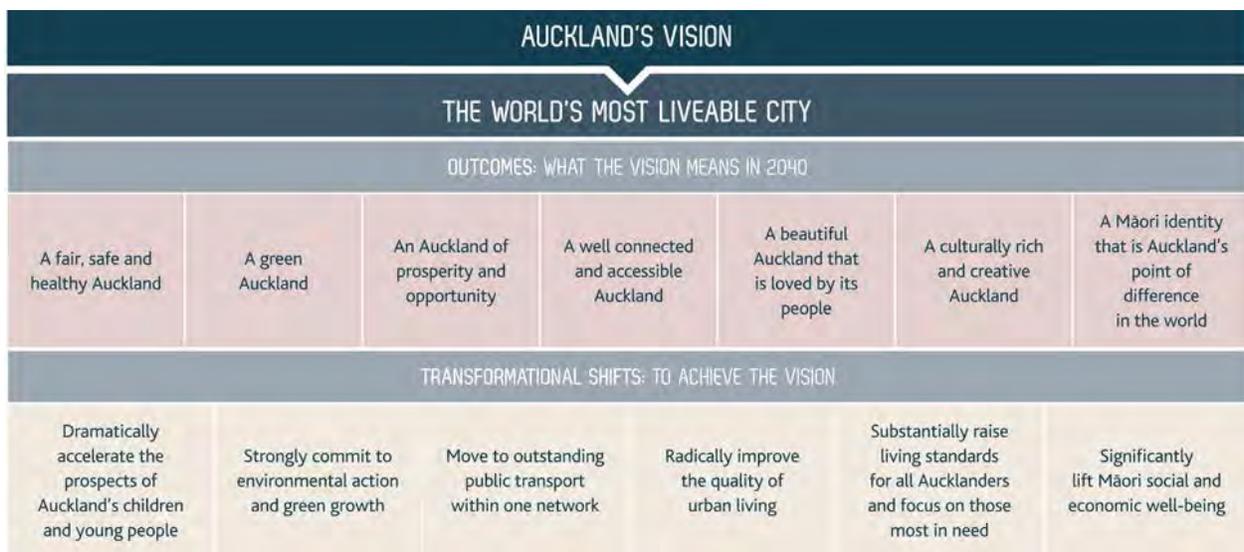
Auckland’s vision is to become the world’s most liveable city. As the world’s most liveable city Auckland will be a place that:

Aucklanders are proud of,

they want to stay or return to, and

others want to visit, move to, or invest in

The vision; the outcomes (what the vision means in 2040); and transformational shifts needed to achieve the vision for Auckland are all contained in the simple diagram below. What distinguishes both of these examples from the BVCP is that there is a clearer link between the vision stated in the plans and the actions and outcomes that are needed to achieve the vision over the longer-term.



³ <http://theplan.theaucklandplan.govt.nz/auckland-now-and-into-the-future/#b-1-the-vision-for-auckland>

Use the Plan to Address Outcomes and Metrics

The current BVCP is primarily a general policies plan. For the most part, the policies do not have direct and well defined measures of outcomes, results, and actions. While this encourages flexibility of implementation, it discourages public understanding, accountability, collaboration, and organizational learning. A written policy that can be interpreted as either supporting or opposing a proposed action is not a useful decision guide. For more specifics, one must look to the various Master Plans created for transportation, public safety, and other functional areas. While these other supporting plans represent a strong approach to implementing programs and policies, we believe that the BVCP could play a stronger role in integrating the various plans (see below, *Strengthen Linkages Between the Plan and Implementation Tools*) as well as by including a set of high level outcomes and metrics. In our discussions with city and county leadership, we were told that the current plan does not answer the question of “how are we doing” because it does not incorporate a process or have metrics to help answer that question in an ongoing manner. Opportunities include:



1. Include outcomes and metrics. Planning has been defined as the transformation of knowledge into action. Contemporary best practices-based plans make this transformation possible by defining the community's desired outcomes and linking them to measurable metrics that assess the results of actions. Without outcomes and metrics, planning goals are abstract concepts without ties to practical actions. Experience shows that what gets measured gets done.

Plans that bring together goals, outcomes, metrics, and actions have several benefits:

- they make clear to the public how the community's planning vision will be defined, measured, and acted upon
- they lay out an agenda for government decision-makers and staff in order to activate the plan's goals
- they provide a basis for collaboration between the public and private sectors, including developers, neighborhoods, and non-profit organizations
- they support learning and understanding about the effectiveness of community development strategies in order to adapt and revise them as necessary to meet adopted goals.

2. Indicators for baseline measures and desired targets. Metrics are prepared on the basis of the community's goals and needs. They are stated in terms of baseline measures of starting conditions as indicators-- qualitative or quantitative measurement tools that allow comparisons of outcomes and changes over time among government units, projects, and objectives, and benchmarks that lay out desired targets (e.g., future objectives). Metrics may be derived from scientific or technical measurements such as air quality, as well as more general composite indices such as the ecological footprint. Increasingly, communities are not only publishing metrics report cards on a regular basis but also displaying them on website dashboards where the public can track the effectiveness of planning Initiatives.

The Imagine Austin Plan includes a number of urban form indicators that are related to proximity from residences. These include percent of households within a half mile of:

- a full-service supermarket/grocery store (Livable)
- a park or accessible open space (Natural and Sustainable)
- an art/cultural venue (Creative)
- a school (Educated)
- transit (Mobile and Interconnected)
- retail and mixed-use centers (Prosperous), and
- medical services (A Community that Values and Respects People).

3. Opportunities for linkages to desired outcomes in master plans. Cutting-edge plans contain projections, outcomes and metrics used to set objectives and track progress. Linking these to maps and other visual tools would help convey and track outcomes in a more graphic style. Opportunities include:

- include information about growth projections and land use information, to set a foundation for understanding the city's capacity for growth. This could also include information on growth rates, cost of growth, etc., as desired to support and inform the plan's policy directions.
- include high-level outcomes or objectives in the plan to provide stronger linkages between the BVCP and the many city master plans that are used to implement the BVCP (for example, the Transportation Master Plan and Fire-Rescue Master Plan)
- create linkages to the city's budgeting process
- set the stage for tracking progress over time (possibly through an expansion of the dashboard being coordinated through the City Manager's Office) to reflect community trends as well as city performance.

4. Integrate outcomes and metrics for each chapter of the plan. The updated plan could integrate outcomes and metrics into each major plan chapter, or in a combined section of the plan as part of the Action Plan. The 2010 BVCP states that the city and county will establish sustainability indicators specific to the Boulder Valley to measure progress in the health and well-being of the community, environment, and economy, including changes related to elements of sustainable urban form. These could be formulated for the plan update, along with outcomes and measures for other plan elements, and be

added to over time as appropriate indicators are developed and vetted (see Best Practices information on metrics and indicators in section III of this report). Fort Collins has implemented a Performance Measurement and Community Dashboard that integrates and displays a periodic snapshot of the community’s progress in attaining key outcomes (see figure below). The outcome categories are the same as the city’s performance-based budgeting system, as well as the organizing structure of Plan Fort Collins, the city’s comprehensive plan. The dashboard is a work in progress; as metrics are refined, they are added to the dashboard. Performance results are updated quarterly; the most recent results shown below are from the 3rd quarter of 2014.

Jump to: [About Performance Measurement & Dashboard](#) | [Reports and Resources](#) | [Budget Information](#) | [Performance Excellence](#) | [Provide Feedback](#)

Outcomes and Measures (last updated: Nov-21-2014)

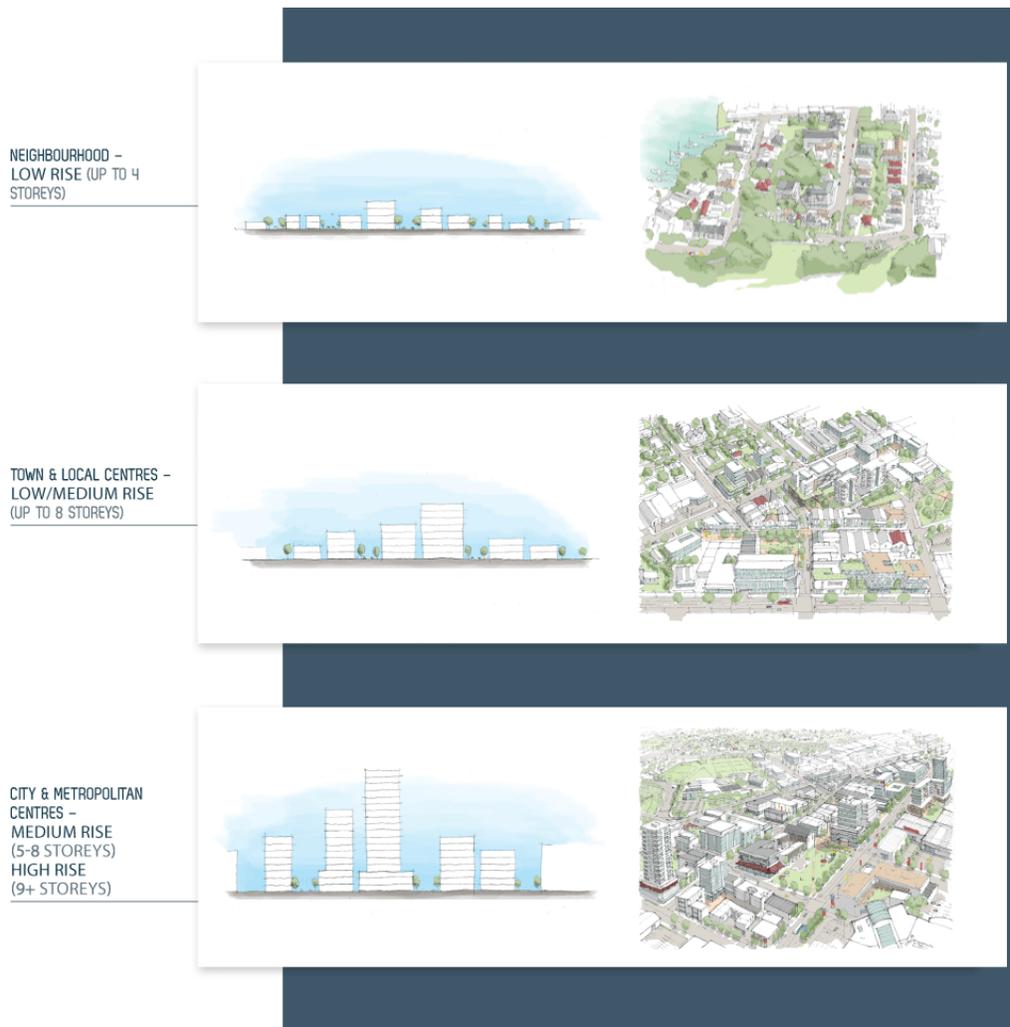
Outcome	Q3 2014 Results ?
 Community and Neighborhood Livability Fort Collins provides a high quality built environment and supports quality, diverse neighborhoods.	
 Culture and Recreation Fort Collins provides diverse cultural and recreational amenities.	
 Economic Health Fort Collins has a healthy, sustainable economy, reflecting community values.	
 Environmental Health Fort Collins promotes, protects and enhances a healthy and sustainable environment.	
 High Performing Government Fort Collins exemplifies an efficient, innovative, transparent, effective and collaborative city government.	
 Safe Community Fort Collins provides a safe place to live, work, learn and play.	
 Transportation Fort Collins provides safe and reliable multi-modal travel to, from, and throughout the City.	

Source: City of Fort Collins Community Dashboard, 2014

Illustrate the City's Desired Urban Form

When asked about issues that the plan update should address, one of the most oft-heard comments from staff and city leadership was about urban form and the lack of clarity about the desired future form and shape of the city. While the plan includes broad policies and a narrative definition of “sustainable urban form”, it does not clearly articulate and illustrate what the desired sustainable urban form might look like, and how it might be affected and implemented by individual projects or public policies. Words alone cannot convey this vision – the plan needs to use new tools to show what the desired outcome is (graphic images, pictures, perhaps 3d modeling, either city-wide or for targeted sectors). This could help inform ongoing efforts to update the city’s development regulations and procedures, as well as provide a more clear picture of the types of change that are expected in the city’s physical realm. Opportunities include:

1. Illustrate desired urban form outcomes. A clear statement and image of the desired future urban form could help to inform public expectations and assist staff, decision-makers, and developers in judging the appropriateness of potential changes to Boulder’s regulations and ultimately built urban form. This could be done at several levels – visual models to illustrate build out of centers, prototype buildings and blocks, or perhaps visuals that conceptualize build out of sectors of the city, if desired. Auckland’s plan includes excellent examples of how visuals can be used to convey differing levels of intensity. This could be particularly useful in illustrating that the various areas of the community may have different outcomes for their built form – that there is no “one size fits all” approach. Urban form policies, with accompanying illustrations, could be prepared for prototypical districts, neighborhoods, and major corridors. As part of this approach, it would be useful to clearly identify and distinguish areas where change is expected (and desired), from areas that are expected to remain largely stable, with little change in their current physical form. The urban form policies should clearly illustrate the differences between transforming and stable areas.



The Auckland Plan (Auckland, NZ) uses 3D graphics and drawings to illustrate the desired urban form for different sectors of the city.

Strengthen Linkages between the Plan and Implementation Tools

The plan should serve as the guiding document for the tools that are used to implement planning in the community. These include: departmental master plans and strategic plans; area and sub-community plans; priority-based budgeting that drives programs and services; and development regulations contained in the Land Use Code. In its present form, the plan does not clearly describe how it relates to the implementing tools. More could be done to strengthen and more clearly articulate this role for the Plan. Although there is a separate Action Plan document that was prepared as part of the 2010 plan update, it is not clearly linked to the BVCP. Opportunities include:

1. Strengthen linkages to other plans and implementation tools within the Plan. Although the Introduction section and the Implementation section of the plan describe the various other plans and regulatory tools that are part of the implementing mechanism for the BVCP, it does not describe how they related to the policies contained within the plan. The BVCP is the place for the conversation about how all of the pieces fit together. The update could provide stronger linkages to the various master plans and other operational plans and tools, to illustrate more clearly how all of the component parts of the community's vision and planning framework are integrated. This could be done in a number of ways, such as a matrix that illustrates linkages and connections between the policies in the plan and the implementing plans and regulations and programs; an expanded section in the plan Introduction that more fully explains the relationships between the plan and implementation tools; or perhaps "bridge" language at the beginning of each chapter that describes the plans and other tools that implement the topics in the chapter.

2. Increase the Plan's focus on implementation by retooling the Action Plan. In its current form, the Action Plan for the BVCP is prepared as a separate document. It is structured on the seven themes of the Sustainability Framework and does not clearly describe linkages between the BVCP's policies and the implementation items contained in the Action Plan. While implementing actions generally are contained in master plans and other documents as well as the Boulder Revised Code, it may be appropriate to include high-level strategies within the plan itself so that it serves as a unifying element, to show how the master plans and other implementing documents are linked to it, and how they serve to carry out the overall vision contained in the plan. Even if the Action Plan remains as a separate document, it could be more clearly connected to the vision, policies, and directions in the BVCP as well as to the overall directions contained in the master plans and other implementing plans and regulatory tools. The Action Plan could provide the direct linkage between desired policies and outcomes in the BVCP and the actions that are needed to be taken to implement them. The Action Plan could also identify near-term as well as mid and long-term strategies, and continue to be subject to a mid-term review to ensure that it is aligned with work plans and available resources.

Clarify Policies in Key Areas

The plan contains a large number and range of policies. While for the most part they are clear and well-written, users of the plan have told us that it can at times be all things to all people; that policies can be used to both advocate and repel proposed actions. Opportunities include:

1. Make the intent of policies in key areas clearer. Sharpening the focus of key policies can help make them less subject to interpretation. For example, the Growth Requirements policy states:

“The overall effect of urban growth must add significant value to the community, improving quality of life. The city will require development and redevelopment as a whole to provide significant community benefits, achieve sustainability goals for urban form, and to maintain or improve environmental quality as a precondition for further housing and community growth”.

While well intentioned, this policy leaves a number of unanswered questions. What does it mean to add value, improve quality of life, provide significant community benefits, achieve sustainability goals, and maintain or improve environmental quality? The policy would be clearer if it specified outcomes and metrics for the desired qualities of proposed growth. Example outcomes could be a measureable increase in affordable housing and transit usage in new development. Target metrics could be an increase in affordable units and transit ridership in growth areas, both of which are contained in master plans and could be incorporated into the BVCP.

A second example is the policy on Preservation of Floodplains, which states that:

“Undeveloped floodplains will be preserved or restored where possible through public land acquisition of high hazard properties, private land dedication and multiple program coordination. Comprehensive planning and management of floodplain lands will promote the preservation of natural and beneficial functions of floodplains whenever possible”.

While the written policy specifies the intent of floodplain preservation, it would be clearer if accompanied by a map of floodplains and their land use, including those areas already in public ownership. It would be more effective if it were integrated with the subsequent floodplain policies on Flood Management, Non-Structural Approach, Protection of High Hazard Areas, and Larger Flooding Events into one unified floodplain policy, rather than a series of separate policies.

2. Address development issues at the urban edge. One specific policy area identified during initial discussions with county staff is related to development at the urban edge (i.e., in Area II) and update policies and regulations for these areas. As part of the update, the plan could include updated policies and regulations to govern annexation and the management of parts of Area II at the urban edge where development connected to urban services may be desirable, in order to clarify what form of development is appropriate, and how it is to be processed under joint city/county procedures. This could also include describing how the boundaries are determined, to clarify why properties are included (or not) in these areas.

Integrate Resilience

Community resilience is generally defined as the ability of a city to bounce back after being struck by a severe shock. Another definition is the sustained ability of a community to utilize available resources to respond to, withstand, and recover from adverse situations. “Evolutionary resilience” recognizes that community systems constantly shift between states of equilibrium. Under changing conditions, continual adaptation is required.

Resilient cities aim for development that can withstand major disruptions without failure of critical systems; they are concerned with survivability, reducing impacts from future crises on their populations, infrastructure, and institutions. Sustainable cities aim for development that balances the demands of environmental protection, economic growth, and human equity. They are concerned with intergenerational equity, meeting the needs of present residents without disadvantaging future populations. Resilience and sustainability are closely related; a sustainable city is resilient and a resilient city is sustainable. This interdependence shows up in overlapping goals, policies, and metrics of comprehensive plans. Opportunities include:

1. Integrate resilience throughout the BVCP by leveraging the Resilient Cities effort. As the recipient of a Resilient Cities grant from the Rockefeller Foundation, Boulder is committed to develop its resilience. The updated plan could be an important tool in achieving this goal by addressing resilience throughout its policies and topics. Boulder has previously committed to becoming more sustainable. Both resilience and sustainability require foresighted planning, aware and prepared populations, and relevant outcome measures, though their main goals are somewhat different.

2. Develop a new model for addressing resilience in a comprehensive plan. Boulder has the opportunity to develop a new model for incorporating resilience in the comprehensive plan, based on its own hazards and vulnerability. The model should recognize that a resilient city is a complex network of physical systems and human communities requiring combinations of apparent opposites: redundancy and efficiency, diversity and interdependence, strength and flexibility, autonomy and collaboration, planning and adaptability. Because the most vulnerable populations are the weakest links in resilience, there is an opportunity to integrate hazard mitigation, economic development and social justice. In addition to traditional physical system hazard mitigation, Boulder could seek social and institutional resiliency by monitoring vulnerability reduction, building distributed hazard mitigation capability, developing broad hazard mitigation commitment, operating networked communications, adopting recognized equity standards, assisting vulnerable neighborhoods and populations, and mitigating business interruption impacts.

BEST PRACTICES

Introduction

As part of the assessment process, the consultants prepared a set of best practices to help inform the update process by providing examples of what other communities are incorporating into “cutting-edge” plans for progressive communities. The topics below – urban form, outcomes and metrics, resilience, and action plans – were chosen to align with the recommendations contained in this report. Each best practices topic includes a general description; a discussion of applicability to the BVCP update; and several summary examples, with links for additional information.

Urban Form Best Practices

Urban form best practices focus on the integration of urban form and character into the realm of comprehensive plans, as a means of implementing a community’s vision for its desired built environment. One of the key issues for Boulder is how to achieve high-quality design that fits the context and scale of the different types of places in the city. Best practices plans are focused on including standards and principles that make areas more livable, more vibrant, and more people-oriented. These principles include walkability, connectivity, mixed uses, housing diversity, character protection, neighborhood form, and transportation alternatives, to name a few. A sophisticated and nuanced approach is required, as there is no “one size fits all” solution. The Boulder community already has numerous excellent built examples of districts and neighborhoods that embrace these principles, including both historic areas (e.g., downtown districts and neighborhoods) as well as more recently built examples (such as North Broadway). The challenge is to integrate information about the desired built environment into the BVCP as a form-based “toolkit,” to provide both policy and visual guidance for new projects as well as redevelopment.

Applicability to BVCP

Boulder could adapt many of the approaches in the examples below as a means of better integrating urban form into the plan update. Including a framework plan with a series of overlay illustrations, similar to the concept contained in the Portland Design Framework, could help illustrate the linkages and relationships between the various elements of the built and natural environment. This would build on many of the concepts already contained in the Plan, such as centers and corridors, but would present them in a more interconnected manner. This framework could also be used to develop a series of character districts for each of the various place-types that would address and illustrate basic urban form characteristics. Similarly, the use of drawings, urban framework diagrams, visual models, etc. would reinforce the narrative objectives that are already contained in the Plan, and could serve as a guide or “roadmap” for the preparation of more tailored policies and regulations for the city. While some of these areas would continue to be supported by design standards and other implementing tools, the

urban form framework would help develop a greater understanding of the desired built form for areas of the city.

Examples of Urban Form in Comprehensive Plans

St. Albans, Vermont

As part of an innovative approach to establish a renewed direction for this small community in Vermont, the city sponsored a charrette-based effort to develop a fresh vision and “toolkit” for the community. They developed a character and form-based toolkit that establishes a vision for the community; a set of character area directions and illustrations; and a toolkit for implementing the plan in a strategic manner.

