

**BOULDER CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, May 19, 2015
6:00 PM
AGENDA**

- 1. CALL TO ORDER AND ROLL CALL**
 - A. Declaration for the Gamm's Donation to the Dairy Center for the Arts

- 2. OPEN COMMENT and COUNCIL/STAFF RESPONSE** (limited to 45 min.)

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

- 3. CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time. (Roll Call vote required).
 - A.** Consideration of a motion **to approve the minutes for the January 20, 2015** City council meeting.

 - B.** Consideration of a motion **to approve the minutes for the March 30, 2015** City Council site visit to 747 12th Street.

 - C.** Consideration of a motion **to approve the minutes for the April 01, 2015** City Council site visit to 747 12th Street.

 - D.** Consideration of a motion **to approve the minutes for the April 20, 2015** City Council Executive Session

 - E.** Consideration of a motion **to approve the minutes for the April 21, 2015** City Council meeting

 - F.** Consideration of a motion **to approve a Letter of Intent (LOI)** between the city of Boulder, the **Central Area General Improvement District (CAGID)** and **St. Julien Partners LLC** regarding the development of the civic use pad.

 - G.** Second reading and consideration of a motion to adopt **Ordinance No. 7989 amending the 9th and Canyon Urban Renewal Plan** in order to facilitate a civic use.

 - H.** Consideration of a motion to **approve a twenty-year right-of-way lease** for encroachments (two retaining walls and one underground snowmelt system) located **at 1060 5th Street (REV2014-00025)**.

 - I.** Consideration of a motion to **authorize the city manager to** execute an agreement in the form that is generally described in the attachment to this memo related to the

disbursement of funds associated with the “**community, culture, and public safety**” **sales and use tax to fund improvements** for the **Dairy Center for the Arts** located at 2590 Walnut Street, Boulder.

- J.** Third reading and consideration of a motion to **adopt Ordinance No. 8034** amending the **capital facilities impact fee** in Section 4-20-62, “and Chapter 8-9, B.R.C. 1981 by the addition of a **new affordable housing linkage fee** on non-residential development, and setting forth related details.

- K.** Second reading and consideration of a motion to **adopt Ordinance No. 8046 approving supplemental appropriations to the 2015 Budget**; And

Consideration of a motion to **adjourn** from the **Boulder City Council** and **convene as the Central Area General Improvement District Board of Directors (CAGID)**.

- L.** Consideration of a motion to **adopt Resolution No. 271 amending the 2015 Downtown Commercial District Fund** (formerly Central Area General Improvement District Fund (CAGID))
Budget; And

Consideration of a motion to **adjourn** from the **CAGID** Board of Directors and **convene as the University Hill General Improvement District (UHGID)** Board of Directors.

- M.** Consideration of a motion to **adopt Resolution No. 195 amending the 2015 University Hill Commercial District Fund (formerly University Hill General Improvement District Fund (UHGID))** Budget; And

Consideration of a motion to **adjourn** from the **University Hill General Improvement District Board of Directors (UHGID)** and to **reconvene as the Boulder City Council**.

- N.** Introduction, first reading and consideration of a **motion to adopt Emergency Ordinance No. 8047 adopting Supplement No. 123**, which **codifies** previously adopted Ordinance Nos. 8015, 8030, 8035, and 8042, and other **miscellaneous corrections and amendments**, as an amendment to the Boulder Revised Code, 1981.

- O.** Introduction, **first reading** and consideration of a motion to order published by title only, **Ordinance No. 8048 amending** Section 9-6-5, “Temporary Lodging, Dining, Entertainment, and Cultural Uses,” B.R.C. 1981, by providing the city manager with authority to **waive requirement that mobile food vehicles be 150 feet from restaurants** if the restaurants approve, waiving the requirement for Planning Board review of this ordinance and setting forth related details.

4. **CALL-UP CHECK IN** Opportunity for Council to indicate possible interest in the call-up of an item listed under 8-A.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS** *Note: Any items removed from the Consent Agenda will be considered after any City scheduled Public Hearings.*

- A. Concept Plan Review and Comment: Request for citizen, staff and City Council comment on a proposal to annex and redevelop the property located at 96 Arapahoe Ave. with a combination of single family, duplex and attached dwelling units. A total of nine dwelling units are proposed consisting of six market rate units and three affordable units that would be developed on-site upon annexation and establishment of an initial zoning of Residential Medium – 3 (RM-3), consistent with the Boulder Valley Comprehensive Plan (BVCP) land use designation of Medium Density Residential.

6. **MATTERS FROM THE CITY MANAGER**

- A. Update on the transfer of ownership of 4525 Palo Parkway Boulder Housing Partners to develop affordable housing on the 3.2 acre site.

7. **MATTERS FROM THE CITY ATTORNEY**

- A. Report of the City Attorney Regarding February 19, 2015 Planning Board Meeting.

8. **MATTERS FROM MEMBERS OF COUNCIL**

- A. Potential Call-Ups
 1. Landmark Alteration Certificate to remove a second-story gambrel roof at the rear addition and, in its place, to construct a 529 sq. ft. second story at the contributing house at 801 Maxwell Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2015-00080).
- B. Update from Council Employee Evaluation Committee

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

This agenda and the meetings can be viewed at www.bouldercolorado.gov / City Council. Meetings are aired live on Municipal Channel 8 and the city's Web site and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting. DVDs may be checked out from the Main Boulder Public Library.

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at (303) 441-3002, 8 a.m. – 5 p.m. Monday through Friday. ***48 hours notification prior to the meeting or preparation of special materials IS REQUIRED.***

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. *Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 negocios días antes de la junta.*

Electronic presentations to the city council must be pre-loaded by staff at the time of sign up and will NOT be accepted after 3:30 p.m. at regularly scheduled meetings. Electronic media must come on a prepared USB jump (flash/thumb) drive and no technical support is provided by staff.

**CITY COUNCIL PROCEEDINGS
CITY OF BOULDER
January 20, 2015**

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the January 20, 2015 City Council meeting to order at 6:14 PM in Council Chambers.

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

Mayor Appelbaum moved, seconded by Council Member Morzel, to amend the agenda by moving item 3K *Land Use Code Building Heights* from consent to public hearing as item 5B, moving item 6A to 6B and adding a new item *Discussion and Directions on Development Related Impact Fees and Excise Taxes* . The motion carried 9:0 at 6:17 PM.

The Mayor announced that recruitment for the Annual 2015 Boards and Commission was open and directed the public to www.bouldercolorado.gov/boardsandcommissions for information and applications.

A. State of the City Presentation

Mayor Appelbaum moved, seconded by Council Member Morzel to reschedule the State of the City Presentation due to the lengthy agenda. The motion carried 9:0 at 6:18 PM.

B. Declaration in Appreciation of Mark Udall

Mayor Appelbaum presented the declaration from the city to Mark Udall. Through the years as US Senator, Representative of the 2nd Congressional District and Colorado House Representative, Mark Udall was very supportive of city efforts. The city appreciates all he did for the city, state and nation.

Some areas he impacted were the wind production tax credit, flood relief, a variety of aerospace issues, innovation economy, the patent office in Denver, transportation issues, Boulder B-Cycle (assisted with large federal grant), support of the Federal Labs and, very importantly, the creation and protection of the Rocky Flats Wildlife Refuge.

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.

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| 1. Lauren McKenna | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 2. Sophie Chen | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 3. Angelique Espinoza | Public Affairs Director, Chamber of Commerce | Make it easier for the public by not changing agendas at the last minute. |
| 4. Sierra Cantliffe | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 5. Brian Coppom | Support | Local Foods |
| 6. Abby Bloomfield | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 7. Gary Sprung | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 8. John Price | | Spoke to city ethics and council wages |
| 9. Mary Ann Wilner | | Spoke in support of minimum wage work being done by the HRC |
| 10. Campbell Dawson | | Introduced himself as a new Boulder resident who is a non-profit auctioneer |
| 11. Anne Bliss | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 12. Greg Wilkerson | | Spoke in favor of higher pay for city council |
| 13. Clara Dresselhau | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 14. Kathleen Galt | | Requesting support for assistance with the Yarmouth and Broadway intersection. It needs flashing light or pedestrian crossing. She also supported living wage. |
| 15. Molly Greacen | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 16. Zane Selvans | | Expressed frustration with critical topics scheduled with no notice. |
| 17. Lenore Cullen | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 18. Priyanka Karki | Support | Fairview High School Net Zero Club
Bee Safe Resolution |
| 19. Tim Brod | Support | Professional Bee Keeper in Support of the Bee Safe Resolution |
| 20. Alik Chirstianian | Support | Fairview High School Net Zero Club
Bee Safe Resolution |

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| 21. Lauren McKenna | Support Fairview High School Net Zero Club
Bee Safe Resolution |
| 22. Rob Smoke | Expressed disappointment at the comment that “open comment over full” and is also opposed to increased enforcement as solution to homelessness. |
| 23. Cosima Krueger-Cunningham | Support Representing Sierra Peaks supporting the Bee Safe Resolution |
| 24. Sirisha Gudavalli | Support Fairview High School Net Zero Club
Bee Safe Resolution |
| 25. Carolyn Bninski | Support Representing the Rocky Mountain Peace and Justice Center supporting the Bee Safe Resolution and spoke to the potential impacts of the TPP asking Council to oppose FastTrack. More information is available at www.exposethetpp.org . |
| 26. John Evans | Support Represents the Veterans for Freedom supporting the Bee Safe Resolution. Also addressed the impact of pesticides getting into medical marijuana. |
| 27. Judy Nogg | Spoke to a rumor that council does not have time to address the living wage issues and supports a living wage for city contract workers. |
| 28. Elyssa Hofgard | Support Fairview High School Net Zero Club
Bee Safe Resolution |
| 29. David Wheeler | Support Presented information in support of the Bee Safe Resolution |
| 30. Mikl Brawner | Support Bee Safe Resolution and opposes pesticide use |
| 31. Clif Harald | Executive Director of the Boulder Economic Council (BEC). The Boulder Chamber of Commerce and the BEC ask that the update to the 2008 Development Excise Tax study be done prior to adopting new fees. The impact of the 2008 recession and changes/affects to the economy need to be better understood. |
| 32. Saher Afridi | Support Fairview High School Net Zero Club
Bee Safe Resolution |
| 33. Angela Fei | Support Fairview High School Net Zero Club
Bee Safe Resolution |

Staff/Council Response

Living Wage

The City Manager addressed a rumor that the City is not working on living wage issues. The HRC is currently working on a report due this spring and then staff will take up this matter from there.

Bee Safe Resolution

The City Manager expressed great appreciation for all of the Bee Safe advocates. The City has a robust program in place and is reviewing the Bee Safe resolution for ways to

increase the City's efforts in addressing the impact of neo-nics. The current City efforts can be reviewed at www.bouldercolorado.gov/IPM.

Council Member Weaver requested information regarding whether Open Space used neo-nic on City properties. The City Manager will request a response from Open Space.

Council Member Cowles asked that CAC schedule this resolution on a future agenda sending a message to retailers that the City is supportive of neo-nic free plant material for its residents.

Council Member Jones stated the Council's Legislative Committee had been looking at this issue and found the City was limited in what it could do by State law. She encouraged various groups and citizens to motivate other cities to join a coalition to help affect broader change. The Mayor believed the City was limited by federal law and encouraged the public to continue exercising its ability to affect change.

Council Member Plass asked for clarification about what the City could or could not do specific to its home rule authority and agreed the resolution should come forward.

Yarmouth and Broadway Intersection

Council Member Young asked what the plans were for the intersection. The City Manager stated that the rubric that informed the decision for the placement of lights or flashing lights indicated there was not enough pedestrian traffic to warrant lights.

Council Member Morzel reminded staff that after Victor Dover's presentation there had been discussion of a traffic circle or crosswalk for safe passage for the Yarmouth and Broadway and also Violet and Broadway. She found this to be a dangerous intersection and requested this issue be elevated and other criteria be used along with the current rubric to determine the appropriate action to take.

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 SPECIAL CITY COUNCIL MEETING MINUTES FROM DECEMBER 8, 2014**
 - B. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM DECEMBER 16, 2014**
 - C. **CONSIDERATION OF A MOTION TO ACCEPT THE OCTOBER 28, 2014 STUDY SESSION SUMMARY ON ENVISION EAST ARAPAHOE**
 - D. **CONSIDERATION OF A MOTION TO ACCEPT THE NOVEMBER 12, 2014 STUDY SESSION SUMMARY ON THE CLIMATE COMMITMENT UPDATE**

- E. **CONSIDERATION OF A MOTION TO AMEND THE CUNNINGHAM FARM ANNEXATION AGREEMENT FOR THE PROPERTIES LOCATED AT 350 AND 390 LINDEN AVENUE (LOTS 1 AND 2, CUNNINGHAM FARM SUBDIVISION) IN ORDER TO CHANGE DESIGN REQUIREMENTS TO ALLOW FOR MODERN ARCHITECTURE. CASE #LUR2014-00087. THE PROPERTIES ARE LOCATED WITHIN THE RESIDENTIAL – RURAL 2 (RR-2) ZONE DISTRICT**
- F. **CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION ALLOWING FOR CONTINUATION OF THE ROCKY FLATS STEWARDSHIP COUNCIL**
- G. **CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO THE TRUST AGREEMENT FOR THE COLORADO FIREFIGHTER HEALTH AND CIRCULATORY BENEFITS TRUST AND SETTING FORTH RELATED DETAILS**
- H. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8019 AMENDING EMERGENCY ORDINANCE NO. 7985 TO CORRECT THE LEGAL DESCRIPTION FOR THE ANNEXATION AREA OF THE PROPERTY AT 2130 TAMARACK AVENUE**

Council Member Weaver moved, seconded by Council Member Morzel to approve Consent Agenda Items 3A through 3H. The motion carried 9:0 at 7:47 PM.

4. POTENTIAL CALL UP CHECK IN

No interest was expressed in calling up of Agenda Item 8A-1 or 8A-2.

Council Member Morzel commented it was unfortunate that the owners at 720 Concord chose to use vinyl on a historic house.

5. PUBLIC HEARINGS

- A. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT THE FOLLOWING ORDINANCES RELATED TO THE ANNEXATION AND INITIAL ZONING OF THE PROPERTIES IDENTIFIED AS 1950 RIVERSIDE DR., 4415 GARNET LN., 1085 GAPTER RD., 2200 EMERALD RD. AND 2350 NORWOOD AVE.:**

**A. ORDINANCE NO. 8022 (1950 RIVERSIDE DR.)
PROPOSED ZONING: RESIDENTIAL-ESTATE
APPLICANT/OWNER: SEANA GRADY**

**B. ORDINANCE NO. 8023 (4415 GARNET LN. AND A PORTION OF THE GARNET LANE RIGHT-OF-WAY)
PROPOSED ZONING: RESIDENTIAL-ESTATE
APPLICANT/OWNER: FRANK ALEXANDER**

C. ORDINANCE NO. 8024 (1085 GAPTER RD.)
PROPOSED ZONING: RESIDENTIAL-RURAL 2
APPLICANT/OWNER: SILVANO AND ELVIRA DELUCA

D. ORDINANCE NO. 8025 (2200 EMERALD RD.)
PROPOSED ZONING: RESIDENTIAL-RURAL 1
APPLICANT/OWNER: STEPHEN AND AMY CARPENTER

E. ORDINANCE NO. 8026 (2350 NORWOOD AV.)
PROPOSED ZONING: RESIDENTIAL-ESTATE
APPLICANT/OWNER: NORWOOD GARDEN, LLC

Council Member Morzel recused herself from Ordinance No. 8025 (2200 Emerald Road) because of the proximity to her home.

Staff Presentation

Presentation of this item was provided by Deputy Director of CP&S Susan Richstone, Senior Planner Bev Johnson and Water Resources Manager Joe Taddeucci.

Council Questions

Council Member Cowles requested the identification of the properties connected with the Silver Lake Ditch and, if the City acquired the water rights, would it dewater the laterals.

Water Resources Engineer Kim Hutton stated that the ditch company allocates the water and the City has no say. Presently, users under the lateral collectively clean the ditches. There may not be interest in continuing to do this if the City owned the property.

Council Member Morzel requested clarification on the use of the term *Open Space Other* and that the use appeared to be confusing and arbitrary. She also asked what uses were permitted under this designation.

Staff explained this designation was created in the 2000 update to distinguish/flag land of conservation value as a tool to protect such things as conservation easement and desired future land use. Although there are no specific ordinances protecting *Open Space Other*, usually the lands are floodplains or wetlands that are protected under different designation. The maps are pre GIS and will be reviewed and updated prior to the BVCP update.

Council Member Morzel requested clarification on what is involved in a flood

control easement and what does it allow the City to do.

Development Review Manager for Public Works Edward Stafford responded. The City has the right to access for maintenance, if the City desires (but no requirement to do so), and to preserve the ability for flood waters to flow through the area. To simplify this annexation, staff limited size of drainage easements at 60' to either side. The City has the option to walk through this area but is not required to or do improvements. Owners will be contacted prior to a walk through unless an emergency or life threatening situation occurs.

Council Member Jones asked if the landowners can maintain the ditches.

Mr. Stafford responded that they can and are still required to maintain the ditches per the BRC.

Council Member Morzel stated the proposed the bike path would bi-sect the property at 3777 23rd Street and had the owner been contacted. Staff stated they had not yet been successful in contacting the owner but that this process had been public for quite awhile and is part of the adopted TMP. Council Member Morzel responded that the plan was not site specific and she was concerned this owner was not aware of future plans.

Council Member Morzel asked what the amount of excise taxes that were not being collected. Staff researched this and further in the meeting responded that excise taxes were \$3,400. There is a provision in code that this tax does not apply to some older properties (depends on when they were constructed). All new development will pay excise and development fees.

Council Member Cowles asked what restrictions apply to the owners for development.

Mr. Stafford responded that with an easement there is no ability to build any structure or change the property so it could no longer be used as a flood control conveyance.

Council Member Weaver requested clarification whether the owners had the ability to withdraw tonight; was this still a "live question". Council Member Jones also requested clarification if the agreement could be changed or applicants could withdraw or accept. The City Attorney stated this was a signed agreement but Council could propose changes. The applicants had until Council's vote to withdraw.

Council Member Young requested clarification on the vision for this multi-use path. Would it go through the property at 23rd? Staff responded "yes" that the plan is to connect Norwood and 23rd. Council Member Young asked if this property at 3777 23rd was already in the City and to what degree of confidence did the City

believe this path would be completed. The City Attorney responded that the City acquires easements that fit the TMP goals as the opportunity arises.

Council Member Karakehian inquired if there is a “time certain” for the easement; could it go away? The City Attorney stated the easements do not go away; the purpose is to fulfill the building of multi-use paths.

Council Member Cowles requested clarification on the waiving of \$6,500 fees and \$5,000 interest for these properties. Staff responded that when the district was originally formed the property owner wanted to pay this fee but the property was not in the City yet.

Council Member Jones questioned the width of the easement. Staff responded that the normal standards are a 16’ easement with a 12’ path and would not recommend anything smaller for a multi-use path. Council Member Morzel commented that many recent multi-use paths are smaller. Staff responded that the system is continuing to evolve for safety and maintenance.

Council Member Shoemaker requested information about the ability of a property to sub-divide and could the City then get the ROW. Staff responded that at the time of sub-division this would be addressed.

Council Member Morzel requested information regarding the differing opinions on the option of an easement on the east v west side of the property. She had viewed the property and it appeared the east side easement made sense. Staff responded that a technical view determined the west side easement was more viable.

Council Member Morzel requested clarification on how the ditch water shares were calculated. Staff responded that the City and the applicant used different methods. The volume of water is measured by (1) direct flow and (2) storage capacity. The applicant based their numbers on both flow and storage but the City is only interested in the storage capacity.

Applicant’s Presentation

Robyn Kube, representing Norwood Gardens/Marilyn Jorrie, outlined the four requests from Ms. Jorrie:

1. Easement should be located on the east side of the property;
2. Width should not exceed 12’ with an 8’ path;
3. Construction be delayed until the path can be completed; and
4. Would like the city to share in the cost of the construction of the path.

The **Public Hearing** was opened at 9:05 PM:

1. Charles Brock, 4057 St. Petersburg, regarding easement at 2350 Norwood,

asked Council to approve the easement with the widest width on the west side, which is what staff and TAB are recommending.

2. Regina Bock, 3351 19th St., has had the privilege of picking fruit at 2350 Norwood and urges a multi use path on the east side of the property with smaller width of eight feet.
3. Gary Sprung stated the ROW was important in allowing a safer connection out of traffic.
4. Sue Prant, Executive Director of Boulder Cycles is in favor of a 12 foot path as proposed on the west side of the property.

There being no further speakers, the public hearing was closed at 10 PM.

Council Comments

Council Member Morzel asked staff how they envisioned development on 1950 Riverside and 2415 Garnet, which each have additional development potential and how it would match the North Boulder Sub-Community Plan that discourages flag lots.

Staff responded that 1950 Riverside was considering a flag lot but that 2415 Garnet had no immediate plans to sub-divide. Staff is focusing on the annexation and would address sub-division issues as they came up.

Council Member Cowles stated that the annexation would give 2415 Garnet, 1950 Riverside and 2350 Norwood extra development potential of two new dwelling units per property. He recommended that these properties be brought in at the current development potential they have with Boulder County so that the City may defer the development decision regarding affordable housing (similar to the Poplar lot division) that would contribute market rate affordable housing.

Council Member Plass acknowledged that water and sewer are positive results of annexation but questioned if this was enough incentive for annexation if the development potential was taken away.

Council Member Karakehian stated that the staff and applicants had negotiated this annexation for quite awhile and the agreement should not be changed at this late date.

Mayor Appelbaum stated the process did not allow Council the opportunity on annexations to comment prior to where they are now in the process so this issue keeps happening. If properties are brought in at the status quo (no development potential same as they are with the County), with fees waived and delayed, it presented a reasonable balance and did not preclude developing future plans.

Council Member Shoemaker asked a procedural question about process and if the applicants were aware there would be this discussion.

The City Attorney stated applicants had the opportunity to withdraw from the annexation up to the time Council voted. If Council amended the agreement, the ordinances would come back for a 3rd reading allowing applicants to decide to accept/not accept the agreement.

Council Member Karakehian moved, seconded by Council Member Plass to adopt Ordinance No. 8022 annexing the property located at 1950 Riverside Dr. with an initial zoning of Residential-Estate. The motion carried 7:2 with Mayor Appelbaum and Council Member Cowles opposed at 9:40 PM.

Council Member Morzel moved, seconded by Council Member Karakehian to adopt Ordinance No. 8023 annexing the property located at 4415 Garnett Lane and a portion of the Garnett Lane right-of-way with an initial zoning of Residential-Estate. The motion carried 7:2 with Mayor Appelbaum and Council Member Cowles opposed at 9:43 PM.

Council Member Weaver moved, seconded by Council Member Morzel to adopt Ordinance No. 8024 annexing the property located at 1085 Gapter Road with an initial zoning of Residential-Rural 2. The motion carried 8:0 with Council Member Young absent at 9:44 PM.

Council Member Shoemaker moved, seconded by Council Member Plass to adopt Ordinance No. 8026 annexing the property located at 2350 Norwood Ave. with an initial zoning of Residential- Estate with the following amendments made to the Annexation Agreement:

Amendment to Annexation Agreement Paragraph 23

2. Provided however, that the Applicant shall not be required to cause the path to be constructed unless the path can at that time be connected to 23rd Street. If the city subsequently acquires the right to connect the path to 23rd street, the Applicant shall be required to pay the cost of construction. If the Applicant fails to cause the path to be constructed the city shall have the right to construct the path and assess a lien on the property.
3. Amend Paragraph 2(D)(2) to change 16 foot to 14 foot
4. Amend Paragraph 23 to change 12 foot to 10 foot
5. Amend the easement in exhibit A to reflect a 14 foot easement.

The motion carried 8:1 with Council Member Cowles opposed at 10:04 PM.

The applicant's representative stated they were not withdrawing the application.

Council Member Jones moved, seconded by Council Member Weaver to adopt Ordinance No. 8025 annexing the property located at 2200 Emerald Rd. with an initial zoning of Residential-Rural 1. The motion carried 8:0 with Council Member Morzel recused at 10:06 PM.

B. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY ORDINANCE NO. 8028 AMENDING TITLE 9, "LAND USE CODE" B.R.C. 1981 BY AMENDING THE BUILDING HEIGHT REGULATIONS AND REQUIREMENTS FOR CERTAIN AREAS OF THE CITY, AND SETTING FORTH RELATED DETAILS.

Staff Presentation

Presentation of this item was provided by Executive Director of CP&S David Driskell, including: observations/recommendations from Victor Dover, form based code pilot at Boulder Junction, area specific maps and a list of projects approved/pending site review that would be exempt.

Council Questions

Council Member Morzel requested an update on Fraser Meadows request for possible exemption from building heights when they do reconstruction and to avoid further flood damage. Staff responded they had not yet heard from this group.