The toolkit includes a set of character area diagrams that are a good example of illustrating urban form policies in a visual manner, containing information on building character, configuration, setbacks, building/street relationships, and parking. For more information, see [St. Albans Character and Form-Based Planning Toolkit](#).

T5 DOWNTOWN CENTER CHARACTER AREA

The Downtown Center Character Area refers to places within St. Albans where attached buildings are pulled to the back of the sidewalk, and typically have a height of two to four stories. Often the first floor is occupied by retail, with office or residential above. The Downtown Center includes Main Street as well as the side streets that share similar characteristics.

1.5 DOWNTOWN CENTER CHARACTER AREA.
The T5 Downtown Center Zone consists of higher density mixed use buildings that accommodate retail, office, townhouses and apartments. It has a tight network of streets, with buildings close to the sidewalk, and trees and landscaping set close to the sidewalk.

General Character: T5 Downtown is the historic heart of St. Albans.

Building Placement: Buildings are set back from the street, with a small setback, buildings oriented to street defining a street wall.

Frontage Types: Storey, basement, doorway, shopfront, gallery.

Building Height: 2 to 5 stories.

Type of Civic Space: Parks, Plazas and Squares, modern landscaping.

BUILDING CONFIGURATION

1. Building height shall be measured in number of stories, including attics and roof basements.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a front porch or balcony which may be a maximum of 11 feet and may extend 14 feet. A first floor commercial storefront that exceeds 14 feet shall be treated as 2 stories.
3. Height shall be measured to the eave or roof deck.



T5

a. BUILDING FUNCTION

Residential	open use
Lodging	open use
Office	open use
Retail	open use

b. BUILDING CONFIGURATION

Principal Building	4 stories max., 2 min.
Outbuilding	2 stories max.

c. LOT OCCUPATION

Lot Width	18 ft. min., 96 ft. max., #
Lot Coverage	95% max.

d. BUILDING DISPOSITION

Edgeyard	not permitted
Skyward	not permitted
Rearward	permitted
Courtyard	not permitted

e. SETBACKS - PRINCIPAL BUILDING

(g.1) Frontal Setback	18 ft. min., 12 ft. min.
(g.2) Side Setback	10 ft. min. *
(g.3) Rear Setback	3 ft. min. *

Frontage Balcony: 80% min. at setback

f. SETBACKS - OUTBUILDING

(h.1) Front Setback	40 ft. max. from rear
(h.2) Side Setback	10 ft. min. or 7 ft. at corner
(h.3) Rear Setback	3 ft. min. **

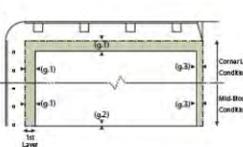
g. PRIVATE FRONTAGES

Common Lawn	not permitted
Porch & Fence	not permitted
Terrace or L.C.	permitted
Foamcut	permitted
Sloped	permitted
Shopfront & Awning	permitted
Gallery	not permitted
Arcade	not permitted
Burglars Case	not permitted

* Or 15 ft. from center line of alley, whichever is greater.
 ** Corner lot side setbacks shall match corresponding front setback.
 # Corner lot minimum must be 5 ft. wide.

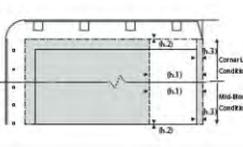
SETBACKS - PRINCIPAL BLDG

1. The location and elevation of Principal Buildings shall be indicated from the Lot lines as shown.
2. Windows shall be built along their front facade at the minimum specified width in the table.



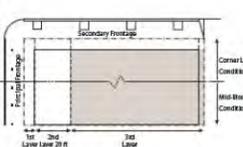
SETBACKS - OUTBUILDING

1. The elevation of the Outbuilding shall be indicated from the Lot lines as shown.



PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the Third Lot Layer as shown in the diagram.
2. Covered parking shall be provided within the Third Lot Layer as shown in the diagram.





T5 - Downtown Center Character Area



St. Albans, Vermont



St. Albans, Vermont



St. Albans, Vermont



St. Albans, Vermont



St. Albans, Vermont



St. Albans, Vermont

T4 GENERAL NEIGHBORHOOD CHARACTER AREA

The General Neighborhood Character Area, which is largely missing in St. Albans, is characterized by a mix of attached and detached buildings, with varied, shallow setbacks. Buildings are typically two to three stories and include a diversity of uses. The General Neighborhood character area would accommodate a mix of new building types geared to young adults, retirees, and entrepreneurs, including live/works, loft apartments, and artisan industrial space.

T4 GENERAL NEIGHBORHOOD CHARACTER AREA

The T4 General Neighborhood Zone consists of a mixed use but primarily residential urban fabric, with ground floor office, retail, and artisan industrial uses. It may have a wide range of building types: single family, duplex, live/works, and rowhouses. Setbacks and landscaping are variable. Streets with curbs and sidewalks define medium-sized blocks.

General Character: Mix of Houses, Townhouses & small Apartment buildings, with scattered Commercial activity. Balance between landscape and buildings; presence of pedestrians.

Building Placement: Shallow to medium front and side yard setbacks.

Frontage Types: Porch, fence, dooryard, firecourt, stoop, shopfront, gallery.

Building Height: 2- to 3-story

Type of Civic Space: Parks, Squares, Greens



T4 - General Neighborhood Character Area



Burlington, Vermont



Burlington, Vermont



Burlington, Vermont



Burlington, Vermont



St. Albans, Vermont



St. Albans, Vermont

BUILDING CONSTRUCTION

- Building height shall be measured in number of stories, including Attics and raised basements.
- Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet and may exceed 14 feet. A first floor Commercial function that exceeds 14 feet shall be treated as 2 stories.
- Height shall be measured to the eave or roof deck.



SETBACKS - PRINCIPAL BLDG

- The Facades and Elevations of Principal Buildings shall be distanced from the Lot Lines as shown.
- Facades shall be built along the Principal Frontage to the minimum specified width in the table.

SETBACKS - OUTBUILDING

- The Elevations of the Outbuilding shall be distanced from the Lot Lines as shown.

PARKING PLACEMENT

- Uncovered parking spaces may be provided within the Third Lot Layer as shown in the diagram.
- Covered parking shall be provided within the Third Lot Layer as shown in the diagram.

T4

e. BUILDING FUNCTION

Residential	limited use
Lodging	limited use
Office	limited use
Retail	limited use

f. BUILDING CONFIGURATION

Principal Building	2 stories max., 2 min.
Outbuilding	2 stories max.

g. LOT OCCUPATION

Lot Width	18 ft. min., 80 ft. max. #
Lot Coverage	70% max.

h. BUILDING DISPOSITION

Edgeward	permitted
Sideyard	permitted
Rearyard	permitted
Courtyard	not permitted

i. SETBACKS - PRINCIPAL BUILDING

(g.1) Front/Build-to	0 ft. min., 18 ft. max.
(g.2) Side Setback	0 ft. min. ^
(g.3) Rear Setback	3 ft. min. *
Frontage Buildout	60% min. at setback

j. SETBACKS - OUTBUILDING

(h.1) Front Setback	20 ft. min. + bldg. set.
(h.2) Side Setback	0 ft. min. or 3 ft. at
(h.3) Rear Setback	3 ft. min. *

k. PRIVATE FRONTAGES

Common Lawn	permitted
Porch & Fence	permitted
Terrace or L.C.	permitted
Firecourt	permitted
Stoop	permitted
Shopfront & Awning	permitted
Gallery	not permitted
Arcade	not permitted
Bungalow Court	permitted

* Or 15 ft. from center line of alley, whichever is greater
^ Corner lot side setbacks shall match corresponding front setback
Corner lot minimum must be 8 ft. wider

Portland, Oregon

As part of its ongoing Comprehensive Plan update (see <http://www.portlandoregon.gov/bps/57352>), the city prepared an Urban Design Direction document, to illustrate how the goals and policies of the city's draft comprehensive plan are supported by an urban design direction and framework. As stated in the document, the purpose is "...to provide a clear sense of what these design directions will look and feel like at the level of streets and neighborhoods". In addition to describing the city's physical evolution over time, the framework identifies current design issues and urban design objectives that inform the shape of growth and change. The five objectives include:

1. Create Complete Neighborhoods
2. Plan and Design to Fit Local Conditions
3. Connect People and Neighborhoods
4. Improve Natural Areas and Open Spaces
5. Encourage Job Growth

The urban design framework outlined in the document (see figures below) is based on a network of place-types; centers, corridors, transit station areas, city greenways, urban habitat corridors, and employment areas. It also identifies a set of “pattern areas” – broad geographies that are defined by existing patterns of natural and built features, such as the central city, neighborhoods, and inner ring districts, and provides basic urban design characteristics and comparisons for different types of centers, corridors, and other features.

Finally, the document includes a series of urban design framework maps that illustrate how these corridors, greenways, and other features are connected together to provide a basis for the city. While it is not clear from the document how these maps will relate to zoning, it does state the urban design framework materials will be used to help tailor more specific policies and regulations to better respond to each area’s unique natural and built assets and characteristics.

URBAN DESIGN FRAMEWORK



18 | Urban Design Direction

CENTERS: A COMPARISON

NEIGHBORHOOD CENTER



HOUSING	3,500 units
JOBS	Primarily retail/ service
BUILDING SCALE	Up to 4 stories

Local hubs. Neighborhood centers are hubs of commercial services, activity, and transportation for surrounding neighborhoods. They typically include small parks or plazas that support local activity and gathering. These smaller centers provide housing capacity within a half-mile radius for about half the population needed to support a full-service neighborhood business district (surrounding neighborhoods provide the rest of this population base).

TOWN CENTER



HOUSING	7,000 units
JOBS	Diverse employment/ institutions
BUILDING SCALE	Up to 5-7 stories

District hubs. Each Town Center is a hub of commercial and public services, activity, and transportation for the broad area of the city it serves. Town Centers include parks or public squares to support their roles as places of focused activity and population. They provide housing capacity within a half-mile radius for enough population to support a full-service neighborhood business district.

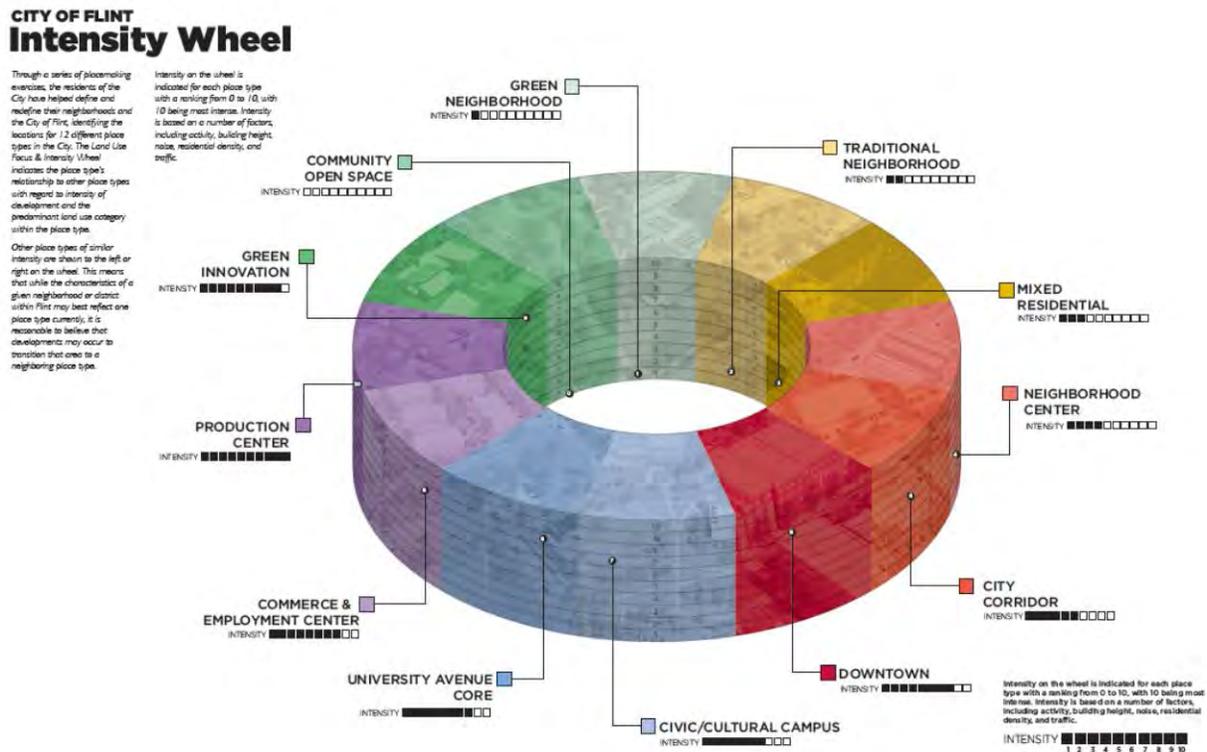


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Flint, Michigan

As a part of its new master plan adopted in 2013 (see <http://www.imagineflint.com/>), the city of Flint, Michigan developed a creative approach to its future land use plan that focuses on a place-based land use map, based on the concept of place-making. The plan identifies 12 different place-types within the city. This approach was particularly relevant for Flint since like many communities in the Midwest, its population is shrinking and their planning effort is focused on revitalization and redevelopment of existing, traditional development patterns. One of the more interesting aspects of their approach was the development of an Intensity Wheel (see below) that illustrates each place type's relationship to other place types with regard to development intensity and predominant land use.

Each place type is described in the plan by a series of diagrams and illustrations to capture the intent of its land use character and attributes, along with recommendations for implementation. While the characteristics of the community are quite different from Boulder, it may be a useful model for a different approach to the community's future land use map.



Flint's recently adopted Comprehensive Plan includes a series of place-based districts that reflect character, use-type, and relative intensity.

San Francisco, California

The City of San Francisco's City Design Group was established in 2005 as a distinct unit within the city's planning department. They focus on multiple projects within the city with an emphasis on placemaking;

urban design policy development; and design review. There are numerous examples of projects and supporting visual materials that can be viewed on the City Design Group's website located [here](#).

Examples of visual materials prepared by the City Design Group that may be helpful to inform Boulder's efforts to convey high quality and context-appropriate design include the following:

Central SoMa Plan. The city recently completed a draft plan for the South of Market (SoMa) neighborhood, which is the bridge between the traditional central business district near Market Street and the burgeoning activity center of Mission Bay. While the seeds of the Central Corridor Plan began under the basic tenet of supporting transit-oriented development, planners recognized that managed growth could bring with it a number of tools to transform and improve the neighborhood. Infill fabric, if designed with high quality architecture and active ground floors, could increase visual quality as well as safety of the areas streets. The plan includes an urban form element that addresses design policies and implementation strategies, as well as extensive use of visualization to convey overall desired urban form.



San Francisco's SoMa plan uses visual models to convey changes in the area's built form.

Upper Market Community Vision. In 2007, city residents and planners created a community vision for the upper portion of Market Street. While primarily focused on the roadway corridor, it includes examples of the use of visual models to convey street character and building/street relationships. A set of accompanying Design Guidelines provides further examples of desired attributes of new development and redevelopment (see examples below).

FIGURE 2A POTENTIAL FOR 55' BUILDING ADJACENT TO RESIDENTIAL PARCEL

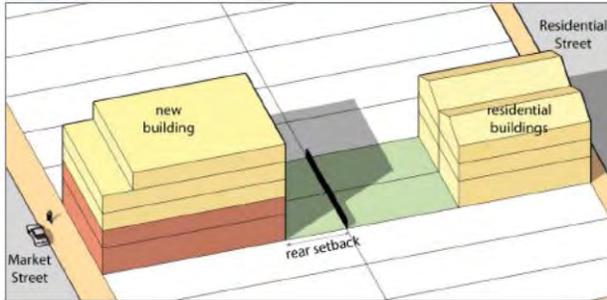


FIGURE 2B POTENTIAL 85' BUILDING ADJACENT TO RESIDENTIAL PARCEL

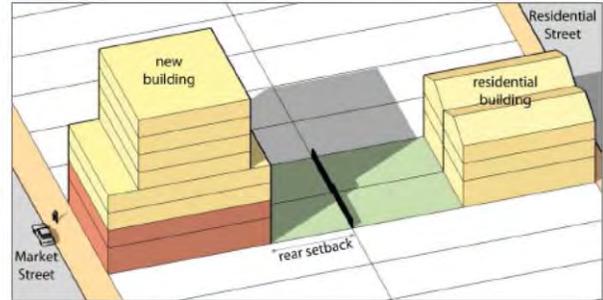


FIGURE 2A POTENTIAL FOR 55' BUILDING ADJACENT TO RESIDENTIAL PARCEL

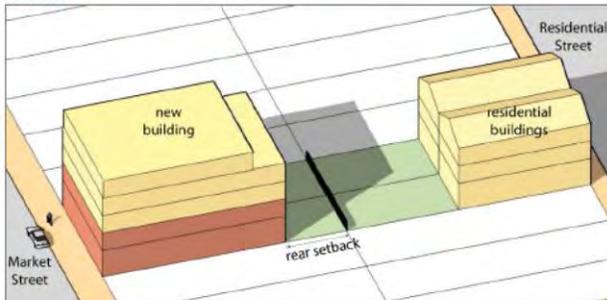
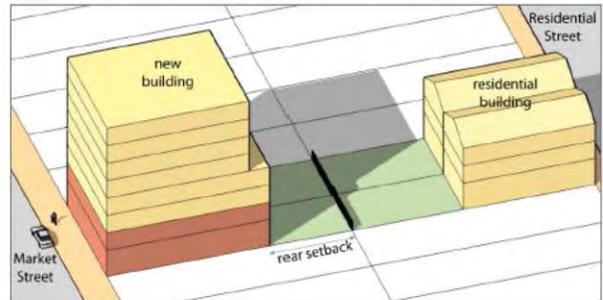


FIGURE 2D POTENTIAL 85' BUILDING ADJACENT TO RESIDENTIAL PARCEL



B. INVITING GROUND FLOOR DESIGN FEATURES

The following guidelines were the most important for the community. Many participants noted a desire for stronger language for the following recommendations due their relative importance relative to other development guidelines.

B1: Promote active uses of the sidewalk building zone through ground floor building design elements such as transparent, operable windows, open partitions, awnings, goods and wares visible in front, and informational displays.

B2: Create inviting building entrances for large and institutional buildings through the following techniques:

- Integrate the sidewalk area into building entrances.
- Use light features to highlight buildings.
- Set back entrance from the rest of the building.
- Install plazas, fountains, and sculpture in front of buildings.



Attractive outdoor dining options

FIGURE 4.7 PROPOSED MARKET STREET TRANSIT PLAZA



Outcomes and Metrics Best Practices

Outcomes and metrics best practices focus comprehensive plans on expected results, linking goals and actions. Leading comprehensive plans provide explicit guidance to stakeholders, decision-makers, and the public about what to anticipate as a result of implementing the comprehensive plan. In some cases, the connections are strengthened by focusing the plan on a limited number of high priority goals, each linked to the community's overall vision.

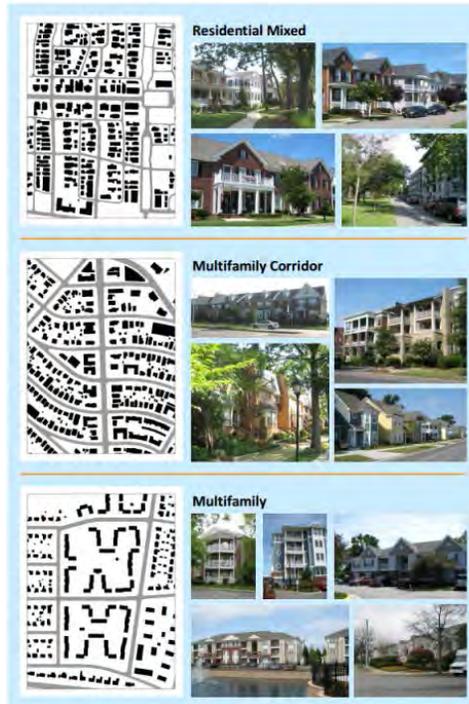
Applicability to BVCP

The current BVCP includes policies but few outcome measures or metrics. To facilitate implementation, the updated plan could add priority outcomes and metrics for each chapter, along with graphic examples of desired results. In some cases, the outcome and metrics could be synthesized from existing Master Plans. In other cases, they would need to be derived from best practices and can be added over time. The important lesson from Imagine Austin and other similar projects is that the metrics and indicators program should be seen as an ongoing process, to be refined and added to over time. Austin's program was designed with the anticipation that metrics would be added, deleted, and changed over time. Simply stated, it is not necessary to have a complete set of metrics for all aspects of the BVCP as part of the 2015 update. It is more important to get the program underway and set the stage for the addition of more metrics over time. It is also important to develop criteria that are used to identify and

rate the suitability of metrics for use in a plan, to avoid using metrics that are inappropriate for this purpose (see indicator criteria for Imagine Austin, below).

Examples of Outcomes and Metrics in Comprehensive Plans

Norfolk, Virginia



Norfolk's new comprehensive plan expresses its design objectives in a graphic format

figure with Residential Mixed, Multi-Family, and Multi-Family Corridor). Metrics include change in linear feet of un-buffered lower intensity residential land and more intense land uses, percent of development within areas with design guideline mandates that comply with design regulations, and others.

The Norfolk, Virginia, comprehensive plan, *plaNorfolk2030* (www.norfolk.gov) contains a vision chapter, eleven chapters each based on an element of the vision, and an implementation chapter. The element chapters start with descriptions of current conditions and expected trends, and then highlight key issues. They set one or more key goals, define desired outcomes, and list related metrics and actions for each identified key issue. For example, Chapter 2, *Identifying Land Use Strategies*, notes that Norfolk is essentially a built-out city and includes a single goal: Ensure that the type and quality of land uses will complement or enhance the community's physical characteristics. An outcome for this goal is for future land use to respect neighborhood characteristics and meet the demand for each type of use.

Actions include implementing residential land use categories that reflect existing successful neighborhood patterns with regard to lot width, structure type, setback, and vehicular use areas. Desired characteristics are shown described in text and shown graphically, illustrating footprints and visual types (see

Austin, Texas

The Austin Texas 2012 Imagine Austin Comprehensive Plan (www.austintexas.gov) links policies, goals, metrics, and actions in its chapter on Implementation and Measuring Success. For example, under the number 1 priority program, *Invest in a Compact and Connected Austin*, there are two goals; increase non-vehicular trips, and improve access to transit. The metrics for the goal to increase non-vehicular trips are: transit-ridership numbers, number of transit stops, percentage of trips by biking and walking, and annual trips per capita. The metrics for the goal to improve access to transit are: population density within ½ mile of transit stops and employment density within ½ mile of transit stops and high capacity transit stops. The Imagine Austin comprehensive plan calls for an analysis and assessment of indicators or metrics that can be used to measure progress after the plan's fifth year. Many of the indicators that were contained in the original plan were suggested and not completely scoped, and some were

aspirational or not measurable at the time. More than 100 draft indicators were originally identified; 34 core measures were selected as the initial set that could reasonably be used by city staff to track plan progress. While there is no “right number” of metrics for a community, experience has shown that generally, fewer, high-quality indicators are better than a large number of indicators that is hard to administer.

In selecting indicators to use for Imagine Austin, planners developed the following set of criteria:

- relevance to the priority programs
- staff resources available to support data collection
- information that can be used by planners and others when faced with decisions
- measurable information, with achievable results, as opposed to anecdotal information
- a tendency to show change over a relatively short period of time
- reliable, consistent, and relatively free sources of data

Resilience Best Practices

Resilience best practices in comprehensive plans are relatively rare because the concept of resilience has only begun to be applied to community development in the last decade or so. Attention has grown since Hurricane Katrina in New Orleans, the Tohoku earthquake and tsunami, and Hurricane Sandy in the Northeastern U.S. Current best planning practices focus on disaster resilience: reducing risk, building community awareness, and instituting recovery planning, often integrated with sustainability goals and policies, as described below:

- Reducing risk takes the form of integrating hazard mitigation into overall community development policies and actions through directing development away from known hazard areas and strengthening vulnerable structures and facilities to resist disaster impacts.
- Building community awareness takes the form of engaging citizens and organizations in hazard scenarios and creating neighborhood support networks to function in disaster preparation and rebuilding.
- Instituting recovery planning takes the form of preparing a plan to guide decisions on recovery and redevelopment following a disaster in order to increase resiliency and to contribute to a more effective and efficient recovery.

FEMA has published a report, *Integrating Hazard Mitigation into Local Planning: Case Studies and Tools for Community Officials* (2013) with fact sheets on Building Community Resilience by Integrating Hazard Mitigation into Local Planning. Topics include: Integrating Hazard Mitigation into the Local Comprehensive Plan, The Role of Local Leadership, Social and Economic Benefits, Planning for Post-Disaster Redevelopment, and Protecting Community Infrastructure. The report has case studies on planning in: Cedar Rapids, Miami-Dade, New Orleans, Tulsa, and other locations.

Applicability to the BVCP

Boulder could follow the traditional examples of other communities in applying disaster resilience practices in its comprehensive plan, but it could also extend the resilience lens to cover other plan goals and policies. On the traditional front, the BVCP should add resilience to the natural hazards identified in the very thorough 2012 *City of Boulder Multi-Hazard Mitigation Plan*. It lists: as “highly likely” (happens every year) extreme temperatures, thunderstorms, lightning, windstorms, and winter storms; and as “likely” (recurrence interval of ten years or less) drought, West Nile Virus, hailstorms, and wildfire. It rates dam failure and floods as “catastrophic” (over 50 percent property damage, facilities shut down for more than 30 days, and/or multiple deaths), and includes a map of 100 year and 500 year flood hazards. A map of buildings in the 500 year floodplain shows that most of the development in the city’s central area is located there. All of these factors have significant potential impacts on future development, public expenditures, infrastructure, environmental preservation actions, and other planning decisions.

At the same time, the BVCP update could develop a lens with which to view the city’s social, institutional, and economic resilience. This means asking “the resilience question” of plan policies and actions that affect disadvantaged populations, deployment of city staff and resources, and vulnerability to shocks stemming from potential economic breakdowns. This is a broad question with both tangible and intangible elements. For example: Does this policy increase our vulnerable neighborhood communication linkages? Does this program build our crisis response capability? Does this metric assess our ability to come back from the loss of a major element of our economic base? Together with its new Resilience Officer, Boulder can create a pioneering model for formulating and answering the resilience question, based on its unique conditions and needs.

Examples of Community Resilience in Comprehensive Plans

Norfolk, Virginia

Norfolk Virginia is susceptible to flooding from coastal storms and sea level rise. A Category 4 hurricane would flood the entire city and a Category 3 storm would flood about 70 percent of the city. Its 2030 Plan (2014) includes resilience under its goals, outcomes, metrics, and actions for Environmental Sustainability in Chapter 6:

Goal: Prepare for the consequences of natural hazards.

Outcome: Reduced risk and increased resilience to gradual and catastrophic natural events.

Metrics: Percent of properties in flood zone that do not receive a variance to waive requirements related to flood protection; area of wetland restoration projects; change in FEMA Community Rating System evaluation.

Actions: The Plan includes many actions related to this goal. Examples include: evaluate impact of potential sea level rise when reviewing development proposals and in preparation of budgets; revise development regulations to respond to the impact of potential sea level rise; continue to monitor changes in tide data and its effect on flooding throughout the City; ensure that all new development in

designated flood-prone areas complies with the City's flood protection regulations; ensure that residents and property owners in flood prone areas are notified of the threat to their properties; identify areas of the City that are particularly susceptible to inundation and develop a communication strategy to notify residents in advance of and during flood events; among others.

Lee County, Florida

Lee County includes hazard mitigation in the Conservation and Coastal Management policies in Chapter VII of The Lee Plan (www.leegov.com). While it does not include a specific resilience goal, the plan designates a goal to protect the public from the effects of natural and technological hazards through the county emergency plan. It defines the hazards by reference to the County's Hazard Vulnerability Analysis and includes policies to inform the public, coordinate governmental emergency programs, protect natural systems and water resources, limit public expenditures in high hazard areas, and maintain a post-disaster strategic plan. The 2014 Lee Plan is a policies plan; it does not include outcomes and metrics.

Action Plans Best Practices

Action Plan best practices focus comprehensive plans on the strategies and actions that will lead to implementation of the plan policies. Leading comprehensive plans provide explicit guidance to staff, decision-makers, and the public about what specific steps need to be taken to move.

Applicability to BVCP

Including the action plan in the BVCP would help achieve several purposes; reinforce the role of the plan as the unifying document among all of the city's master plans and implementation tools, and provide a stronger linkage between the vision and policies in the plan and the steps to be taken to accomplish the desired outcomes.

Examples of Action Plans in Comprehensive Plans

Austin, Texas

The Austin, Texas comprehensive plan, Imagine Austin (<https://austintexas.gov/imagineaustin>) has an action program that is organized into eight priority programs that provide the structure and direction to implement the plan. The eight programs are:

- Invest in a compact and connected Austin
- Sustainably manage our water resources
- Continue to grow Austin's economy by investing in our workforce, education systems, entrepreneurs, and local businesses
- Use green infrastructure to protect environmentally sensitive areas and integrate nature into the city
- Grow and invest in Austin's creative economy
- Develop and maintain household affordability throughout Austin
- Create a Healthy Austin program

- Revise Austin's development regulations and processes to promote a compact and connected community

Each priority program has a lead department, cross-disciplinary team, community partners and a work plan that is reviewed and revised on an annual basis. Each of the programs is moving forward on the plan through a series of actions organized into five categories: education and engagement, internal alignment, regulation, capital investment, and partnerships. The city administration is also organizing its operations, core services, decisions, and investments around the priority programs in Imagine Austin. The eight priority programs are grouped into four topic groups as a way of further consolidating efforts in the city towards implementing the plan.

The city charter requires that the Planning Commission and staff provide an annual report to City Council about the implementation of the comprehensive plan. The Planning Commission has just published its second annual report since the adoption of the plan in 2012 ([see Imagine Austin 2014 Draft Annual Report](#)). This is somewhat similar to Boulder's mid-term review process, but is a more rigorous approach, with a detailed review of the Action Plan; metrics and outcomes; and a recasting of strategies, in a formal report that is prepared for the Planning Commission.

Fort Collins, Colorado

Plan Fort Collins⁴, the city's comprehensive plan adopted in 2011, contains an Action Plan that identifies high-priority actions and strategies for implementing the plan. The Priority Actions and Strategies outlined in this section are organized into three key time frames:

- Immediate actions - Concurrent and ongoing with plan adoption
- Near-term actions - Following plan adoption, all actions already funded within current budgeting cycle
- Longer-term actions - Several years following plan adoption within the next budgeting cycle
- The Plan Fort Collins approach is unique in that while it is simple, it is strategic, focused and prioritized, and all immediate and near-term actions must be funded to be included in the Action Plan.

⁴ <http://www.fcgov.com/planfortcollins>

WORK PLAN AND COMMUNITY ENGAGEMENT RECOMMENDATIONS

Introduction

The purpose of this section is to provide recommendations for the update to the BVCP, including public outreach strategies, and a targeted and phased approach to accomplishing the recommendations of this analysis. It suggests a strategy for how to accomplish the recommendations in the preceding sections of this report.

During our meetings with city and county officials, we discussed that the 2015 plan update may be narrow or broad in scope, ranging from minimal changes to the plan to a major overhaul of its content and structure, with a continuum of options in between. The direction to be taken in the 2015 update would depend on direction from city and county leadership, based on their perception of need, community priorities, and availability of resources.

In general, most of the city and county leaders believe that the 2015 update should not constitute a major overhaul, but should comprise a moderate level update that incorporates many of the recommendations contained in this report as resources allow and as the work plan for the update is developed in more detail early in 2015. Particular areas of focus that city and county leadership would like to see the update address include:

- Clarifying and incorporating the vision
- Make policies more clear and succinct
- Incorporate more direction and visual clarification of desired urban form, particularly as it might provide more clear direction for needed development code changes
- Integrate resilience throughout the plan; and
- Include outcomes and possibly metrics to begin to move towards tracking progress towards the plan's goals.

Given staff resources and the multitude of other efforts already underway, it is likely that the update will be completed in phases over an 18-month to two-year cycle. Early in the process, staff should work with



the Planning Board and City Council and County Commissioners and Planning Commission to establish priorities for the phasing of tasks during the update process.

Work Plan Recommendations

Based on discussions with staff to date, we recommend that the 2015 work program focus on foundational work for the update process. Foundational work will include:

- Forecasting (land supply, population and employment projections)
- Updating map layers needed for analysis purposes and begin work on 3-D mapping
- Coordinating with resilience strategy foundational work
- Develop initial concepts for plan formatting
- Work plan for development of visualization tools for urban form element
- Work plan/approach for integrating resilience into update process
- Identification of potential outcomes and metrics to be integrated into the plan (from existing master plans and other sources)
- Public engagement launch with community ideas forum (see outreach section below)
- Invite applications for land use changes

We also recommend that the foundational work for the updated vision and “Boulder Planning Story” be commenced as part of 2015 activities. As an initial step in the process, staff could develop a working version of these two elements to be reviewed at initial community forums.

Subsequent tasks to be completed during 2016 would include:

- Policy revisions and additions, including development of new elements as needed (see outline in section IV, above)
- Mapping updates (including development of new approaches to the future land use plan and supporting materials)
- Incorporation of metrics and outcomes into plan draft update
- Preparation of draft BVCP document (in new format)
- Preparation of revised City/County IGA

Recommendations for Public Outreach

Based on our initial discussions and meetings with city and county officials, it is evident that many citizens and other organizations will have strong interests in the planning process. We recommend the city consider creative, focused ways to engage the community in the planning process, either in focus groups or forums on specific topics. A targeted approach will allow for input on specific topics of interest to all at appropriate points in the process.

Our recent experience in dynamic communities like Boulder is that there is no single "best" way to accomplish a high level of participation by the community in planning efforts. Based on our discussions during the preparation of this analysis, suggestions to consider include:

- 1. Public Ideas Forum:** Numerous members of the community as well as city and county officials have suggested that an Ideas Forum be conducted as part of the kick-off activities for the update process. This could involve speakers as well as table discussions and exercises among attendees to begin a dialogue about the range of topics to be addressed in the update. Given the diverse range of views, we recommend that the forum be convened by an organization that is seen as a neutral party by most in the community or co-hosted by several organizations together.
- 2. Educational Forums:** Given the range of new topics and challenges to be addressed during the update, it may be useful to conduct a series of educational forums about a variety of topics. These can be recorded and made available via streaming from the website.
- 3. School-Based Activities:** Workshops involving youth can achieve two objectives. First, they bring a fresh perspective to the planning process, and second, activities involving kids often will attract parents who are curious about what their children are involved in related to planning. Recent planning events in the community, such as the Civic Center planning process, have already used this approach with a successful outcome by partnering with Growing up Boulder.
- 4. Displays in Public Places:** Ongoing displays can be placed in multiple locations around the community where people gather, such as the library, cultural institutions, senior centers, recreation centers, etc. If resources allow, kiosk technology can be utilized to capture feedback on a range of topics.
- 5. Robust Dedicated Website:** Today's technology-savvy community requires a well-constructed website for use throughout the process, as a means of gathering input and feedback on various ideas and proposals during the plan process. Techniques such as "topic of the week," online surveys, blogs, and virtual meetings can all be used to raise awareness and generate interest. Web sites for plans often attract a different audience than the typical meeting-only based process-offering both can increase the range of participants and viewpoints heard.
- 6. Neighborhood Groups:** Both the city and county have established neighborhood groups that can be tapped for the update process. In particular, the groups that have formed to focus on flood recovery activities may represent a new pool of community members to engage during the process and coordination with new neighborhood liaison position.
- 7. Creative Engagement of Business Community:** In addition to the traditional focus on business owners, consider focusing on employees and in-commuters, using focus groups and employee surveys.
- 8. Take the Plan to the Community:** The most effective strategy for engaging hard to reach members of the community is to take the planning process to them. This may include senior living centers, schools, and places of worship (particularly important for minority community members).

RECOMMENDED STRUCTURE FOR PLAN UPDATE

Based on the recommendations contained in the report, we have developed two possible options for a possible structure for the updated plan document. Our primary recommended structure assumes that the current 2010 plan structure will be maintained, with revisions and additions to incorporate new and updated material. As an alternative, we have suggested an approach that is based on the city's Sustainability Framework. While resources and priorities may not allow the 2015 update to follow this alternative approach, we have included it for consideration as a possible direction for the plan's transformation over time. The approach based on the sustainability framework may be particularly beneficial as the city's priority-based budgeting process is fully integrated with the Sustainability Framework, and as the city's metrics dashboard is implemented. This change would ensure that the BVCP, budgeting process, Sustainability Framework, and metrics dashboard were all in alignment by sharing a common organizational structure. The two outlines are included in the appendix to this report.

APPENDIX

Boulder Valley Comprehensive Plan Outline, Based on Current Structure

Introduction

- History of BVCP
- Boulder Valley Today and Tomorrow – Challenges and Opportunities of the 21st Century
- Summary of 2015 Major Update – and what’s new (including resilience)
- How this Plan is Structured
- Incorporating Outcomes and Metrics (note: these could either be in each section or consolidated in Action Plan)

Boulder Valley Comprehensive Plan Policies

Section 1: Vision and Core Values (note: this would be the new consolidated Vision section)

- Community Vision and Core Values

Section 2: Built Environment

- Growth Management (relocated from General Policies in BVCP chapter 1)
 - City’s role
 - Limits on physical expansion
 - Growth projections
 - Growth requirements
 - Jobs/housing balance
 - Framework for annexation and urban service provision
- Intergovernmental cooperation
- Partnerships with community organizations
- Sustainable urban form (note: integrate current work on urban design, include visual materials that support and illustrate desired urban form)
- Community Identity and Land use patterns Neighborhoods
- Mixed-Use Development
- Activity centers and corridors
- Community Conservation
- Rural lands preservation

Section 3: Natural Environment

- Biodiversity and native ecosystems
- Urban environmental quality
- Natural hazards and geological resources
- Water and air quality

Section 4: Energy and Climate

- Climate commitment
- Energy Conservation and renewable energy production
- Green building
- Waste stream management
- Sustainable purchasing

Section 5: Economy

- Strategic redevelopment and sustainable employment
- Diverse economic base
- Sustainable business practices
- Job opportunities, education, and training
- Fiscal sustainability (new topic to address city revenues and linkage to budget)

Section 6: Transportation

- Complete transportation system
- Land use integration
- Air quality

Section 7: Housing

- Community housing needs
- Housing choices
- Affordable and workforce housing
- Housing diversity
- Growth and community housing goals

Section 8: Safety and Community Well-Being

- Human services
- Social equity
- Diversity and inclusion
- Community health
- Community infrastructure and facilities
 - Schools
 - Community facilities and services

- Parks and trails
- Arts and Culture
- Community safety and police services
- Fire protection
- Emergency preparedness
- Public safety through design

Section 9: Agriculture and Food

- Support for agriculture
- Local food production & access to healthy foods
- Sustainable agricultural practices
-

Amendment Procedures

- Procedures
- Changes at any Time
- Mid-Term Review Changes
- Five-Year Review

Land Use Maps and Descriptions (note: could include Framework Plans here)

- Land Use
- Open Space

Implementation

- Sub community and Area Planning
- Master Plans
- Trails Map
- Action Plan
 - Matrix with all actions organized by element
 - Identification of priority actions

Referral Process

Urban Services Criteria and Standards

Boulder Valley Comprehensive Plan Outline, Based on Sustainability Framework

Introduction

- History of BVCP
- Boulder Valley Today and Tomorrow – Challenges and Opportunities of the 21st Century
- Summary of 2015 Major Update – and what’s new (including resilience)
- Incorporating Outcomes and Metrics (note: these could either be in each section or consolidated in Action Plan)

Section 1: Vision and Core Values

- Community Vision and Core Values (note: this would be the new consolidated Vision section)

Section 2: Safe Community

- Community safety and police services
- Fire protection
- Emergency preparedness
- Public safety through design

Section 3: Healthy and Socially Thriving Community

- Human services
- Social equity
- Diversity and inclusion
- Community health
- Local food production & access to healthy foods
- Community infrastructure and facilities
 - Schools
 - Community facilities and services
 - Parks and trails
 - Arts and Culture

Section 4: Livable Community

- Sustainable urban form
- Land use patterns (note: land use categories and land use maps could be consolidated into this element or remain in a separate chapter as per the current plan)

- Creating and maintaining healthy and vibrant neighborhoods
- Activity centers and corridors
- Housing (integrate findings/policy directions from housing strategy)
 - Community housing needs
 - Housing choices
 - Affordable and workforce housing
 - Housing diversity
- Growth Management (from General Policies in BVCP chapter 1)
 - City's role
 - Limits on physical expansion
 - Growth projections
 - Growth requirements
 - Jobs/housing balance
 - Framework for annexation and urban service provision
 - Areas I, II, and III
 - Annexation
 - Provision of urban services
 - Phased extension of urban services
 - Utilities
- Rural lands preservation and community conservation

Section 5: Accessible and Connected Community

- Complete transportation system
 - Transit
 - Roadways
 - Bicycle network
 - Pedestrian network
- Land use integration
- Air quality

Section 6: Environmentally Sustainable Community

- Biodiversity and native ecosystems
- Urban environmental quality
- Natural hazards and geological resources
- Water and air quality
- Climate commitment
- Energy Conservation and production
- Green building
- Waste stream management

Section 7: Economically Vital Community

- Strategic redevelopment and sustainable employment
- Diverse economic base
- Sustainable business practices
- Job opportunities, education, and training
- Fiscal sustainability (new topic to address city revenues and linkage to budget)

Section 8: Good Governance

- Engaged community
 - Collaborative approach to decision-making
 - Inclusive and accessible
 - Information accessibility
- Effective local government
- Intergovernmental cooperation (from General Policies)
 - Regional and statewide cooperation
 - Policy assessment
 - Collaboration for service delivery
 - Compliance with land use regulations
- Partnerships with community organization
- Sustainable purchasing

Plan Amendment Procedures

- Procedures

Implementation

- Sub community and Area Planning
- Master Plans
- Trails Map
- Action Plan
 - Matrix with all actions organized by element
 - Identification of priority actions

Referral Process

Urban Services Criteria and Standards

Joint Study Session of Boulder County Commissioners and Boulder Planning Commission for Boulder Valley Comprehensive Plan (BVCP) Assessment and Scope – Nov. 3, 2014

Board of County Commissioners Present:

- Cindy Domenico
- Deb Gardner
- Elise Jones

Planning Commission Members Present:

- Michael Baker
- Dan Cohen
- Lieschen Gargano
- Scott Holwick
- W.C. Pat Shanks
- Doug Young

Staff and Consultants Present:

- Pete Fogg, Abigail Shannon, and Dale Case (Boulder County)
- Lesli Ellis and Jean Gatza (City of Boulder)
- Ben Herman (Clarion Associates)

P. Fogg: Provided slides with background of the Plan beginning with the 1970s county zoning in the Valley. He described the urban/rural set up - Area I, II, III maps, etc. and why the city/county partnership was created. He also provided an overview of the amendment procedures as articulated in the Plan.

D. Gardner: How was the gray (BVCP planning area) boundary determined in the 1970s?

P. Fogg: Depends on the location of the boundary, but it is generally based on topographic features, the City's "blue line" on the west, provision of urban services, other existing service providers' boundaries like Left Hand Water District, etc.

B. Herman: Provided an overview presentation with consultant observations about the current BVCP. It has more moving parts and applications than does the county's Plan. Key observations prior to the City Council and Planning Board discussion included:

- 1 – tell story better about the vision in the Plan
- 2 – make Plan more informative, graphic
- 3 – opportunity to integrate efforts in Plan
- 4 – articulate/define what a clear sustainable urban form is (city only?)
- 5 – develop better linkages between Plan and implementation tools
- 6 – clarify policies in key areas
- 7 – consider measuring outcomes via monitoring, indicator and metrics tools

He also explained the possible Range of Approaches shown on a slide to update the Plan, from minor to more major, and stated that the city discussed an update effort possibly in the range of

about 2.5 on a scale from 1 to 5. The city would like to modernize the Plan and develop stronger linkages to implementation and metrics.