Council Member Plass requested clarification on the timeline and how much area planning could be accomplished in two years and there was a concern that Planning Board did not have the tools it needed to address building height medication.

Staff responded that the work plan covers (1) Pilot for Boulder Junction, (2) Comp Plan Process, (3) Foothills Hospital area for medical offices and (4) the Civic Area. April of 2017, the decision will be made whether to go forward or take a different direction.

Council Member Weaver asked what conditions the ordinance allowed. Does it apply retroactively?

Staff responded that the City Manager cannot issue building permits that would violate this ordinance and the ordinance states no new applications will be taken in the month ahead.

Council Member Weaver understanding of Victor Dover concept is to divorce form from use and community benefit. How does staff see this evolving?

Staff responded that the pilot is to provide clarity as to what form should be used. Feedback received has been the form is wrong, don't like the materials or the street level uses. These are the type of issues form based coding can help manage. In areas anticipated to have higher density better clarity is needed for the built form, are there additional areas to consider for form based coding and, elsewhere in the City, not looking for other areas to consider.

Mayor Appelbaum stated Boulder Junction is exempt. What would the process be if a project comes in.

Staff responded there were two projects coming in and they would consider making them a "pilot project" with the pilot. There is common ground and shared desire with applicants to make this work.

Council Member Karakehian requested clarification on (1) Boulder Junction map – Is the Sutherland's site in the boundary, (2) Transit Village – would have like this property added and (3) Does the University come under City for height discussion.

Staff responded that (1) the Sutherland's site was in the boundary, (2) Transit Village would have had to been part of the Access District for Parking and TDM and (3) the University is not subject to our zoning.

The Public Hearing was opened at 10:57 PM

1. Clif Harold – Executive Director of the Economic Council – recommended suggested much shorter duration. Also suggested expanding the Boulder Junction area to the whole Boulder Valley Regional Center.
2. Jennifer Hudson – Ordinance is way to light given the feedback that the community has provided to council. A complete moratorium should be put in affect.
3. Angelique Espinoza – Quantitative measures towards qualitative goals are important. Thoughtful informed discussions are needed.
4. Stephen Haydel - The ordinance is a good start but is too late to stop the damage. Should be expanded throughout the city and should be permanent.
5. Tim Johnson – Representing the one-offs. Resident from Fraser Meadows noting it was the hardest hit area in the 2013 flood. The impact on Fraser Meadows will be devastating.
6. Sue Prant – Expressed concern that staff making policy is a growing trend. Boulder needs to look at policy globally rather than microscopically.

7. Sean Maher - Executive Director of Downtown Boulder Management noted that the community as a whole felt really blindsided. Council should step back.
8. Will Toor – Has never seen a public policy of this magnitude come forward without any public process leading up to it.
9. Susan Iott - Happily surprised that council was taking up this issue. Transportation and congestion must be considered as part of this discussion.
10. Lynn Segal - Need a net zero district that balances jobs and housing.

There being no further speakers, the public hearing was closed at 11:25 PM

Council Member Morzel moved, seconded by Council Member Young, to introduce on first reading Ordinance No. 8028 amending Title 9, “Land Use Code” B.R.C. 1981 by amending the building height regulation and requirements for certain areas of the City as amended to exclude the Reve project. The motion carried 9:0 at 11:59 PM.

6. MATTERS FROM CITY MANAGER

A. DISCUSSION AND DIRECTION ON DEVELOPMENT-RELATED IMPACT FEES AND EXCISE TAXES.

This item was postponed and would be rescheduled.

B. UPDATE ON P&DS ADVISORS GROUP

This item was postponed and would be rescheduled.

7. MATTERS FROM CITY ATTORNEY

None

8. MATTERS FROM MAYOR AND MEMBERS

A. POTENTIAL CALL UPS

1. **LANDMARK ALTERATION CERTIFICATE TO INSTALL VINYL REPLACEMENT WINDOWS ON THE NON-CONTRIBUTING BUILDING LOCATED AT 720 CONCORD AVE. IN THE MAPLETON HILL HISTORIC DISTRICT, PER SECTION 9-11-18 OF THE BOULDER REVISED CODE (HIS2014-00350). THIS LANDMARK ALTERATION CERTIFICATE IS SUBJECT TO CITY COUNCIL CALL UP NO LATER THAN JANUARY 20, 2015. LANDMARKS BOARD APPROVED 3:1.**

No action was taken on this item

2. 1029 BROADWAY SITE AND USE REVIEW (LUR2014-00053). LAST OPPORTUNITY FOR CALL UP NO LATER THAN FEBRUARY 3, 2015. PLANNING BOARD APPROVED 6:0.

No action was taken on this item

B. CONSIDERATION OF A MOTION TO APPROVE THE PROCESS FOR PERFORMANCE EVALUATIONS AND SALARY ADJUSTMENTS FOR THE CITY MANAGER, CITY ATTORNEY, AND MUNICIPAL JUDGE.

This item was postponed and will be rescheduled.

C. DISCUSSION ON SCHEDULING EXECUTIVE SESSIONS

The Mayor asked council members if there was any interest in having regularly scheduled special city council meetings for executive sessions. The response was positive and will be discussed at the upcoming Council Retreat.

There is a Special City Council Meeting for an Executive Session already scheduled for January 22. The City Attorney requested that Council schedule an additional executive session two weeks out. The Mayor requested that the City Clerk poll council members on dates.

Council directed CAC to reschedule Items 6A, 6B and 8B that were pulled from the agenda.

Council Member Cowles suggested that annexations should always be a special meeting because of the amount of time required. He also reminded council members of the need under *Questions* to keep to questions and not arguments.

Council Members Karakehian and Morzel indicated that they would bring "Effective Meeting Discussions" to the Retreat as a matter for discussion during the first hour on Friday, January 23. Input in advance was welcome. Council Member Karakehian also stated that the current workload of council could not be handled without the addition of more council meetings.

9. PUBLIC COMMENT ON MATTERS (15 min.)

None

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

None

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

None.

12. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION
REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on January 21, 2015
at 12:07AM

Approved this 19th day of May 2015.

APPROVED BY:

Matthew Appelbaum
Mayor

ATTEST:

Alisa D. Lewis,
City Clerk

**CITY COUNCIL PROCEEDINGS
CITY OF BOULDER
Monday, March 30, 2015**

City Council Members met to tour the property at 747 12th Street at 5 PM.

Those present were: Council Members Karakehian, Plass, Shoemaker and Young.

The meeting is ex parte in nature and council members will reveal the ex parte communications at the Special City Council meeting on April 14.

Approved this 19th day of May, 2015.

APPROVED BY:

Matthew Appelbaum
Mayor

ATTEST:

Alisa D. Lewis,
City Clerk

**CITY COUNCIL PROCEEDINGS
CITY OF BOULDER
Wednesday, April 1, 2015**

City Council Members met to tour the property at 747 12th Street at 5 PM.

Those present were: Council Members Cowles, Jones, Morzel and Weaver.

The meeting is ex parte in nature and council members will reveal the ex parte communications at the Special City Council meeting on April 14.

Approved this 19th day of May, 2015.

APPROVED BY:

Matthew Appelbaum
Mayor

ATTEST:

Alisa D. Lewis,
City Clerk

**CITY COUNCIL PROCEEDINGS
CITY OF BOULDER
Monday, April 20, 2015**

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the April 20, 2015 Special City Council meeting to order at 6:02 PM in Council Chambers.

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

A. CONSIDERATION OF A MOTION TO GO INTO EXECUTIVE SESSION FOR LEGAL ADVICE AND DISCUSSION REGARDING MUNICIPALIZATION STRATEGY

Mayor Appelbaum moved, seconded by Council Member Cowles, to adjourn to executive session for the purpose of receiving legal advice and discussion regarding Municipalization strategy. The motion carried 9:0. Vote was taken at 6:03 PM.

The Boulder City Council adjourned into executive session in the 401 Conference room in the Park Central Building.

At 8:30 PM the council reconvened in the Council Chambers.

City Attorney Carr stated that the council was responsible for disclosing any conversation during an executive session if it was outside the scope of discussion allowed by the Charter amendment approved by the voters on November 4, 2014. He asked if there were any such disclosures to be made. There were none.

2. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on April 20, 2015 at 8:43 PM.

Approved this 19th day of May, 2015.

APPROVED BY:

Matthew Appelbaum
Mayor

ATTEST:

Alisa D. Lewis,
City Clerk

**THE CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
April 21, 2015**

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the April 21, 2015 Special City Council meeting to order at 6:14 PM in Council Chambers.

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

Mayor Appelbaum moved, seconded by Council Member Morzel, to amend the agenda by adding items 1A, 8D and 8E. The motion carried 9:0 at 6:15 PM.

A. DRCOG AWARDS ACKNOWLEDGEMENT

Mayor Pro Tem Suzanne Jones called out several awards being presented to city staff for exceptional work at the 60th anniversary of DRCOG (Denver Regional Council of Government):

- 2014 Transportation Master Plan - Gold award in the local government category for action
- Community Resiliency Award
- Letter of recognition for work of Lesli Ellis, Department of Community Sustainability and Planning, with DRCOG and Peer City staff on crafting the Metro Vision 2040

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE - 6:09 PM

City Attorney Carr addressed the Mobile Home issue noting that he met with the attorney for the owner of Vista Village. Harvey Miller, owner of Vista Village, had agreed to a standstill on prohibiting home owners from selling pre-HUD homes and stated he would provide 120 days notice to the city prior to taking any different action. Mr. Carr suggested pulling agenda item 3G, monitoring the situation with Vista Village and then bringing a more carefully thought out ordinance back to council in June.

Open Comment was opened:

- 1) Cecelia Kluding – Martin Acre resident – Spoke of the Right-to-Rest Bill before Colorado Congress – Supported the House Bill-1264.
- 2) Greg Wilkerson – Spoke in support of limiting the number of houses in Boulder. Also supported viable pay for council members.
- 3) Jean Gehring – Vista Village resident indicated that she is fearful as she reacted to the letter from Harvey Miller. She expressed that she felt the letter was a scam and did not trust that there was any solution behind his word. She stressed that they (VV Management) loved to harass people.
- 4) Jerry Allen – Also Vista Village resident that expressed distrust in any communication from the owner Harvey Miller. He suggested that mobile homes be treated the same as brick and mortar homes.
- 5) Joy Redstone – Voiced support for the Right-to-Rest Bill.

- 6) Lauren McKenna – Net-Zero Club member voiced support of the Bee Safe resolution.
 - 7) Saher Afridi – Net-Zero Club also voiced support for the Bee Safe resolution.
 - 8) Kevin Cook – Also a Vista Village resident, spoke to the mobile home act and noted that the act puts the burden of enforcement on the residents not the park owner.
 - 9) Sara-Jane Cohen – Asked council to have a discussion regarding the Right to Rest Bill that is before the State House of Representatives.
 - 10) Rob Smoke – Agreed with the need to have a public dialog regarding the Right to Rest Bill and have a conversation before allowing anyone to weigh-in from the city at the state.
 - 11) Tanya Petty – Thanked the council for helping the residents of Vista Village, noting the many ways that harassment takes place and that taking the owner to court was likely the best outcome.
 - 12) Sophie Chen - Another Net-Zero Club member thanked the city for its support through adoption of the Bee Safe resolution that will come before council in May.
 - 13) Abby Bloomfield – Net-Zero club member spoke to the benefits of prohibiting the use of neonecitinoids in the City.
 - 14) Brad Olsen – Attorney representing Harvey Miller/Vista Village. Spoke to the intentions of the park ownership.
 - 15) Daren O’Connor – Expressed appreciation to the city manager for her attention to concerns raised about racial biases and supported a community dialog on the Right-to-Rest bill.
 - 16) Elizabeth Allen – Vista Village resident asked for changes to the proposed ordinance keeping with the suggestions by Jerry Allen.
 - 17) Andrew O’Connor – Challenged the photo red light program and noted that he succeeded in getting the charge dismissed.
 - 18) Angelique Espinoza - Voiced her personal support for the residents at Vista Village and urged council to work at the state level to achieve changes in mobile home laws.
 - 19) Nikhil Mankekar – Member of the HRC and spoke to the work being done on the homelessness issue by the HRC. Suggested that any position by the city on the Right to Rest Bill be very specific and uphold the values of the community.
 - 20) Amy Zuckerman – Chair of the HRC also spoke to its action to request that council allow the HRC to conduct outreach in the community on the homelessness issue.
 - 21) Sam Alschuler – Appreciated the “Boulder Way.” He is an Orchard Mobile Home park resident in support of the home owners in Vista Village.
 - 22) Geoffrey Harden – Thanked council for taking action regarding the struggles of Vista Village home owners. Not sure of the trade-offs of adopting an ordinance at this meeting.
- There being no further speakers Open Comment was closed.

Staff Response:

City Manager – none

City Attorney Tom Carr responded to speaker Andrew O'Connor regarding red light tickets and noted that there was a third party handling the red light tickets. He clarified that the city did not receive revenue from this program and the cameras are supposed to be calibrated correctly.

With regard to his testimony regarding the HB15-1264, Mr. Carr explained that he would have testified regarding the impact to the powers of home rule powers which was a much larger issue. Several of Boulder's ordinances could be challenged if the bill were to pass. He represents the city within the parameters of its legislative agenda.

Mayor Pro Tem Jones announced the Council legislative committee would be meeting Friday and suggested that a bigger discussion take place then with regard to HB 15-1264.

Council Member Karakehian expressed that the legislative agenda had already been set by council and he was not convinced that the legislative subcommittee should/could determine a change.

Council Member Sam Weaver agreed that the committee should discuss and bring back a recommendation to the full council.

Council Member Lisa Morzel spoke regarding the funding for Vista Village with City Council appropriating \$20,000 for legal fees which would require a Request for Proposal from potential attorneys, evaluating the proposals, and selecting the attorney. She also requested keeping 3G on the consent agenda as it was a first reading noting that there was time between the 1st and 2nd reading to discuss what should go into the ordinance.

Council Member Weaver spoke to the photo red light program and reiterated that there was no monetary gain for the city but it was extremely effective in reducing the amount of accidents at said intersections.

3. **CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time. Roll call vote required. 7:34-7:52 PM.

- A. **CONSIDERATION OF A MOTION TO APPROVE THE MINUTES FOR THE FEBRUARY 3, 2015 CITY COUNCIL MEETING**

This item was amended by Council Member Young.

- B. **CONSIDERATION OF A MOTION TO ACCEPT THE MARCH 31, 2015, CITY COUNCIL STUDY SESSION SUMMARY REGARDING CIVIC AREA PARK SITE PLAN & MASTER PLAN UPDATE, INCLUDING PRELIMINARY EVALUATION OF BOULDER COMMUNITY HEALTH, BROADWAY CAMPUS**

This item was amended by Council Member Karakehian.

- C. **CONSIDERATION OF A MOTION TO ACCEPT THE MARCH 31ST, 2015 CITY COUNCIL STUDY SESSION SUMMARY – UPDATE ON PLANNING FOR THE BOULDER VALLEY COMPREHENSIVE PLAN (BVCP) 2015 UPDATE, DESIGN EXCELLENCE AND THE FORM BASED CODE PILOT PROJECT**

- D. **AUTHORIZATION OF THE CITY MANAGER TO ENTER INTO AN IGA REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY (CDBG-DR) FUNDING WITH THE CITY OF LONGMONT**
- E. **THIRD READING AND CONSIDERATION OF A MOTION TO ADOPT AND ORDER PUBLISHED BY TITLE ONLY ORDINANCE NO. 8038 ALLOWING FOR PRODUCTION AND SALE OF CERTAIN FOODS IN RESIDENTIAL ZONE DISTRICTS, AMENDING SECTION 9-6-3(E) “SPECIFIC USE STANDARDS – RESIDENTIAL USES”; AMENDING SECTION 9-9-21 “SIGNS” AND ADDING A NEW CHAPTER 6-17 “COTTAGE FOODS AND FRESH PRODUCE”**
- F. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY ORDINANCE NO. 8044 APPROVING SUPPLEMENTAL APPROPRIATIONS TO THE 2015 BUDGET**
- G. **INTRODUCTION AND CONSIDERATION OF A MOTION TO PASS ON FIRST READING AND ORDER PUBLISHED BY TITLE ONLY ORDINANCE NO. 8043 AMENDING CHAPTER 10-12 “MOBILE HOMES” ADDING A NEW SECTION 10-12-25 “LIMITATION ON PARK OWNER’S RIGHT TO PROHIBIT SALES,” AMENDING SECTION 10-12-2 TO ADD DEFINITIONS, AMENDING SECTION 10-12-3 TO MAKE SECTION 10-12-25 APPLICABLE TO ALL MOBILE HOME PARKS AMENDING SECTION 10-12-4 TO PROVIDE FOR ADMINISTRATIVE REMEDIES AND SETTING FORTH RELATED DETAILS**

Council Member Young moved, seconded by Council Member Morzel, to approve Consent Agenda items 3A – 3G with 3A, 3B and 3G as amended. The motion carried 9:0 at 7:52 pm.

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.

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

5. PUBLIC HEARINGS

- A. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8036 DESIGNATING THE BUILDING AND PROPERTY AT 977 7TH ST., TO BE KNOWN AS THE KRUEGER-CUNNINGHAM PROPERTY, AS AN INDIVIDUAL LANDMARK UNDER THE CITY’S HISTORIC PRESERVATION ORDINANCE.**

OWNER/APPLICANT: JANELLE C. KRUEGER & COSIMA KRUEGER-CUNNINGHAM

The presentation for this item was presented by Marcy Cameron Historic Preservation Planner.

Exparte communications: Council Member Morzel had visited the property before but had no new information.

Applicant presentation – Cosima Kruegar-Cunningham spoke to the historic significance of the home.

There being no speakers the public hearing was closed at 8:14 PM.

Council Member Cowles moved, seconded by Council Member Morzel, to adopt Ordinance No. 8036 designating the building and property at 977 7th St., to be known as the Krueger-Cunningham Property, as an individual landmark under the city’s Historic Preservation Ordinance. The motion carried 9:0 at 8:15 PM.

B. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8037 DESIGNATING THE BUILDING AND PROPERTY AT 1029 BROADWAY STREET, TO BE KNOWN AS THE EVANS SCHOLARS HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY’S HISTORIC PRESERVATION ORDINANCE.

OWNER/APPLICANT: EVANS SCHOLAR PROGRAM

The presentation for this item was presented by Marcy Cameron Historic Preservation Planner.

Exparte communications:

Council Member Cowles indicated he knew two of the Evans Scholars but had no new information.

Rick Palmere, Applicant and Chair of the Evans Scholar Foundation thanked the Land Marks Board, Planning Board and staff. He explained that he had lived in the house for 50 years and asked council to support the house as an individual landmark.

There being no speakers the public hearing was closed at 8:21 PM.

Council Member Weaver moved, seconded by Council Member Jones, to adopt Ordinance No. 8037 designating the building and property at 1029 Broadway Street, to be known as the Evans Scholars House, as an individual landmark under the city’s Historic Preservation Ordinance. The motion carried 9:0 at 8:23 PM.

C. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8039 RELATED TO THE ANNEXATION OF THE FOLLOWING PROPERTIES AND RIGHT-OF-WAY IN THE OLD TALE ROAD NEIGHBORHOOD WITH THE INITIAL ZONING OF RESIDENTIAL-RURAL 2 (RR-2):

APPLICANTS/OWNERS:

1165 Old Tale Rd., Macinko Exempt Trust
1193 Old Tale Rd., Cynthia and Charles Anderson
1228 Old Tale Rd., Steven Erickson
1245 Old Tale Rd., Harold and Sherlynn Bruff
1270 Old Tale Rd., Jeffrey and Wendy Mortner

1275 Old Tale Rd., Thomas and Barbara Corson
1305 Old Tale Rd., Monty Moran
1315 Old Tale Rd., Joanne M Simenson
1325 Old Tale Rd., Sarah Kingdom
1402 Old Tale Rd., Kellie Masterson-Praeger
1409 Old Tale Rd., William Dick III
1412 Old Tale Rd., John and Penelope Bennett
1435 Old Tale Rd., Joyce Peterson Thurmer
1436 Old Tale Rd., Thomas Perry
1457 Old Tale Rd., Cameron Bradley Peterson
1483 Old Tale Rd., Jason and Jennifer Kiefer
1507 Old Tale Rd., Richard and Jeanie Leddon
1510 Old Tale Rd., Mark and Mary Beth Vellequette
1533 Old Tale Rd., Laurie Duncan-McWethy
1566 Old Tale Rd., Stewart and Robin Elliott

The presentation for this item was provided by Chris Meschuk, Flood Recovery Coordinator – Community Services.

The public hearing was opened at 8:50 PM.

- 1) Joanne Simenson spoke in support of annexation but wanted amendments to eliminate the cost of high fees for the owners to annex.
- 2) Lew Kingdom spoke in support of annexation but against the fees of annexation which would result in over \$75,000; There are neighbors that have city water and utilities but remain in the county. The cost of PIF fees has increased over 100%. He requested that the Council amend the fees.
- 3) Sarah Kingdom spoke against the high cost of annexation fees. Asked council if there was a burden of cost to the city. This was not a new neighborhood and they request Council to amend the stormwater fees.

There being no further speakers the public hearing was closed at 8:58 PM.

Council Member Plass moved, seconded by Council Member Weaver, to adopt Ordinance No. 8039 related to the annexation of the following properties and right-of-way in the Old Tale Road neighborhood with the initial zoning of Residential-Rural 2 (RR-2). The motion carried 9:0 at 9:57 PM.

6. MATTERS FROM CITY MANAGER – 9:15 PM

A. CONSIDERATION OF A POTENTIAL APPLICATION AS A HOST CITY FOR THE 2017 IRONMAN® 70.3® WORLD CHAMPIONSHIPS

Presentation of this item was provided by Mike Eubank, Special Events Coordinator.

Mr. Eubank noted that it would take significant time to prepare for a World Championship and recommended pursuing hosting of this event at a later date when appropriate time would allow for its success.

Council supported the staff recommendation.

B. UPDATE ON RESPONSE TO COUNCIL DIRECTION FOR THE CITY MANAGER TO PROVIDE FUNDS FOR LEGAL ASSISTANCE TO MOBILE HOME OWNERS IN BOULDER

City Manager Brautigam informed council that \$20,000 had been found to support legal assistance for mobile home issues in Boulder.

7. MATTERS FROM CITY ATTORNEY

Mayor Appelbaum moved, seconded by Council Member Jones, to hold a special city council meeting on June 1st, 6 – 9 PM for the purpose of holding an executive session on municipalization.

8. MATTERS FROM MAYOR AND MEMBERS

A. POTENTIAL CALL UPS

1. WATER AND WASTEWATER SERVICE AGREEMENT WITH AVERY BREWING COMPANY

No action was taken on this item

2. 2440 JUNCTION PLACE CONCEPT PLAN REVIEW

No action was taken on this item

B. CONSIDERATION OF A MOTION TO SUPPORT CITY PARTICIPATION IN A CONSORTIUM OF CITIES PERMANENT SUPPORTIVE HOUSING STUDY AND AUTHORIZE THE CITY MANAGER TO ALLOCATE UP TO \$20,000 FOR THE CITY'S CONTRIBUTION

Presentation of this item was provided by Council Member Morzel.

Council Member Morzel moved, seconded by Council Member Young to authorize the city manager to allocate up to \$20,000 for the city's contribution for a Consortium of Cities Permanent Supportive Housing Study.

C. REQUEST FOR THE COUNCIL'S SUB-COMMITTEE ON THE HOUSING PROCESS TO TRANSITION THEIR WORK TO THE BVCP

Council asked that this item come back for appointments at the next council meeting to allow members time to consider their interest in participating.

D. RTD UPDATE – Mayor Appelbaum stated the RTD Board would make a decision in May regarding fares and scheduling. He noted that numerous updates had been provided and he was available to answer any questions regarding the ongoing discussions. He also thanked those council members who took time to go and

testify before the RTD board as fares and scheduling would not be considered again for a long time and the changes being proposed would have long term impacts on public transit accessibility and cost.

E. ROCKY FLATS UPDATE

Council Member Morzel requested to bring this item at a later time if needed.

9. **PUBLIC COMMENT ON MATTERS (15 min.)**
Public comment on any motions made under Matters.

None.

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

Vote was taken on the motion to call a special council meeting on June 1st from 6 – 9 PM for the purpose of holding an executive session. The motion carried 9:0 at 10:31 PM.

Vote was taken on the motion to authorize the city manager to allocate up to \$20,000 for the city's contribution for a Consortium of Cities Permanent Supportive Housing Study. The motion carried 9:0 at 10:32 PM.

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

None

12. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on April 21, 2015 at 10:34 PM.

Approved this 19th day of May, 2015.

APPROVED BY:

Matthew Appelbaum
Mayor

ATTEST:

Alisa D. Lewis,
City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE:

Motion to approve a Letter of Intent (LOI) between the city of Boulder, the Central Area General Improvement District (CAGID) and St. Julien Partners LLC regarding the development of the civic use pad.

PRESENTER/S

Jane S. Brautigam, City Manager
David Driskell, Executive Director, Community Planning and Sustainability
Molly M. Winter, Director, Downtown & University Hill Management
Division/Parking Services
David Gehr, Deputy City Attorney
Sam Assefa, Senior Urban Design, Community Planning and Sustainability
Liz Hanson, Economic Vitality Coordinator, Community Planning and Sustainability

EXECUTIVE SUMMARY

The purpose of this agenda item is to present the proposed Letter of Intent (LOI) with St. Julien Partners for the development of the civic use pad adjacent to the St. Julien Hotel (**ATTACHMENT A**) including responses to questions presented by City Council. An associated item is also on this meeting agenda as consideration of a motion to adopt Ordinance No. 7989 amending the 9th and Canyon Urban Renewal Plan (URP) in order to facilitate a civic use.

These documents facilitate the implementation of the URP's civic use requirement through a proposal to develop a public private partnership between the city and the St. Julien Hotel for a facility at the pad adjacent to the St. Julien Hotel. The proposal is a building including a first floor multi-use space and a potential rooftop terrace accessible to community and civic groups, and additional hotel facilities connected to the existing building. The concept was developed by the Civic Use Task Force IV (CUTF IV) and St. Julien Hotel, and supported by City Council at their Study Session in January 2014.

URP Modifications

The URP modifications provide greater flexibility and consist of the following amendments which are highlighted:

III. DEVELOPMENT PLAN

B. GENERAL DESCRIPTION OF THE DEVELOPMENT PLAN

The Development Plan will require the redevelopment of the project area to address the following:

- 1. Mixed and/or multi-use development that incorporates a combination of hotel and ancillary hotel services as primary uses. Civic uses (such as recreation center, museum, cultural center, City office space, and transit facilities as specified under Section III, E.2.d of this plan), will occupy up to 20% of the gross floor area developed in the project area pursuant to a plan, agreement, or other arrangement approved by the city.*

E. PUBLIC IMPROVEMENTS

2. Land Utilization

The current floor area ratio (FAR) for the project area is approximately 0.03. The City of Boulder Planning Department's criteria for "significantly underutilized" land in the downtown is an FAR below 0.49. Implementation of this Plan will result in an FAR that does not exceed the amount permitted by the underlying zoning.

The modifications are unanimously supported by the Boulder Urban Renewal Board (BURA), the Boulder Planning Board and the Downtown Management Commission (DMC). The modifications to the plan are generic and are not specific to this proposal.

Letter of Intent

Simultaneously, City Council is requested to consider a motion approving a Letter of Intent (LOI) between the city, CAGID and the St Julien outlining the responsibilities and expectations of the parties and the next steps in the development of the civic use concept prior to entering into a final management agreement which would be approved by the City Council. The LOI has been modified based on feedback presented by City Council at first reading. See analysis section below.

The first reading memorandum is provided for reference in **ATTACHMENT B**.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion as the council and as the CAGID board of directors:

Approval of the Letter of Intent between St. Julien Partners, the city of Boulder and the Central Area General Improvement District (CAGID) as presented in **ATTACHMENT A** of this memorandum.

ANALYSIS

At first reading, City Council posed several questions that have been addressed below and the LOI has been updated as noted. In April, 2015, City Council passed Ordinance No. 8028 amending the building height regulations in the downtown DT 4 and 5 zoning districts until the current effort to update the Downtown Design Guidelines is completed (anticipated to be by October 2015). The site is within the DT 5 area. Under the projected timeline for adoption of updated Downtown Design Guidelines, staff does not expect the adopted Height Ordinance to delay consideration of a proposal for building on the Civic Use Pad site.

First Reading Questions and Staff Response:

1. **Question:** What is the built square footage versus what is possible under the proposed modifications to the original URP?

Answer: The as-built, permitted gross square footage for the St. Julien Hotel is 158,672 S.F., built on a total site area of 126,797 S.F. The original Urban Renewal Plan (URP) permitted a max of 1.5 FAR, or 189,285 S.F. of building (1.5 x 126,797). The potential under the proposed change from 1.5 to 1.7 FAR would result in a total allowed building gross square footage of 215,555 S.F. (1.7 FAR x 126,797 SF). With 158,672 S.F. already built, this will allow 56,883 S.F. of building capacity for the Civic Use Pad.

The “test-fit” concept prepared by 4240 Architecture shows a gross building area of 65,200 S.F., which will need to be adjusted to comply with the 1.7 FAR.

2. **Question:** Is it correct to expect that nearly 22,000 square feet will be available for civic use if this concept plan is built?

Answer: As currently envisioned, the concept shown under this plan represents approximately 22,000 SF for civic use, which is comprised of approximately 14,660 SF of space on the ground floor and approximately 7,250 SF of open air, rooftop terrace which will be explored.

3. **Question:** Regarding the rooftop event space: What is the feasibility of the rooftop event space? Can the language in the Letter of Intent be changed to include use of the rooftop deck at a reduced cost and free on limited occasions?

Answer: The test-fit programming shows a strong commitment to do the rooftop space and the schematic design (included in **ATTACHMENT C**) shows such a space on top of the 4th floor. In order to allow efficient servicing of the area by various sized groups and vendors, two passenger elevators and one service elevator are envisioned. There are challenges as the passenger elevators may not conform with the city’s 55’ height limit because occupied space such as an elevator lobby cannot go above 55’. However, alternate technical solutions are being reviewed. The rooftop space will likely be a pre-event gathering space as the viability to book events in advance might be difficult. However, staff

recommends every possible option to be further explored for including an accessible rooftop space for use by civic groups as a key component of the eventual proposal.

Staff modified language in Section 3.e. to include rental of the potential rooftop event space at a reduced rate for civic and non-profit organizations and the exploration of circumstances when the civic/non-profit groups could access the space for free.

Section 3e reads as follows:

“The building will be designed, if deemed feasible through the design process as to architectural constraints and commercial functionality, with an outdoor rooftop area that will be available for use by community members and visitors through rental of space by civic groups and not-for-profit organizations at a reduced rate and exploration of circumstances when the space could be used for free.”

4. **Question:** Who will determine the qualified caterers to the space? How will the list be maintained and evolved over time? What will be the process for determining qualified caterers?

Answer: As the space needs to be set up, torn down, left clean and in good repair after each event, it is important that only reputable vendors/caterers be allowed to service the space. The St. Julien assumes that it will include a broad list of reputable companies. The process for compiling such a list is open for discussion but initially it could include approved caterers/vendors for other regional event centers and/or the city can issue a request for qualifications based on criteria approved by both the city and St. Julien. The LOI has been amended in Section 5.a.ii to include regular review and updating of the list of caterers. The process is not intended to be restrictive but needs to result in vendors that will comply with the rules.

5. **Question:** How early in advance do civic users need to book the space?

Answer: Section 5.a.iii.of the LOI states that non-profits have first right of refusal to book the space a year or more in advance . If a date/time is available in one year or less, either the St. Julien or a non-profit has the option of reserving the space on a first come, first served basis.

6. **Question:** Can the costs of space maintenance, cleaning, and utilities be accounted and recorded separately from the hotel space in the same building to ensure that civic users are paying no more or less than their fair share for use of the space? And can this be included in the LOI?

Answer: Section 5.a.i. states that the rental costs for basic services (utilities, maintenance and repairs, etc.) for the rentals by non-profit/civic users be covered and cost neutral to the St. Julien. In addition, wherever possible, separate utility meters will be installed and various maintenance costs will be tracked and charged separately. Language has been added to the LOI stating that the St. Julien will separately track direct expenses related to the civic use space rentals. Additionally, St. Julien will use its various staff (e.g. sales, marketing, accounting, etc.) without reimbursement to be available as a resource to the various civic groups to present the space, manage the logistics of the usage, and coordinate maintenance, repairs/replacements, etc.

7. **Question:** What would be the civic benefits subsidies in order to make the space affordable for local non-profit or civic groups in addition to the “cost neutral” rate the St. Julien would provide and who would provide these subsidies?

Answer: The amount of the civic use subsidy will be determined based on the actual costs to rent the space without profit to the St. Julien and comparison with other equivalent space rentals and feedback from the potential civic space users. See section 5 a.i.

The proposal in the LOI stipulates that the St. Julien’s contribution would be the sole responsibility for all the costs of building construction and interior finishes, including the civic use space, as well as providing the space at a cost-neutral rate to civic and non-profit users. Any cost contribution/civic use subsidy by the city and/or CAGID will be identified during the process envisioned by the LOI. Discussions with the Civic Use Task Force envisioned that the St. Julien’s financial contribution to the civic use space would be the total construction costs of the building and interior finishes and the city would be responsible for determining a mechanism to provide the rental subsidy and play a role in the decision making process. While no final decisions have been made, one potential source of revenue for the rental subsidy could be a percentage of additional tax revenues from the hotel uses in the new building on the pad.

An additional clause F was added to the LOI stating that the parties agree to update associated documents to allow meeting space as a civic use on this site.

Changes to the LOI are highlighted in yellow.

The modifications to the LOI have been reviewed with St. Julien Partners.

NEXT STEPS

If directed by Council, staff will proceed with negotiations with the St. Julien Partners to develop the management agreement and continue exploration of preliminary design issues of the mixed use facility. In addition, staff will proceed with the downtown design guidelines project and coordinate timing of both efforts. Staff will return to Council for approval of the management agreement and update on the project.

ATTACHMENTS

ATTACHMENT A: Letter of Intent with the City of Boulder, CAGID and St. Julien Partners LLC for the Development of the Civic Use Pad

ATTACHMENT B: First Reading City Council Memorandum

ATTACHMENT C: Civic Pad Feasibility Study

DRAFT: April 19, 2015

CITY OF BOULDER, COLORADO

Municipal Building
1777 Broadway
Post Office Box 791
Boulder, Colorado 80306
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DRAFT LETTER OF INTENT

City of Boulder,
Central Area General Improvement District, and
St Julien Partners LLC

July 31, 2014

Re: Letter of Intent (“LOI”) regarding the responsibilities of the St Julien Partners LLC (“St Julien”), Central Area General Improvement District, and the City of Boulder for the development of the civic use pad.

BACKGROUND

A. The Ninth and Canyon Hotel and Parking Condominium (the "Project") is a multi-use development that incorporates the combination of hotel and ancillary hotel services. The Project also includes a major parking facility for the Central Area General Improvement District (CAGID).

B. The Project was developed in a manner that is generally consistent with the Boulder Urban Renewal: Ninth & Canyon - 1995 revised plan (the “Urban Renewal Plan”).

C. The Urban Renewal Plan envisioned a development to be built on property owned by CAGID at Ninth Ave and Walnut Street generally located in the northern portions of Block 45, of the West Boulder plat and property owned by St. Julien that is generally located on the southern portions of Blocks 44 and 45 of the West Boulder plat. The two properties were combined and a hotel was constructed that fronts on Walnut Ave and parking constructed below grade under both properties.

D. The urban renewal plan anticipated that a minimum of 20% of the gross floor area developed in the project area would be civic uses. The civic use component envisioned under the Urban Renewal Plan has not been constructed yet. Numerous task force committees were formed over the years with both citizen volunteers and City representatives to address the implementation of the civic use portion with the conclusion that the civic use component as envisioned by the Urban Renewal Plan is not commercially and/or financially feasible as defined. The Civic Use Task Force IV (“CUTF IV”) made the recommendation to the City

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Council (and such recommendation was accepted) to modify the concept to allow for civic uses in conjunction with commercial uses.

E. This LOI is written to inform the intention of the parties, St Julien, CAGID, and the City, subject to the assumptions and provisions stated within. St Julien intends to design, construct, maintain, own and operate the civic use component of the building (the "Facility"). The Facility will be a part of the Project and is intended to meet the civic use requirement of the urban renewal plan. It is anticipated that assistance and/or coordination by CAGID and/or the City will be an integral part of the Project.

F. The parties agree to modify any documents to allow meeting space as a civic use on this site.

G. As used in this LOI, when the term "civic use space" is used, it is intended to describe a first floor event space and rooftop deck area over all or a portion of the new building on the civic use pad that will be available for use by community members and visitors through rental of space by civic groups and not-for-profit organizations. It is anticipated the civic use space will be used for meetings, celebrations, exhibits, fund raising events and art exhibits.

H. The Facility will be constructed on the Civic Use pad and will be maintained by St Julien.

RESPONSIBILITIES AND NEXT STEPS

1. **Purpose.** Each party acknowledges that this letter is a good faith effort to set forth some of the basic understandings concerning the implementation of the urban renewal plan, as modified to allow the Facility. An assortment of decisions, reviews, and approvals are necessary for any of the terms within to be completed. The Parties state that no commitment should be assumed until all such approvals are obtained and necessary agreements completed. This letter serves as the basis to identify the fundamental issues underlying the subsequent approvals and agreements.

2. **Project Concept.** St Julien will provide specific benefit anticipated in the urban renewal plan through the creation of the first floor event space, and possibly a rooftop deck that may be used by the community as well.

a. St Julien will finance and construct the building on the Civic Use Pad and any cost contribution/civic use subsidy by the City and/or CAGID will be identified during this process.

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b. The event space and the rooftop deck will be available for use by community members and visitors through rental of space by civic groups and not-for-profit organizations. It is anticipated the civic use space will be used for meetings, celebrations, exhibits, fund raising events and art exhibits.

c. Above the first floor event space, St Julien will construct three (3) floors of an ancillary and compatible use connected at each level to the existing hotel.

3. **Design of the Space.** The **parties** will develop the process for the design of the space so that it will meet the purposes of carrying out this memorandum.

a. The City and St Julien will reach out to local civic users to understand the space needs and the requirements of such groups for meeting or event space. The Parties will agree on a process to engage the civic community in the design approval process for the civic use space.

b. The parties intend to design space in order to optimize its use for a wide range of events including performances and arts events, as well as others..

c. The first floor will be designed with transparent window and door openings in the event space on the south side of the building and to the west (to the extent possible) to provide for views to the west and south.

d. Consideration will be given to the integration of design for the potential of adding a pedestrian bridge over Canyon Boulevard, although the actual design of such a bridge is a future effort.

e. The building will be designed, if deemed feasible through the design process as to architectural constraints and commercial functionality, with an outdoor rooftop area that will be available for use by community members and visitors through rental of space by civic groups and not-for-profit organizations **at a reduced rate and exploration of circumstances when the space could be used for free**

4. **Regulatory Approvals.** The Parties anticipate that the following regulatory approvals will need to occur to accommodate the project.

a. **Amend Urban Renewal Plan.** The Parties will cooperatively seek to amend the Urban Renewal plan and change those portions necessary to make the vision of the Urban Renewal plan consistent with this Letter of Intent, including without limitation amending

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the civic use floor area requirement and to make the general floor area regulations in the Urban Renewal Plan to be consistent with the underlying zoning.

b. Development Review Approvals. St Julien will be responsible for preparing and submitting the applications that may be necessary for concept review, site review, or use review that may be required by the Boulder Revised Code.

c. Technical Documents, Building Permits, Construction and Inspection. St Julien will be responsible for preparing and submitting the applications necessary for constructing the project, including without limitation, technical documents, building permits, and inspection reports that may be necessary for the construction of the Facility.

d. Business Licenses. The St Julien will be responsible for seeking approval of the necessary business licenses for the use and rental of the event space and the roof top deck, including without limitation assistance with the coordination of any appropriate liquor licenses for events catered by third parties. The parties intend that the event space and outdoor deck will be used by community groups in a manner that does not violate any regulatory approvals.

5. Agreements. The Parties anticipate that the following Agreements will need to be developed to implement this Letter of Intent.

a. Management Agreement. CAGID, the City, and St. Julien will enter into a management agreement which will set forth the standards under which the event space and rooftopdeck will be operated. The Parties will analyze the needs and criteria for the management of the civic use spaces. The management agreement will include the standards and criteria for the management of the event space, including without limitation the following:

i. A statement of the intent of the event space will be that it can be used by local not-for-profit groups or other civic groups at a reduced rate (e.g. to be defined in discussions with local civic users). The event space will be used in a manner so as to at least be cost neutral to St Julien (e.g. to be defined to cover basic utilities, maintenance and repairs, etc). The St. Julien will separately track those direct expenses related to the civic space rentals to ensure St. Julien is not deriving profit from those designated as civic use. In addition, St. Julien will use its various staff (e.g. sales, marketing, accounting, etc) without reimbursement to be available as a resource to the various civic groups to present the space, manage the logistics of usage, and coordinate maintenance, repairs/replacements.

ii. The Parties will develop a list of qualified caterers that will be eligible to provide service to entities that will use the event space. St Julien will be an authorized caterer for the space. The list of qualified caterers will be reviewed and updated on a regular basis to be determined in the management agreement.

Re: Letter of Intent -- For the development of the civic use pad between St. Julien, Central Area General Improvement District, and the City of Boulder

iii. The Parties will develop a method for scheduling the space. It is anticipated that there will be an opportunity to schedule events approximately one year in advance of the activity. After local not-for-profit and civic groups have had an opportunity to schedule events, St Julien will be able to schedule the space for other groups as part of the overall marketing efforts of the hotel.

iv. The City will consider and analyze options for the creation of civic benefits subsidies that will be intended to make the use of the space affordable for local not-for-profit or civic groups.

b. Condominium Agreement. The Parties will review and amend the Condominium Declaration for the Ninth and Canyon Hotel and Parking Condominium and associated agreements to insure that those agreements are consistent with this letter of intent.

c. Easements. The Parties will review existing easements, and modify them as necessary to permit the construction of the project, including the easements in the alignment of 10th Street and any access easements, rights, or agreements associated with a pedestrian bridge over Canyon Boulevard to the Library Building or other civic space or building that may be constructed in the future.

Parking Garage Storage Area. The Parties acknowledge that the needs of mechanical and/or event space storage will likely necessitate the creation of additional space below the pad (e.g. mezzanine to the existing garage) and may encroach on existing garage storage space. Final agreement with CAGID, the owner of the garage parking unit, will be part of the management agreement.

6. Miscellaneous

a. The Parties intend to support such other agreements and approval between and among each other, and BURA. The parties also support the idea that the application will be required to demonstrate compliance with local building and zoning laws. Under no circumstances will CAGID, Julien, or the City be represented as partners or joint venturers with each other in any way which would impute liability from one party to the other.

This LOI will not be construed as creating any obligations, contractual or otherwise, on the part of the Parties until the Parties have executed the subsequent agreements. Actions taken by any of the Parties, including but not limited to expenditure of funds, incurring or canceling other commitments or acts taken to implement any of the provisions of this LOI, will not be construed as part of the performance of the terms and conditions contained herein, nor will the party taking such action be regarded as having changed its position in reasonable reliance on the terms and conditions contained herein, so as to give rise to a claim of promissory estoppel or other equitable claims.

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Re: Letter of Intent -- For the development of the civic use pad between St. Julien,
Central Area General Improvement District, and the City of Boulder

Sincerely,

The Parties.

DRAFT



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 19, 2014

AGENDA TITLE:

Introduction, first reading and consideration of a motion to order published by title only an ordinance amending the 9th and Canyon Urban Renewal Plan in order to facilitate a civic use.

Presentation of a Letter of Intent between the city of Boulder, the Central Area General Improvement District (CAGID) and St. Julien Partners LLC regarding the development of the civic use pad.

PRESENTER/S

Jane S. Brautigam, City Manager

David Driskell, Executive Director, Community Planning and Sustainability

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

Division/Parking Services

David Gehr, Deputy City Attorney

Sam Assefa, Senior Urban Design, Community Planning and Sustainability

Liz Hanson, Economic Vitality Coordinator, Community Planning and Sustainability

EXECUTIVE SUMMARY

The purpose of this agenda item is to present items regarding the development of the civic use pad adjacent to the St. Julien Hotel: 1) first reading of an ordinance amending the 9th and Canyon Urban Renewal Plan (URP) (**ATTACHMENT A**), 2) and the proposed Letter of Intent (LOI) with St. Julien Partners (**ATTACHMENT B**). These documents facilitate the implementation of the URP's civic use requirement through a proposal to develop a public private partnership between the city and the St. Julien Hotel for a facility at the pad adjacent to the St. Julien Hotel. The proposal is a building including a first floor multi-use space and rooftop terrace accessible to community and civic groups, and additional hotel facilities connected to the existing building. The

concept was developed by the Civic Use Task Force IV (CUTF IV) and St. Julien Hotel, and supported by City Council at their Study Session in January 2014.

URP Modifications

The URP modifications provide greater flexibility and consist of the following amendments which are highlighted:

III. DEVELOPMENT PLAN

B. GENERAL DESCRIPTION OF THE DEVELOPMENT PLAN

The Development Plan will require the redevelopment of the project area to address the following:

- 1. Mixed and/or multi-use development that incorporates a combination of hotel and ancillary hotel services as primary uses. Civic uses (such as recreation center, museum, cultural center, City office space, and transit facilities as specified under Section III, E.2.d of this plan), will occupy ~~a minimum of up to~~ 20% of the gross floor area developed in the project area pursuant to a plan, agreement, or other arrangement approved by the city.*

E. PUBLIC IMPROVEMENTS

2. Land Utilization

The current floor area ratio (FAR) for the project area is approximately 0.03. The City of Boulder Planning Department's criteria for "significantly underutilized" land in the downtown is an FAR below 0.49. Implementation of this Plan will result in an FAR ~~of approximately 1.50~~ and does not exceed the amount permitted by the underlying zoning.

The modifications are unanimously supported by the Boulder Urban Renewal Board (BURA), the Boulder Planning Board and the Downtown Management Commission (DMC). The modifications to the plan are generic and are not specific to this proposal.

Letter of Intent

Simultaneously, a draft Letter of Intent (LOI) between the city, CAGID and St Julien is being proposed which outlines the responsibilities and expectations of the parties and the next steps in the development of the civic use concept prior to entering into a final management agreement which would be approved by the City Council. The City Council will be asked to consider a motion, concurrent with the second reading of the urban renewal plan amendment, to authorize the city manager to enter into the LOI on behalf of the City and CAGID.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Introduce at first reading and order published by title only an ordinance amending the 9th and Canyon Urban Renewal Plan as presented in **ATTACHMENT A** of this memorandum.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: A multi-purpose civic use space will provide the opportunity for additional events, performances, meetings and conferences bringing new visitors to Boulder.
- Social: A civic use on this site will provide access to a multi-purpose space that will be available to a variety of civic and community users.

OTHER IMPACTS

Fiscal - Budgetary impacts to the city organization:

The civic use multi-purpose space is proposed to be built and managed by the St. Julien pursuant to a management agreement approved by City Council. Staff will be exploring financing mechanisms to subsidize the costs of the space in order to be accessible to community and civic organizations.

BOARD AND COMMISSION FEEDBACK

- At their July 21, 2014 meeting, the Boulder Urban Renewal Board (BURA) supported the staff recommendation regarding the Urban Renewal Plan modification with an amendment of the Section III.E.2 removing the phrase "...appropriately utilizes the land and..." since it would provide more flexibility and the language did not provide enough detail to be helpful in implementing the objective of the plan modification.
- At their July 31, 2014 meeting, the Planning Board voted unanimously in support of the staff recommendation finding the modifications to the two sections of the 9th and Canyon Urban Renewal Plan – sections III.B.1 and III.E.2 – including the amendment of BURA, as a whole, confirm to the general plan for the development of the municipality of the city which is the Boulder Valley Comprehensive Plan. They also passed the following motion to recommend that City Council ensure that this space is available and welcoming all members of the community, including the low income community and minority community, and that City Council look at different rate structures to accomplish that.
- At their August 4, 2014 meeting, the Downtown Management Commission (DMC) voted unanimously to support the staff recommendation to amend the city ordinance modifying the 9th and Canyon Urban Renewal Plan as proposed and the draft Letter of Intent with St. Julien Partners LLC.

PUBLIC FEEDBACK

At the DMC meeting, a resident of the Arrete adjacent to the civic use pad requested consideration of the treatment of the east wall of the future facility to accommodate the existing patios.

BACKGROUND

Urban Renewal Plan

The city of Boulder has undertaken only two urban renewal projects: the redevelopment of Crossroads Mall in the early 1980's and the 9th and Canyon redevelopment. An urban renewal plan adopted in 1988 for the 9th and Canyon site in downtown Boulder called for hotel and convention facilities, including retail, restaurants, entertainment, transportation facilities and underground parking. In 1995, City Council modified the plan to include design guidelines for the site, as well as requiring that a minimum of 20 percent of the gross floor area be committed to civic uses. (**ATTACHMENT C**)

9th & Canyon Hotel and Parking Garage

The two property owners on the 9th and Canyon site – St. Julien Partners and the downtown parking district, Central Area General Improvement District (CAGID) - entered into a 9th and Canyon Condominium Association and built the project that exists today. The underground CAGID parking garage opened in November 2004 and the St. Julien Hotel opened in February 2005. Incorporated in the mixed use project is an 11,000 square foot pad east of the hotel constructed with a concrete structural deck capable of supporting a building (“the civic use pad”).