Questions and Comments:

P. Shanks: Provide PowerPoints. **P. Fogg** will send.

The relationships between master plans and sections in the Plan is interesting. Often it's an advisory board that works hard on a master plan – has been done substantially in some areas and not at all in others. What are consultant observations about how these work?

B. Herman: There seems to be a bit of an unevenness between topics and an opportunity to tie them in better with the Plan; some are very plugged into the BVCP while others are not. Master Plans are a good tool to be able to address topics at a level of detail while keeping the BVCP approachable and accessible, less daunting.

P. Fogg: The county does not do area or topical plans in the same way that the city does except for in a few areas (e.g., open space or health). Also, the county does not have the same number of advisory boards as the city.

C. Domenico: Metrics idea is intriguing. What do they look like in plans that the consultant is familiar with?

B. Herman: Example of Transportation Master Plan that has dozen of metrics and a lot of data. Health care has metrics. At BVCP level, it's more about the big things that tell us how we're doing overall – big picture. From there, you can drill into the details.

P. Fogg: County staff did a lot of research on this topic while preparing the Sustainability Element for the BVCP—mostly considering municipalities where this work has been done. You can “over-metric” a plan. Santa Monica example had over 100, and it became difficult to administer; some didn't fit together well or clashed or were hard to quantify/measure. Reducing to fundamental goal driven metrics can be daunting, but it would be helpful. Takes diligence and a cold eye to do so.

D. Gardner: 21st Century Challenges and Opportunities slide identifies “Resiliency.” Because of the federal money and interest in this topic, communities will be developing projects to fit the resiliency component. Are the words sustainability and resiliency (or resilience) interchangeable?

B. Herman/L. Ellis: No, resilience is not a replacement for sustainability. There isn't a common definition of “resiliency” which is a problem in itself. Needs to be a new overarching concept to include in our thinking. Ties to long term vision.

C. Dominico: Long term urban services aren't sustainable in rural areas. Resilience is a useful new lens.

B. Herman: Question for the Planning Commission and Commissioners about what level of effort should occur for the BVCP update: do you agree with the city boards or have different thoughts?

D. Cohen: To do the full list of issues and challenges presented might be more than 2.75 on the scale. We often don't go the distance that it takes to make the full list happen. Glad to see that will happen. The definition of sustainability/resilience is the fundamental question – manage change in appropriate way – dealing with density and transit, etc. Include the boundaries question – city boundaries don't necessarily work with climate issues, etc. Think a little bigger. Sometimes there is a disjunction between how we count and or versus what our goals are. Example is we kept that car out of Boulder so we don't count it, but the car and its impacts are still out there.

B. Herman: Boundary – may want to address some of these ideas as a system. Resilience is not quite as value laden as the notion of self-sustaining. Communities struggle with how we define boundaries and limits. Resilience is something people seem to understand a bit more intuitively.

S. Holwick: Resilience is less value laden. Everyone wants to be resilient.

D. Young: Like what Dan said: do one thing or a few and do them well. Liked the idea of focusing on the vision graphically so people can identify with the plan more. That might carry the plan forward through updates to go forward as opposed to yet another thing that fell off the plate. Examples of urban form – if you could provide those graphics – options, that would be helpful. When people are afraid or don't have a clear vision, they want or are more comfortable sticking with the status quo. Need to provide a graphic that provides example of status quo, too. Defining city's urban form will influence the county a lot in things like housing stock, and (as a Planning Commission member), I'm not sure what county housing stock should be like—not sure county's vision is solidly articulated either. City could be a great proving ground. Agree with colleagues about sustainability and resilience; they are not the same thing. Systems approach might be a great way to look at resilience (i.e., need to be able to poke the system and have it bounce back.) Really being sustainable also means being adaptive in the long term. Sustainability means getting a comfort level with the long term vs. “now”. Sustainability is a longer wave length than resiliency.

E. Jones: Commenting through the lens as a county commissioner, a Boulder resident, and former Planning Commissioner. I appreciate the conversation about sustainability. There's overlap with resiliency, but they are two different things. Sustainability is a desired state (more proactive), whereas resiliency is the ability to bounce back (more reactive). Both are really important, and it is important to include both in the Plan. Appreciate the conversation around topics such as chronic issues like poverty. Urban form might be a bit disconnected from the county, but the partnership between city and county on land use and urban/rural is important on this topic. The partnership only works if we can figure out how to make density acceptable in the city – rural can only work if density is OK'd. It has always been a source of frustration that the Plan does not answer “how are we doing” because we don't have process or metrics to address that question. Could use the Plan as a barometer to help answer that question. Give a shout out for regionalism – that is the single most effective aspect of the Plan, and I like that no one is calling that into question. The BVCP is an example in the state, and many pressing issues are regional. For instance, with transportation we have to think big (e.g., BRT, regional air quality, oil and gas emissions). Local food is another topic the city and county have been addressing together. Making the document more accessible and readable is a good idea; we especially need to do so to encourage the next generation to read and access the Plan. We need to move to new technology – to get people to engage. Finally, let's acknowledge that every update always takes longer and more effort than we want.

C. Domenico: Visual piece and telling the story. Visuals of photos of past and present, and 3D graphic visuals could really excited people. Agree on resilience and sustainability components as well as metrics. Would be helpful to look at clarifying policies around Area II. Transit routes – some interesting structures and facilities. Question is how to bring them into the city, and is there a tie to affordable housing? Economic viability. Partnership is amazing and really important.

B. Herman: Don't sell short what needs to be done or the effort it will take.

P. Shanks: Liked the comments about metrics – really important for setting baselines/indicators/accomplishment of goals vs. using lots of words. Agree with the experience

with the Plan policies – it can be all things to all people. It gets quoted at City Council or Board of Commissioners for or against an issue. Maybe the definitions are not tight enough or enabling regulations don't link tightly enough at the city level. There may be a closer link between the County Comp Plan and county regulations, whereas in the BVCP, there seems to be less linkage with the code and regulations (e.g., grow paying its own way is murky in the city). There seems to be a more clear vision for Boulder County (e.g., a series of urban centers with rural areas in between), which is pretty much what we have today. Regional thinking is important. Boulder gets accused of exporting sprawl – how do we reduce/minimize undesirable consequences spinning off from the Plan? Think about urban form, urban centers. How self-sufficient can we be? Do centers enable transit so people don't have to drive? A lot of things like that need to be addressed. Neighborhoods are important. Right now the Plan doesn't have much about them. There's a lot of annexation activity. That would be a welcome addition to the comp plan. Agree with everything that's been said. Pick some of the things that are important and create clear linkages to metrics and/or regulations. At the county, we have been working through the Boulder County Comprehensive Plan (BCCP), and shortly thereafter there are regulation updates to reflect that Plan. It might be a little simpler, but it does seem that the BCCP and regulations are more tightly linked. For the BVCP, there may be some items in the Plan that don't lend themselves to regulations. Maybe they should be identified.

D. Young: The BCCP does seem simpler, whereas the city and its interaction with DRCOG, etc., is more complicated. With the county plan, it has been more like a rolling update, and we can see policy changes and regulation changes immediately afterward vs. going through a BVCP Five year trauma. This means some sections are less up to date than others, but that's OK. Not sure if that approach is applicable for BVCP. It's a pretty hefty document – daunting for anyone except the hardiest of planners. The BVCP suffers from having people being a bit attached to policies – new language and policies get added, not taken out.

D. Cohen: Agree with Doug and reiterate what Pat says – update the Plan in a conscientious way to develop a cleaner link with land use code. It is hard to use from a development standpoint. The most useful thing about the Plan is the partnership between the city and county, otherwise it is not user friendly. It has weak language in some places, and often gets ignored or pushed aside during an argument. Staff will present a report to Planning Board – the process can be unpredictable. The Plan should be a good basis for the code to implement the vision. On the metrics side, metrics should be informative not prescriptive. Be careful about drawing a hard line, but instead create standards that can evolve. I concur, the document could be more user friendly. County and city both have great GIS systems. The BVCP could interface with GIS to provide access and information from large to small scale.

M. Baker: Picking up from there. Regulations, standards, guidelines – adding that stronger link would help the Plan be more user friendly and would provide clarity and certainty.

D. Cohen: Everyone benefits from clarity in the Plan.

P. Fogg: Boulder County Healthy Communities annual reports – includes basic metrics and indicators. As example of how a document can use some basic info. As a primer – look at that example.

D. Gardner: The slide you presented with 21st Century Challenges and Opportunities – these topics are also very important to the county. It would be a missed opportunity if we didn't work on these

issues when we're doing an update. It is interesting observation that none of these are called out in the Key Observations list – are they implied?

B. Herman: Yes, at least two are implied, and a few of them such as resilience, climate and energy, and workforce housing are parallel efforts at the city.

L. Ellis: Yes, the city has talked about all these issues quite a bit. We will send you a more detailed summary from the city joint study session.

D. Gardner: Good because if we just focus on the “size of the breadbox” without the key 21st Century topics we aren't doing our job.

D. Cohen: Be more proactive about these topics not passive about leaving it the same. Use the policies to drive outcome accomplishments, not just add more policies.

L. Gargano: If modernization is a goal, making the BVCP more accessible would help even if a lot of it doesn't change policies much.

B. Herman: Next steps include preparing a consultant report and scope of work. Plan launch will not start until early 2015. If you have additional thoughts or comments about the plan, community engagement, or other topics please send them to Pete Fogg.

BOULDER VALLEY COMPREHENSIVE PLAN – Input from Oct. 14, 2014 City Study Session of the Planning Board and City Council

Staff Presentation:

L. Ellis introduced the project and consultants with PowerPoint slides.

Planning Board Overview:

A. Brockett provided an overview of Planning Board discussion on BVCP from previous board meeting discussions.

Consultant Presentation:

B. Herman and **D. Godschalk** provided consultant observations as included in the packet and the Range of Approaches, as follows:

- Retain Current Plan/Focus on Implementation Tools
- Minor Plan Update with focus on Vision and Policy Refinement
- Plan Repackaging/Sustainability Integration and Outcomes
- Major Update with Community/Partnership Process

Discussion Topics:

The following questions guided the council discussion:

1. New Topics and Issues: What new issues and opportunities should the 2015 plan update address?
2. Update Approach: What is the appropriate level of effort and community engagement for the plan update?
3. Resilience Strategy: Should the resilience strategy process and/or outcomes be bundled with the BVCP update?

City Council and Planning Board provided the following comments and questions:

M. Cowles: Like the upper end of range of approaches for the comp plan update, because the community has had floods, fires, and seen increased focus on climate change. The plan should address areas of the city that are less resilient and have more vulnerable people. We should do the plan in line with the resilience strategy. It is surprising that the plan is not expressing the vision. It is expressed with heavy text, and many desires without priorities. It may be time for analysis related to outcomes.

J. Gerstle: We have been well served by the plan's vision and goals of existing plans, and it is not obvious that the vision needs attention. It makes sense to incorporate resilience, but it is not clear we need to redefine the vision. It is appropriate to talk about it and ensure agreement. Focus on implementation is absolutely appropriate and most useful to issues raised by Planning Board.

M. Young: Seems the plan does not have a correlating Master Plan to the built environment. The text is good, but it needs visualization of the definitions. Make it clear to the whole community what is appropriate. Do a minor update and focus on the implementation of the built environment section and then do code changes. Weave in resilience.

Consultant response: The plan could include a more defined version of urban form definition (e.g. San Francisco or other examples). It could be part of the plan or a separate element.

L. May: The value statements are clear if you use it a lot. I would not call for a minor update, but we need to an update with focus on vision and policy requirements. Roll in resilience. As part of that, a significant community partnership process needs to be incorporated. Do a modest update and incorporate topics that have not previously been in there, and flesh out the built environment topic.

S. Weaver: Take a holistic look. The values are there. The vision is there but is not clear to all. The update should be somewhere between minor and major. It needs an urban form component that gives more guidance – for both by-right and site review projects. The climate goal that was adopted needs to be included and flow down to implementation. If not we will miss our goals. The BVCP is the place to include big aspirational goals. Add resilience and net energy goals. Key is to show what goals look like to the community.

A. Brockett: Focus on implementation tools. Add prioritization particularly in built environment and outcomes. A separate built environment plan is intriguing, if it guides the shape of development, areas of city, different streetscapes. Maybe not in this plan if it is to be done. Achievability of completing the built environment plan is a concern.

J. Putnam: With plan repackaging, be careful not to lose what is in the comp plan. Policies are there, but there are holes in translation. The plan needs a good definition of compact urban form. We have good understanding and policies to prevent sprawl. With visual and graphic tools we can address urban form. Take a hard look at urban form goals with the public, as people may not agree with text. Then, look at implementation tools and outcomes. Agree that resilience needs to be integrated with the plan to take it seriously. This may mean that we have something rougher and less perfect that can be refined later, rather than wait. Get to implementation.

S. Jones: Agree that the plan has served Boulder well. The values are solid – don't rehash them. But, repackage to tell the story better. Resilience is important. Rough out the visualization piece where details will happen with other processes. Other issues have been ripening in the community, such as arts. The plan doesn't really address, but people seem ready to embrace it more holistically.

L. Morzel: Agree with plan repackaging, sustainability, and outcomes. The comp plan is great. When I was a neighborhood advocate, it got me into planning and action. It will be important to integrate sustainability and resilience – they have to be done in parallel. Don't do much visioning. Sharpening and refining policies could help. It will be critically important to add implementation tools. There is too much wiggle room from Planning Board approval through site review, and we need more certainty. Address the map changes. Want to look at Area III – Planning Reserve and where we are going with that. The last thing we want to do is to loosen our belt and go sprawling into Area III. We should not consider developing into Area III. Not something city should go talk to county about. Discuss area II as well. Want to have time to discuss map.

A. Shoemaker: Ditto to what Aaron said, including built environment. Allow the update to evolve culturally and reflect demographics. There is a lot of change in the city – implementation tools are critical. If we do not have those tools, we lose opportunity to shape things as they are happening. Perhaps the vision statement needs more clarity. Improve the graphics of what is a wonky document.

B. Bowen: Agree with what others said. Address plan update at the appropriate level of light touch. Address urban form more deeply and sustainability and resilience. We have won past battles. Need to be doing a deep enough revision to address current issues and get ahead of them.

C. Gray: The report was interesting and I appreciate the consultant observations. A process with resilience integrated into the comp plan update makes sense. Use the new neighborhood liaison to have a real involved process in the community. Community partnerships are important in Boulder (e.g., with major employers, university, labs, art and culture). Not so much about growing the community but understanding the needs of those partners.

T. Plass: The bones of the plan are strong. We may be too close to see that the vision is not clear. It's worth looking at how to make it clearer. Tie in resilience – it's the next really important thing. Would like to also see local food as part of implementation, as it is currently aspirational, but we need to get more specific. Another more detailed topic is to incorporate better cellular coverage in our community, as it is a safety issue and desired by the community.

M. Appelbaum: Agrees with Tim and John, and would like to address built environment, possibly as a master plan or separate element. Concerned we might focus on built form too much, and it will slow down the process. The comp plan is not just a land use plan – that is what people see, but it is much more than that, and we should remind people it is more. Other sections probably need some revision and updating to get them more in sync with other plans. Sometimes, the land use drives other things and sometimes it's the other way around. Resilience is like that as well. Map is a working component but not the only thing. Not sure about prioritizing goals. Despite the ability to use policies to justify anything, that may not be a bad thing, as we can't always have it all. Projects (on project-by-project basis) cannot be expected to solve all the problems. A giant battle about ranking the goals will not get us far. Sort out the detailed needs in area plans. Regional is important, but not just for partnerships. Boulder is part of a bigger metro area. The way we look at implications and the way we measure things is important. We cannot just look at how things affect Boulder. Regional impacts need to be considered, in how we measure (e.g., housing). We need to consider "if it weren't here what would that mean?" We need a full and accurate picture of not just Boulder's sustainability but the sustainability of the region.

G. Karakehian: Minor update rather than major. Agree with other comments. Update and modernize, but not interested in seeking a major work effort. The plan works and needs fine tuning.

L. Payton: Part of the reason we have so little community engagement is because we average across the community. We should have a section on neighborhoods (e.g., a couple of pages per neighborhood). Get people involved to describe and set vision for the future, identify ways they are vulnerable, resilient, sustainable, or could be more sustainable. It would get people involved and thinking about it. Policies are too generic and that creates distance between people and the plan.

M. Young: Would like to reiterate support for the arts. Resilience it has the potential to weave into other areas also. Also, like Liz's idea of defining neighborhoods and having them define themselves.

S. Jones: Agree with Tim on local food; it fits with resilience.

G. Karakehian: Agree with review of maps – confirm they still reflect what we want them to. Value of neighborhood planning in general should be stressed – neighborhood plans indicate what may be expected of individual developments.

S. Weaver: Like idea of a very light touch of neighborhood plans – preparation for that could be useful. Not going to get so many area plans in the next five years.

L. May: Reinforce maps and neighborhoods. As we look at developing neighborhood plans, we need to look at growth and development pressures and the question of growth paying its own way.

M. Appelbaum: Neighborhood plans are not where the action is. They have almost no changes unless we started some real rezoning or increase in density. Not saying I am in agreement with no changes, but we need to focus on where change is happening and where it is likely to change. For most neighborhoods, very little is happening. For areas where things are changing, that might be helpful, but that is different than the conversation we're having. Neighborhood planning could spread us too thin.

T. Plass: Agrees that the neighborhood planning idea by Liz has merit. It gives the residents more buy-in, engagement. There is value to calling out neighborhood and having pride in where they live.

M. Appelbaum: Need to address scope of what is possible.

L. Morzel: Agrees with Tim that neighborhoods could help create better social fabric (e.g., flood resulted in people getting to know each other). Buy-in to the comp plan is important. It isn't just land use.

Consultant summary: Common themes tonight are middle range of level of effort; integrate sustainability and resilience; not a redefining of vision, but clarify policies in some cases and make the plan more graphic. Explore integrating metrics and outcomes, and add new or emerging topics, such as built environment clarification.

NEXT STEPS

David Driskell closed the meeting by highlighting the following next steps:

- Consultant will provide recommendations related to Boulder Valley Comprehensive Plan Assessment and thoughts on process and scope.
- Our goal is to get suggestions to you on work plan prioritization and options in advance of your January retreat.
- Didn't hear concerns around new thinking about engagement strategy for Comprehensive Housing Strategy. We will move to implement.
- Victor Dover is now planned for Dec. 9 with City Council as part of Design Excellence Initiative.

Attachment B3 - Summary of Feedback and Input: Board and Commissions Summary
**Approved Transportation Advisory Board Summary from Oct. 13, 2014 Discussion of
BVCP 2015 Update**

Name of Board/ Commission: Transportation Advisory Board
Date of Meeting: 13 October 2014
Board Members Present: Daniel Stellar, Zane Selvans, Jessica Yates, Dom Nozzi, Andria Bilich
Agenda Item 6: Staff briefing and TAB input regarding scoping for Boulder Valley Comprehensive Plan Update Lesli Ellis presented the item. A PowerPoint was presented for this item. Executive Summary from Packet Materials: Attached for review and input from the Transportation Advisory Board (TAB) is a draft memo to City Council and Planning Board prepared for the joint Study Session regarding the Boulder Valley Comprehensive Plan (BVCP) Update. Also included as attachments are comments received to date from Planning Board, stakeholder interviews, and consultant observations. The purpose of this study session is to review the 2015 Boulder Valley Comprehensive Plan (BVCP) update assessment and scoping process; provide information for feedback from interviews and boards regarding ways to make the plan more effective, strategic, and aligned with other outcomes; note the parallel resilience strategy; and seek feedback regarding issues and options for the 2015 Major Update of the BVCP. Staff will available to discuss the BVCP memo and comments received to date as well as seek input from TAB during the October 13 board meeting. Input from TAB will be incorporated into the presentation materials shared with City Council and Planning Board on October 14. Board discussion and comments included: 1. What new issues and opportunities should the 2015 plan update address? <ul style="list-style-type: none">• Comments regarding striving to be a graphics based plan to inspire audience• Comments for using plan to move toward more form-based zoning, away from conventional use-based zoning• Suggestions for urban to rural transect visions to provide for all travel choices for 5 and 15 minute neighborhoods.• Comments on creating housing for families to reduce in-commuter trips 2. What is the appropriate level of effort and community engagement for the plan update? <ul style="list-style-type: none">• Comments regarding a complete overhaul of the comp plan with the community involved should be tackled now.• Comments regarding plan update can be helpful in looking at conflicts between goals.• Comments regarding all individual plans, housing, trans etc.. The community doesn't have opportunity to provide feedback, not tethered to other plans. Community engagement will bridge the plans and information together. No board action beyond input is requested at this time.

Environmental Advisory Board Discussion about Boulder Valley Comprehensive Plan Update

October 1, 2014

Environmental Advisory Board Members Present: Mara Abbott, Tim Hillman, Morgan Lommele and Brad Queen.

SUMMARY:

- The board indicated that the Boulder Valley Comprehensive Plan is a high-level vision document that includes the community's sometimes-conflicting values, but lacks strategic structure and fails to address where Boulder is headed as a city in terms of growth and sustainability.
- Instead of requesting community feedback on the Comprehensive Plan, the board suggested holding facilitated community meetings to discuss specific topics such as the vision of Boulder, energy, resilience, housing and more. It was believed that people may be more inclined to discuss specific issues instead of the entire framework of the plan.
- While gathering community feedback the board suggested using questions that will result in measurable, concrete answers that are not ideological in nature.
- The main questions that should be addressed are questions around sustainability of resources and growth and how to balance the two as well as resilience and how our community should respond to anticipated and unanticipated stressors.
- The board noted the importance of integrating resilience into our sustainability efforts and developing terminology that is more widely understood. The board suggested using the flood to illustrate the importance of resilience and as a way to build awareness of the impacts of less concrete issues like climate change.
- The board recommended actively utilizing organizations like Better Boulder, Open Boulder, Plan Boulder, etc. to convene community engagement events through which the city could gather valuable feedback on issues, values and priorities. BVSD could be a valuable resource to encourage the next generation to discuss these issues.
- Consider using scenario planning as a way to help make the future options more tangible and provide more concrete alternatives for the community to consider and use to create recommendations.