Major requirements of the URP plan were addressed with the project construction: the hotel is located on Walnut Street, open space was created on Canyon, a pedestrian walkway connects Pearl Street and the Civic Area, all the parking is underground and a pad east of the hotel was designated for a future civic use. Tax increment financing was used for the public parking. The remaining requirement for 20% civic use has yet to be accomplished.

Efforts to Put the Civic Use Pad to Productive Use

The civic use component of the project first came under consideration in 1998 when a citizen task force comprised of city board, downtown and community members was appointed to review submitted proposals and make a recommendation to City Council. The civic use criteria approved by the City Council in 1998, and currently applicable to the civic use pad, are:

- Financial ability to construct and/or operate and maintain a use over time.
- Acceptance as civic use defined by attraction/benefit to the cultural or scientific or educational or entertainment or artistic or humanistic or civic life of the community.
- Compatibility to the other urban renewal site uses, i.e. the hotel, the parking garage and open space.

- Enhancement to the vitality of the downtown by generating interest in coming downtown, diversifying the downtown experience for citizens, visitors and downtown users or complementing other downtown uses.

Subsequently, three different task forces have sought solutions and approaches to achieve a civic use on the site, but without success. These first three task forces considered a wide variety of ideas and formal proposals including location for the Depot, a children's museum and community dance facility, the Boulder History Museum, a 500 foot performance venue, a community dance facility with hotel meeting space, and the entry of a conference facility connected to buildings to the east.

In February 2000, Planning Board approved a Site Review Amendment to approve a building on the civic use pad to house the Collage Children's Museum and the Village Arts Coalition dance organization. Due to financial challenges, this approved civic use building was not constructed.

Civic Use Task Force IV – Recommendation

In 2009, City Manager Jane Brautigam appointed a 4th Civic Use Task Force (CUTF IV) with the charge to:

- Assess the challenges that have been identified through past efforts and make recommendations that would increase the likelihood of a successful endeavor;
- Review the civic use criteria to ensure they reflect the current city priorities and goals and needs of the community; and
- Assist in the development of a proposal solicitation strategy and process.

The members of the CUTF IV are:

- Boulder City Council Members Mary Young, George Karakehian and Lisa Morzel;
- Michael Smith, the Boulder Arts Commission;
- Susan Connelly, Boulder Convention and Visitors Bureau Advisory Board and former member of the Boulder Urban Renewal Authority and vice chair of the task force;
- Fern O'Brien, Downtown Boulder Business Improvement District;
- Matt McMullen, Downtown Management Commission and chair of the task force;
- Josie Heath representing non-profits;
- Wendy Reynolds representing the financial sector;
- Cindy Carlisle representing the community sector.
- Bruce Porcelli from the St. Julien was invited to join the task force in May 2012.
- City Council members KC Becker and Suzanne Jones served on the task force in the past.

The CUTF IV conducted a thorough and comprehensive investigation of the challenges, options and possibilities presented by the civic use requirement. Please see **ATTACHMENT C** for a summary of their efforts and accomplishments.

In the opinion of the Task Force and staff, after the exhaustive 15 year process of exploring civic use options, a collaborative partnership with St. Julien represents the most workable, exciting and viable path to achieving the requirement for civic use set out in the 9th and Canyon Urban Renewal Plan.

The concept for the collaborative partnership proposes a facility on the civic use pad built and owned by St. Julien including 8,000 square feet of first floor, multi-use space for shared hotel and “civic use” on the first floor, upper floors of hotel uses, and a multi-purpose roof deck. The multi-use space is envisioned to be flexible and accommodate a variety of uses including performances and exhibits, meetings, banquet events and conferences. Incorporated in the vision is a potential pedestrian connection across Canyon Boulevard to a future cultural facility at the current main library location. (**ATTACHMENT C**) The plans for the St. Julien civic use pad will be coordinated with the Civic Area Plan in order to maximize the synergy between redeveloped public facilities.

The civic use multi-purpose space is proposed to be built and managed by the St. Julien pursuant to a management agreement approved by City Council. Staff will be exploring financing mechanisms to subsidize the costs of the space in order to be accessible to community and civic organizations.

The civic use pad is owned as a limited common element of the Hotel. The original agreement in the condominium declaration included a provision that if an acceptable civic use was not established on the property on or before Jan. 1, 2020, that the owner of the hotel would have the right to convert the civic use site from a limited common element to another unit or to reallocate the civic use site to another use on the site. In other words, the civic use pad can be put to other purposes determined by its owner, St. Julien, under the terms of the condominium declaration after Jan. 1, 2020.

The CUTF IV and staff are formally exploring a collaborative partnership to understand its constraints, challenges, opportunities, benefits and issues of the concept. The areas for further analysis, study, potential change and negotiation include: existing legal agreements associated with the site including the Urban Renewal Plan and Condominium Association; planning and zoning regulations; building design and compatibility with the hotel and garage; financing; lease and user options to support civic use of the event space and multi-purpose roof deck for the community; and the negotiations with St Julien to define the facility management and parameters of the public/private partnership. The final development and management agreement will be negotiated and purposed to City Council for their final approval.

ANALYSIS

BURA Analysis

There are two types of plan modifications under the urban renewal statute: substantial modifications and modifications. The proposed changes fall into the modification category and can be approved as part of simple three step process outlined below. The proposed modifications addressing the amount of civic use on the site and the project FAR are generic changes and are not specific to the current proposal.

The Colorado urban renewal law provides a process for changing urban renewal plans that do not constitute a substantial modification of the plan. See section 31-25-107, C.R.S. This process was followed with the original plan approval in 1988 and its modification in 1995.

The process includes the following steps.

1. A change to a plan is initiated by the Urban Renewal Authority. The Urban Renewal Authority approves the plan, which leads to the next two steps in the process.
2. The statute requires the plan amendment be referred to the Planning Board. The Planning Board is required to review and make recommendation to the city council as to whether the modifications conformance with the “general development plan” for development of the city as a whole. Boulder’s “general development plan” is the Boulder Valley comprehensive plan.
3. The City Council will consider the modification to the Plan after a considering the recommendation of the Planning Board and the Approval of BURA.

The Boulder Urban Renewal Board (BURA) unanimously approved the modification to the plan at its meeting on July 21, 2014. BURA supported the concept of providing some flexibility in the URP while not tying the result to a specific plan. BURA modified the staff proposed language with the following change to Section III.E.2: removal of the text “appropriately utilizes the land and.” The approved language reads: “.....will result in an FAR that does not exceed the amount permitted by the underlying zoning.” It was noted that the language did not provide enough detail to be helpful in implementing the objective of the modification to the plan.

Staff supports the amendment made by BURA at their meeting on July 21st. Removing the phrase “appropriately utilizes the land” in section III.E.2 does not change the intent of the section; it was a reference to an earlier sentence: “The City of Boulder Planning Department’s criteria for “significantly underutilized” land in downtown is a FAR below .49” All current planning and zoning regulations regarding use would apply to this proposal so the term “appropriately utilizes the land” is not necessary.

Boulder Valley Comprehensive Plan Analysis

CP&S staff reviewed the proposed URP changes, Section III.B.1 regarding the amount of civic use required as part of the development and Section III.E.2 which would align the amount of floor area ratio (FAR) allowed with existing zoning standards in the downtown for this site, within the context of compliance to the Boulder Valley Comprehensive Plan (BVCP) (**ATTACHMENT D**)

The first modification to the URP, Section III.B.1, adds the following language:

“pursuant to a plan, agreement or other arrangement approved by the city, allows the flexibility to modify the 20% of the gross square footage of development (which translates to 37,000 square feet) for civic use.”

As past experience has shown since the initial efforts began in 1998, it has been difficult to find the organizations or entities to construct and operate a stand-alone building. The new language allows BURA and the City Council more latitude to approve a project that meets the civic use guidelines, is feasible financially and meets community needs and benefit.

The modification to Section III.E.2 (as modified by BURA) includes the addition of the following language,

“that does not exceed the amount permitted by underlying zoning”

The existing language of the urban renewal plan simply has a declaratory statement of the size of the project. This modification is a clarification that it is the intent of the URP that the site be developed in a manner that is consistent with the underlying zoning.

The language aligns the floor area ration (FAR) with the existing DT-5 zoning district in the Land Use Code which is intended for “higher intensity uses” and an area where the city has anticipated the highest potential for redevelopment. Any development review application for the civic use pad will be required to meet the requirements of the underlying zoning. “land use and zoning regulations . . . are developed and amended to be consistent with the goals and policies of the Comprehensive Plan. BVCP, p. 7.

The proposed use of the site to create a facility with both civic and hotel uses on the civic use pad adjacent to the St. Julien Hotel is consistent with the “Regional Business” definition of the BVCP, in that the area is intended for “major” retail and offices “serving the entire Boulder Valley”. The definition also indicates the city’s expectation that such areas will continue to be redeveloped and a dominant focus for major business activities in the region.

Based on this analysis, staff finds that the proposed modifications to the URP are in compliance with the BVCP. Planning Board unanimously confirmed that recommendation at their meeting on July 31, 2014.

Letter of Intent Analysis

The Letter of Intent between St. Julien Partners LLC, City Council and CAGID sets forth the basic understandings concerning the implementation of the URP as modified to allow for the public private partnership and proposed facility. The LOI does not represent a commitment but rather serves as a basis to identify the fundamental issues necessary to proceed to a subsequent agreement and approvals.

The following key responsibilities and expectations are outlined in the LOI:

- St. Julien will finance and construct the building on the Civic Use Pad. St. Julien will be responsible for the design and all development review and construction documents.
- Potential contributions to the project and civic use subsidy will be reviewed and discussed prior to the final management agreement.
- Civic use space is defined as a first floor events space and rooftop deck area that will be available for use by community members and visitors through rental by civic groups and non-profit organizations.
- The project is intended to meet the civic use requirements of the 9th and Canyon Urban Renewal Plan.
- St. Julien will construct three floors of ancillary and compatible use connected to the existing hotel.
- A process will be developed for the design of the space in order to optimize its use for a wide range of events including performances and art events. Consideration will be given to integrate a potential pedestrian bridge over Canyon Boulevard. The city and St. Julien will reach out to local civic users to understand their space needs and requirements. Also, the parties will consider the potential of incorporating a portion of the underground garage for mechanical and storage needs.
- A management agreement will be developed that will set forth the standards under which the events space and roof top deck will be operated including:
 - The event space will be used in a manner to be cost neutral to St. Julien.
 - An approved list of qualified outside caterers will be developed.
 - Scheduling method will be developed.
 - Determination by the city for the creation of a civic benefits subsidies in order to make the space affordable for local non-profit or civic groups.
- Identify amendments to other agreements such as the 9th and Canyon Condominium Association and/ or easements.

At the conclusion of the LOI, should the parties wish to proceed to a permanent arrangement, a management agreement will be developed, reviewed by the Civic Use Task Force IV, DMC and will be presented for approved by City Council.

Overall Project Analysis

Please see **ATTACHMENT E** for a thorough analysis of the site's context within the Civic Area Plan (CAP), civic space utilization survey of community organizations, potential building mass feasibility study, preliminary planning and zoning issues and necessary legal agreements.

NEXT STEPS

The ordinance will return to City Council for second reading on September 16 along with a motion to authorize the city manager to sign a letter of intent between the City, CAGID and St. Julien Partners LLC for the consideration of implementing the civic use portion of the 9th and Canyon Urban Renewal Plan.

ATTACHMENTS

- A: Ordinance Modifying the 9th and Canyon Urban Renewal Plan
- B: Letter of Intent with the City of Boulder, CAGID and St. Julien Partners LLC for the development of the civic use pad
- C: 9th and Canyon Urban Renewal Plan
- D: Community Planning & Sustainability Staff Memo regarding compliance to the Boulder Valley Comprehensive Plan
- E: City Council Study Session Memorandum January 2014



Boulder Civic Area

Civic Pad Feasibility Study

Boulder, Colorado

40° 0', 105°16'

25 November 2013

4240

Table of Contents

- o1 Program
- o2 Opportunities and Constraints
- o3 Plans
- o4 Sections
- o5 Massing
- o6 Optional Bridge Connection

o1 Program

Civic Pad Development

Feasibility Design 11.25.2013

Preliminary Program and Area Calculations

Civic Pad				
Room/Space	Net Area (nsf)	Gross Area (gsf)	Notes	
LEVEL 1				
1.10 Open Event Space	8,400		Room A combined with pre-function	
Conference Room - A	6,700	6,700		
Conference Room - B	3,350		Quantity (2)	
Conference Room - C	2,250			
Conference Room - D	1,100			
1.20 Pre-function		3,250	includes coat room	
1.30 Restrooms		1,060		
1.40 Warming Kitchen		1,740	includes service elevator passageway	
1.50 Vertical Circulation		680		
1.60 BOH/ Service Corridor		1,230	includes fan room exhaust wells	
Total Level 1		14,660		
LEVEL 2				
2.10 St. Julien Hotel - Expansion		12,190	Exterior terraces not included	
2.20 Circulation		900	Guest corridor 6' wide	
2.30 Vertical Circulation		680		
2.40 BOH/ Service		740		
Total Level 2		14,510		
LEVEL 3				
3.10 St. Julien Hotel - Expansion		12,190	Exterior terraces not included	
3.20 Circulation		900	Guest corridor 6' wide	
3.30 Vertical Circulation		680		
3.40 BOH/ Service		740		
Total Level 3		14,510		

LEVEL 4

4.10 St. Julien Hotel - Expansion	12,190	Exterior terraces not included
4.20 Circulation	900	Guest corridor 6' wide
4.30 Vertical Circulation	680	
4.40 BOH/ Service	740	
Total Level 4	14,510	

LEVEL 5 - CIVIC EVENT SPACE

5.10 Roof top Terrace	7,250	Open, flexible outdoor event spa
5.20 Mechanical/Electrical Rooms	2,800	
5.30 Elevator Foyer/Vestibule	450	
5.40 Vertical Circulation	680	
Total Level 5	3,930	

MEZZANINE LEVEL (Above Parking Level 1)

0.10 Storage	2,800	Event space storage - chairs, tab
5.40 Vertical Circulation	480	Service elevator access
Total Level 5	3,280	

TOTAL BUILDING AREA

65,400

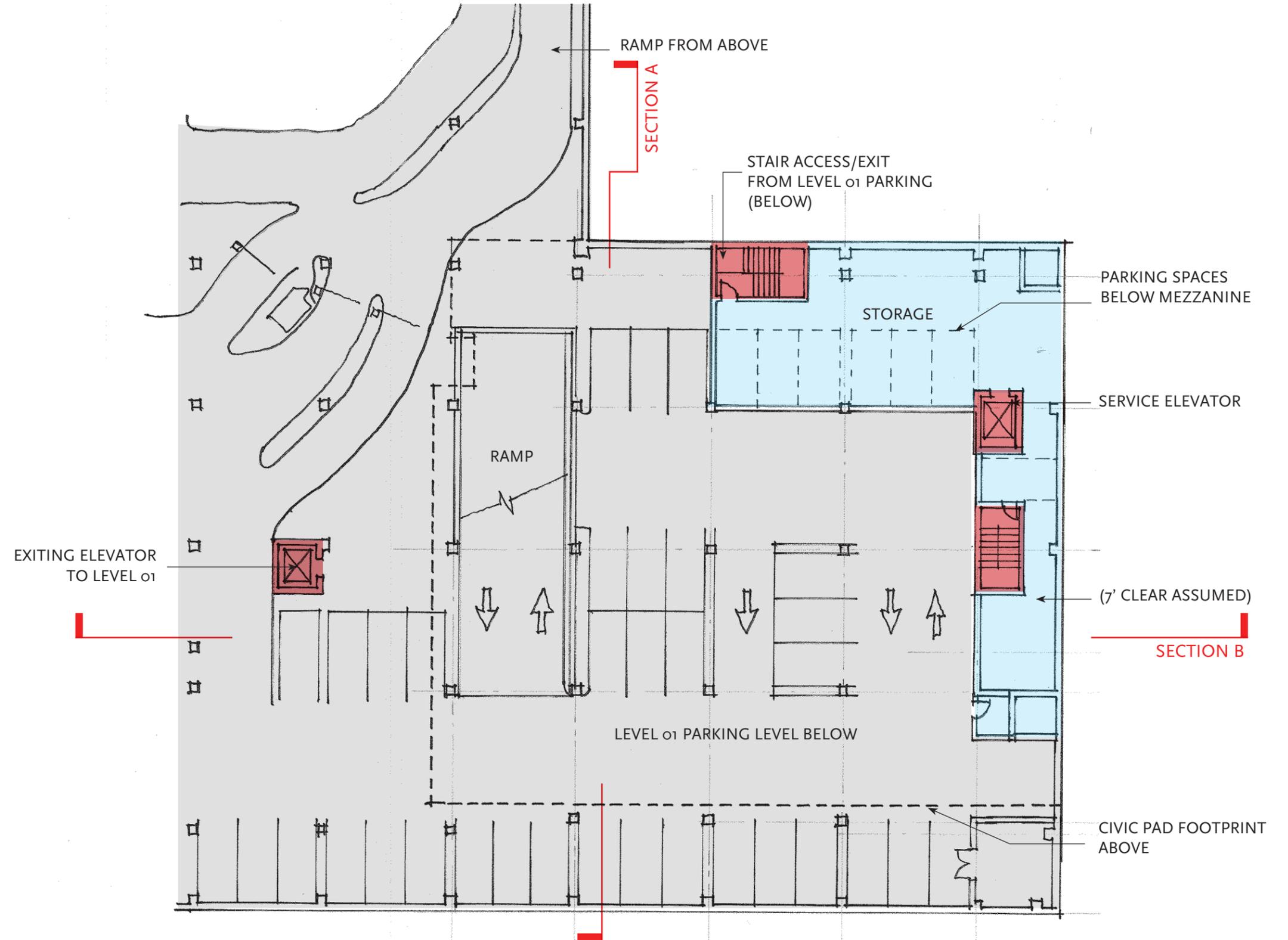
Opportunities:

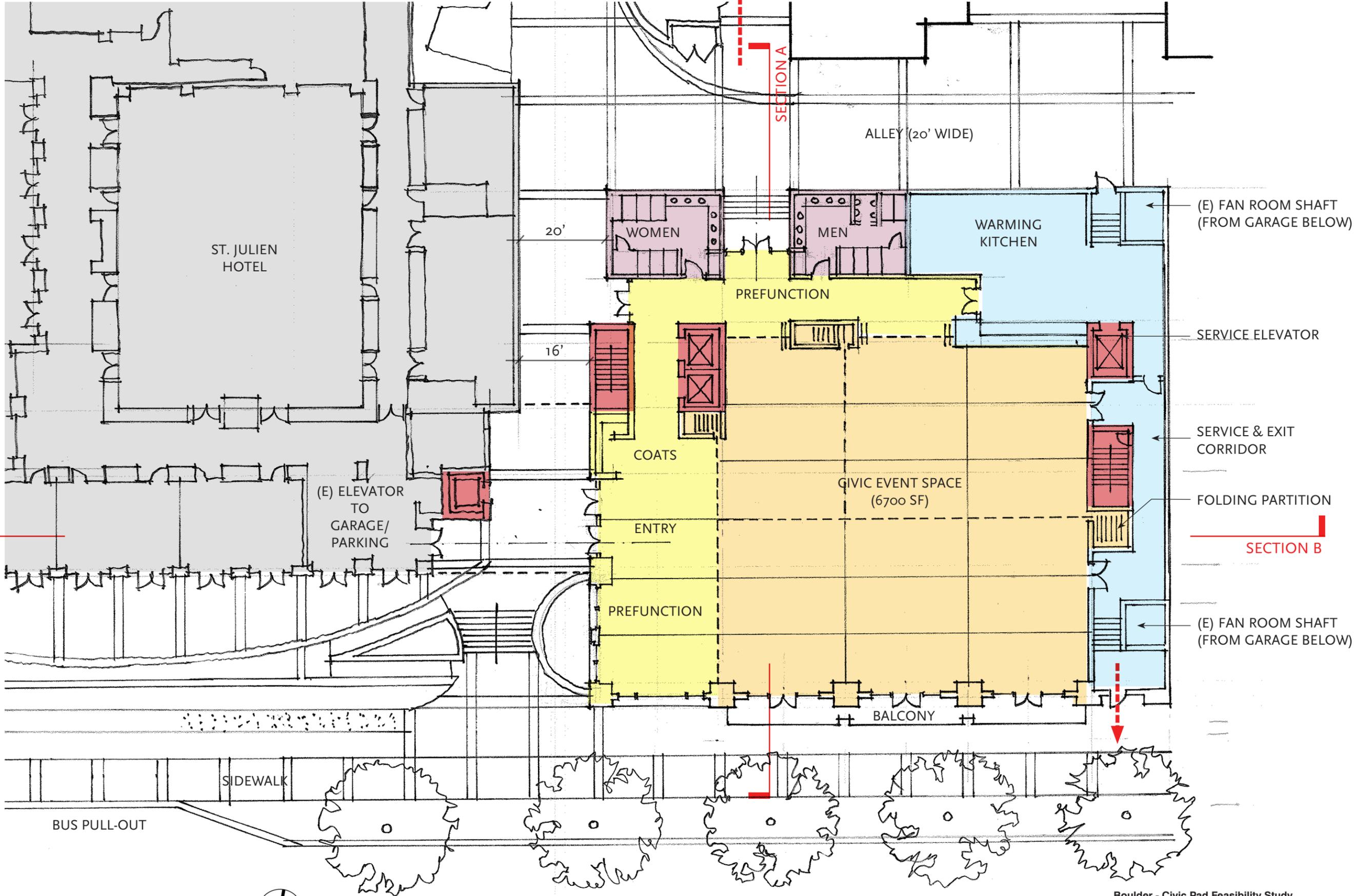
- i. Connection to West End Civic Plan
- ii. Connection to Walnut St and Mall via Alley
- iii. Connection to Civic Area (via Canyon Blvd crossing – street level or bridge)
- iv. Connection to 9th and Walnut Parking Garage and potential mezzanine storage space
- v. Large ground level multi-function public space with natural light
- vi. Roof top activity terrace
- vii. Facility sharing with St Julien Hotel
- viii. Living Building Challenge Designation

Possible Constraints:

- i. Building height limit of 55' and roof top use
- ii. Flood Conveyance zone
- iii. Bridging Canyon Blvd – State Highway (14' min clearance?)

o2 Opportunities and Constraints

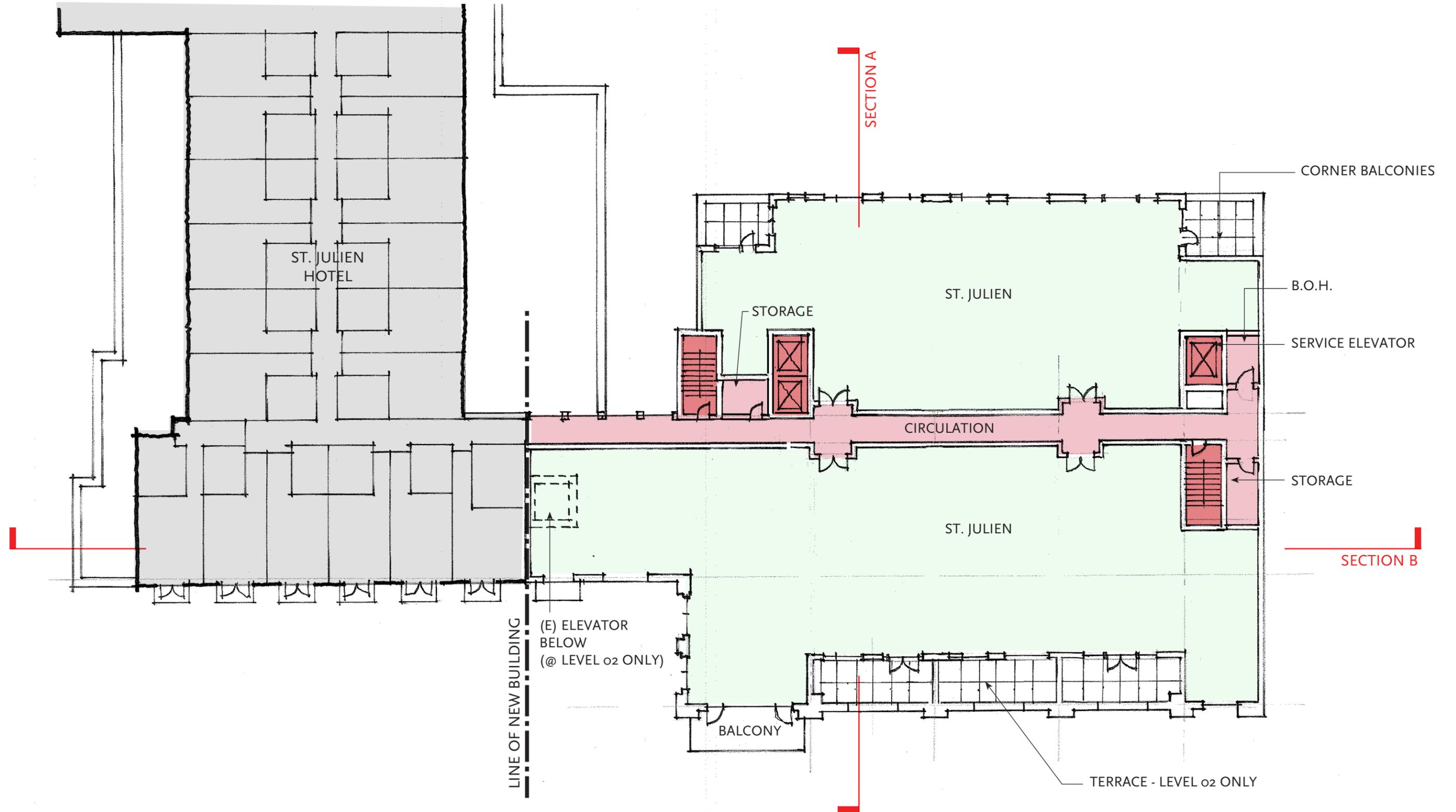


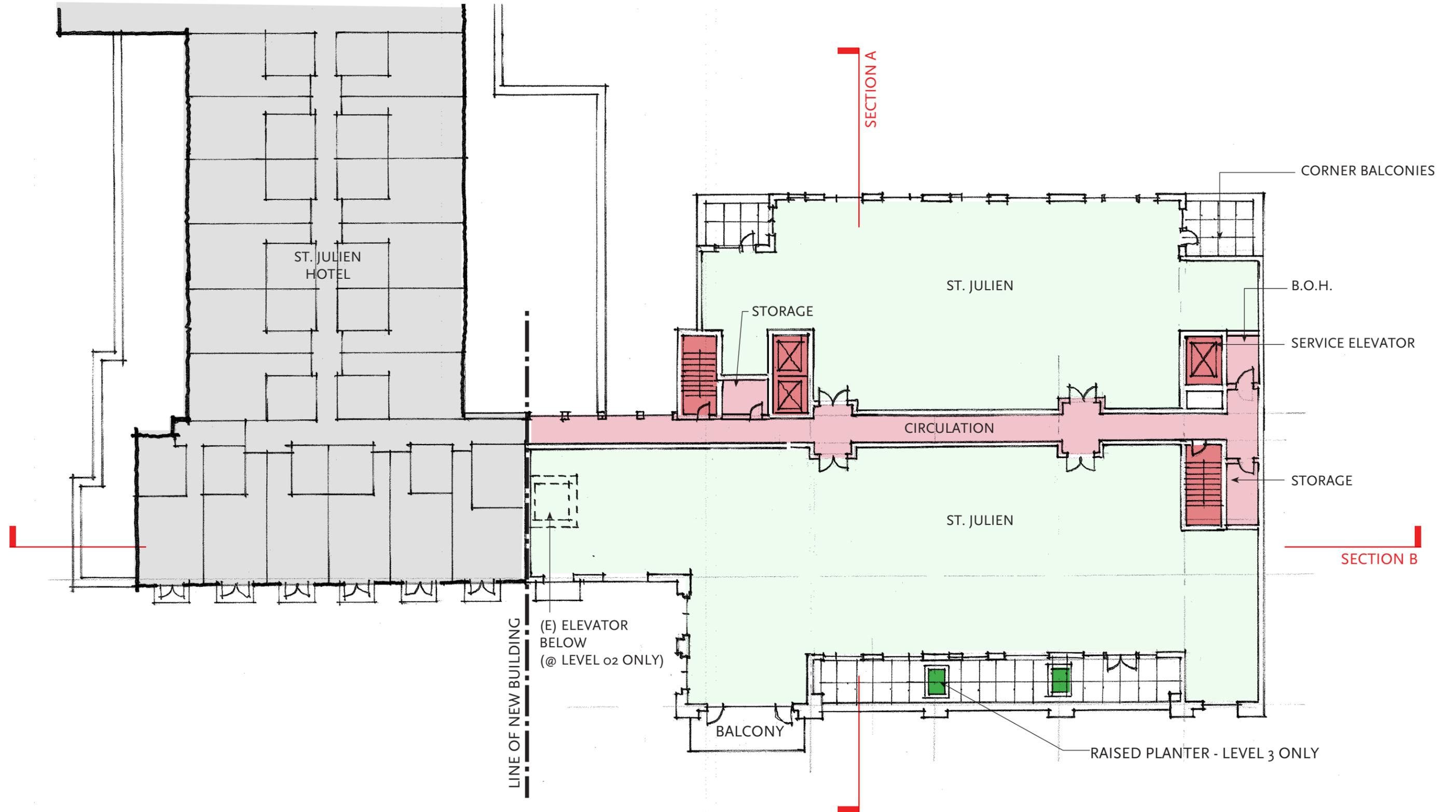


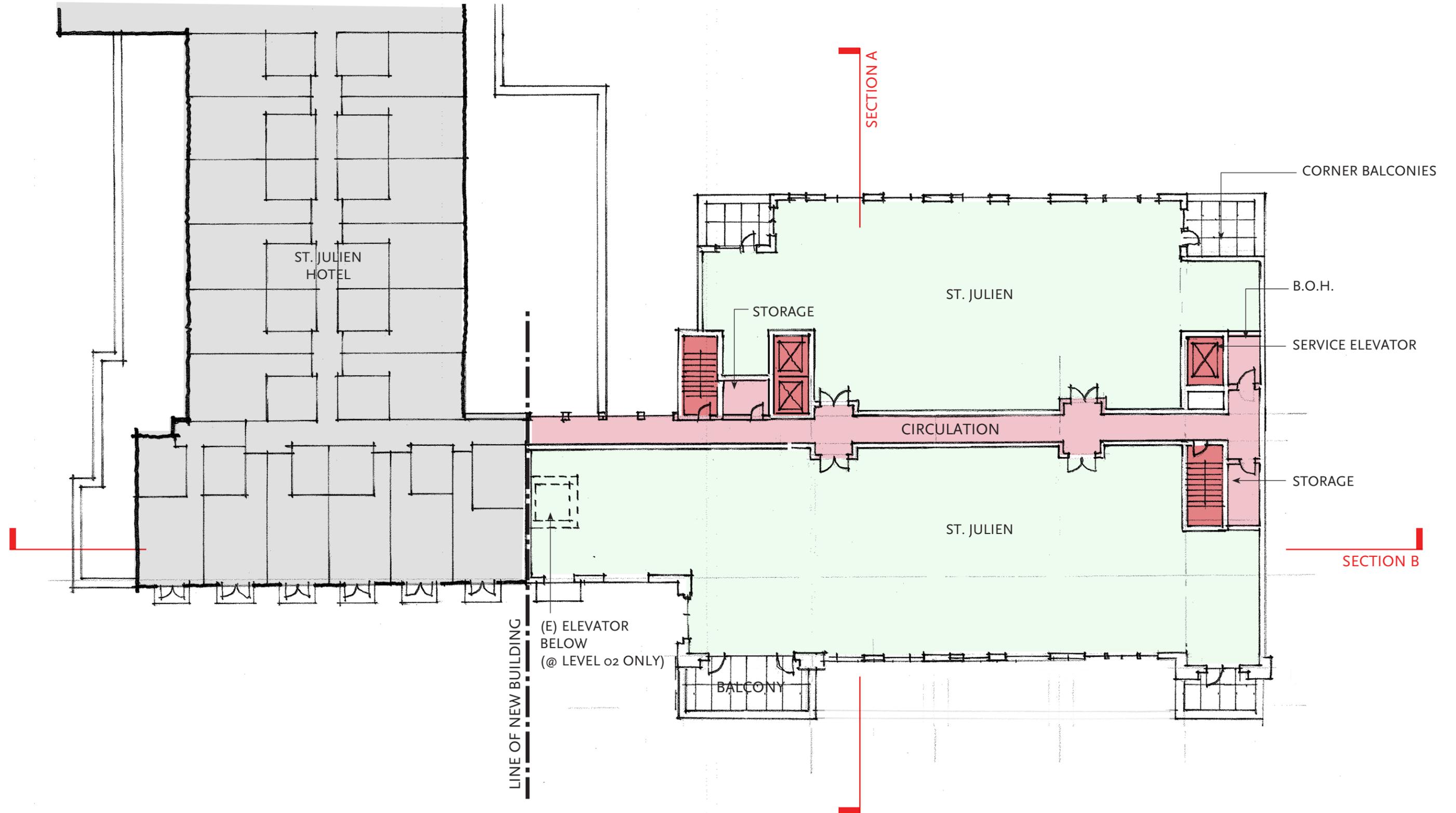
Level 01- Floor Plan

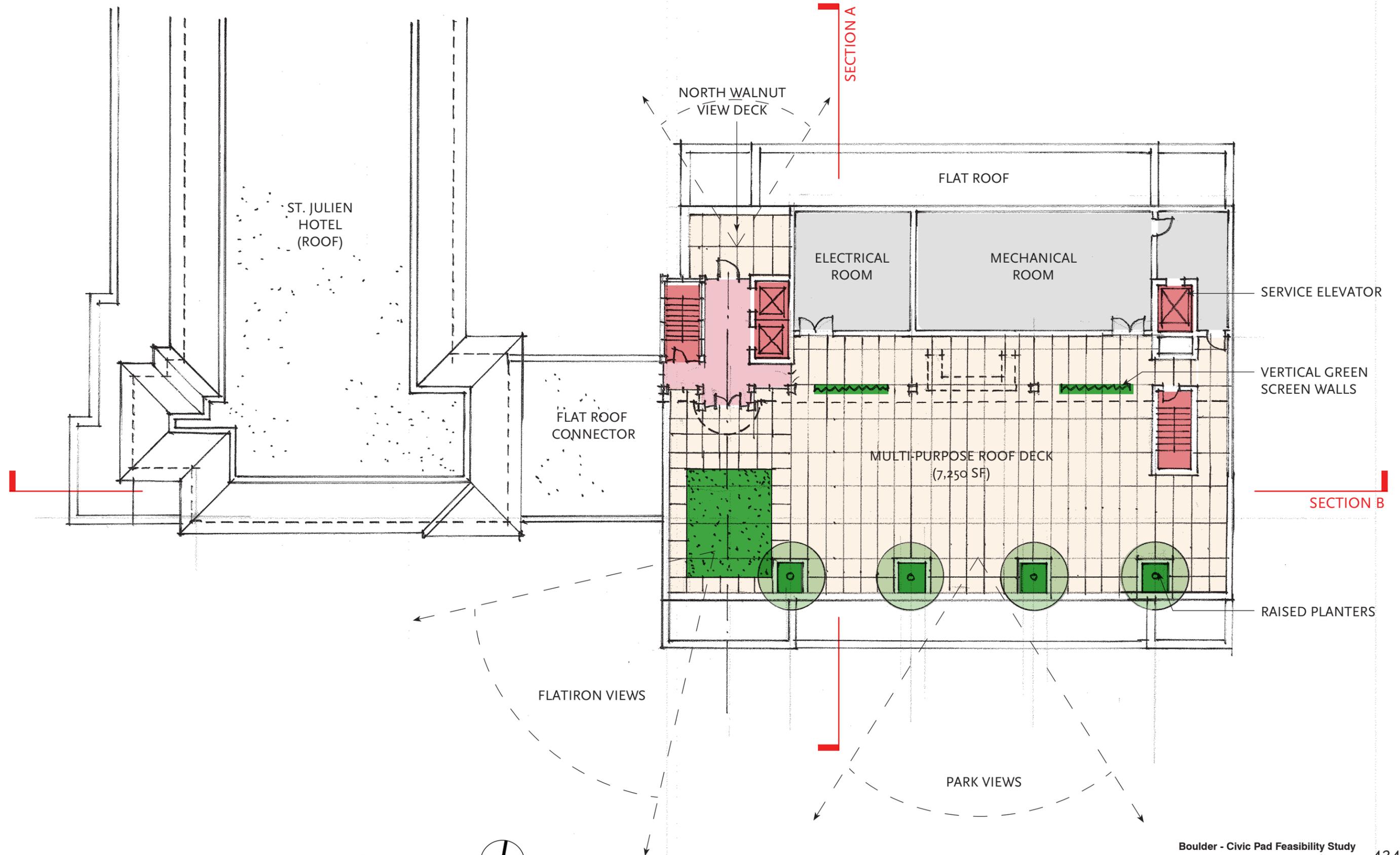


CANYON BOULEVARD



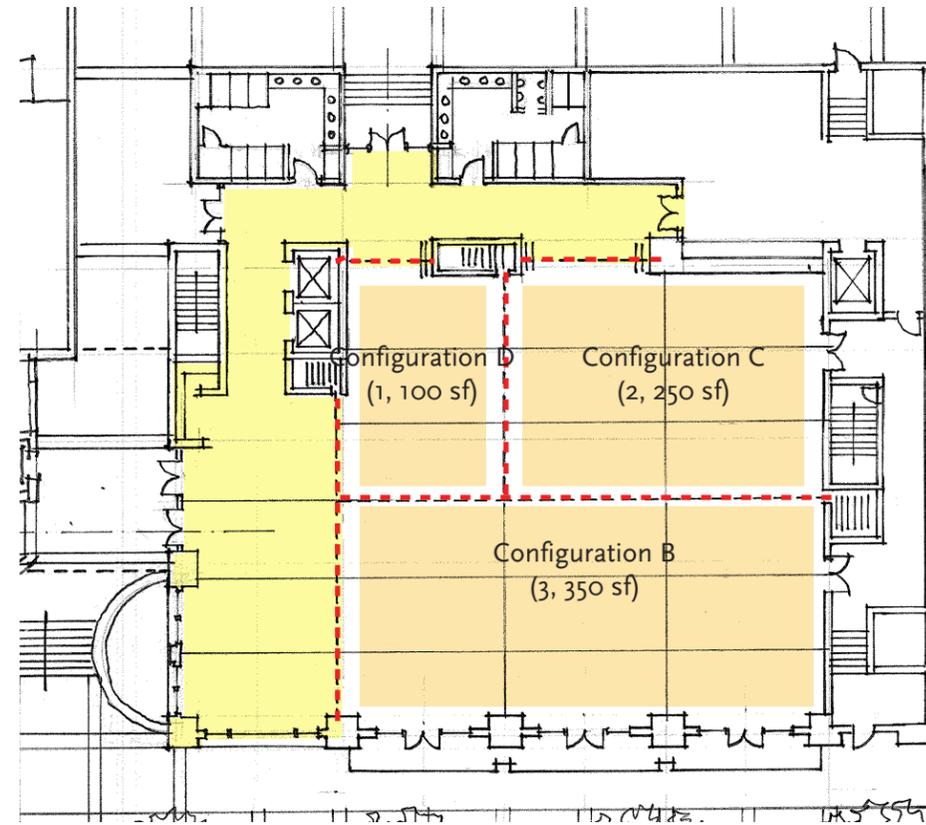




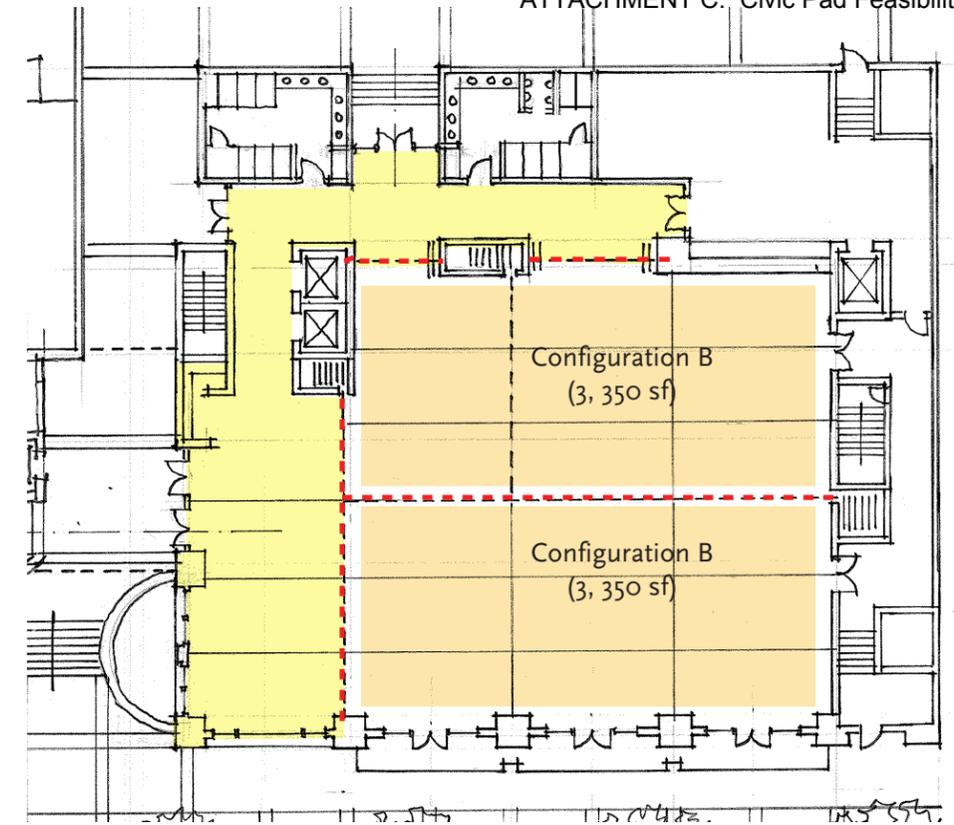


Upper Level Roof Deck Floor Plan

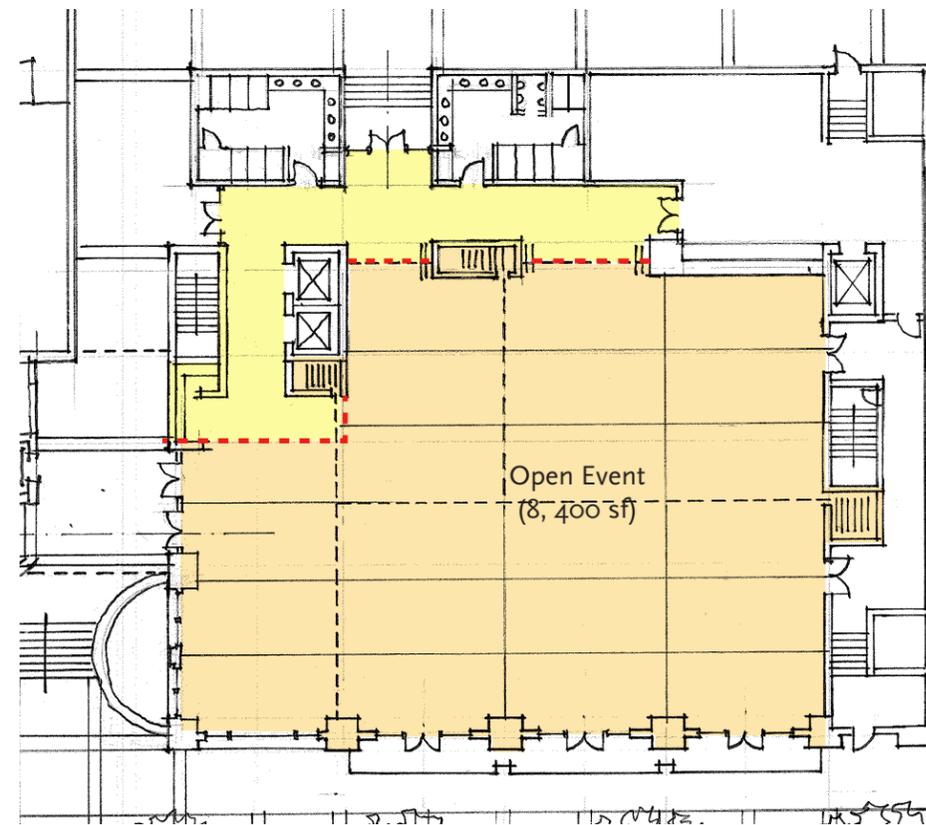




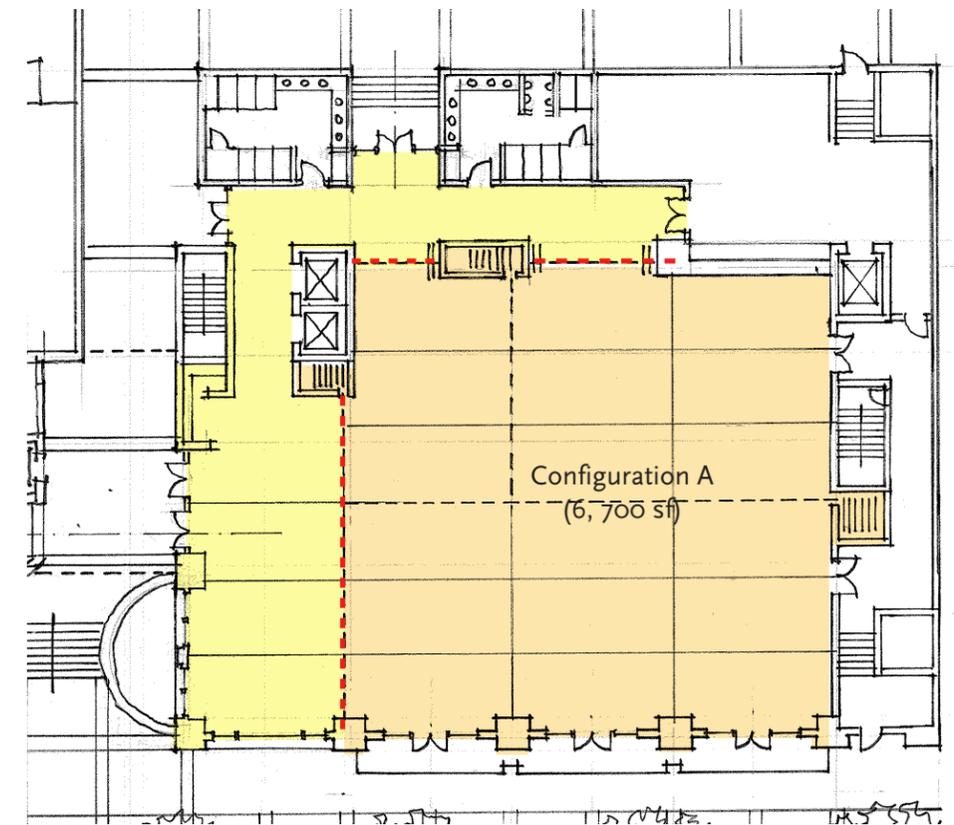
Partitioned Event - with prefunction



Partitioned Event - with prefunction

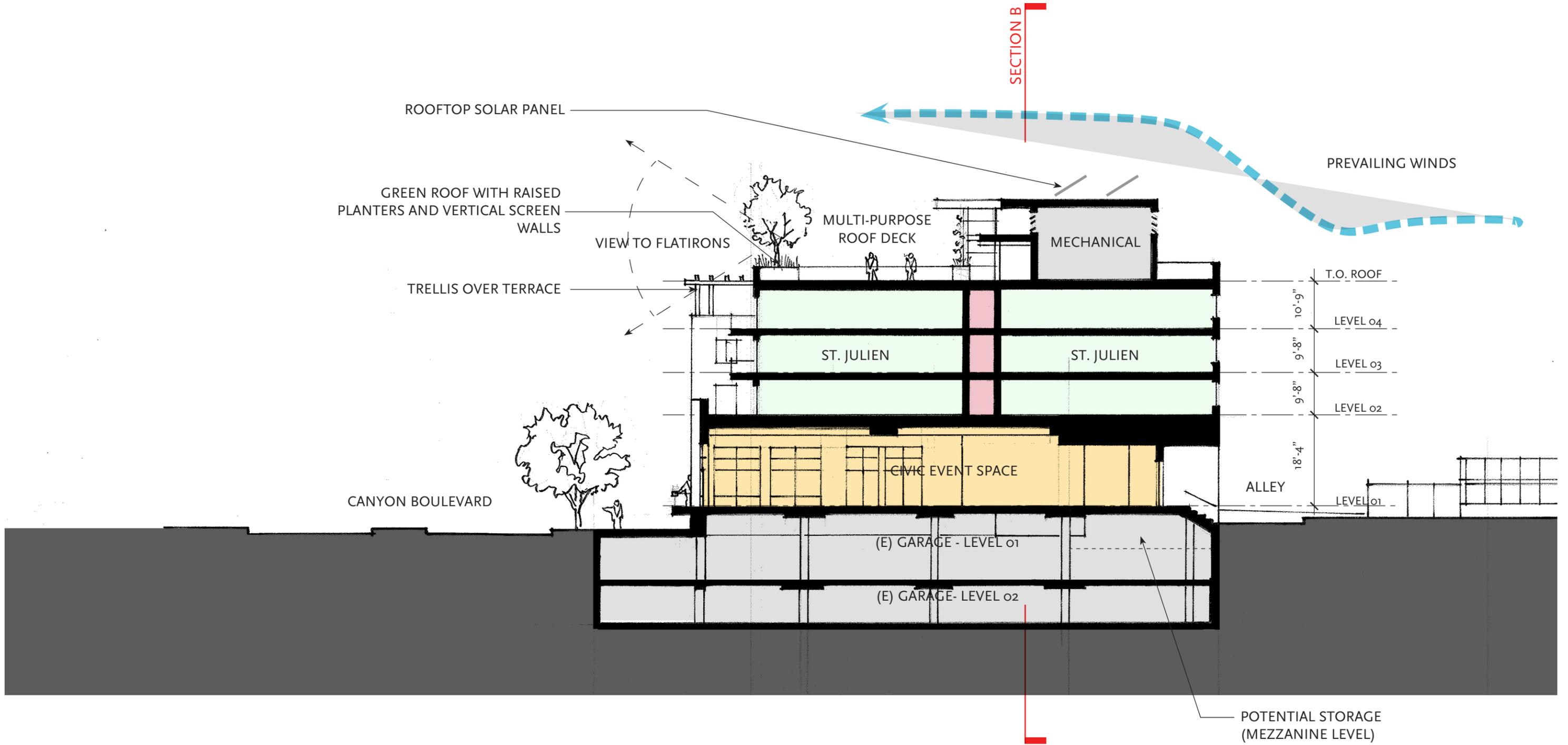


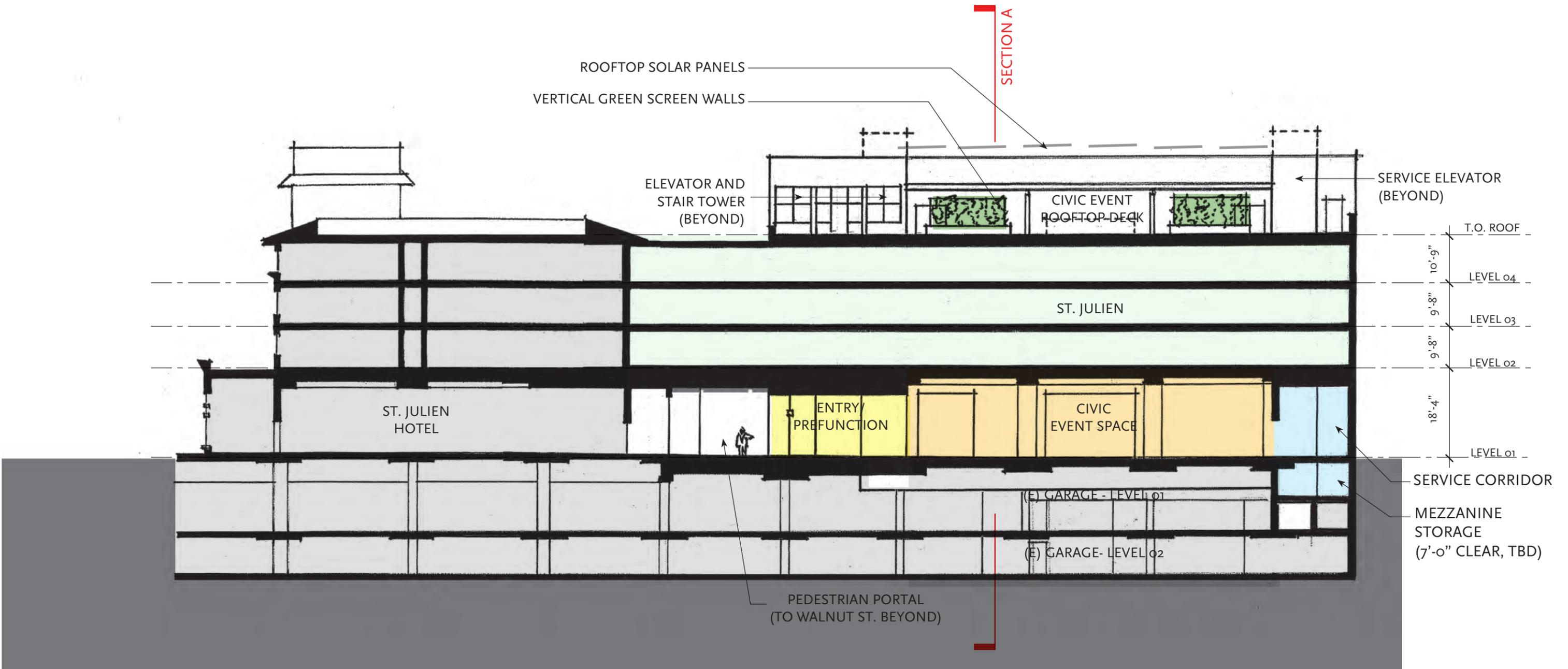
Open Event



Open Event - with prefunction

Civic Event Space Configurations









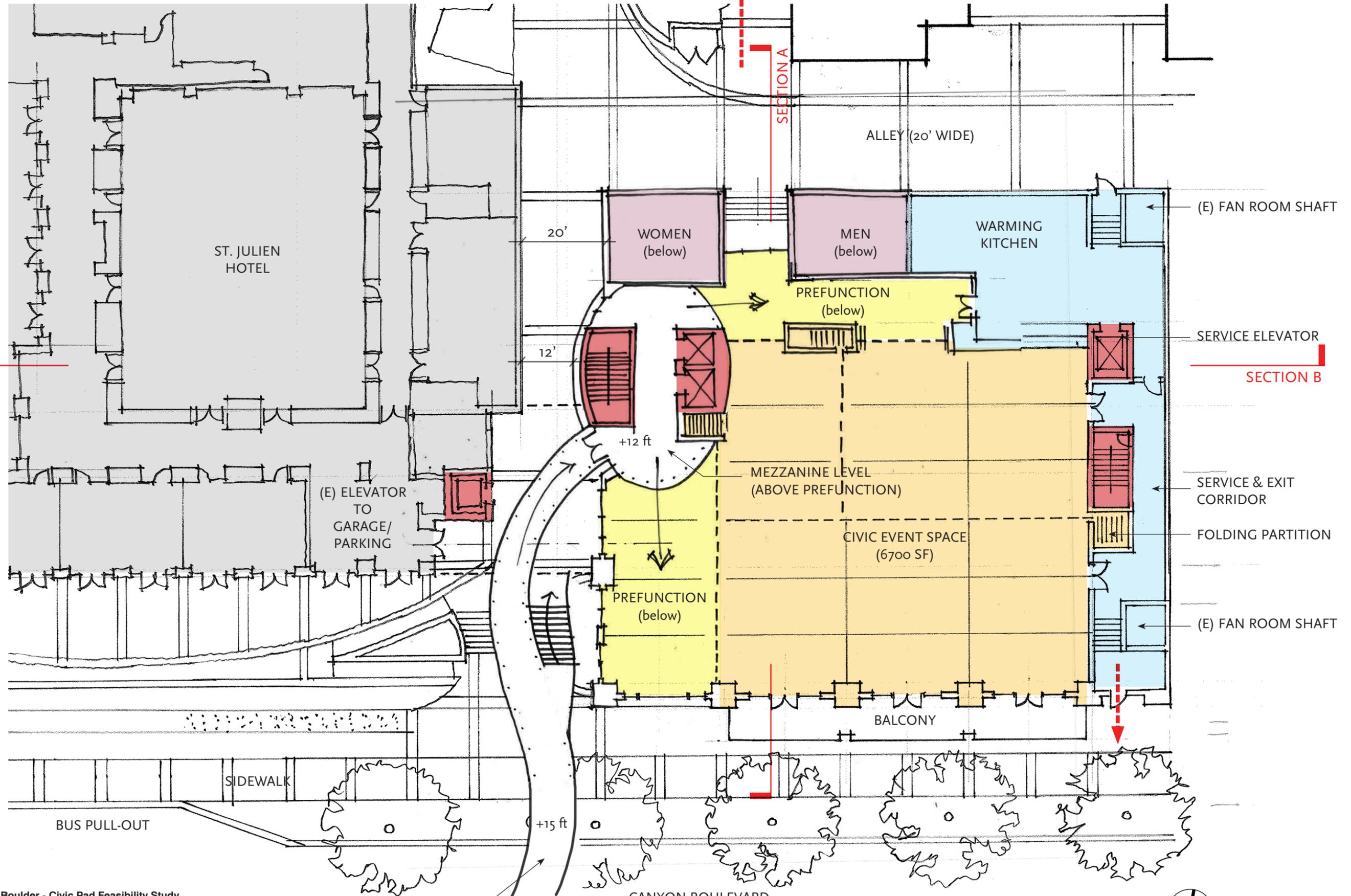
ST. JULIEN
HOTEL

MULTI-PURPOSE
ROOF DECK

CANYON BOULEVARD

Massing Model - view from southwest

o6 Optional Bridge Connection





ST. JULIEN
HOTEL

MULTI-PURPOSE
ROOF DECK

ICONIC FORM AT
VERTICAL CORE/
BRIDGE TERMINATION



LEVEL 02 BRIDGE
CONNECTION ACROSS
CANYON BLVD.



Optional Bridge Connection - Across Canyon Blvd.
Packet Page 73



Conference/Civic Event Space

Rooftop Deck- Civic Event Space



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE:

Second reading and consideration of a motion to adopt Ordinance No. 7989 amending the 9th and Canyon Urban Renewal Plan in order to facilitate a civic use.

PRESENTER/S

Jane S. Brautigam, City Manager

David Driskell, Executive Director, Community Planning and Sustainability

Molly M. Winter, Director, Downtown & University Hill Management
Division/Parking Services

David Gehr, Deputy City Attorney

Sam Assefa, Senior Urban Design, Community Planning and Sustainability

Liz Hanson, Economic Vitality Coordinator, Community Planning and Sustainability

EXECUTIVE SUMMARY

The purpose of this agenda item is to present the second reading of an ordinance amending the 9th and Canyon Urban Renewal Plan (URP) (**ATTACHMENT A**) regarding the development of the civic use pad adjacent to the St. Julien Hotel including responses to questions presented by City Council. The City Council did the first reading of the URP ordinance at the August 19, 2014, meeting. An associated item on this meeting's agenda requests Council's approval of a Letter of Intent between the city, CAGID and St. Julien.

These documents facilitate the implementation of the URP's civic use requirement (**ATTACHMENT B**) through a proposal to develop a public private partnership between the city and the St. Julien Hotel for a facility at the pad adjacent to the St. Julien Hotel. The proposal is a building including a first floor multi-use space and potential rooftop terrace accessible to community and civic groups, and additional hotel facilities connected to the existing building. The concept was developed by the Civic Use Task Force IV (CUTF IV) and St. Julien Hotel, and supported by City Council at their Study Session in January 2014.

URP Modifications

The URP modifications provide greater flexibility and consist of the following amendments which are highlighted:

III. DEVELOPMENT PLAN

B. GENERAL DESCRIPTION OF THE DEVELOPMENT PLAN

The Development Plan will require the redevelopment of the project area to address the following:

- 1. Mixed and/or multi-use development that incorporates a combination of hotel and ancillary hotel services as primary uses. Civic uses (such as recreation center, museum, cultural center, City office space, and transit facilities as specified under Section III, E.2.d of this plan), will occupy up to 20% of the gross floor area developed in the project area pursuant to a plan, agreement, or other arrangement approved by the city.*

E. PUBLIC IMPROVEMENTS

2. Land Utilization

The current floor area ratio (FAR) for the project area is approximately 0.03. The City of Boulder Planning Department's criteria for "significantly underutilized" land in the downtown is an FAR below 0.49. Implementation of this Plan will result in an FAR that does not exceed the amount permitted by the underlying zoning.

The modifications are unanimously supported by the Boulder Urban Renewal Board (BURA), the Boulder Planning Board and the Downtown Management Commission (DMC). The modifications to the plan are generic and are not specific to this proposal.

Letter of Intent

Simultaneously, City Council is requested to consider a motion approving a Letter of Intent (LOI) between the city, CAGID and the St Julien outlining the responsibilities and expectations of the parties and the next steps in the development of the civic use concept prior to entering into a final management agreement which would be approved by the City Council. The LOI has been modified based on feedback presented by City Council at first reading. See analysis section below.

The first reading memorandum is provided for reference in **ATTACHMENT C**.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Adoption of Ordinance No. 7989 amending the 9th and Canyon Urban Renewal Plan as presented in **ATTACHMENT A** of this memorandum.

ANALYSIS

At first reading, City Council posed several questions that have been addressed below and the LOI has been updated as noted. In April, 2015, City Council passed Ordinance No. 8028 amending the building height regulations in the downtown DT 4 and 5 zoning districts until the current effort to update the Downtown Design Guidelines is completed (anticipated to be by October 2015). The site is within the DT 5 area. Under the projected timeline for adoption of updated Downtown Design Guidelines, staff does not expect the adopted Height Ordinance to delay consideration of a proposal for building on the Civic Use Pad site.

First Reading Questions and Staff Response:

1. **Question:** What is the built square footage versus what is possible under the proposed modifications to the original URP?

Answer: The as-built, permitted gross square footage for the St. Julien Hotel is 158,672 S.F., built on a total site area of 126,797 S.F. The original Urban Renewal Plan (URP) permitted a max of 1.5 FAR, or 189,285 S.F. of building (1.5 x 126,797). The potential under the proposed change from 1.5 to 1.7 FAR would result in a total allowed building gross square footage of 215,555 S.F. (1.7 FAR x 126,797 SF). With 158,672 S.F. already built, this will allow 56,883 S.F. of building capacity for the Civic Use Pad.

The “test-fit” concept prepared by 4240 Architecture shows a gross building area of 65,200 S.F., which will need to be adjusted to comply with the 1.7 FAR.

2. **Question:** Is it correct to expect that nearly 22,000 square feet will be available for civic use if this concept plan is built?

Answer: As currently envisioned, the concept shown under this plan represents approximately 22,000 SF for civic use, which is comprised of approximately 14,660 SF of space on the ground floor and approximately 7,250 SF of rooftop terrace which will be explored further.

3. **Question:** Regarding the rooftop event space: What is the feasibility of the open air rooftop event space? Can the language in the Letter of Intent be changed to include use of the rooftop deck at a reduced cost and free on limited occasions?

Answer: The test-fit programming shows a strong commitment to do the rooftop space and the schematic design (**ATTACHMENT D**) shows such a space on top of the 4th floor. In order to allow efficient servicing of the area by various sized groups and vendors, two passenger elevators and one service elevator are envisioned. There are challenges as the passenger elevators may not conform with the city’s 55’ height limit because occupied space such as an elevator lobby cannot go above 55’. However, alternate technical solutions are being reviewed. The rooftop space will likely be a pre-event gathering space as the viability to book events in advance might be difficult. However, staff recommends every

possible option to be further explored for including an accessible rooftop space for use by civic groups as a key component of the eventual proposal.

Staff modified language in Section 3.e. to include rental of the potential rooftop event space at a reduced rate for civic and non-profit organizations and the exploration of circumstances when the civic/non-profit groups could access the space for free.

Section 3e reads as follows:

“The building will be designed, if deemed feasible through the design process as to architectural constraints and commercial functionality, with an outdoor rooftop area that will be available for use by community members and visitors through rental of space by civic groups and not-for-profit organizations at a reduced rate and exploration of circumstances when the space could be used for free.”

4. **Question:** Who will determine the qualified caterers to the space? How will the list be maintained and evolved over time? What will be the process for determining qualified caterers?