Boulder Valley Comprehensive Plan – 2015 Update Boulder Planning Board – Summary of Key Points (September 18, 2014)

The Boulder Planning Board showed support for the following ideas regarding the Boulder Valley Comprehensive Plan (BVCP) Update in 2015.

Format of the Plan

Recognition of its Strengths:

- It includes great aspirational statements and provides an overview of the community (e.g., built environment, energy, community well-being). Many use it to learn about the community.
- Our partnership with the county and 4-body review provides our only link to regionalism.

Areas for Improvement:

1. **Improve the format:** Ideas include using graphics and illustrations to convey ideas. Make it more concise, less wordy, lots of visuals.
2. **Tell the Boulder planning story better:** For instance, include a retrospective (e.g., what the plan has done to shape this community, and what if we hadn't had the plan)
3. **Broaden its topics to reflect inclusive community ideas:** Important to be inclusive in the plan, beyond land use. *(some topics noted below)*
4. **Sharpen its policy focus:** Provide community guidance on priorities.
5. **Include metrics:** Roll in existing and new metrics related to land use, climate/energy, etc.
6. **Partnerships:** continue to build partnerships with CU, federal labs, and other important institutional and regional partners.
7. **Bridge to Implementation:** Provide a bridge between the plan's vision statements, policy, and implementation tools (e.g., between land use and zoning) should be strengthened. Make land use map definitions more specific and clear, and link site review criteria with the plan. Address form
8. **Clarify density and design:** Define how urban, compact, etc., and what level of quality as defined through a community conversation. Address form-based design.

Current Issues to be addressed

1. Workforce housing
2. Public art, art, and culture
3. Sustainability goals (integration)
4. Impacts on government services - community facilities and services (e.g., library, etc). More specificity about offsetting/mitigating impacts.
5. Regional system and partnerships
6. Local food
7. Energy and municipalization
8. Carrying capacity
9. Settling planning reserve questions such as Hogan Pancost
10. Regenerative design vs. greenfield design
11. Resilience

How Resilience Strategy Might Relate to the BVCP Update

1. Coordinate resilience strategy and BVCP, at least at high level and for public process, but do not sideline resilience.
2. Let resilience implementation actions move forward without being tied to the plan.
3. Determine where vulnerable populations can best be accommodated (e.g. reserve land for community identified needs).
4. Address communication strategies (e.g., between city and population, or within neighborhoods), as an important part resilience that could also be addressed through the plan. This is especially relevant during floods, fires, etc.

Community Engagement Process Ideas

1. Educate the community about the plan. Start out with some common information (e.g., “Comp Plan 101” sessions). Public forums to set the foundation, via speakers.
2. Consider producing a series of short, snappy videos – educate the community in different ways.
3. Reach out to people not ordinarily engaged (e.g., Mobile home parks, Neighborhood associations)
4. Talk about how the plan actually affects people’s lives – those not interested in zoning, etc. Illustrate what it means to people.
5. Visualization is really important as part of the outreach process.

Boulder Valley Comprehensive Plan (BVCP) Assessment and Update Process Summary of Comments from Interviews – Fall 2014

Following is a summary of comments received from a series of interviews and meetings conducted by the consultants and staff in fall 2014. During the course of these interviews, the consultant/staff team members met with city staff from a broad range of service areas, including staff from Public Works, Finance, Fire, Police, City Manager’s office, Community Planning and Sustainability, Energy Future, Human Resources, Communications, Housing, Transportation, Environment and Ecology, Open Space, Parks and Recreation, and Utilities, as well as Boulder County staff. They also met with the City’s Master Plan Coordination Committee; Ecological Planning team staff; and Growing up Boulder staff; members of the Arts Commission; Downtown Management Commission; and Open Space Board.

During the interviews, staff and consultants posed a consistent set of questions to obtain a wide range of input in a consistent manner. Topics discussed included the following:

1. **Plan Usage and Awareness** - *How do you currently use the Comprehensive Plan? How would you like to use it in the future, once updated? How widely do you think that the plan is understood and used by the community?*
2. **Content** - *What are the strengths of the current plan? What are things in it that are rock solid, must remain – format, content, process? What could be improved (format, content, process)?*
3. **Issues to be Addressed** - *What are some of the issues facing the community that you think the plan update needs to address?*
4. **Update Process** - *Do you have any ideas for creative ways to engage the community in the update process itself? Any organizations or sectors of the community that you think are particularly important to reach out to?*

The following is a summary of feedback received from the meetings and interviews, organized in the same manner as the questions above.

1. Plan Usage and Awareness

- **Usage of the Plan varies widely.** Usage of the Plan varies, depending on the role that staff or board members play in the city organization. Those involved in development review use it regularly as an implementation tool – to provide direction regarding development projects, or to justify actions or support actions they are about to take as a city. Some use it as more of a “vision” document, to see if what they are proposing is consistent with the city’s overall direction. Some departments acknowledged that they have little knowledge of the plan, and do not see it as integral to their work. Many would like to see the Plan have more relevance to what they do – to see it serve as more of a “unifying” document, particularly for those service areas that rely on a Master Plan to guide their efforts.
- **Awareness of the Plan among the general community is perceived as low.** With the exception of Planning Board and City Council members, the development community, and a small number of planning-oriented citizens (many of whom date back to the initial growth management/land preservation efforts in the 1970s), most feel that the Plan is not widely understood or perceived as relevant to most residents or businesses. However, many think the community has a good understanding of and support for the Plan’s core values (e.g.,

- growth boundary, land preservation, focus on transportation choices, etc.) even if they do not know that those concepts are contained in the Plan.
- **The Plan gets used by the community to support (or repel) proposed development activities.** Many noted that the Plan’s policies tend to be used by the public as either a sword or shield, depending on whether they support or oppose a proposed action.

2. Plan Content

a. Plan Strengths

- **Growth Management/Service Area concept is seen as “rock-solid”.** There is widespread understanding and support for the Plan’s focus on containing urban growth where it can be served and preserving rural areas and open lands.
- **Core Values (sustainability, city/county cooperation, environmental stewardship, multi-modal transportation, etc.) are widely supported.** Most believe that these values are widely supported and must remain as part of the Plan’s foundation.
- **Policies are generally clear and well-founded.** However, as noted below, many believe that there are opportunities to clarify the Plan’s policies.

b. Areas for Improvement

- **More focus on implementation.** Many think the Plan is weak on implementation and actions.
- **Clarify Policies.** The Plan’s policies in key areas (e.g., urban form, density) could be sharpened to make the intent of the policies clearer. (One comment - “dial up enough detail so that 90% of people will agree on what it says”.)
- **Strengthen connections to the university and other partners.** Partnerships are seen as critically important to the community, yet they are not broadly addressed in the Plan.
- **Update the format and content to make the Plan more community-friendly.** Many think the Plan is too much of a “planner’s plan”, and would like to see it repackaged in a way that would make it more accessible to the broader community. This could include a stronger vision, as well as a retrospective on how the city has gotten to where it is through planning. Do more physical, geographic planning (more about form and character), less narrative.
- **Stronger linkage to City Master Plans.** Many city departments rely on a Master Plan for their guidance and direction, and see an opportunity to strengthen ties between the Plan and their Master Plans, with the BVCP containing high-level actions and strategies to help integrate the Plan and Master Plans. Have a less piecemeal approach to planning in general.
- **Add Metrics and Outcomes.** While opinions vary on this topic, many think the Plan should set the foundation for the city’s increasing efforts to set outcomes and track progress and build on the c measures that are currently in the Plan (e.g., urban service criteria) or in master plans (e.g., Transportation Master Plan, Fire Master Plan, and Parks and Recreation Master Plan). Some think metrics should be

contained in the Master Plans, and that the Plan should set high-level goals and outcomes.

- **Integrate the Sustainability Framework into the Plan.** The Sustainability Framework is seen as an increasingly important tool for the city. While it is mentioned, it is not yet fully integrated into the Plan. However, city departments are beginning to use the Framework as a basis for Master Plan updates and the City Manager's office is using it for performance metrics.
- **Regional Mapping and Thinking.** The plan's maps stop at the borders and many of the policies do not stretch beyond the current limits, but the urban area influences areas around it and regional factors have bearing on the city.

3. Issues to be Addressed

As may be expected, the interviews identified a wide range of issues that the update might address. These are listed below (*in alphabetical order*):

- **Arts and culture** – little mention in current plan.
- **Climate** – action, adaptation, mitigation
- **Density/urban form** – identified as a top issue by many; define what we mean by sustainable urban form.
- **Disruptive change** – shift focus of plan from growth management to new challenges (e.g. climate). How to be more adaptive, dynamic, and fluid?
- **Economic development** – does it need a reset?
- **Energy Future** – needs to be considered in the Plan.
- **Fiscal health** – linkage with budget, capital projects, tracking fiscal health and outcomes.
- **Inclusivity/income disparity** – equity issues around income, public health, access, diversity, and wealth that can be passed to future generations.
- **Resilience** –with two fires, a flood, and a recent recession, resilience is an important topic.
- **Workforce and affordable housing** – in conflict with high economic levels and in short supply.
- **Youth issues** – interaction with nature, places for teens to “hang,” independent mobility
- **“15-Minute” Neighborhoods** – transition of neighborhoods over time; Where? How? How much?

4. Community Outreach Ideas

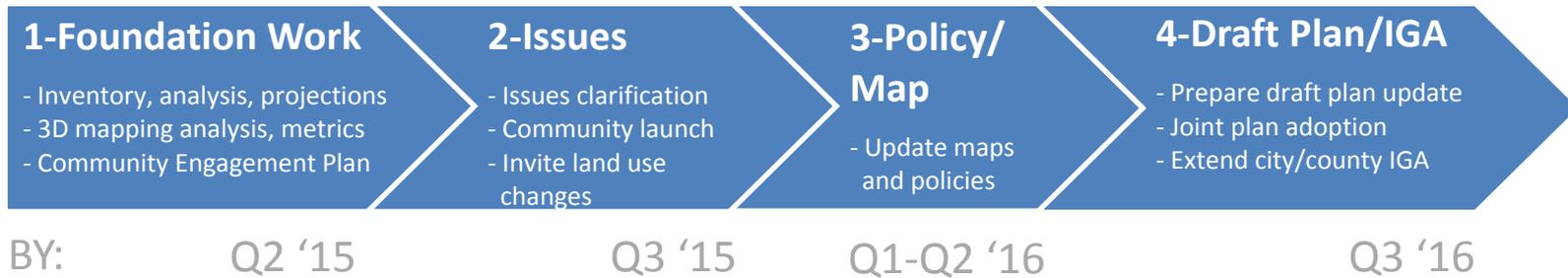
There is widespread support for transparent, inclusive, meaningful input from the community, and a variety of ideas were expressed about how to accomplish authentic participation. These are listed below:

- **Develop a Process Committee to sort through and prioritize best ideas for community engagement, including ideas below.**
- **Tap into neighborhood groups organized as part of flood recovery efforts.** This was mentioned as a way to involve many who would not typically be involved in planning-related topics. Also the Long Term Flood Recovery group might be a good resource.
- **Look to recent successful planning efforts (i.e., Transportation Master Plan, Civic Area Plan) for ideas that worked.** Both of these recent efforts were mentioned by many as having using creative new approaches to citizen engagement – both web-based as well as activity-based, storefront workshops and going to where the people are. TMP storefront workshops were seen as particularly effective, as were youth workshops organized by school district, university, and the city.
- **Look to some older successful planning efforts.** North Boulder Subcommunity Plan was a citizen-driven project that is also seen as having been successful for its day.
- **Use creative ways to engage the business community.** Look to engage business owners, but also employees and in-commuters or day population. Consider focus groups, employee surveys that focus on economic policies.
- **Traditional meetings/open houses not seen as very effective.** These events tend to attract relatively small attendance (unless focused on controversial topics) and provide low return on investment.
- **Make the Plan “real” to people.** Focus on real, concrete examples with visual tools for people to understand how changes to the Plan might affect them.
- **Consider a community-wide kick-off event or forum.** Bring people together from different backgrounds and interests at the start of the process, to generate discussion and interest in update topics.
- **Go to where people are and work with trusted groups.** Rather than organizing events and expecting the community to come out for them, go to where they are – senior living centers, schools, places of worship (particularly important for minority communities). Touch base with organizations, including but not limited to: Better Boulder, Boulder Chamber, New Era, Open Boulder, and Plan Boulder County.
- **Involve neighborhoods.** Need to do a better job of informing and engaging with neighborhoods.
- **Do “mobile” planning.** Consider a planning truck (like a food truck) to get out into the community.

- **Use newer communication tools, such as video and info graphics.** People get their information in different ways – not just written word. Be creative to hook people with ideas that matter to them.
- **Do some Planning “101” sessions** for people who are less familiar with the plan.
- **Tap into other local networks.** For instance, police have contacts and networks that planning may not have.
- **Consider outreach to county residents specifically.** Go to where the people are, in Gunbarrel for instance.
- **Engage with Boards and Commissions.** Facilitate meaningful discussions about planning topics.
- **Go to existing organizations’ events and meetings.**
- **Attend non-traditional planning events to do brief presentations.** Go to events such as New Tech Meet Up (5 minute presentation), Boulder Open Coffee, and Ignite (3 minute pitch).

Boulder Valley Comprehensive Plan (BVCP) Update & Resilience Strategy 2015/2016 Draft Timeline

BVCP – 2015 Update



Resilience Strategy



Resilience Strategy Update

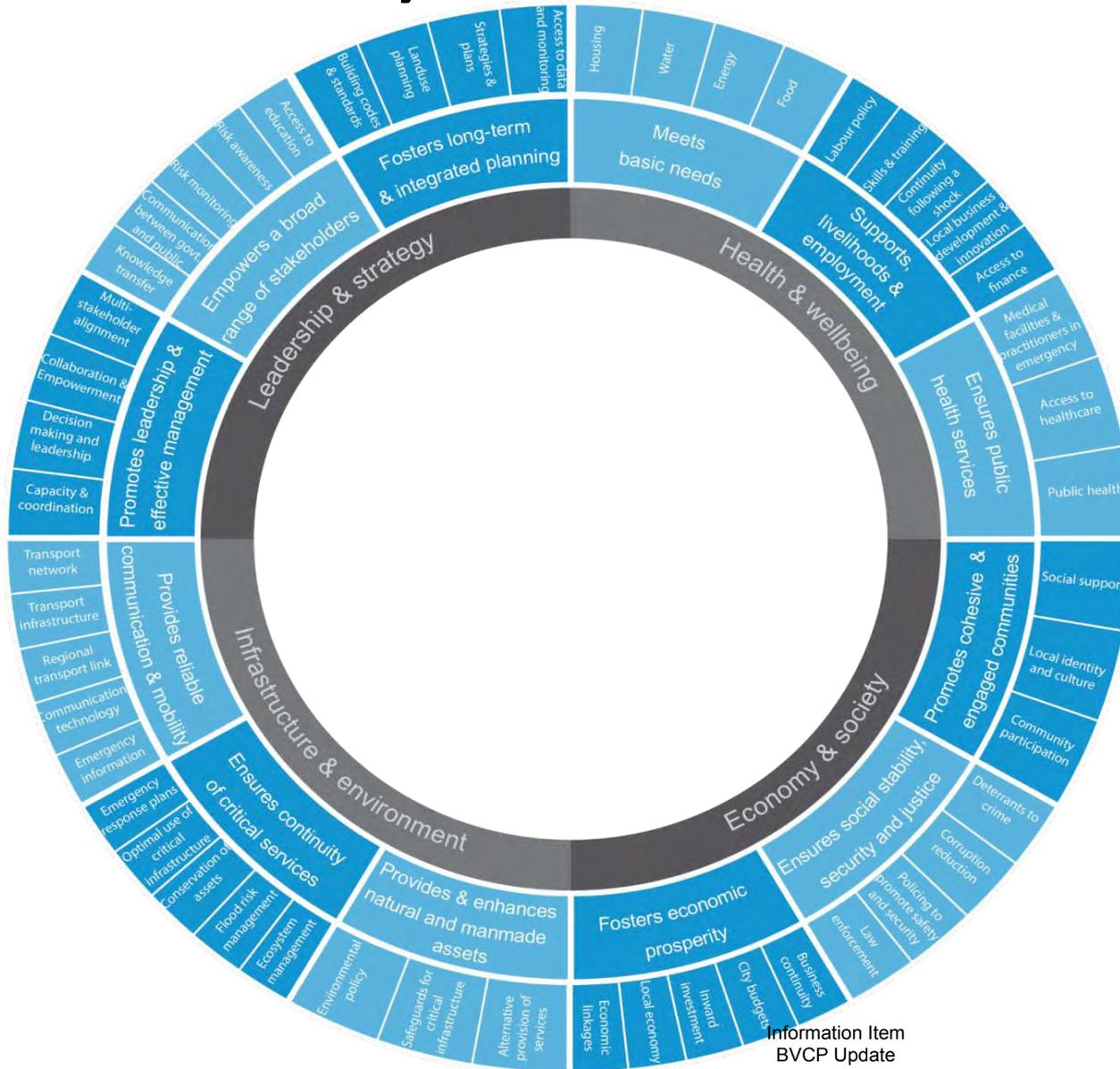
from 100 Resilient Cities

December 2014

100RC Overview

- **Objective:** Dedicated to helping cities around the world become more resilient to the physical, social and economic challenges that are a growing part of the 21st century. 100RC supports the adoption and incorporation of a view of resilience that includes not just the shocks – earthquakes, fires, floods, etc. – but also the stresses that weaken the fabric of a city on a day to day or cyclical basis.
- **Partners**
 - HR&A: <http://www.hraadvisors.com>
 - Platform
- **Network:** www.100resilientcities.org

City Resilience Framework



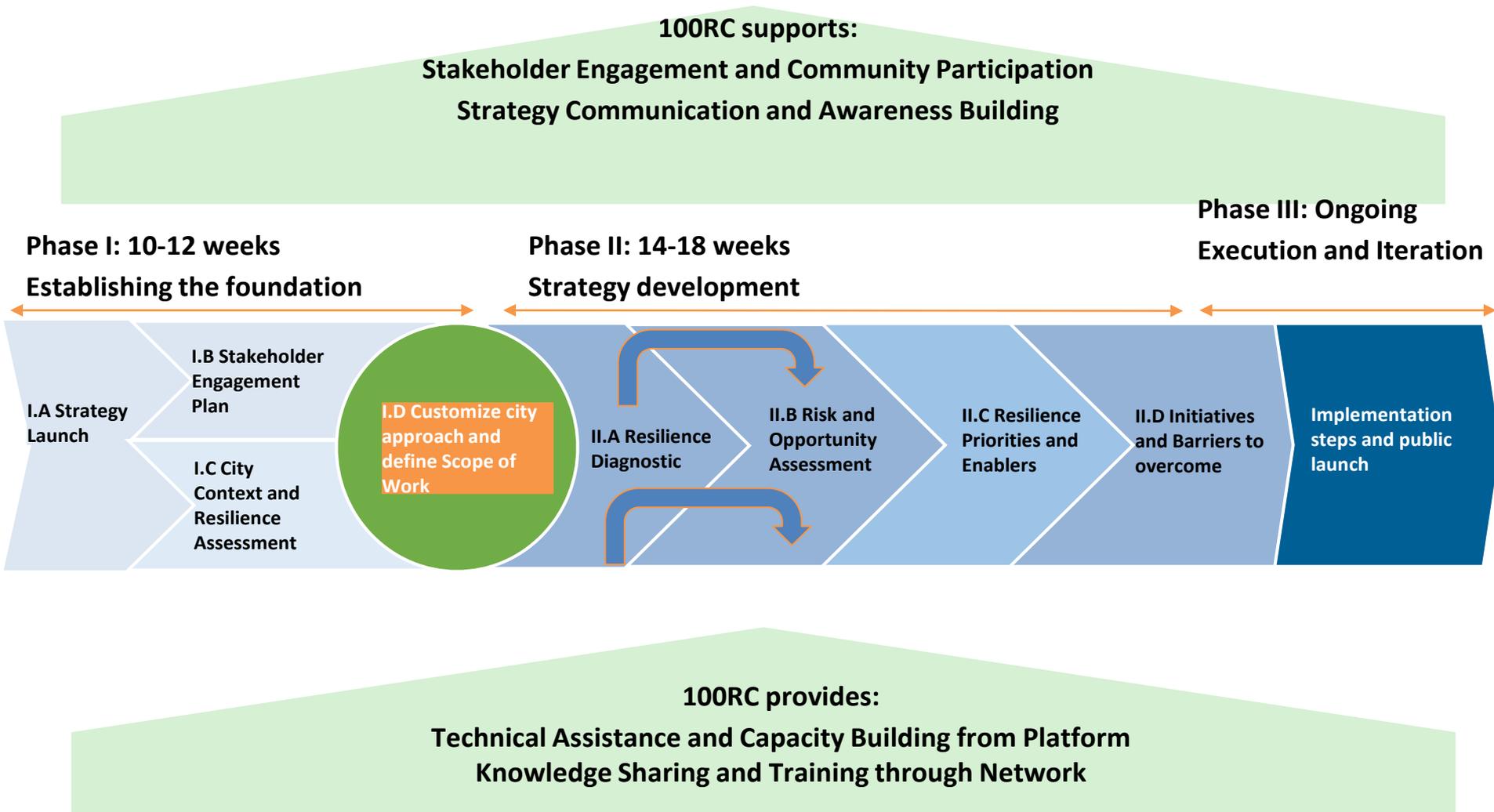
The CRF looks at cities through the lens of

7 Qualities
4 Dimensions
12 Drivers
50 Sub-Drivers

Resilience Qualities

Reflective	Resourceful	Robust	Redundant	Flexible	Inclusive	Integrated
Ability to learn and act	...conceiving systems & assets that can withstand shocks & stresses as well as using alternative strategies to facilitate rapid recovery			...planned to take account of city-wide needs and promote coordinated actions	

The Strategy building process and 100RC resources



100RC Program Elements

- **Chief Resilience Officer:** a new position in the government who will lead the effort
- **Tools and Methods:** Technical and logistical support for the development of a resilience strategy that will serve as the city's roadmap to resilience activities and priorities
- **Platform Partners:** Specialized partnerships to help developed a sophisticated understanding the city's risks, assets, weaknesses, and opportunities and how they interlink in unanticipated ways
- **Network:** Inclusion into a network of 99 other cities from which best practices, innovation, and peer-to-peer learning can advance the practice of resilience globally.