Answer: As the space needs to be set up, torn down, left clean and in good repair after each event, it is important that only reputable vendors/caterers be allowed to service the space. The St. Julien assumes that it will include a broad list of reputable companies. The process for compiling such a list is open for discussion but initially it could include approved caterers/vendors for other regional event centers and/or the city can issue a request for qualifications based on criteria approved by both the city and St. Julien. The LOI has been amended in Section 5.a.ii. to include regular review and updating of the list of caterers. The process is not intended to be restrictive but needs to result in vendors that will comply with the rules.

5. **Question:** How early in advance do civic users need to book the space?

Answer: Section 5.a.iii. of the LOI states that non-profits have first right of refusal to book the space a year or more in advance . If a date/time is available in one year or less, either the St. Julien or a non-profit has the option of reserving the space on a first come, first served basis.

6. **Question:** Can the costs of space maintenance, cleaning, and utilities be accounted and recorded separately from the hotel space in the same building to ensure that civic users are paying no more or less than their fair share for use of the space? And can this be included in the LOI?

Answer: Section 5.a.i. states that the rental costs for basic services (utilities, maintenance and repairs, etc.) for the rentals by non-profit/civic users be covered

and cost neutral to the St. Julien. In addition, wherever possible, separate utility meters will be installed and various maintenance costs will be tracked and charged separately. Language has been added to the LOI stating that the St. Julien will separately track direct expenses related to the civic use space rentals. Additionally, St. Julien will use its various staff (e.g. sales, marketing, accounting, etc.) without reimbursement to be available as a resource to the various civic groups to present the space, manage the logistics of the usage, and coordinate maintenance, repairs/replacements, etc.

7. **Question:** What would be the civic benefits subsidies in order to make the space affordable for local non-profit or civic groups in addition to the “cost neutral” rate the St. Julien would provide and who would provide these subsidies?

Answer: The amount of the civic use subsidy will be determined based on the actual costs to rent the space without profit to the St. Julien and comparison with other equivalent space rentals and feedback from the potential civic space users. See section 5 a.i.

The proposal in the LOI stipulates that the St. Julien’s contribution would be the sole responsibility for all the costs of building construction and interior finishes, including the civic use space, as well as providing the space at a cost-neutral rate to civic and non-profit users. Any cost contribution/civic use subsidy by the city and/or CAGID will be identified during the process envisioned by the LOI. Discussions with the Civic Use Task Force envisioned that the St. Julien’s financial contribution to the civic use space would be the total construction costs of the building and interior finishes and the city would be responsible for determining a mechanism to provide the rental subsidy and play a role in the decision making process. While no final decisions have been made, one potential source of revenue for the rental subsidy could be a percentage of additional tax revenues from the hotel uses in the new building on the pad.

NEXT STEPS

If directed by Council, staff will proceed with negotiations with the St. Julien Partners to develop the management agreement and continue exploration of preliminary design issues of the mixed use facility. In addition, staff will proceed with the downtown design guidelines project and coordinate timing of both efforts. Staff will return to Council for approval of the management agreement and update on the project.

ATTACHMENTS

ATTACHMENT A: Ordinance No. 7989 Modifying the 9th and Canyon Urban Renewal Plan

ATTACHMENT B: 9th and Canyon Urban Renewal Plan

ATTACHMENT C: First Reading City Council Memorandum

ATTACHMENT D: Civic Pad Feasibility Study

ORDINANCE NO. 7989

AN ORDINANCE MODIFYING THE URBAN RENEWAL
PLAN FOR THE NINTH STREET AND CANYON
BOULEVARD PROJECT AREA; AND SETTING FORTH
DETAILS IN RELATION THERETO.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO
FINDS AND RECITES:

A. The city council has adopted the "Boulder Urban Renewal Plan, Ninth and Canyon" (hereinafter called the "Plan") effective October 5, 1988 pursuant to Ordinance No 5133 and modified the Urban Renewal Plan in 1995 pursuant to Ordinance No. 5714.

B. The 1995 Urban Renewal Plan amended the 1988 Urban Renewal Plan by replacing it.

C. The city council has determined that certain modifications to the land use, design, building requirements, and procedures are appropriate to update the Plan based upon current city purposes and desires.

D. The Plan modifications have been approved by the Board of Commissioners of the Boulder Urban Renewal Authority.

E. Planning Board reviewed the proposed modifications and determined that such modifications conform with the Boulder Valley Comprehensive Plan, as amended.

F. The city council has held a public hearing for the proposed plan modifications, providing a full opportunity for all residents and taxpayers of the city and other interested persons to be heard.

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

Section 1. The revised plan, with the changes shown in Section 2 below for the project area, having been duly reviewed and considered is hereby approved.

1 Section 2. The following provisions of the Urban Renewal Plan, adopted as an exhibit in
2 Ordinance No. 5717 are amended to read:

3
4 III. DEVELOPMENT PLAN

5 B. GENERAL DESCRIPTION OF THE DEVELOPMENT PLAN

6 The Development Plan will require the redevelopment of the project area to address the
7 following:

- 8 1. Mixed and/or multi-use development that incorporates a combination of hotel and
9 ancillary hotel services as primary uses. Civic uses (such as recreation center,
10 museum, cultural center, City office space, and transit facilities as specified under
11 Section III, E.2.d of this plan), will occupy ~~a minimum of~~ up to 20% of the gross
12 floor area developed in the project area pursuant to a plan, agreement, or other
13 arrangement approved by the city.
- 14 2. If a viable project is not in the process of approval or development prior to April
15 18, 1998, the City Council shall consider reopening this urban renewal plan to
16 permit alternative land uses.

17 ...

18 E. PUBLIC IMPROVEMENTS

19 ...

20 2. Land Utilization

21 The current floor area ratio (FAR) for the project area is approximately 0.03. The City of
22 Boulder Planning Department's criteria for "significantly underutilized" land in the downtown is
23 an FAR below 0.49. Implementation of this Plan will result in an FAR ~~of approximately 1.50~~
24 that does not exceed the amount permitted by the underlying zoning.

25 Section 3. City Council has considered the proposed modifications set forth in this ordinance,
26 and finds and determines that such modifications do not constitute modifications that will
27 substantially change the urban renewal plan in land area, land use, design, building requirements,
28 timing or procedure, as previously approved. The city council finds that the changes proposed
in this plan are not substantial modifications to the Urban Renewal Plan pursuant to the

1 provisions of section 31-25-107, C.R.S. Accordingly, such modifications to the Plan may be
2 approved and incorporated into the Plan by adoption of this ordinance.

3 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of the
4 residents of the city, and covers matters of local concern. For the purposes of complying with
5 the requirements of the modification standards of the Colorado Urban Renewal Law, the
6 ordinance shall also be considered as a resolution of the Boulder City Council.
7

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

12 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE
13 ONLY this 19th day of August, 2014.
14

15 _____
16 Mayor

17 Attest:

18 _____
19 City Clerk

20 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
21 PUBLISHED BY TITLE ONLY this ___ day of _____, 2015.
22

23 _____
24 Mayor

25 Attest:

26 _____
27 City Clerk
28

Boulder Urban Renewal Plan



Ninth & Canyon

1995 Revised Plan

Adopted:

Boulder Urban Renewal Authority, April 6, 1995

Boulder Planning Board, May 11, 1995

Boulder City Council, July 11, 1995



Boulder Urban Renewal Authority

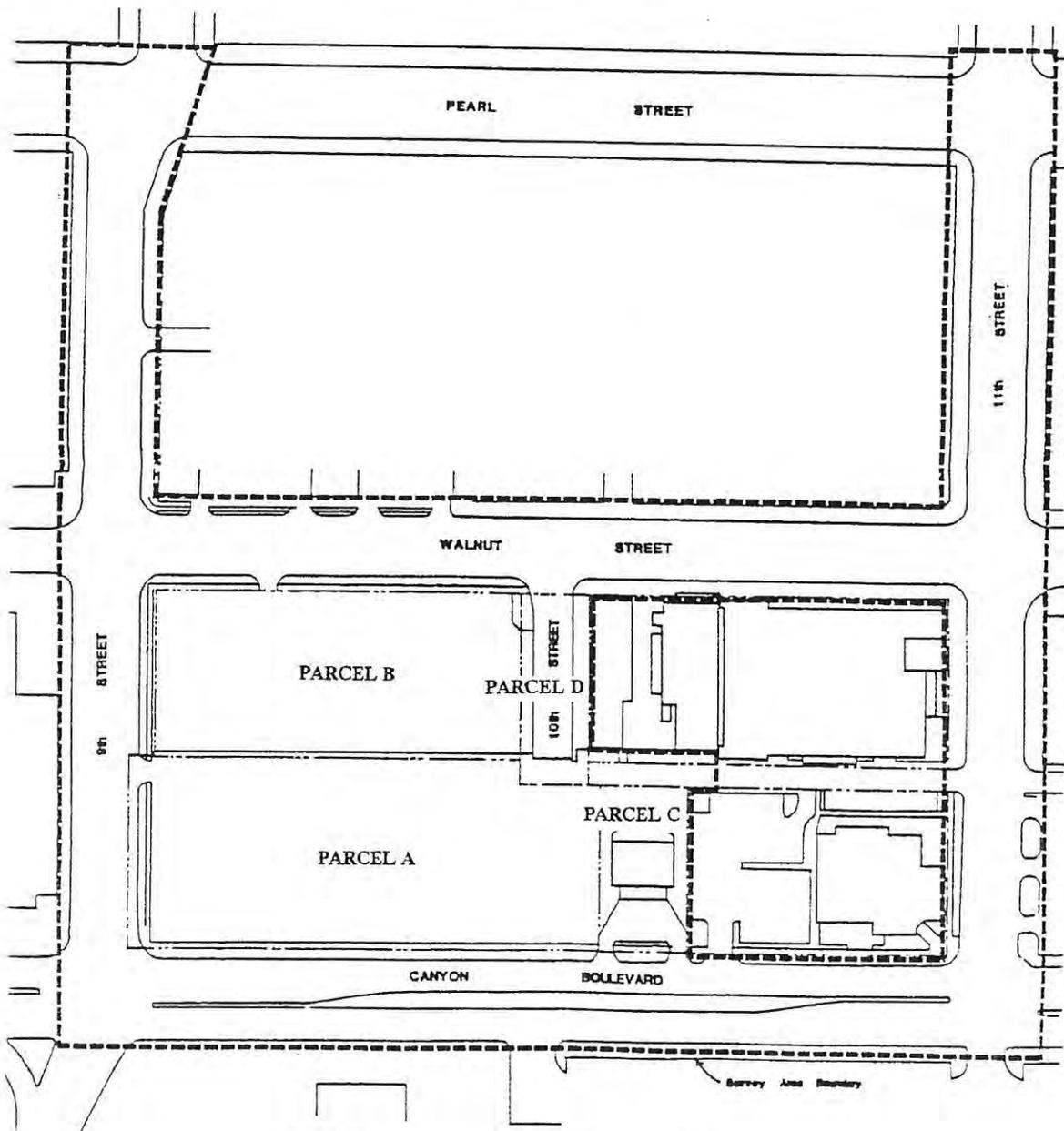
I. INTRODUCTION

A. PREFACE

This plan has been prepared by the Boulder Urban Renewal Authority pursuant to the provisions of the Urban Renewal Law of the State of Colorado, Part 1 of Article 25 of Title 31, C.R.S. The administration of this project and the enforcement of this plan, including the preparation and execution of any documents implementing it, shall be the responsibility of the Boulder Urban Renewal Authority.

B. PROJECT AREA BOUNDARIES

The boundaries of the project area are illustrated on the following map:



The project area boundaries are described as follows:

Beginning at a point that is the intersection of the southerly ROW line of Canyon Boulevard, and the westerly ROW line of 9th Street; then northwesterly along the westerly ROW line of 9th Street, to a point that is the intersection of the westerly ROW line of 9th Street, and the northerly ROW line of Pearl Street;

Then northeasterly along the northerly ROW line of Pearl Street, to a point that is the intersection of the northerly ROW line of Pearl Street, and the easterly ROW line of 9th Street;

Then southeasterly along the easterly ROW line of 9th Street, to a point that is the intersection of the easterly ROW line of 9th Street, and the northerly ROW line of Walnut Street;

Then northeasterly along the northerly ROW line of Walnut Street, to a point that is the intersection of the northerly ROW line of Walnut Street, and the westerly ROW line of 11th Street;

Then northwesterly along the westerly ROW line of 11th Street, to a point that is the intersection of the westerly ROW line of 11th Street, and the northerly ROW line of Pearl Street;

Then northeasterly along the northerly ROW line of Pearl Street, to a point that is the intersection of the northerly ROW line of Pearl Street, and the easterly ROW line of 11th Street;

Then southeasterly along the easterly ROW line of 11th Street, to a point that is the intersection of the easterly ROW line of 11th Street, and the southerly ROW line of Canyon Boulevard;

Then southwestly along the southerly ROW line of Canyon Boulevard to the point of beginning.

Excepting the following:

All of Lots 1, 2, 3, 4, 5, 6, 9, 10, 11, and 12, Block 44, Boulder Plat (Original Town);

The easterly 25 feet of Lot A, Block 44, Boulder Plat (Original Town);

The easterly 10 feet of 10th Street, vacated by City Ordinance 3010;

All that portion of the improved alley that is located in Block 44, Boulder Plat (Original Town).

C. PROJECT PURPOSES

An Urban Renewal Plan for the Ninth and Canyon site in downtown Boulder has been developed to achieve the following purposes:

1. To implement the Boulder Valley Comprehensive Plan.

2. To eliminate existing conditions in the Urban Renewal Area that are detrimental to the project area, adjacent neighborhoods and facilities, and to the City as a whole.
3. To redevelop and rehabilitate the area in a manner which is compatible with and complementary to existing development and uses in the general area, and to provide an improvements framework which is based on community-wide goals and values.
4. Through redevelopment, contribute to a sustainable downtown Boulder community and economy.
5. To facilitate the redevelopment of the area by private enterprise by cooperating with other public bodies to provide needed infrastructure improvements.
6. To effectively utilize undeveloped and underdeveloped land.

II. URBAN RENEWAL ELIGIBILITY

A. GENERAL AREA DESCRIPTION

The project area is located on the western portion of the block bounded by 9th Street, Canyon Boulevard, Walnut Street and 11th Street. It is comprised of four parcels totaling 2.89 acres in area. Parcel A, owned as of April 1995 by St. Julien Partners located in Boulder, Colorado, is an unpaved, unimproved lot. Parcel B is a paved public parking lot owned by the Central Area General Improvement District (CAGID). Parcel C, also owned by St. Julien Partners, contains the only built improvement in the area, the old Chamber of Commerce building. Parcel D is comprised wholly of the 10th Street right-of-way.

B. SITE SURVEY CONDITIONS

The following conditions were documented on the site in 1988 and served as the basis for the initiation of the urban renewal planning process:

Environmental Conditions

- The majority of the site is in the 100 year floodplain.
- A portion (approx. 25%) of the site is in the 100 year "floodway".
- Canyon Boulevard is a high noise corridor (61 decibels).
- Site drainage is very poor on the unpaved portions (Parcel A).
- The majority of the site has a very high ground water table.

Site Utilization

- Most of the site is vacant except for parking uses - the overall Floor Area Ratio (F.A.R.) is approximately 0.03. (F.A.R. is the ratio of building size to site size). The City Planning Department's criteria for "significantly underutilized" land in the downtown is a F.A.R. below 0.49.
- Access to and circulation within the site is seriously deficient, particularly for emergency vehicles (mainly fire apparatus).

Traffic/Streets

- The 9th and Canyon intersection is mis-aligned. Southbound 9th Street traffic has difficulty finding the proper 9th Street lane to enter on the south side of Canyon Boulevard.
- Excessive speeds and heavy traffic volumes on 9th Street create pedestrian crossing problems, particularly at Walnut Street.
- The 9th and Canyon intersection had 15 accidents in 1987, tying for 22nd place of all intersections in the City.
- Paving on 10th Street (a public right of way) is seriously deteriorated with sidewalk on one side only.
- Deteriorated curb, gutter and sidewalks occur along Canyon Boulevard, 9th Street and Walnut Street.

Site Improvements

- On-site spot drainage and severe pothole and erosion problems occur on the unpaved portions (Parcel A and alleyways) of the area.
- Landscaping is seriously deficient throughout the area.
- Site lighting is deficient, particularly on Parcel A.
- On-site directional signage is inadequate.
- Driveway and access definition is inadequate.
- Site maintenance is seriously deficient. On-site debris is prevalent.
- Some on-site exterior structures (walls, fences, etc.) are deteriorated.
- Pedestrian and bicycle facilities are almost non-existent.

Utilities

- Water mains are old (25-30 years) and may not meet current standards, but do not present any capacity, pressure, or maintenance problems at this time.

Fire Protection/General Health and Safety

- Fire apparatus access to car fires is very difficult because of the condition of the unpaved parking surface and poor driveway definition.
- Public hydrants are inadequate in terms of number and location.
- It is difficult to access the rear of adjacent buildings.
- Overhead power lines create a hazard for firefighting personnel using highly mechanized equipment.
- Seventeen crimes, mostly automobile related, occurred in the study area between June 1986 to April 1988. This is a relatively high crime rate for a parking lot.

III. DEVELOPMENT PLAN

A. COMPREHENSIVE PLAN AND LOCAL STANDARDS

1. Land Use and Planning Criteria

Determination of land use and densities, major circulation routes, public facilities and planning criteria are based on the Boulder Valley Comprehensive Plan, City Land Use Regulation, Subdivision Ordinance, Building Code and this Urban Renewal Plan.

The Context Guidelines for Project Area Development (Section III, C) and the Project Area Development Guidelines (Section III, D) will be applied by the Authority when providing a recommendation to the Planning Board during the site review process, (B.R.C. 9-4-10). In addition, the Downtown Design Advisory Board (DDAB) or its successor, will review development proposals and will make recommendations to the Authority and Planning Board during the site review process. The guidelines set forth in Section III, C and Section III, D may be waived or modified by the Authority for a specific redevelopment project.

2. Planning Conformance

The Urban Renewal Plan is in conformance with the Boulder Valley Comprehensive Plan in respect to land use and densities, transportation and other public facilities, and meets the intent and goal of the Comprehensive Plan for development which could include opportunities for shopping, support services and public facilities, including parks and other civic uses. Specifically, the Comprehensive Plan's Community Design and Central Area policies state:

Community Design

"New residential, commercial and industrial development and redevelopment shall be encouraged to follow sound and innovative land use planning. The goals are to provide a livable built environment and, through the judicious use of landscaping, materials and human scale, to respect the character of the surrounding area." (p. 8).

Central Area Programs

"The City of Boulder, through the merging of public and private interests, shall seek to retain the Central Area of the Boulder Valley as the primary governmental, cultural, office, financial, entertainment, shopping, medical facility, and high density residential district of the Boulder Valley.

The Downtown shall retain its historic role as the governmental, entertainment, office, and financial center of the Boulder Valley. It shall continue to develop as a specialty retail center. This shall be accomplished by coordinating concerted and comprehensive public policies and investments with private redevelopment and rehabilitation efforts." (p. 139).

B. GENERAL DESCRIPTION OF THE DEVELOPMENT PLAN

The Development Plan will require the redevelopment of the project area to address the following:

1. Mixed and/or multi-use development that incorporates a combination of hotel and ancillary hotel services as primary uses. Civic uses (such as recreation center, museum, cultural center, City office space, and transit facilities as specified under Section III, E.2.d of this plan), will occupy a minimum of 20% of the gross floor area developed in the project area.
2. If a viable project is not in the process of approval or development prior to April 18, 1998, the City Council shall consider reopening this urban renewal plan to permit alternative land uses.

C. CONTEXT GUIDELINES

The Ninth and Canyon project area is located in the Walnut/Canyon corridor of downtown Boulder. Redevelopment efforts during the last twenty years have resulted in an area comprised of office buildings, restaurants, banks and surface parking lots. This corridor, which is located between the historic commercial area and the civic park, has limited retail uses, street life and pedestrian activity. The goal of an enhanced and vital downtown can be promoted with a mix of quality uses and developments that encourage pedestrian activities. These guidelines will set a standard for other redevelopment parcels along the Walnut/Canyon corridor.

The following guidelines establish the Authority's objectives for the redevelopment of the project area. Development proposals will be reviewed according to the guidelines. Such review will be a responsibility of DDAB or its successor, and as such made a part of the site review process identified in the City of Boulder Land Use Regulation. Design integrity will be project specific. Massing, location, character, materials, setbacks, height, circulation, open space and other elements must work in relation to each other and as parts of a whole.

Therefore, the specific definition and application of Section III C and D will vary according to project specific design considerations. The guidelines are not intended as a design checklist. They are intended to suggest the type and range of options requiring serious consideration.

1. Walnut/Canyon Corridor Redevelopment Guidelines

- Retail activity at the street level
- South facing urban open spaces and buildings
- Landscaping along Canyon Boulevard
- Pedestrian access corridors through redevelopment sites
- A gateway element at Ninth and Canyon
- Streetwalls and spaces framed by buildings on Walnut Street
- Open space, building openings, setbacks and orientation which frame the southerly views

2. General Development Guidelines

Regional Access Regional access to the project area is excellent because of its location along Canyon Boulevard. Uses and development which require this type of access should be considered for the project area, with heavy emphasis on transit and alternative modes.

Western Gateway to Downtown The project area is a unique gateway to downtown because of its location on the western edge of the city and within the viewshed of Canyon Boulevard and Boulder Creek. Uses and development can help to identify this gateway with special uses, development and design features. It can also provide an anchor in the western part of downtown and a link to adjacent residential neighborhoods, the civic center and the Boulder Creek corridor.

Downtown and Neighborhood Connections Ninth and Canyon is located close to the Downtown Mall, the Civic Park, the Library, the West Pearl shopping area, other major downtown destinations and residential neighborhoods. Connections to these facilities through the Ninth and Canyon project area are important to reinforce the overall unity of downtown and to promote a pedestrian environment in downtown. In addition, efforts should be made to avoid the negative impacts of vehicular traffic on the core area neighborhoods.

Quality Development The project area is located within the Walnut/Canyon corridor, an area comprised of large banks, mixed use buildings and large surface parking lots. Future downtown development within this corridor should improve the pedestrian and fulltime character of downtown, and encourage a more sustainable utilization of downtown properties. Corridor development should link the Civic Park and Walnut/Canyon corridor with the historic commercial area.

3. Area Development Guidelines

Pedestrian Access Provide and enhance pedestrian connections within downtown and adjacent neighborhoods at Ninth and Canyon. Provide pedestrian access corridors to and through the project area. Maximize use of the 10th street alley, sidewalks, and possible public improvements along Canyon, 9th and Walnut.

Intersections and Entrances Recognize the features and uses which provide a distinctive image at the Ninth and Canyon intersection. Develop compatible intersection features at 9th/Walnut and 10th/Walnut to relate development of the project area to the adjacent neighborhoods. Landscaping, public uses, and building features should reinforce the intersections.

Public Improvements Civic improvements should enhance the functions and image of the project area. These improvements should be considered for the 10th street alley and pedestrian connections across Canyon, 9th and Walnut and the Canyon, 9th, Walnut streetscapes.

Physical Development and Buildings Develop multiple use buildings to provide fulltime activity in the project area. Physical development should reinforce the attributes of the project area and downtown Boulder, incorporating traditional elements that are adaptable to a variety of uses. Provide streetwalls along Walnut Street to enclose and frame public spaces. Upper level setbacks should be used to minimize street level shadows and pedestrian scale features along the sidewalk.

Open Space Develop usable open spaces. Provide community and neighborhood facilities for sitting, relaxing, community gatherings, and local activities.

D. SITE DEVELOPMENT GUIDELINES

The following guidelines establish the Authority's objectives for the redevelopment of the project area. The guidelines represent a range of development options and are not intended to be a design checklist. A specific project will not necessarily be required to address or fulfill all of the guidelines.

1. Encourage the development of buildings that provide a mix of uses to provide full time activity within the project area.
 - 1.1 Encourage a mix of uses on the site with lodging units or civic uses on the upper levels.
 - 1.2 Respect and enhance the character of the street with small scale pedestrian oriented commercial activities along Walnut and 9th Street.
 - 1.3 Establish the Ninth and Canyon project area as a community focal place with uses, buildings and improvements that attract community activities and interaction.
 - 1.4 Encourage secondary special uses, such as educational, recreational, cultural and civic uses, which complement the primary uses of the project area.
 - 1.5 Develop a building complex to:
 - Reduce the apparent mass and bulk of the building
 - Express the varied uses of the site
 - Reflect the mixed use environment of downtown Boulder
 - 1.6 No individual project should become an enclave.
 - 1.7 Accentuate different portions of the buildings with various materials to reflect the different uses and functions of the buildings.
 - 1.8 Develop public outdoor spaces with uses and functions that will add interest and character to Ninth and Canyon and downtown Boulder.
2. Physical development should reinforce the unique attributes of the site and its relationship to downtown Boulder.
 - 2.1 Address the potential shade impact to Walnut with elements such as stepping back upper portions of taller buildings, streetscape design, street lighting, building illumination and ice deterrent.
 - 2.2 Encourage special features to convey a unique development character along Canyon Boulevard and Ninth Street.
 - 2.3 Provide building elements along Walnut to reinforce the historic commercial and pedestrian character of downtown.
 - 2.4 Physical development should enhance the downtown identity while creating an individual image at Ninth and Canyon.

- 2.5 Public interest should be provided by the use of pedestrian scale applications of first story details, facade details, and pedestrian scale features.
 - 2.6 Any parking storage should be compatible with adjacent buildings.
 - 2.7 Establish appropriate streetwalls and building setbacks along 9th Street, Walnut Street, and Canyon Boulevard (streetwalls are buildings which frame street spaces).
3. Establish a physical gateway to downtown Boulder at Ninth and Canyon by developing special features and uses which provides a distinctive image.
- 3.1 Building setbacks, design, massing, orientation and height should reinforce the significance of the Ninth and Canyon intersection.
 - 3.2 Physical development should reinforce the significance of the Ninth and Canyon intersection.
 - 3.3 The project should provide public art and landscaping at the Ninth and Canyon site to reinforce the Ninth and Canyon intersection. The intersection could be strengthened by establishing design elements common to both Boulder Creek and the project area, and by establishing view corridors from the project area to public art along Boulder Creek.
4. Provide and enhance pedestrian connections within downtown and adjacent neighborhoods at Ninth and Canyon.
- 4.1 A pedestrian link on the east side of the project area, along the 10th Street alignment should be provided through the site to connect south toward the library, and north toward Pearl Street. This and other pedestrian links should reinforce the downtown grid pattern and provide a more interesting and diverse pedestrian environment within the downtown.
 - 4.2 Pedestrian facilities should link developed uses within the project area and should provide access to adjacent pedestrian destinations.
 - 4.3 Landscaped sidewalks should be provided along Walnut, 9th, and Canyon to enhance the pedestrian environment leading to the project area and within downtown.
 - 4.4 Provide for an on-site transit center/stop integrated with the sidewalk and buildings to facilitate transit access.
 - 4.5 Enhance linkages to all transit facilities with information, education, directional signs and convenient and comfortable facilities.

5. Provide quality public space.
 - 5.1 Public spaces should be large enough to accommodate scheduled and informal special events.
 - 5.2 Design public spaces to incorporate drainage and floodhazard conditions associated with Boulder Creek.
 - 5.3 Public spaces should be urban in character to complement the mixed use image of downtown.
 - 5.4 Public spaces should be oriented south to the greatest extent possible to enhance solar access.
 - 5.5 Public spaces should be oriented to the greatest extent possible to views of the Flatirons, Boulder Creek and the mountains to the west of Boulder.
 - 5.6 Provide ample places to sit, relax, and eat meals.
6. Public improvements should enhance the function and image of the project area.
 - 6.1 Develop special intersection improvements at Ninth and Canyon that may incorporate vertical gateway features, decorative street lights, landscaped medians, street accent paving, and corner landscape improvements.
 - 6.2 The project should be designed to accommodate, and could participate in funding a possible future pedestrian/bicycle underpass (similar to the one at Broadway/College) across Canyon Boulevard at 10th Street to enhance access to the Civic Park.
 - 6.3 The City could develop midblock pedestrian improvements at 10th/Walnut to link the project area to Pearl Street along the 10th Street corridor. This would be a portion of a larger pedestrian connector between the Civic Park and Pearl Street.

E. PUBLIC IMPROVEMENTS

Improvements will be made to provide the infrastructure necessary to carry out the objectives of the Plan. Such improvements include, but are not limited to:

1. Environmental
 - a) Floodplain Improvements - Any uses will meet the City's Floodplain Regulation (Chapter 9-9, B.R.C. 1981). No structures intended for human occupancy will be allowed in the high hazard zone or the conveyance zone. Uses in the floodplain will be fully protected from the 100 year flood.

- b) Erosion and Storm Drainage - Erosion problems will be eliminated through development of the site. Storm drainage improvements will be made as necessary.

2. Land Utilization

The current floor area ratio (F.A.R.) for the project area is approximately 0.03. The City of Boulder Planning Department's criteria for "significantly underutilized" land in the downtown is an F.A.R. below 0.49. Implementation of this Plan will result in an F.A.R. of approximately 1.50.

3. Streets/Access/Circulation

- a) Street improvements, to the extent required by the development plan, will be completed. A portion of 10th Street between Walnut and Canyon may be closed to vehicular traffic and resurfaced, to encourage and enhance safe pedestrian movement; and curbs, gutters and sidewalks will be replaced or repaired as needed. New traffic control and other intersection improvements will be made as needed.
- b) Off-Street Parking - Parking located in an underground structure must provide for the replacement of the existing Central Area General Improvement District (CAGID) spaces, provide for the parking requirements of the proposed development and allow for additional parking to offset the increase in parking demand that development in the project area will generate in adjacent areas. The latter requirement will be explicitly defined in a CAGID/BURA cooperation agreement at the time the project area is redeveloped. This plan supersedes the provision of the RB-X zone district that permits non-residential development without parking facilities if located in a mandatory parking district.
- c) Pedestrian and Bicycle Circulation - A system of pedestrian facilities that may include walks, a pedestrian mall, an atrium, pocket park and landscaped open spaces will be provided. Bike parking areas will be provided to encourage bike access.
- d) Transportation Facilities - Significant facilities for alternative modes of transportation must be incorporated into the development plan with the objective of reducing the amount of parking that will be required in the project area. The goal shall be at least a 15% reduction in projected single occupant vehicle trips to and from the project area. If a hotel use is developed as identified in section III, B. 1 of this plan, shuttle service to Denver International Airport and possibly other locations will be required.

4. Site Improvements

- a) Landscaping, Signage and Lighting - A landscaping plan will be developed and implemented to provide enhancement of the non-building portions of the project area.
- b) Open Spaces - In addition to landscaped open spaces, other publicly accessible improvements such as a plaza, pedestrian mall, an atrium, and a pocket park may be provided. A

minimum of 50,000 square feet of open space and landscaped areas is planned. However, the specific requirements of this Plan for the provision of open space will be determined through the Site Review process.

- c) Additional fire hydrants, stand pipes, etc. will be provided as needed to meet City Fire Code regulations.

F. LAND USE REGULATIONS AND BUILDING REQUIREMENTS

- 1. The land use, design and construction of development in the project area shall comply with the City of Boulder’s RB-X Zoning, the Downtown Design Guidelines, and other applicable provisions of the Boulder Land Use Regulation (including site and use review as applicable). Under the provisions of this Plan, parcels A (unimproved lot), B (CAGID parking lot) and C (old Chamber of Commerce Building) will be required to be developed in a coordinated manner.
- 2. All development must conform with the provisions and purposes of this Plan, and with all applicable laws, ordinances and codes.

IV. IMPLEMENTATION PROGRAM

A. PROJECT ACTIVITIES

1. PROPERTY ACQUISITION

No land will be acquired by the Authority and therefore no provisions are provided in this plan for owner participation, property management, relocation, or property disposition.

2. DEMOLITION, CLEARANCE AND SITE PREPARATION

The Authority will require any developer to demolish structures and other improvements and to clear and prepare the site for redevelopment in accordance with this Urban Renewal Plan.

3. PUBLIC IMPROVEMENTS AND FACILITIES

The Authority may install and construct, or cooperate as appropriate with developers and other public or private agencies, in the installation and construction of such public improvements, public facilities and utilities as necessary to carry out this Plan.

Such improvements, facilities and utilities include, but are not limited to, streets, curbs and gutters, sidewalks, bike paths, street lights, traffic signals; sanitary and storm sewers; water, electrical, gas and telephone distribution systems; parks, plazas and landscaped areas; and public transit facilities.

4. REDEVELOPMENT

Purchasers or owners of property within the project area shall be obligated to develop the property in accordance with the provisions of this Plan and the design standards and criteria established by the Authority, to begin and complete the development of the property within a period of time which the Authority fixes as reasonable, and to comply with such other conditions as the Authority deems necessary to assure the achievement of the purposes of this plan.

B. PROJECT FINANCING

1. METHODS OF FINANCING

The Boulder Urban Renewal Authority is authorized to finance this project by any method authorized under the Colorado Urban Renewal Law, or any other applicable law, including appropriations from the City of Boulder, federal loans and grants, interest income, property or sales tax increments, or any other available source.

The Authority is authorized to issue bonds in an amount sufficient to finance all or part of the project. The Authority is authorized to borrow funds and create indebtedness in carrying out this plan. The principal and interest on such indebtedness would be paid from tax increments or any other funds available to the Authority.

The economic feasibility of any redevelopment proposal will be reviewed by the Authority at the time the project is submitted for development review. The specific extent and nature of Authority economic participation in the project will be assessed at that time.

2. TAX INCREMENT FINANCING

This project may be financed by the Boulder Urban Renewal Authority under the tax allocation financing provisions of the Urban Renewal Law of the State of Colorado. However, the use of tax increment financing will be dependent on securing a City of Boulder/BURA cooperation agreement. The general provisions of the financing method are set forth below. In compliance with the requirements of §31-25-107(9)(d), C.R.S. the Boulder Valley School District of the County of Boulder, Colorado, has been permitted to participate in an advisory capacity concerning the project financing included in this Plan. Under the financing method, property taxes as levied after the effective date of the approval of this Plan upon taxable property in the Urban Renewal Area each year, and all of the municipal sales taxes collected within such area, by or for the benefit of any public body, shall be divided for a period not to exceed 25 years after the effective date of adoption of this Plan as follows:

a) Base Amount

That portion of property taxes which are produced by the levy at the rate fixed each year by or for each such public body upon the valuation for assessment of taxable property in

the urban renewal area last certified prior to the effective date of approval of this Plan, and that portion of municipal sales taxes collected within the boundaries of the urban renewal area in the last 12 month period ending on the last day of the month prior to the effective date of approval of this Plan, shall be paid into the funds of each such public body as are all other taxes collected by or for said public body.