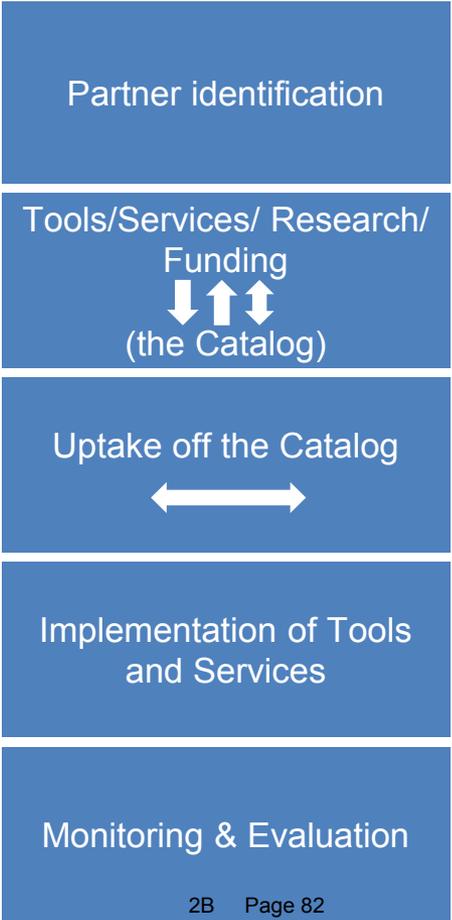
What is the Platform and Why Do We Need it?

The Challenge:

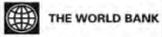
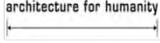
- Market has limited information around city needs
- Existing resilience building tools and services are not reaching cities

The Solution: The Platform

- The Platform links resilience tools and services with city demands
- Team identifies, negotiates and aggregates resilience-building tools and services in a web-based Catalog
- Engages with RMs and cities to pair Catalog services with city needs
- Facilitates and monitors implementation of solutions



The Platform Catalog is composed of 22 Platform Partners, with 29 services for a total current value of \$81 million

 Regional Resilient Design Studios	 Procurement	 CRO Recruiting	 City-wide Modeling and Simulation	 Water, Energy, and Waste Mgmt. Services
 Cultural Preservation through Coating	 Part of the Medellín Collaboration Group	 Online Outsourcing Platform	 Natural Hazard Visualization Tool	 City Creditworthiness Academy
 Regional Resilient Design Studios	 Situational Awareness for Public Health	 Water Resource Mgmt.	 Land Zoning	
 City Resilience Framework	 Resilience Financing	 Data Integration	 DRM Tools	
 Community Outreach for Water Resources	 Feasibility Study Technical Assistance	 Earthquake Modeling	 Crowdsourcing Tool	

Examples of Platform Engagements

We have deployed certain platform offerings where appropriate to facilitate cities' strategy processes

Status of City Engagements			
 Palantir	Situational Awareness Model	Norfolk, VA	Palantir is integrating datasets across many departments, enabling the city to quickly understand situational awareness during an event and provide planning information.
 Sandia National Laboratories	Flood Mitigation Cost Analysis		Sandia is looking to conduct an economic analysis to assess the costs of sea level rise/flooding in Norfolk allowing it to better understand costs/benefits associated with different mitigation approaches.
 Ushahidi	Resilience Network Initiative Crowd Sourcing	Porto Alegre	Ushahidi is providing technical advice on technology for citizen engagement to engage marginalized groups and civic data more readily available for use by local software developers
 Sandia National Laboratories	Energy and Transportation analysis Infrastructure	San Francisco, CA	Sandia developed a project scope for creating a list of actions and investments San Francisco should undertake in energy and transportation systems to make the city and region more earthquake resilient.
 RMS	Catastrophic models	San Francisco, CA	RMS is implementing technology to help the city use software models more dynamically to better understand risks and potential ways to mitigate them.

100RC Outputs and Deliverables – Phases 1-2

Phase I

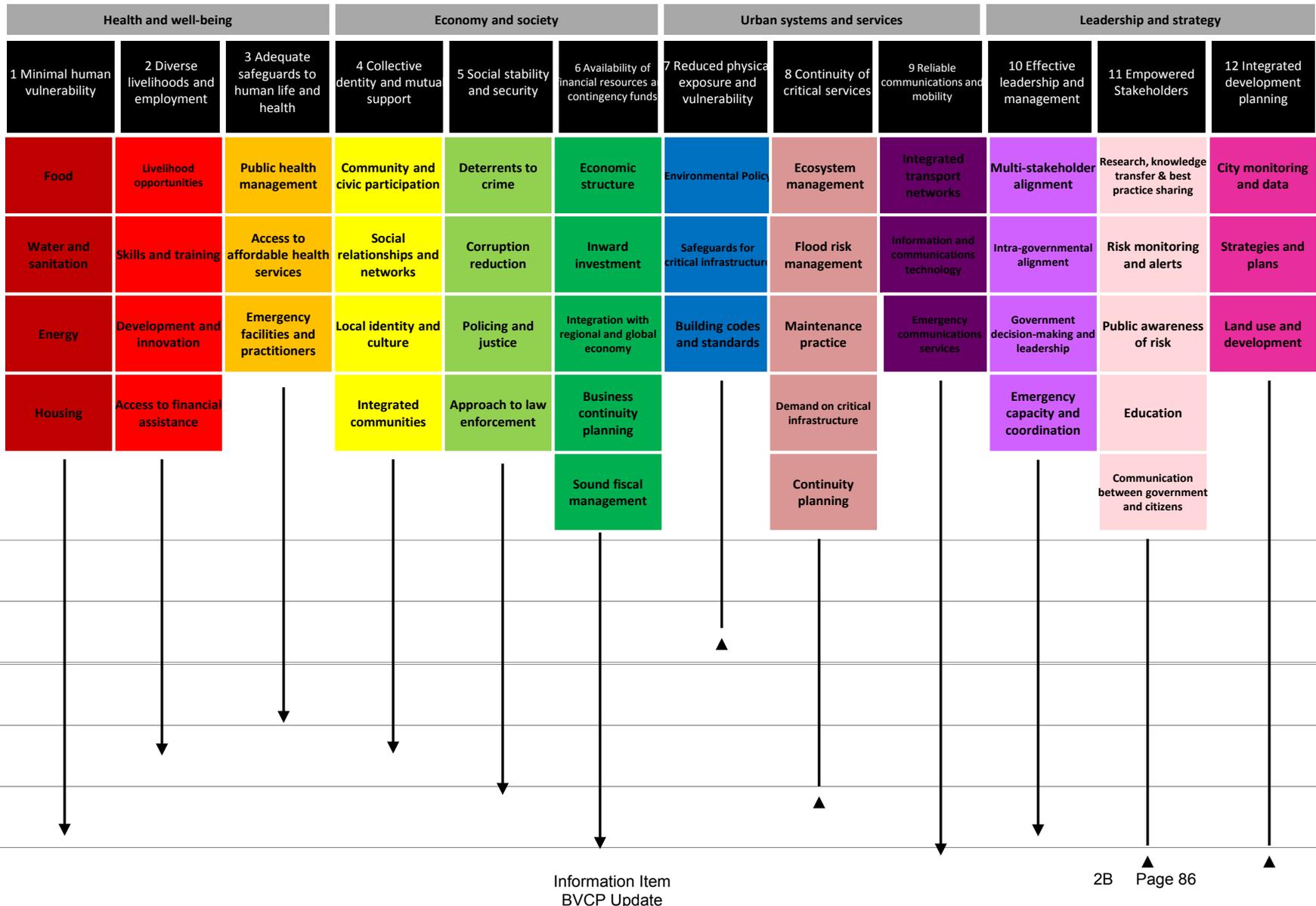
1. Phase I Work Plan
2. Stakeholder Engagement Plan
3. Resilience Steering Committee
4. List of major shocks and stresses
5. Resilience Assessment Tools outputs
6. Preliminary Resilience Assessment & Focus Areas
7. Phase II Work Plan

Phase II

1. Focus Area diagnostic and analysis outputs
2. Cross-Focus Area analysis
3. Documentation of Field of Opportunity
4. Documentation of Resilience Priorities, enablers and initiatives
5. Resilience Strategy



Phase 1 Tool Example: Stakeholder Map Template



Initial Areas of Opportunity/Priority

- Boulder Valley Comp Plan integration
- Energy systems blueprint
- Local Foods policy
- Civic Area design and community discussion
- Neighborhood level / non-traditional engagement
- A few others:
 - Flood recovery, disaster preparedness, performance and asset gap assessment
 - Climate science planning knowledge infrastructure
 - Data management and cyber infrastructure

Potential Platform Partner Linkages

- Ushahidi – Resilience Network Initiative*
- Palantir – big data design and assimilation
- Sandia National Labs – energy system design, CBA of resilience interventions
- Digital Globe – remote sensing, situational awareness
- SwissRE – climate risk screening, risk transfer strategies, disaster modeling

Network Examples



BERKELEY

Berkeley hopes to use the **strategy process** to find ways to jointly tackle **climate adaptation** and **seismic retrofits**, and link planning to the **budget cycle**.

NORFOLK

Norfolk is working with **Palantir** and **Sandia** to integrate their departments' **data** sets to better plan for the future and **model** the devastating social and economic **consequences** of not better managing their **chronic flooding**.



VEJLE

Vejle is collaborating with private businesses and **100RC Network** partners to advance new thinking on **energy resilience** and **micro-grid technology**, being at the forefront of transitioning from a “**smart city**” to a “**resilient city**”.



City of Boulder
BOARDS AND COMMISSIONS MEETING SUMMARY FORM

NAME OF BOARD/COMMISSION: Human Relations Commission
DATE OF MEETING: Dec. 4, 2014
NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Robin Pennington 303-441-1912
NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT: Commissioners – Amy Zuckerman, Shirly White, Emilia Pollauf, Nikhil Mankekar, José Beteta Staff – Carmen Atilano, Kim Pearson, Robin Pennington, Karen Rahn Commissioners absent - None
WHAT TYPE OF MEETING (CIRCLE ONE) [REGULAR] [SPECIAL] [QUASI-JUDICIAL]
AGENDA ITEM 1 - CALL TO ORDER – The Dec. 4, 2014 HRC public hearing was called to order at 5:36 p.m. by A. Zuckerman .
AGENDA ITEM 2 – PUBLIC HEARING ON LIVING WAGE A. Opening comments from Chair and Deputy Chair – A. Zuckerman and S. White welcomed the participants and provided an overview of the Living Wage Issue. B. Public Hearing – 12 community members provided input to the commission on the Living Wage Issue. Majority of public comment favored legislative action to repeal Senate Bill 99-01. C. Closing comments from HRC members – A. Zuckerman, S. White, J. Beteta and N. Mankekar provided closing comments on the next step of recommending to City Council that the issue be placed on its 2015 Workplan.
AGENDA ITEM 3 – Adjournment – J. Beteta moved to adjourn the Dec. 4, 2014 meeting. E. Pollauf seconded the motion. Motion carries 5-0 . The meeting was adjourned at 6:17 p.m.
TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS: The next regular meeting of the HRC will be Dec. 15, 2014 at 6 p.m. in City Council Chambers, Municipal Building, 1777 Broadway St.

**CITY OF BOULDER
LANDMARKS BOARD
November 5, 2014
1777 Broadway, Council Chambers Room
6 p.m.**

The following are the action minutes of the November 5, 2014 City of Boulder Landmarks Board meeting. A digital recording and a permanent set of these minutes (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). You may also listen to the recording on-line at: www.boulderplandevlop.net.

BOARD MEMBERS:

Mark Gerwing, Chair

Kate Remley

Mike Schreiner

Fran Sheets

Deborah Yin

*Crystal Gray **Planning Board representative without a vote*

STAFF MEMBERS:

Debra Kalish, Senior Assistant City Attorney

James Hewat, Senior Historic Preservation Planner

Marcy Cameron, Historic Preservation Planner

Lesli Ellis, Comprehensive Planning Manager

Angela Smelker, Historic Preservation Intern

1. CALL TO ORDER

The roll having been called, Chair **M. Gerwing** declared a quorum at 6:02 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **M. Gerwing**, seconded by **M. Schreiner**, the Landmarks Board approved (5-0) the minutes of the October 1, 2014 board meeting.

3. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA

George Stark, 1321 Marshall St., spoke in opposition of landmark designation of 445 College Ave. **Stephanie Stark**, 1321 Marshall St., spoke in opposition of landmark designation of 445 College Ave. and stated that the demolition and landmarking process implicates federal civil rights laws and the policies behind them that are designed to protect the rights of the disabled and which prohibit discrimination on the basis of disability.

4. DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION APPLICATIONS ISSUED AND PENDING

- 405 Valley View Dr. – Stay-of-Demolition expires November 23, 2014
- Statistical Report

5. ACTION ITEMS

- A. Continuation of a public hearing and consideration of an application for a Landmark Alteration Certificate to construct a 1,459 sq. ft. addition to the main house, to relocate an existing garage on the property, and to construct a 330 sq. ft. one-car garage at 711 Pine St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00172). Applicant: David Waugh. Owner: Kevin Deighan.**

All board members visited the site.

Staff Presentation

J. Hewat presented to the Board, with a staff recommendation to approve the application.

Applicant's Presentation

David Waugh, 71 Bowen St., Longmont, architect, spoke in support of the Landmark Alteration Certificate application.

Public Hearing

Abby Daniels, 1123 Spruce St., Executive Director of Historic Boulder, spoke in support of the Landmark Alteration Certificate application.

Motion

On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board approved (5-0) the staff memorandum dated Nov. 5, 2014, as the findings of the board and approve a Landmark Alteration Certificate for the proposed construction and relocation shown on plans dated Sept. 22, 2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL

1. The applicant shall be responsible for constructing the house, relocating the garage and constructing a new one-car garage in compliance with the approved plans dated Sept. 22, 2014, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall provide details on the rehabilitation of the existing house including, but not limited to, removal of vinyl siding and shutters, as well as details on the move and rehabilitation of the existing garage. And the elimination of the coplanar condition of the roof and west wall at the connector.
3. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: window and door details, wall material details, siding material details, paint colors, roofing material, exterior lighting and details regarding any hardscaping on the property to ensure that the approval is consistent with the

General Design Guidelines and the Mapleton Hill Historic District Guidelines and the intent of this approval.

B. Public hearing and consideration of a Landmark Alteration Certificate to construct a 308 sq. ft. detached garage at 2250 6th St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2014-00309). Applicant: David Waugh. Owner: Bud and Chris Willis.

M. Schreiner recused himself. **M. Gerwing, K. Remley, F. Sheets and D. Yin** made site visits.

Staff Presentation

M. Cameron presented to the Board, with a staff recommendation to approve the application.

Applicant's Presentation

David Waugh, 71 Bowen, Longmont, architect, spoke in support of the Landmark Alteration Certificate application.

Public Hearing

Abby Daniels, 1123 Spruce St., Executive Director of Historic Boulder, spoke in support of the Landmark Alteration Certificate application.

Motion

On a motion by **K. Remley**, seconded by **M. Gerwing**, the Landmarks Board approved (4-0, **M. Schreiner** recused) the staff memorandum dated November 5, 2014, as the findings of the board and approve a Landmark Alteration Certificate for the proposed construction of a garage as shown on plans dated July 11, 2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The applicant shall be responsible for ensuring that the development is constructed in compliance with approved plans dated July 11, 2014 on file in the City of Boulder Community Planning and Sustainability Department, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: final details regarding roofing, windows and pedestrian and garage door details. These design details shall be reviewed and approved by the Landmarks design review committee prior to the issuance of a building permit. The applicant shall demonstrate that the design details are in compliance with the intent of this approval and the General Design Guidelines and the Mapleton Hill Historic District Design Guidelines.

C. Public hearing and consideration of a Landmark Alteration Certificate to construct a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the Union Pacific Depot at 30th and Pearl St., and individual landmark, per section 9-11-18 of the Boulder Revised Code (HIS2014-00299). Applicant: James Bray.

M. Gerwing, M. Schreiner and **C. Gray** made a site visit.

K. Remley reviewed the case at a Design Review Committee meeting.

F. Sheets made no ex-parte contacts.

D. Yin reviewed the case at a Design Review Committee meeting.

Staff Presentation

J. Hewat presented to the Board, with a staff recommendation to approve the application.

Applicant's Presentation

Jim Bray, 1300 Yellow Pine, spoke in support of the Landmark Alteration Certificate application and answered questions from the board.

Public Hearing

Abby Daniels, 1123 Spruce St., Executive Director of Historic Boulder, spoke in support of the Landmark Alteration Certificate application but voiced concern about the height of the screen on the trackside (east) elevation and questioned whether the amount of mechanical space could be reduced.

Scott Pederson, 1310 College Ave, developer of Depot Square located at 2008 18th St., restaurateur, spoke in support of the Landmark Alteration Certificate application.

John Ship, 2008 18th St., restaurateur, spoke in support of the Landmark Alteration Certificate application.

Motion

On a motion by **M. Gerwing**, seconded by **M. Schreiner**, the Landmarks Board approved (4-1, D. Yin opposed) the staff memorandum dated November 5, 2014 in matter 5C (HIS2014-00299) as the findings of the board and approves the construction of a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the north and east elevations of the Union Pacific Depot as shown on plans dated 10/10/2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL:

The applicant shall be responsible for constructing the addition and reconstruction of the alcoves in compliance with the approved plans dated 10.10.2014, except as modified by these conditions of approval.

1. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit revised drawings for review and approval by the Ldrc that show the trackside arch walls inset to a minimum depth of approximately 2' from the exterior wall, and fenestration inside the arched openings to

more closely match that shown in historic drawings and an alternate to the concrete stair enclosure.

2. Final details showing door and window details, roofing materials, wall materials and proposed colors. These design details shall be reviewed and approved by the Landmarks design review committee, prior to the issuance of a building permit. The applicant shall demonstrate that the design details are in compliance with the intent of this approval and the General Design Guidelines.

D. Yin did not support the proposal because she considers that the proposed work should reflect a modern style to be of its time and meet design guideline 4.2, which speaks to distinction and compatibility.

D. Public hearing and consideration of whether to initiate individual landmark designation for the property located at 405 Valley View Dr., per Section 9-11-3 of the Boulder Revised Code, 1981 (HIS2014-00169). Owner: Samuel Slattery.

All board members visited the site. **M. Gerwing, D. Yin, and M. Schreiner** attended alternatives demolition meeting.

Staff Presentation

J. Hewat presented to the Board, with the recommendation to issue a demolition permit for the property at 405 Valley View Dr.

Applicant's Presentation

None

Public Hearing

David Cleveland, 425 Valley View Dr., spoke in support of the demolition permit and against the landmark designation over the owner's objection.

Beverley Potter, 3201 11th St., spoke in support of initiation of landmark designation.

Motion

On a motion by **M. Schreiner**, seconded by **M. Gerwing**, the Landmarks Board approved (5-0) the staff memorandum dated November 5, 2014, as the findings of the board and approves to lift the stay of demolition and directed staff to issue the demolition permit.

6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

- A. Update Memo
- B. Subcommittee Update
 - 1) Demolition Ordinance
 - 2) Outreach
 - 3) Potential Historic Districts and Landmarks

4) Design Guidelines

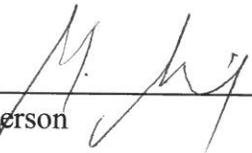
7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The meeting adjourned at 9:51 p.m.

Approved on December 3, 2014

Respectfully submitted,



Chairperson

**CITY OF BOULDER
LANDMARKS BOARD
December 3, 2014
1777 Broadway, Council Chambers Room
6 p.m.**

The following are the “*unapproved and unsigned*” action minutes of the December 3, 2014 City of Boulder Landmarks Board meeting. A digital recording and a permanent set of these minutes (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). You may also listen to the recording on-line at: www.boulderplandevlop.net.

BOARD MEMBERS:

Mark Gerwing, Chair

Kate Remley

Mike Schreiner

Fran Sheets

Deborah Yin

*Crystal Gray **Planning Board representative without a vote*

STAFF MEMBERS:

Debra Kalish, Senior Assistant City Attorney

James Hewat, Senior Historic Preservation Planner

Marcy Cameron, Historic Preservation Planner

Lesli Ellis, Comprehensive Planning Manager

Angela Smelker, Historical Preservation Intern

1. CALL TO ORDER

The roll having been called, Chair **M. Gerwing** declared a quorum at 6:00 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board approved (5-0) the minutes of the November 5, 2014 board meeting.

3. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA

**4. DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION
APPLICATIONS ISSUED AND PENDING**

- **Statistical Report**

5. BRIEF UPDATE ON HOUSING BOULDER – JAY SUGNET

6. ACTION ITEMS

- A. Continuation of a public hearing and consideration of an application for a Landmark Alteration Certificate to construct a 753 sq. ft. addition to a contributing house and to**

construct a 336 sq. ft. one-car garage at 735 Mapleton Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00192). Applicant: David Waugh. Owner: Marybeth Emerson.

Motion

On a motion by **M. Gerwing**, seconded by **M. Schreiner**, the Landmarks Board approved (4-0, **F. Sheets** recused herself) the proposed construction shown on plans dated 09/23/2014, finding that it generally meets the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The applicant shall be responsible for constructing the addition and new one-car garage in compliance with the approved plans dated 09/23/2014, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit a revised design that:
 - a. Retains a greater portion of the north (rear) wall of the historic house and create a more defined connection between the historic house and new addition;
 - b. Preserves the east wall Addresses preservation of the east wall of the existing garage;
 - c. Applicant shall submit a revised design that studies turning the gable to match the roof form of the existing garage.
3. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall provide details on the rehabilitation of the existing house.
4. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: window and door details, wall material details, siding material details, paint colors, roofing material details and details regarding any exterior lighting and hardscaping on the property to ensure that the approval is consistent with the General Design Guidelines and the Mapleton Hill Historic District Guidelines and the intent of this approval.

B. Public hearing and consideration of a Landmark Alteration Certificate to alter window to create an entrance at the north (primary) elevation of 1029 Broadway St. (pending landmark), per section 9-11-18 of the Boulder Revised Code (HIS2014-00354). Applicant: Rick Burkett. Owner: Evans Scholars.

Motion

On a motion by **M. Schreiner**, seconded by **M. Gerwing**, the Landmarks Board approved (5-0) a Landmark Alteration Certificate for the proposed alteration shown on plans dated 09/16/2014 and 9/24/2014, finding that it generally meets the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The applicant shall be responsible for making modifications to the north face of the building in compliance with the approved plans dated 09/16/2014 and 09/24/2014, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit a revised design that:
 - (A) Locates the entrance to the west side of the north addition;
 - (B) Revises the replacement of non-historic windows on the north addition to more closely replicate the appearance of the screened in porch visible in the 1930s photograph;
 - (C) Eliminates the proposed new windows and door at the north wall of the main building;
3. The Landmarks design review committee shall review details of the remodel, including doors and window details, moldings and proposed insets, paint colors, and any associated hardscaping to ensure that the approval is consistent with the *General Design Guidelines* and the historic preservation ordinance.

C. Public hearing and consideration of an application to designate the property at 445 College Ave. as a local historic landmark per Section 9-11-5 of the Boulder Revised Code, 1981 (HIS2014-00085). Owner: George Stark. Applicant: Landmarks Board.

Motion

On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board disapproved (5-0) the designation of the property at 445 College Ave. as an individual local historic landmark, finding that although, pursuant to Sec. 9-11-1(a), B.R.C. 1981, the proposal would protect, enhance, and perpetuate a building of the city reminiscent of past eras, events, and persons, it does not meet the legislative intent of Section 9-11-1(b) in that approving the application would not draw a reasonable balance between private property rights and the public interest. I further move that the Landmarks Board adopt this staff memorandum as findings of the Board, order staff to issue the demolition permit and recommend that prior to issuance of the demolition permit, staff require the applicant to submit to CP&S staff for recording with Carnegie Library:

1. A site plan showing the location of all existing improvements on the subject property;

2. Measured elevation drawings of all faces of the buildings depicting existing conditions, fully annotated with architectural details and materials indicated on the plans; and
3. Black and white medium format archival quality photographs of all exterior elevations.

D. Public hearing and consideration of issuance of a demolition permit for the building located at 1103 6th St., a non-landmarked building over 50 years old, pursuant to Section 9-11-23 of the Boulder Revised Code (HIS2014-00301). Applicant: Olga DeLange Owner: Patricia Faulkner.

Motion

On a motion by **M.Schreiner**, seconded by **M.Gerwing**, the Landmarks Board approve (5-0) the demolition permit application for the buildings located at 1103 6th St. finding that, due to a loss of architectural integrity, the property is not eligible for landmark designation and adopt the staff memorandum dated Dec. 3, 2014, as the findings of the board. The Landmarks Board recommends that prior to issuance of the demolition permit, staff require the applicant to submit to CP&S staff for recording with Carnegie Library:

1. A site plan showing the location of all existing improvements on the subject property;
2. Measured elevation drawings of all faces of the buildings depicting existing conditions, fully annotated with architectural details and materials indicated on the plans; and
3. Color medium format archival quality photographs of all exterior elevations.

6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

- A. Update Memo
- B. Subcommittee Update
 - 1) Demolition Ordinance
 - 2) Outreach
 - 3) Potential Historic Districts and Landmarks
 - 4) Design Guidelines

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The meeting adjourned at 10:53 p.m.

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

Name of Board/ Commission: Library Commission	
Date of Meeting: October 7, 2014 at the Main Library, 1001 Arapahoe Ave., North Meeting Room	
Contact Information Preparing Summary: Carrie Mills, 303-441-3106	
Commission Members Present: Anne Sawyer, Paul Sutter, Joni Teter Commission Members Absent: Donna O'Brien	
Library Staff Present: David Farnan, Director of Library & Arts Jennifer Miles, Deputy Library Director Matt Chasansky, Arts and Cultural Programs Kathy Lane, Library Programs Specialist Carrie Mills, Administrative Specialist II City Staff Present: Sandra Llanes, Assistant City Attorney Glenn Magee, Facilities Design and Construction Manager Public Present: None present.	
Type of Meeting: Regular	
Agenda Item 1: Call to Order and Approval of Agenda	[6:01 p.m., Audio 0:16 min]
The meeting was called to order at 6:01 p.m. Commissioners approved the revised agenda handed out at the start of the meeting.	
Agenda Item 2: Public Participation	[6:01 p.m., Audio 0:41 min]
No members of the public were present.	
Agenda Item 3: Consent Agenda	[6:02 p.m., Audio 0:47 min]
Item 3A, Approval of Sept. 3, 2014 minutes (p. 2-6) Prior to the meeting, Teter suggested changes to the minutes via email (found here: http://boulderlibrary.org/pdfs/commission/2014/handouts/14OctLCHandouts.pdf) Sawyer requested a change to Agenda Item 5, bullet 5 to read "A member of the public, Richards, asked..." to promote clarity. Sutter moved to approve the minutes with changes by Teter and Sawyer. Teter seconded. Approved unanimously, vote 3-0.	
Agenda Item 4: Invitation to Participate in Community Cultural Plan development	[6:03 p.m., Audio 2:02 min]
Chasansky invited the commissioners to a series of events running from October 16-18 intended to promote participation in the Community Cultural Plan (CCP). Events include neighborhood conversations, focus groups, a pop-up store-front, and online participation. This public inquiry initiative is called The Culture Kitchen. Community engagement for the CCP will continue through December. To learn more, please visit http://www.boulderarts.org .	
Agenda Item 5: Introduction of Kathy Lane, library programs specialist	[6:10 p.m., Audio 8:52 min]
Lane spoke of her professional experience and plans for upcoming programming. Sawyer expressed excitement over recent programming for children and teens in the library. Further, Sawyer thought bumping up this existing programming to an adult level would bring about increased interest from the community. Lane shared that desire for better adult programs.	
Agenda Item 6: Main Library renovation project update (p. 7-8)	[6:13 p.m., Audio 11:58 min]
Magee reported the renovation progress, noting that window replacement continues while the process of removing and installing the Automated Materials Handling system is ongoing. He explained that the contract for the café with the Farmers' Market has been signed and construction will continue into Phase 4. In regards to the naming contest for the café, Farnan announced that they received over 100 submissions in the first day. Magee invited the commissioners to tour the new children's area, which is nearly finished. Sawyer called a break from 6:15 to 6:37 to attend the tour.	

Agenda Item 7: Review public comments received on Library Rules of Conduct [6:37 p.m., Audio 14:28 min]

Llanes appeared for this agenda item to answer questions as they arose. Prior to the meeting, Farnan and staff read the public comments and subsequently made changes to the proposed rules as necessary. The revised copy can be found here: <http://boulderlibrary.org/pdfs/commission/2014/handouts/14OctLCHandouts.pdf#page=7> Sutter, noting that the rules did not undergo substantial changes, moves to approve with changes as discussed. Teter seconded. Approved unanimously, vote 3-0.

Commission discussion, questions, and comments included:

- Teter asked if the policy against dozing will apply to students in the library. Farnan noted that many students do use the library, but as Sutter pointed out, the library staff will handle each situation as it arises. Miles explained that the point of the rule was to prevent people from using the library as a place to sleep.
- Sawyer was pleased to see the use of the term “facility,” but wondered why staff eliminated a clause which prohibited patrons from leaving bags unattended if the bags limit the use and enjoyment of the library for others. Farnan felt that this was covered under the definition of disruptive behavior. Miles noted that its exclusion broadens the scope of enforcement. Llanes agreed that this change was legally sound. Sawyer inquired about the extent to which this policy will be enforced. Farnan stated that this would not apply to patrons who briefly leave their items unattended to use the restroom, but further consideration was needed to determine at what point something is considered unattended.
- Farnan explained that staff cannot confiscate property, but that unattended items would be held for 60 days.
- Sawyer noted that the definition of “disruptive behavior” included examples of inappropriate behavior that may be better suited as a rule, to which Teter agreed. Miles noted that staff recommended making these examples the first rule, but recognized that it did not fit well. Sutter suggested changing the line leading up to the rules to “...use of the library. Moreover, no person shall...” to allow this new rule to flow. The commissioners agreed to include the clauses from the definition as the first and second rules.
- Sawyer suggested putting the Carnegie-related rule at the bottom due to its limited applicability.
- In response to a public comment, Llanes confirmed that in accordance with the code, “guardian” and “owner” are both acceptable when referencing someone with a dog.
- In regards to the next steps, Llanes clarified that the commissioners can approve the rules at the meeting and then send the revisions and public comments to the city manager.
- Teter suggested that the commission pass the public comments regarding the homeless along so that they can be appropriately recorded. Farnan noted that the city is interested in working on the homeless problem.

Agenda Item 8: Review commission’s recommended changes to the City Charter [6:55 p.m., 32:09 min]

The commissioners reviewed the work of a subgroup tasked with recommending changes to the City Charter to better reflect the mission and work of the Library Commission.

Commission discussion, questions, and comments included:

- Teter explained that the commission should not spend time focusing on where the changes are placed in the charter as the City Attorney’s Office will make the final decision.
- The first change was adding the Department of Library and Arts to Article V, Sec. 65. Farnan notes that it adds a clear indicator of governance previously not listed at all in the charter. Llanes confirmed that neither the code nor the charter explicitly designates a library director.
- Commissioners discussed dropping “...and arts” from revisions made to Sec. 65. Teter advised that the library and arts should stay separate as the roles may not reside together in one position long-term. Teter pointed out that arts should be addressed after the Cultural Plan and lands under the purview of the Arts Commission. Sawyer believes the department should seek direction from the city on how to proceed.
- Sawyer noted that recommendations regarding Sec. 130 do not fall under the commission’s purview. Sec. 130 intends to describe the general powers and duties of the library department.
- Article IX, Sec. 132 includes a recommendation to add the director as a nonvoting member of the commission which serves to establish and define the relationship between director and commission. Llanes clarified that the director usually serves as the secretary. Sawyer stated that the commission has a library staff member fulfilling secretarial duties in addition to a commissioner appointed as secretary. Llanes responded that directors often subdelegate that responsibility to another person. Farnan pointed out that, as written, the revisions make the director responsible for recording minutes. Farnan asked if a conflict arises with the director as a nonvoting member. After discussion about possible conflicts, Sawyer suggested that the commission find a way to reframe the relationship. Farnan considered discussing this matter with the Subcommittee on Commissions and Councils, a suggestion that the commissioners welcomed.
- Regarding Article IX, Sec. 133b, Sutter inquired why the passage is not written as “with the director, prepare...” as is written for other commissions. Sawyer saw this as an unwritten assumption. Farnan recommended, for the sake of clarity, its inclusion.
- Sutter expressed concern over Sec. 133i, which he found to be vague and yet overspecific. Sutter wondered

why the commission requests the ability to advise in hiring a director, but follows with denial of any real power. Teter advocated for its exclusion, finding that the clause goes too far into the personnel world. Sutter pointed out that its absence from the charter does not mean participation in the process will not happen. Commissioners unanimously agreed to remove.

- Llanes noticed the removal of “With the discretion of the City Manager...” The clause currently exists in the charter but the recommendations include its removal so that it better aligns with how other commissions are written in. Farnan noted that adding the department to the list of commissions under the direction of the city manager in Article V, Sec. 65 allowed for this removal here.
- Sawyer opened discussion on Article IX, Sec. 134 which establishes a permanent library fund. Teter supported the addition as there are no specifics on where certain money, such as selling the house next to Carnegie, goes. Sawyer noted that there is currently no governance or approval, which this aims to provide. Teter believed this section aims to ensure money is maintained in this fund for the library, preventing its passage to the general fund at the end of the year. Farnan confirmed with commissioners that the goal is to have clarity and not to extend control over monies. Commissioners discussed the meaning and implications of the section while Farnan explained how a permanent library fund would fit into the financial outlook of the library. Miles suggested leaving the language broader to allow for flexibility in future years.
- In regards to the commission bylaws additions, Sawyer thought that the commissioners should hold off on the discussion as the bylaws may need to change as the charter is changed. Sutter worried that many of the desired qualifications listed for new commissioners are subjective and potentially overdefine the role. In turn, Sutter suggested narrowing down to provide a utilitarian job description. Sawyer explained that this list is pulled from many places and still in draft form. Teter recommended that the commissioners first determine if the council would use this list of desired qualifications in their decision-making, as it may otherwise be a waste of effort.
- Commissioners agreed to meet with the City Council Subcommittee of Boards and Commissions to discuss how to proceed with the recommendations. The Library Commission’s subcommittee who has been working on the changes will meet with the council’s subcommittee.

Agenda Item 9: Commission discussion and recommendation to City Council regarding support of the 2014 ballot issues

[7:49 p.m., Audio 1:26:23 hr]

Sawyer noted that City Council has already recommended ballot issues and wondered if there was still a need to submit recommendations. Teter confirmed that, in conversation with the mayor, he believed recommendations would be useful.

Item 9A: 2A: Temporary tax increase for community, culture and safety (p. 21-27)

Sutter worried that it may be outside of the purview of Library Commission to recommend ballot issue 2A as much of the initiative has nothing to do with the library. Instead, Sutter supported targeting the recommendation to address only relevant aspects if it was important to the health and future of the library. Sawyer reflected that concern. Teter responded that picking and choosing passages suggests disapproval of the excluded. Teter observed that while many boards and commissions have a stake in this ballot issue, no one seems to own it. Teter motioned that the commission make the following statement: The Library Commission has reviewed the language of ballot issue 2A and recommends that the City Council support and endorse this ballot issue because it has important implications for the library. There was no second. Sawyer thanked Teter for making the motion, but reaffirmed that the library is just a small part of this nebulous proposal.

Item 9B: 2C: Affirming the City’s Right to Provide Telecommunication Services

Farnan noted that statements on the website for the ballot initiative about public wireless access within a library being forbidden were false. Sawyer moved that the commission recommend that City Council support 2C on behalf of the opportunities that it provides to the community and especially the library. Teter seconded. Approved unanimously, vote 3-0.

Agenda Item 10: Commission discussion of virtual branch concept

[8:01 p.m., Audio 1:38:27 hr]

Sawyer perceived the point of this agenda item as to identify the scope and plan of a virtual branch. Sawyer asked the commissioners to defer this discussion until November to allow for all five commissioners to be in attendance. Teter wondered if staff who work on the library website should be included. Sawyer considered this discussion to be about building a strategic plan which would not require staff participation initially. Farnan believed that this is a valuable discussion but is unclear as to what commission imagines. Teter thought this discussion may be too large for a regular meeting and suggested a separate or extended meeting to discuss this item in-depth. Sutter suggested that the commissioners wait and see how the launch of the discovery layer looks as it meets many of the ideas for a virtual branch. Further, Sutter preferred that staff who handles the digital services attend the discussion in case some facets are already in process. Farnan noted that staff is waiting for direction from the commission. Sawyer charged staff to

show other libraries with the discovery layer. Farnan pointed to examples of virtual programming, such as online programming and a story time application.

Agenda Item 11: Library Commission update (from memo)

[8:06 p.m., Audio 1:43:27 hr]

Item 11A: Commission discussion of the Jaipur Literature Festival

Farnan has been invited to India to attend the original festival in January. Jaipur is hoping to expand the program. In his trip, Farnan will be considering what this festival provides for Boulder. Teter does not see a reason to keep the festival centralized on the CU campus when it could be spread easily throughout downtown. In regards to raising funds, Farnan explained that the foundation will likely support in conjunction with the Arts Commission, which has disposable funds. He noted that the city cannot give money due to budget. Prompted by Sutter, Farnan agreed that if the festival is ongoing, the city may donate in future years.

Item 11B: Update from the Sept. 24, 2014 Boulder Library Foundation meeting

Sawyer commended Farnan for his presentation to the foundation. Approved funding included money for paid programming scholarships and support of partnerships. Through these new initiatives, the foundation will have new opportunities to fund the community. The foundation was excited about Jaipur and other nontraditional events. A joint meeting is planned for Saturday, January 10, 2015, at the Reynolds Branch Library.

Agenda Item 12: Library and Arts Director's report (p. 31-34)

[8:14 p.m., Audio 1:51:40 hr]

Item 12A: Boulder Library Foundation 2014 fall funding request report

Farnan noted that they funded all requests, including scholarships to outside programming. Farnan expressed excitement over the foundation's enthusiasm and commitment.

Item 12B: Results of Main Library Arapahoe parking lot survey

The survey consisted of four questions and observed behaviors. According to the results, about one-third of patrons do not bring a car; 28% walk and bike. Further, 93% stay for less than two hours. Of those that park in the lot, 14% do not use the library, which is consistent with the GO Boulder survey, which found 16%. Farnan stated that the city is funding a parking study which will include parking solutions for the Civic Area.

Item 12C: Agenda and date of 2014 staff in-service day

Farnan presented the agenda for the in-service day. Teter was open to scheduling an item at the Daily Camera to address any media concerns that result. Farnan was looking for a second commissioner to attend the meeting and preferred that the commissioners set it up. Farnan will write-up a one-page summary to be sent along to the reporter. Teter agreed to schedule the meeting.

Agenda Item 13: Discuss carpooling to the Colorado Association of Libraries conference in Loveland

[8:27 p.m., Audio 2:04:05 hr]

Those in attendance agreed to organize carpooling outside of the meeting.

Agenda Item 14: Future Items/Scheduling

[8:28 p.m., Audio 2:05:13 hr]

- Welcome new commissioner
- Main Library Renovation update
- Update on the approved 2015 Library and Arts Department Budget
- Begin annual letter to City Council and report for City Manager's Office per charter
- Review commission candidate application questions [Note: This item has since been removed.]
- Next steps for the changes to the charter
- Update on SBDC partnership and others
- Update on meeting room naming rights
- Discussion of virtual branch

Agenda Item 15: Adjournment

[8:32 p.m., Audio 2:08:49 hr]

There being no further business to come before the board at this time, the meeting was adjourned at 8:32 p.m.

Date, Time, and Location of Next Meeting:

The next Library Commission meeting will be at 6:00 p.m. on Wed., November 5, 2014, at the Main Library in the Arapahoe Meeting Room, 1001 Arapahoe Ave., Boulder, CO 80302.

Commissioner Sawyer approved these minutes on December 8, 2014; and Carrie Mills attested to this approval on December 8, 2014.

An audio recording of the full meeting for which these minutes are a summary, is available on the Library Commission web page at <http://boulderlibrary.org/about/commission.html>

Council Working Agreements

Council Process:

- The council will work on general discipline in being prepared to ask questions and make comments.
- The council asks the mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.
- During a council meeting, any form of electronic messages, including emails and texts, that relate to matters being considered and which arrived at any time during that meeting shall not be read by council members, nor shall any messages on matters under consideration be sent by council members.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously separate between members of boards and members of council, avoid expressing ideas to board members on things coming before the board, and carefully disclose or recuse themselves when there is involvement with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, through hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The council will find ways to support majority council decisions and adequately inform the public, through responsive letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

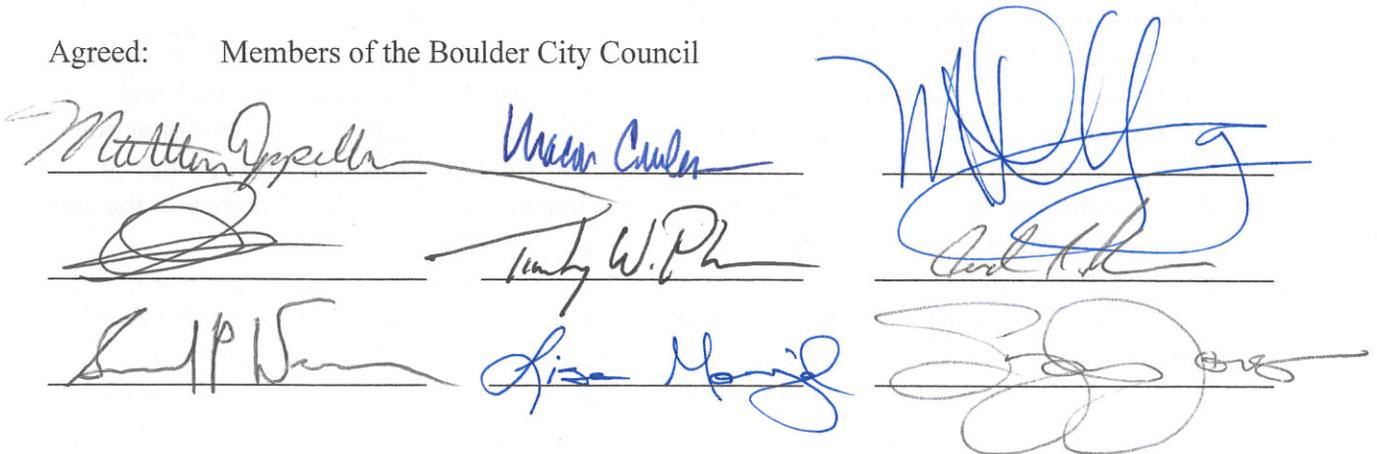
Council Committees:

- Council committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

Selection of Mayor and Mayor Pro Tem:

- Council members will make a good faith effort to select the mayor and mayor pro tem in an open and transparent process.
- After the council election, members seeking election as mayor or mayor pro tem should:
 - make their interest in the positions known to their fellow members as soon as possible;
 - focus their communication with other council members on the positive attributes the member brings to the positions; and
 - refrain from any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals' presentations may include, but need not be limited to the following:
 - the skills and attributes the member would bring to the mayoral position;
 - the member's ability to efficiently run council meetings, respect the views of the minority while allowing the majority to rule, and perform other mayoral duties;
 - how the member would represent the city and city council and mayor position at gatherings outside of city council meetings
 - how the member would serve on and appoint other council members to regional and national boards and commissions; and
 - how the member would promote trust of the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

Agreed: Members of the Boulder City Council



The image shows nine handwritten signatures in blue ink, arranged in three rows and three columns. Each signature is written over a horizontal line. The signatures are: Row 1: Matthew Appella, Warren Cullen, [unclear]; Row 2: [unclear], Andy W. Ph..., [unclear]; Row 3: [unclear], Lisa M..., [unclear].

2014

2015

Project	Council or Staff?	2014				2015			
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Comprehensive Housing Strategy	Council	Briefing - with other related efforts, workplan	SS - objectives, recommended early action items	Briefing	Direction on policy options	Adopt strategy and action plan			
	Staff Activities	Housing choice analysis; needs assessment; best practices; trends data; workplan	Opportunity site inventory; potential tools with "bang for buck" analysis	Develop policy options and recommendations; stakeholder engagement					
North Boulder	Council	IP - update and preliminary policy choices	Briefing - options and feedback	Update and direction					
	Staff Activities	Public meeting with options	Preferred options and refined action plan	Action plan					
East Arapahoe/Sustainable Streets and Centers	Council		Briefing - issues, scope, and feedback	SS - preferred scenarios, draft plan, and action plan	Plan "Lite" - council action	Next Corridor - 30th St or Colorado			
	Staff Activities	Joint East Arapahoe workshop to "test" planning workshop	East Arapahoe scope of work, public workshop, scenario modeling, character definition	Scenario refinement and recommendations	Develop East Arapahoe action plan				
Resilience	Council		Briefing - scope agenda		SS - scoping session	SS	Direction or IP	Direction or IP	Direction or IP
	Staff Activities	Agenda setting workshop 4/28	Hire Asst. City Manager, begin strategy development	Scope strategy components	Scoping	Resilience work	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
Boulder Valley Comprehensive Plan	Council				SS - scoping session	SS	Direction or IP	Direction or IP	Direction or IP
	Staff Activities				Scoping analysis and partner outreach	Issues identification	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
Other	Council	Annexation Strategy - Direction (options and feedback)	Usable open space - Code Change	Economic Sustainability Strategy implementation - Code Change					
		Density/ROW Dedication Calculations - Code Change	Parking generation and reduction - Code Change						
		County Assessor valuations for landscape and lighting upgrades - Code Change	Renewable energy sources - Code Change						
	Staff Activities	Annexation Strategy - analyze costs and options	Planning Board for above code changes	Planning Board for above code changes					
Planning Board for above code changes									

HOUSING/LAND USE/PLANNING

		2014				2015				
Project	Council or Staff?	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	
TRANSPORTATION	Transportation Master Plan	Council	IP (includes scope for AMPs)	SS (includes AMPS)	Acceptance - establish work program and coordination	Continue implementing pilots	Coordination with BVCP	Coordination with BVCP	Coordination with BVCP	Coordination with BVCP
		Staff Activities	Scenario and sensitivity analysis	Joint board workshop, TAB	Develop final update for board recommendation and council acceptance	Implement and coordination with BVCP and Resilience				
	Community EcoPass	Council	Feasibility Study - joint release with County	Rolls into TMP update						
		Staff Activities								
	Regional Transportation	Council	Briefing	Briefing		Briefing		Briefing		Briefing
		Staff Activities								
	Electric Vehicle Parking Ordinance/Energy Services	Council	Council agenda	SS			IP	IP	IP	IP
		Staff Activities								
	Access Management and Parking Strategies	Council	Scope	SS - Guiding principles, work program and process (includes TMP update)	Round 1 Code Changes - Auto and parking planning, zoning regs, EV charging stations	Update - Work plan and policy issues	Long Term Round 2 - Parking code changes and other policy issues	Council endorsement of ongoing work plan		
		Staff Activities	Finalize work program	Short term parking code regulation changes	Long term parking code changes	Long term parking code changes	Additional workplan items and public process tbd	Finalize document		
			TDM tool kit development for TMP integration	Long term parking code regulation changes	Additional workplan items tbd	Additional workplan items and public process tbd				
			Short term parking code ordinance changes	Public outreach and joint board meeting						
			Research/best practices	Additional workplan items tbd						
			Develop communications strategy							

ADD'L HOUS/PLAN/TRANS	Comp. Financial Strategy/Capital Bond	Council	Direction	SS	SS - finalize ballot?	Ballot?			
		Staff							
	Cap. Bond 1 Implement.	Staff		Construction			85% complete		100% Complete
	Flood Recovery	Staff		Repairs and FEMA Reimbursement	FHWA/FEMA work	FHWA/FEMA work	Building Better Boulder		Building Better Boulder
	Boulder Junction Phase 1 Implementation	Staff			South side of Pearl opens	Ongoing redevelopment coordination		Goose Creek Bridge opens	Depot Square opens
	Boulder Junction Phase 2 - City owned site	Staff		Coordination	Coordination		Coordination		
	Yards mobilized to move for Pollard option	Staff		Grading, prairie dogs, moving	Final prep			Yards moves continue	
	Safe Routes to School	Staff			Public process to prioritize projects		Application		
Implement Transpo.Tax	Staff		Expand maintenance, hire						

		2014				2015			
Project	Council or Staff?	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Homelessness/Human Services	Council Items	Shelter/ Funding: Update on position and relationship with Boulder Shelter; Shelter funding and issues update and other funders.	SS - Human Services Strategy Update and Homeless Action Plan (including funding priorities and partnerships)	IP - Homelessness Issues	SS - Human Services Strategy Update and Homeless Action Plan (including funding and service priorities)				
				Regional Planning update/services and housing					
				2014 Point in Time Report					
				SS - Services and Regional coordination update	IP - Services and Regional coordination	IP - Services and Regional	SS - Services and Regional coordination	SS - Services and Regional	IP - Services and Regional
	Staff Activities	Facilitate monthly Boulder Homeless Planning Group re:	HS Strategy Update and Homeless Action Plan Update	HS Strategy Update and Homeless Action Plan -					
		Convene regional meeting with Denver/Boulder/MDHI							
		County Ten Year Plan meeting with focus on meeting housing	County Ten Year Plan meeting with focus on meeting housing						
Neighborhood/Park Events and Other Events	Council Items	GOCO grant application		GOCO grant acceptance					
					SS - Special Events with Street Closures and Block Party Permitting				
	Staff Activities	Review current PR permits and developm pilot program	Conduct pilot neighborhood event (link with Hill and GOCO school yard grant)	Conduct pilot neighborhood event	Review neighborhood park planning and event pilot success and plan schedule for 2015	Finalize nneighborhood event schedule for 2015	Conduct neighborhood events	Conduct neighborhood events	Review pilot program and propose permit changes required to make improvements
		Link with park planning outreach	Summer recreation programs - arts, music, health, wellness	Continue summer art series and volunteer events					
		GOCO school yard grant	Submit GOCO grant	GOCO grant award - start civic area community park					
			Review and analysis of existing special event permitting	Develop recommendations					
Arts	Council Items		SS - Library & Arts, including Community Cultural Plan				Adoption of Community Cultural Plan		
	Staff Activities		Work with new director						

LIVABILITY

2014

2015

Project	Council or Staff?	2014				2015			
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Code Enforcement	Council Items	SS	SS (includes Social Issues Strategy information)						
	Staff Activities								
University Hill	Council Items	IP - 14th St Public/Private Partnership	Update - 14th St Public/Private Partnership	Update - 14th St Public/Private Partnership					
		Bears/Trash							
	Staff Activities		SS - Hill Reinvestment Strategy	Update - Hill Reinvestment Strategy					
		14th St - Hill Alt. Mode survey	14th St - Finalize analysis and develop recommendation to proceed with the Global Agreement						
		14th St - Finalize LOI							
		14th St - Financial Analysis							
		14th St - Additional access analysis							
		14th St - Board outreach							
		Pilot Parklet Competition	Parklet Implementation						
		Outreach to CU and stakeholders for support of Reinvestment Strategy	Fox Theatre mural by CU students	start pilot RSD program (to run through 2016)					
Recommendation for staffing Strategy implementation and prelim. analysis of future org structure options	Hire a fixed term Hill Coordinator								
Civic Area	Council Items					SS - Park Program and Improvements			
	Staff Activities	Civic Activity Team established	Coordinate music in park series		Review summer series success and revise for 2015	Prepare first phase of park improvements for 2015	Conduct adult fitness and health classes	Conduct visitor event at civic area around art installations	
		Hire Civic Area staff for P&R	Add seasonal park staff for outdoor education and orientation		Expand Ready to Work crew	Revise summer programs and plan for 2015	Install temporary adult fitness playground	Coordinate horticulture gardens with Farmers' Market event	
		Prepare GOCO grant for nature play and park planning	Conduct volunteer event around upgrades to Peace Garden and edible plant exhibit		Complete park planning outreach	Conduct art competition for summer installation	Install south side nature play area		
		Work with Park Foundation to develop plan for art and entertainment	Coordinate with CU for partnership with GUB and Civic Area park plan		Develop 1% for Arts demonstration project in partnership with foundations and non-profits		Expand seasonal staffing and horticulture/edible garden displays		

LIVABILITY

		2014				2015			
Project	Council or Staff?	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
OPEN SPACE	Charter Issues	Council Items			Address disposition process and use of Realization Point for pro bike race				
		Staff Activities							
	Highway 93 Underpass	Council Items							
		Staff Activities			In process				
	Eldo to Walker Ranch	Council Items							
		Staff Activities	City/County review of contractor proposals for potential mountain bike connection	Routes - weather dependent					
	IBM Connector	Council Items							
		Staff Activities		City/County requirement complete and await railroad to replace bridge					
	Trailhead as part of transportation system	Council Items							
		Staff Activities			status update				
	Other or not categorized	Council Items							
		Staff Activities			additional signage				

Project	Council or Staff?	2014				2015				
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	
OTHER	Emerald Ash Borer (EAB)	Council	IP Develop preliminary management plan	Implement pilot plan	Monitoring	Evaluate long term forest management plan and EAB strategy	Management plan and response	Response	EAB	EAB
	Civic Use Pad	Council	SS - Public/private partnership	Approval of MOU with St. Julien Partners	Update on negotiations with St. Julien Partners					
	Human Services Strategy	Council		SS		SS		Public hearing		
	Various	Council	IGA with CDOT/County for US 36 bikeway maintenance	Pilot dog waste composting project - Valmont and OSMP possible site	Transportation code changes for AMPS	Smoking ban - public hearing				
			IGA for bikeway maintenance/ US 36 enhancements	CEAP call up for Baseline Underpass east of Broadway	Comprehensive Annual Financial Report					
			Old Pearl Street ROW vacation	DRCOG TIP Priorities for city applications	Appointment of independent auditor					
Transportation code changes - bike parking, TDM, etc.			Mobile food vehicles - ordinance change to expand podding in downtown	Update on investment policies - action						
NPP - zone expansions and removal				Modification of construction use tax filing - IP then action						
				Pearl Street Mall regulations - code changes						

COUNCIL MEMBERS

Matthew Appelbaum	Mayor
George Karakehian	Mayor Pro Tem
Macon Cowles	Council Member
Suzanne Jones	Council Member
Lisa Morzel	Council Member
Tim Plass	Council Member
Andrew Shoemaker	Council Member
Sam Weaver	Council Member
Mary Young	Council Member

COUNCIL EMPLOYEES

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

KEY STAFF

Mary Ann Weideman	Assistant City Manager
Bob Eichem	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Executive Director of Community Planning and Sustainability and Acting Director of Housing
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Energy Strategy and Electric Utility Development Executive Director
Michael Calderazzo	Acting Fire Chief
Joyce Lira	Human Resources Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
David Farnan	Library and Arts Director
James Cho	Acting Municipal Court Administrator
Michael Patton	Open Space and Mountain Parks Director
Jeff Dillon	Acting Parks and Recreation Director
Greg Testa	Police Chief
Maureen Rait	Executive Director of Public Works
Cheryl Pattelli	Director of Fiscal Services
Tracy Winfree	Transportation Director
Jeff Arthur	Utilities Director

2013 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass (Castillo – staff alternate)
Boulder County Consortium of Cities	Morzel, Young
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Jones, Plass
Housing Authority (Boulder Housing Partners)	Shoemaker
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum, Cowles
Resource Conservation Advisory Board	Morzel (at large seat), Plass
Rocky Flats Stewardship	Morzel, Plass (1 st alternate), Castillo (2 nd alternate)
University of Colorado (CU) / City Oversight	Cowles, Shoemaker, Weaver
US36 Mayors and Commission Coalition	Appelbaum
US36 Commuting Solutions	Karakehian, Morzel (alternate)
Urban Drainage and Flood Control District	Karakehian

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Young
Boulder Convention and Visitors Bureau	Plass, Cowles (alternate)
Dairy Center for the Arts	Jones
Downtown Business Improvement District Board	Shoemaker, Weaver, Young

INTERNAL CITY COMMITTEES

Audit Committee	Cowles, Morzel, Shoemaker
Boards and Commissions Committee	Plass, Shoemaker
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	Karakehian
Charter Committee	Karakehian, Morzel, Weaver
Civic Use Pad/ 9 th and Canyon	Karakehian, Morzel, Young
Council Employees Salary Review	Cowles, Shoemaker
Council Retreat Committee	Jones, Morzel
Evaluation Committee	Morzel, Plass
Legislative Committee	Jones, Karakehian, Weaver
School Issues Committee	Morzel, Plass, Shoemaker

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llasa, Tibet	Shoemaker
Dushanbe, Tajikistan	Weaver
Yamagata, Japan	Plass
Mante, Mexico	Young
Yateras, Cuba	Karakehian
Sister City Sub-Committee	Morzel, Cowles, Karakehian

2015 Study Session Calendar				Televised?
Date	Status	Topic	Time	Televised
1/13/2015	Approved	Briefing: Age Well Boulder County Update	5:30-6 PM	NO
1/13/2015	Approved	Council Pre-Retreat and Financial Update	7:30-9 PM	NO
1/27/2015	Tentative	Boulder's Energy Future	6-7:30PM	YES
1/27/2015	Approved	University Hill Issues and Updates	7:30-9 PM	NO
2/10/2015			7-8 PM	
2/10/2015			8-9 PM	
2/24/2015		Briefing:		
2/24/2015	Approved	TMP Implementation Follow Up	6-7 PM	NO
2/24/2015	Approved	Envision East Arapahoe - Review Draft Vision Plan	7-8:30 PM	NO
3/6/2015	Approved	Board and Commission Interviews (Thursday)	6-9 PM	NO
3/10/2015	Approved	Board and Commission Interviews	6-9 PM	NO
3/12/2015	Approved	Board and Commission Interviews (Thursday)	6-9 PM	NO
3/24/2015	University of Colorado Spring Break - No Meeting			
3/31/2015	Approved	Sister City Dinner	5-7 PM	NO
3/31/2015	Approved	Civic Area Implementation	7-8:30 PM	NO
4/14/2015	Approved	Board and Commission Reception (moved from 3/31 due to Sister City Dinner)	5-6 PM	NO
4/14/2015	Approved	Fire Department Operations, Deployment, Light Rescue Vehicle Response and Master Plan update	6-7:30 PM	NO
4/14/2015			7:30-9 PM	
4/28/2015		Briefing:		
4/28/2015	Approved	Human Services Master Strategy SS #2	6-8 PM	NO
4/28/2015		Utility Rate Study: Key Questions and Guiding Principles	8-9:30 PM	
5/12/2015	Approved	Boulder's Energy Future	6-9 PM	YES
5/26/2015		Briefing:		
5/26/2015			6-9 PM	
6/9/2015	Approved	Boulder's Energy Future	6-7:30 PM	
		Housing Boulder	7:30-9 PM	
6/23/2015	Council Recess June 17-July 12			
6/30/2015	Council Recess June 17-July 12			
7/14/2015		Community Cultural Plan	6-8 PM	
7/28/2015		Briefing:		
7/28/2015			6-9 PM	
8/11/2015			6-9 PM	
8/25/2015		Briefing:		
8/25/2015			6-9 PM	
9/8/2015			6-9 PM	
9/22/2015		Briefing:		
9/22/2015			6-9 PM	
9/29/2015			6-9 PM	
10/13/2015			6-9 PM	
10/27/2015		Briefing:		
10/27/2015			6-9 PM	
11/10/2015			6-9 PM	
11/24/2015	Thanksgiving Holiday Week			
12/8/2015		Utility Rate Study: Preliminary Findings	6-7:30 PM	
12/22/2015	Christmas Holiday Week			

12/29/2015

New Years Holiday Week

January 6, 2015 - NO MEETING FIRST TUESDAY OF THE YEAR
Start Time: 6:00 PM Business Meeting (CANCELLED)
Location: Council Chambers, 1777 Broadway

January 20, 2015
Start Time: 6:00 PM Business Meeting
Location: Council Chambers, 1777 Broadway

Agenda Section	Item Name	Time	
SPECIAL PRESENTATIONS:	State of the City presentation	20	Minutes
OPEN COMMENT:		45	Minutes
CONSENT:	Consideration of a resolution allowing for continuation of the Rocky Flats Stewardship Council	15	Minutes
	Study Session Summary for 11/12 Climate Commitment Update (moved from 12/16 agenda)		
	2nd reading of a Correction Ordinance to the 2130 Tamarack Annexation		Minutes
	Motion to amend the Cunningham Farms Annexation Agreement for 310-390 Linden Ave		
PUBLIC HEARINGS:	2nd Reading Flood Related Annexations	90	Minutes
	2nd Reading Smoking Ban on Selected City Properties	60	Minutes
MATTERS FROM CITY MANAGER:			Minutes
MATTERS FROM CITY ATTORNEY:			Minutes
MATTERS FROM MAYOR AND MEMBERS:			Minutes
CALL-UPS:			Minutes
	Total Estimated Meeting Time (Hours)	3.83	

January 23 & 24
2015 City Council Retreat

February 3, 2015
Start Time: 6:00 PM Business Meeting
Location: Council Chambers, 1777 Broadway

Agenda Section	Item Name	Time	Minutes
SPECIAL PRESENTATIONS:			Minutes
OPEN COMMENT:		45	Minutes
CONSENT:		15	Minutes
			Minutes
			Minutes
			Minutes
PUBLIC HEARINGS:	Acquisition of Schnell property in Boulder Canyon	20	Minutes
			Minutes
MATTERS FROM CITY MANAGER:	Update on Implementation to Secure Trash and Curbside Compost from Bears	30	Minutes
MATTERS FROM CITY ATTORNEY:			Minutes
MATTERS FROM MAYOR AND MEMBERS:			Minutes
CALL-UPS:			Minutes
Total Estimated Meeting Time (Hours)		1.83	

February 17, 2015
Start Time: 6:00 PM Business Meeting
Location: Council Chambers, 1777 Broadway

Agenda Section	Item Name	Time	Minutes
SPECIAL PRESENTATIONS:			Minutes
OPEN COMMENT:		45	Minutes
CONSENT:		15	Minutes
	1st reading and public hearing of an ordinance to change certain BMS zoning district standards and uses as part of the University Hill Moratorium project		Minutes
	Study Session Summary for 1/27 University Hill Issues and Updates		Minutes
			Minutes
PUBLIC HEARINGS:	Consideration of Draft Zero Waste Strategic Plan and Options for Commercial Recycling Ordinance	90	Minutes
	Motion to transfer ownership of 4525 Palo Pkwy to BHP	90	Minutes
MATTERS FROM CITY MANAGER:	Consideration of a Motion to Revise the City of Boulder's 2015 State and Federal Legislative Agenda	30	Minutes
MATTERS FROM CITY ATTORNEY:			Minutes
MATTERS FROM MAYOR AND MEMBERS:			Minutes
CALL-UPS:			Minutes
Total Estimated Meeting Time (Hours)		4.50	

March 3, 2015 - CAUCUS DAY
Start Time: 6:00 PM Business Meeting
Location: Council Chambers, 1777 Broadway

SPECIAL PRESENTATIONS:			Minutes
OPEN COMMENT:		45	Minutes
CONSENT:		15	Minutes
			Minutes
			Minutes
			Minutes
PUBLIC HEARINGS:	1st Reading of Consideration of New Cable Franchise Agreement with Comcast	60	Minutes
			Minutes
MATTERS FROM CITY MANAGER:			Minutes
MATTERS FROM CITY ATTORNEY:			Minutes
MATTERS FROM MAYOR AND MEMBERS:			Minutes
CALL-UPS:			Minutes
	Total Estimated Meeting Time (Hours)	2.00	

March 17, 2015
Start Time: 6:00 PM Business Meeting
Location: Council Chambers, 1777 Broadway

Agenda Section	Item Name	Time	
SPECIAL PRESENTATIONS:			Minutes
OPEN COMMENT:		45	Minutes
CONSENT:		15	Minutes
	Study Session Summary for 2/24 Envision East Arapahoe Plan		Minutes
	1st reading of an ordinance for the annexation of Old Tale Road neighborhood		Minutes
			Minutes
			Minutes
PUBLIC HEARINGS:	3rd reading and public hearing of an ordinance to change certain BMS zoning district standards and uses as part of the University Hill Moratorium project	120	Minutes
			Minutes
MATTERS FROM CITY MANAGER:			Minutes
MATTERS FROM CITY ATTORNEY:			Minutes
MATTERS FROM MAYOR AND MEMBERS:	Board and Commission Appointments	60	Minutes
CALL-UPS:			Minutes
	Total Estimated Meeting Time (Hours)	4.00	