Unless and until the total valuation for assessment of the taxable property in the Urban Renewal Area exceeds the base valuation for assessment of the taxable property in the Urban Renewal Area, all of the taxes levied upon the taxable property in the Urban Renewal Area shall be paid into the funds of the respective public bodies. Unless and until the total municipal sales tax collections in the urban renewal area exceed the base year municipal sales tax collections in the urban renewal area, all such sales tax collections shall be paid into the funds of the City.

b) Increment Amount

That portion of said property taxes and/or all of said sales taxes in excess of the amounts specified in a) above shall be allocated to and, when collected, paid into a special fund of the Authority to pay the principal of, the interest on and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, the Authority for financing or refinancing, in whole or in part, for this Project. When the bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, all taxes upon the taxable property and the total municipal sales tax collections in the Urban Renewal Area shall be paid into the funds of the respective public bodies.

The incremental portion of the taxes described herein shall be irrevocably pledged by the Authority for the payment of the principal of, the interest on, and any premiums due in connection with the bonds, loans, advances, and indebtedness incurred by the Authority to finance the Project, subject to the terms of any loan or bond trust indenture.

C. CHANGES IN THE APPROVED PLAN

This Plan may be modified pursuant to the provisions of the Colorado Urban Renewal Law governing such modifications, including §31-25-107, C.R.S.

D. MINOR VARIATIONS

Where a literal enforcement of the provisions contained in this Plan would constitute an unreasonable limitation beyond the intent and purpose of these provisions, the Authority may in specific cases allow minor variations from these provisions.

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ORDINANCE NO. 5714

AN ORDINANCE MODIFYING THE URBAN RENEWAL PLAN FOR THE NINTH STREET AND CANYON BOULEVARD PROJECT AREA; AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the city council has adopted the "Boulder Urban Renewal Plan, Ninth and Canyon" (hereinafter called the "Plan") effective October 5, 1988; and

WHEREAS, the city council has determined that certain modifications to the land use, design, building requirements, and procedures are appropriate to update the Plan based upon current city policies; and

WHEREAS, the Plan modifications have been approved by the Board of Commissioners of the Boulder Urban Renewal Authority; and

WHEREAS, the city council has held a public hearing on the proposed Plan modifications providing a full opportunity for all residents and taxpayers of the city and other interested persons to be heard;

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

Section 1. The revised Plan, attached hereto as Exhibit A and incorporated herein by reference, for the project area, having been duly reviewed and considered, is hereby approved.

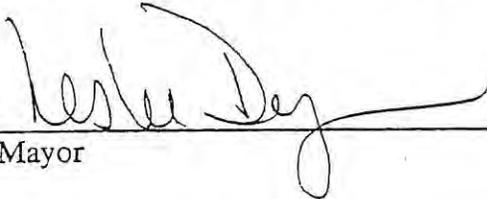
Section 2. It is hereby found and determined that Ordinance No. 5133 is amended by the substitution of the attached Exhibit A hereto as the Boulder Urban Renewal Plan for the Ninth Street and Canyon Boulevard project area.

Section 3. This ordinance shall not take effect unless and until the City of Boulder Planning Board reviews the proposed modifications and determines that such modifications conform with the Boulder Valley Comprehensive Plan, as amended.

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

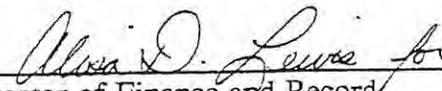
Section 5. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 18th day of April, 1995.



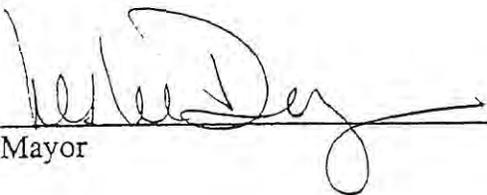
Mayor

Attest:



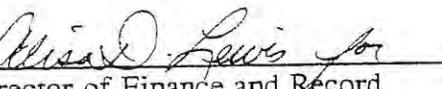
Director of Finance and Record
Ex-Officio City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY
TITLE ONLY this 13th day of June, 1995.



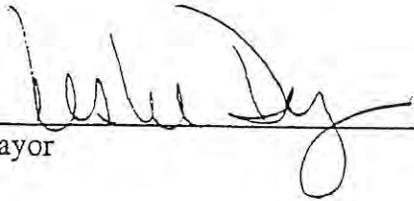
Mayor

Attest:



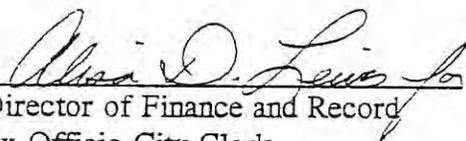
Director of Finance and Record
Ex-Officio City Clerk

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED
BY TITLE ONLY this 11th day of July, 1995.



Mayor

Attest:



Director of Finance and Record
Ex-Officio City Clerk

BU GE o-5714.YGE



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 19, 2014

AGENDA TITLE:

Introduction, first reading and consideration of a motion to order published by title only an ordinance amending the 9th and Canyon Urban Renewal Plan in order to facilitate a civic use.

Presentation of a Letter of Intent between the city of Boulder, the Central Area General Improvement District (CAGID) and St. Julien Partners LLC regarding the development of the civic use pad.

PRESENTER/S

Jane S. Brautigam, City Manager

David Driskell, Executive Director, Community Planning and Sustainability

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

Division/Parking Services

David Gehr, Deputy City Attorney

Sam Assefa, Senior Urban Design, Community Planning and Sustainability

Liz Hanson, Economic Vitality Coordinator, Community Planning and Sustainability

EXECUTIVE SUMMARY

The purpose of this agenda item is to present items regarding the development of the civic use pad adjacent to the St. Julien Hotel: 1) first reading of an ordinance amending the 9th and Canyon Urban Renewal Plan (URP) (**ATTACHMENT A**), 2) and the proposed Letter of Intent (LOI) with St. Julien Partners (**ATTACHMENT B**). These documents facilitate the implementation of the URP's civic use requirement through a proposal to develop a public private partnership between the city and the St. Julien Hotel for a facility at the pad adjacent to the St. Julien Hotel. The proposal is a building including a first floor multi-use space and rooftop terrace accessible to community and civic groups, and additional hotel facilities connected to the existing building. The

concept was developed by the Civic Use Task Force IV (CUTF IV) and St. Julien Hotel, and supported by City Council at their Study Session in January 2014.

URP Modifications

The URP modifications provide greater flexibility and consist of the following amendments which are highlighted:

III. DEVELOPMENT PLAN

B. GENERAL DESCRIPTION OF THE DEVELOPMENT PLAN

The Development Plan will require the redevelopment of the project area to address the following:

- 1. Mixed and/or multi-use development that incorporates a combination of hotel and ancillary hotel services as primary uses. Civic uses (such as recreation center, museum, cultural center, City office space, and transit facilities as specified under Section III, E.2.d of this plan), will occupy ~~a minimum of up to~~ 20% of the gross floor area developed in the project area pursuant to a plan, agreement, or other arrangement approved by the city.*

E. PUBLIC IMPROVEMENTS

2. Land Utilization

The current floor area ratio (FAR) for the project area is approximately 0.03. The City of Boulder Planning Department's criteria for "significantly underutilized" land in the downtown is an FAR below 0.49. Implementation of this Plan will result in an FAR ~~of approximately 1.50~~ and does not exceed the amount permitted by the underlying zoning.

The modifications are unanimously supported by the Boulder Urban Renewal Board (BURA), the Boulder Planning Board and the Downtown Management Commission (DMC). The modifications to the plan are generic and are not specific to this proposal.

Letter of Intent

Simultaneously, a draft Letter of Intent (LOI) between the city, CAGID and St Julien is being proposed which outlines the responsibilities and expectations of the parties and the next steps in the development of the civic use concept prior to entering into a final management agreement which would be approved by the City Council. The City Council will be asked to consider a motion, concurrent with the second reading of the urban renewal plan amendment, to authorize the city manager to enter into the LOI on behalf of the City and CAGID.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Introduce at first reading and order published by title only an ordinance amending the 9th and Canyon Urban Renewal Plan as presented in **ATTACHMENT A** of this memorandum.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: A multi-purpose civic use space will provide the opportunity for additional events, performances, meetings and conferences bringing new visitors to Boulder.
- Social: A civic use on this site will provide access to a multi-purpose space that will be available to a variety of civic and community users.

OTHER IMPACTS

Fiscal - Budgetary impacts to the city organization:

The civic use multi-purpose space is proposed to be built and managed by the St. Julien pursuant to a management agreement approved by City Council. Staff will be exploring financing mechanisms to subsidize the costs of the space in order to be accessible to community and civic organizations.

BOARD AND COMMISSION FEEDBACK

- At their July 21, 2014 meeting, the Boulder Urban Renewal Board (BURA) supported the staff recommendation regarding the Urban Renewal Plan modification with an amendment of the Section III.E.2 removing the phrase "...appropriately utilizes the land and..." since it would provide more flexibility and the language did not provide enough detail to be helpful in implementing the objective of the plan modification.
- At their July 31, 2014 meeting, the Planning Board voted unanimously in support of the staff recommendation finding the modifications to the two sections of the 9th and Canyon Urban Renewal Plan – sections III.B.1 and III.E.2 – including the amendment of BURA, as a whole, confirm to the general plan for the development of the municipality of the city which is the Boulder Valley Comprehensive Plan. They also passed the following motion to recommend that City Council ensure that this space is available and welcoming all members of the community, including the low income community and minority community, and that City Council look at different rate structures to accomplish that.
- At their August 4, 2014 meeting, the Downtown Management Commission (DMC) voted unanimously to support the staff recommendation to amend the city ordinance modifying the 9th and Canyon Urban Renewal Plan as proposed and the draft Letter of Intent with St. Julien Partners LLC.

PUBLIC FEEDBACK

At the DMC meeting, a resident of the Arrete adjacent to the civic use pad requested consideration of the treatment of the east wall of the future facility to accommodate the existing patios.

BACKGROUND

Urban Renewal Plan

The city of Boulder has undertaken only two urban renewal projects: the redevelopment of Crossroads Mall in the early 1980's and the 9th and Canyon redevelopment. An urban renewal plan adopted in 1988 for the 9th and Canyon site in downtown Boulder called for hotel and convention facilities, including retail, restaurants, entertainment, transportation facilities and underground parking. In 1995, City Council modified the plan to include design guidelines for the site, as well as requiring that a minimum of 20 percent of the gross floor area be committed to civic uses. (**ATTACHMENT C**)

9th & Canyon Hotel and Parking Garage

The two property owners on the 9th and Canyon site – St. Julien Partners and the downtown parking district, Central Area General Improvement District (CAGID) - entered into a 9th and Canyon Condominium Association and built the project that exists today. The underground CAGID parking garage opened in November 2004 and the St. Julien Hotel opened in February 2005. Incorporated in the mixed use project is an 11,000 square foot pad east of the hotel constructed with a concrete structural deck capable of supporting a building (“the civic use pad”).

Major requirements of the URP plan were addressed with the project construction: the hotel is located on Walnut Street, open space was created on Canyon, a pedestrian walkway connects Pearl Street and the Civic Area, all the parking is underground and a pad east of the hotel was designated for a future civic use. Tax increment financing was used for the public parking. The remaining requirement for 20% civic use has yet to be accomplished.

Efforts to Put the Civic Use Pad to Productive Use

The civic use component of the project first came under consideration in 1998 when a citizen task force comprised of city board, downtown and community members was appointed to review submitted proposals and make a recommendation to City Council. The civic use criteria approved by the City Council in 1998, and currently applicable to the civic use pad, are:

- Financial ability to construct and/or operate and maintain a use over time.
- Acceptance as civic use defined by attraction/benefit to the cultural or scientific or educational or entertainment or artistic or humanistic or civic life of the community.
- Compatibility to the other urban renewal site uses, i.e. the hotel, the parking garage and open space.

- Enhancement to the vitality of the downtown by generating interest in coming downtown, diversifying the downtown experience for citizens, visitors and downtown users or complementing other downtown uses.

Subsequently, three different task forces have sought solutions and approaches to achieve a civic use on the site, but without success. These first three task forces considered a wide variety of ideas and formal proposals including location for the Depot, a children's museum and community dance facility, the Boulder History Museum, a 500 foot performance venue, a community dance facility with hotel meeting space, and the entry of a conference facility connected to buildings to the east.

In February 2000, Planning Board approved a Site Review Amendment to approve a building on the civic use pad to house the Collage Children's Museum and the Village Arts Coalition dance organization. Due to financial challenges, this approved civic use building was not constructed.

Civic Use Task Force IV – Recommendation

In 2009, City Manager Jane Brautigam appointed a 4th Civic Use Task Force (CUTF IV) with the charge to:

- Assess the challenges that have been identified through past efforts and make recommendations that would increase the likelihood of a successful endeavor;
- Review the civic use criteria to ensure they reflect the current city priorities and goals and needs of the community; and
- Assist in the development of a proposal solicitation strategy and process.

The members of the CUTF IV are:

- Boulder City Council Members Mary Young, George Karakehian and Lisa Morzel;
- Michael Smith, the Boulder Arts Commission;
- Susan Connelly, Boulder Convention and Visitors Bureau Advisory Board and former member of the Boulder Urban Renewal Authority and vice chair of the task force;
- Fern O'Brien, Downtown Boulder Business Improvement District;
- Matt McMullen, Downtown Management Commission and chair of the task force;
- Josie Heath representing non-profits;
- Wendy Reynolds representing the financial sector;
- Cindy Carlisle representing the community sector.
- Bruce Porcelli from the St. Julien was invited to join the task force in May 2012.
- City Council members KC Becker and Suzanne Jones served on the task force in the past.

The CUTF IV conducted a thorough and comprehensive investigation of the challenges, options and possibilities presented by the civic use requirement. Please see **ATTACHMENT C** for a summary of their efforts and accomplishments.

In the opinion of the Task Force and staff, after the exhaustive 15 year process of exploring civic use options, a collaborative partnership with St. Julien represents the most workable, exciting and viable path to achieving the requirement for civic use set out in the 9th and Canyon Urban Renewal Plan.

The concept for the collaborative partnership proposes a facility on the civic use pad built and owned by St. Julien including 8,000 square feet of first floor, multi-use space for shared hotel and “civic use” on the first floor, upper floors of hotel uses, and a multi-purpose roof deck. The multi-use space is envisioned to be flexible and accommodate a variety of uses including performances and exhibits, meetings, banquet events and conferences. Incorporated in the vision is a potential pedestrian connection across Canyon Boulevard to a future cultural facility at the current main library location. (**ATTACHMENT C**) The plans for the St. Julien civic use pad will be coordinated with the Civic Area Plan in order to maximize the synergy between redeveloped public facilities.

The civic use multi-purpose space is proposed to be built and managed by the St. Julien pursuant to a management agreement approved by City Council. Staff will be exploring financing mechanisms to subsidize the costs of the space in order to be accessible to community and civic organizations.

The civic use pad is owned as a limited common element of the Hotel. The original agreement in the condominium declaration included a provision that if an acceptable civic use was not established on the property on or before Jan. 1, 2020, that the owner of the hotel would have the right to convert the civic use site from a limited common element to another unit or to reallocate the civic use site to another use on the site. In other words, the civic use pad can be put to other purposes determined by its owner, St. Julien, under the terms of the condominium declaration after Jan. 1, 2020.

The CUTF IV and staff are formally exploring a collaborative partnership to understand its constraints, challenges, opportunities, benefits and issues of the concept. The areas for further analysis, study, potential change and negotiation include: existing legal agreements associated with the site including the Urban Renewal Plan and Condominium Association; planning and zoning regulations; building design and compatibility with the hotel and garage; financing; lease and user options to support civic use of the event space and multi-purpose roof deck for the community; and the negotiations with St Julien to define the facility management and parameters of the public/private partnership. The final development and management agreement will be negotiated and purposed to City Council for their final approval.

ANALYSIS

BURA Analysis

There are two types of plan modifications under the urban renewal statute: substantial modifications and modifications. The proposed changes fall into the modification category and can be approved as part of simple three step process outlined below. The proposed modifications addressing the amount of civic use on the site and the project FAR are generic changes and are not specific to the current proposal.

The Colorado urban renewal law provides a process for changing urban renewal plans that do not constitute a substantial modification of the plan. See section 31-25-107, C.R.S. This process was followed with the original plan approval in 1988 and its modification in 1995.

The process includes the following steps.

1. A change to a plan is initiated by the Urban Renewal Authority. The Urban Renewal Authority approves the plan, which leads to the next two steps in the process.
2. The statute requires the plan amendment be referred to the Planning Board. The Planning Board is required to review and make recommendation to the city council as to whether the modifications conformance with the “general development plan” for development of the city as a whole. Boulder’s “general development plan” is the Boulder Valley comprehensive plan.
3. The City Council will consider the modification to the Plan after a considering the recommendation of the Planning Board and the Approval of BURA.

The Boulder Urban Renewal Board (BURA) unanimously approved the modification to the plan at its meeting on July 21, 2014. BURA supported the concept of providing some flexibility in the URP while not tying the result to a specific plan. BURA modified the staff proposed language with the following change to Section III.E.2: removal of the text “appropriately utilizes the land and.” The approved language reads: “.....will result in an FAR that does not exceed the amount permitted by the underlying zoning.” It was noted that the language did not provide enough detail to be helpful in implementing the objective of the modification to the plan.

Staff supports the amendment made by BURA at their meeting on July 21st. Removing the phrase “appropriately utilizes the land” in section III.E.2 does not change the intent of the section; it was a reference to an earlier sentence: “The City of Boulder Planning Department’s criteria for “significantly underutilized” land in downtown is a FAR below .49” All current planning and zoning regulations regarding use would apply to this proposal so the term “appropriately utilizes the land” is not necessary.

Boulder Valley Comprehensive Plan Analysis

CP&S staff reviewed the proposed URP changes, Section III.B.1 regarding the amount of civic use required as part of the development and Section III.E.2 which would align the amount of floor area ratio (FAR) allowed with existing zoning standards in the downtown for this site, within the context of compliance to the Boulder Valley Comprehensive Plan (BVCP) (**ATTACHMENT D**)

The first modification to the URP, Section III.B.1, adds the following language:

“pursuant to a plan, agreement or other arrangement approved by the city, allows the flexibility to modify the 20% of the gross square footage of development (which translates to 37,000 square feet) for civic use.”

As past experience has shown since the initial efforts began in 1998, it has been difficult to find the organizations or entities to construct and operate a stand-alone building. The new language allows BURA and the City Council more latitude to approve a project that meets the civic use guidelines, is feasible financially and meets community needs and benefit.

The modification to Section III.E.2 (as modified by BURA) includes the addition of the following language,

“that does not exceed the amount permitted by underlying zoning”

The existing language of the urban renewal plan simply has a declaratory statement of the size of the project. This modification is a clarification that it is the intent of the URP that the site be developed in a manner that is consistent with the underlying zoning.

The language aligns the floor area ration (FAR) with the existing DT-5 zoning district in the Land Use Code which is intended for “higher intensity uses” and an area where the city has anticipated the highest potential for redevelopment. Any development review application for the civic use pad will be required to meet the requirements of the underlying zoning. “land use and zoning regulations . . . are developed and amended to be consistent with the goals and policies of the Comprehensive Plan. BVCP, p. 7.

The proposed use of the site to create a facility with both civic and hotel uses on the civic use pad adjacent to the St. Julien Hotel is consistent with the “Regional Business” definition of the BVCP, in that the area is intended for “major” retail and offices “serving the entire Boulder Valley”. The definition also indicates the city’s expectation that such areas will continue to be redeveloped and a dominant focus for major business activities in the region.

Based on this analysis, staff finds that the proposed modifications to the URP are in compliance with the BVCP. Planning Board unanimously confirmed that recommendation at their meeting on July 31, 2014.

Letter of Intent Analysis

The Letter of Intent between St. Julien Partners LLC, City Council and CAGID sets forth the basic understandings concerning the implementation of the URP as modified to allow for the public private partnership and proposed facility. The LOI does not represent a commitment but rather serves as a basis to identify the fundamental issues necessary to proceed to a subsequent agreement and approvals.

The following key responsibilities and expectations are outlined in the LOI:

- St. Julien will finance and construct the building on the Civic Use Pad. St. Julien will be responsible for the design and all development review and construction documents.
- Potential contributions to the project and civic use subsidy will be reviewed and discussed prior to the final management agreement.
- Civic use space is defined as a first floor events space and rooftop deck area that will be available for use by community members and visitors through rental by civic groups and non-profit organizations.
- The project is intended to meet the civic use requirements of the 9th and Canyon Urban Renewal Plan.
- St. Julien will construct three floors of ancillary and compatible use connected to the existing hotel.
- A process will be developed for the design of the space in order to optimize its use for a wide range of events including performances and art events. Consideration will be given to integrate a potential pedestrian bridge over Canyon Boulevard. The city and St. Julien will reach out to local civic users to understand their space needs and requirements. Also, the parties will consider the potential of incorporating a portion of the underground garage for mechanical and storage needs.
- A management agreement will be developed that will set forth the standards under which the events space and roof top deck will be operated including:
 - The event space will be used in a manner to be cost neutral to St. Julien.
 - An approved list of qualified outside caterers will be developed.
 - Scheduling method will be developed.
 - Determination by the city for the creation of a civic benefits subsidies in order to make the space affordable for local non-profit or civic groups.
- Identify amendments to other agreements such as the 9th and Canyon Condominium Association and/ or easements.

At the conclusion of the LOI, should the parties wish to proceed to a permanent arrangement, a management agreement will be developed, reviewed by the Civic Use Task Force IV, DMC and will be presented for approved by City Council.

Overall Project Analysis

Please see **ATTACHMENT E** for a thorough analysis of the site's context within the Civic Area Plan (CAP), civic space utilization survey of community organizations, potential building mass feasibility study, preliminary planning and zoning issues and necessary legal agreements.

NEXT STEPS

The ordinance will return to City Council for second reading on September 16 along with a motion to authorize the city manager to sign a letter of intent between the City, CAGID and St. Julien Partners LLC for the consideration of implementing the civic use portion of the 9th and Canyon Urban Renewal Plan.

ATTACHMENTS

- A: Ordinance Modifying the 9th and Canyon Urban Renewal Plan
- B: Letter of Intent with the City of Boulder, CAGID and St. Julien Partners LLC for the development of the civic use pad
- C: 9th and Canyon Urban Renewal Plan
- D: Community Planning & Sustainability Staff Memo regarding compliance to the Boulder Valley Comprehensive Plan
- E: City Council Study Session Memorandum January 2014



Boulder Civic Area

Civic Pad Feasibility Study

Boulder, Colorado

40° 0', 105°16'

25 November 2013

4240

Table of Contents

- o1 Program
- o2 Opportunities and Constraints
- o3 Plans
- o4 Sections
- o5 Massing
- o6 Optional Bridge Connection

o1 Program

Civic Pad Development

Feasibility Design 11.25.2013

Preliminary Program and Area Calculations

Civic Pad				
Room/Space	Net Area (nsf)	Gross Area (gsf)	Notes	
LEVEL 1				
1.10 Open Event Space	8,400		Room A combined with pre-function	
Conference Room - A	6,700	6,700		
Conference Room - B	3,350		Quantity (2)	
Conference Room - C	2,250			
Conference Room - D	1,100			
1.20 Pre-function		3,250	includes coat room	
1.30 Restrooms		1,060		
1.40 Warming Kitchen		1,740	includes service elevator passageway	
1.50 Vertical Circulation		680		
1.60 BOH/ Service Corridor		1,230	includes fan room exhaust wells	
Total Level 1		14,660		
LEVEL 2				
2.10 St. Julien Hotel - Expansion		12,190	Exterior terraces not included	
2.20 Circulation		900	Guest corridor 6' wide	
2.30 Vertical Circulation		680		
2.40 BOH/ Service		740		
Total Level 2		14,510		
LEVEL 3				
3.10 St. Julien Hotel - Expansion		12,190	Exterior terraces not included	
3.20 Circulation		900	Guest corridor 6' wide	
3.30 Vertical Circulation		680		
3.40 BOH/ Service		740		
Total Level 3		14,510		

LEVEL 4

4.10 St. Julien Hotel - Expansion	12,190	Exterior terraces not included
4.20 Circulation	900	Guest corridor 6' wide
4.30 Vertical Circulation	680	
4.40 BOH/ Service	740	
Total Level 4	14,510	

LEVEL 5 - CIVIC EVENT SPACE

5.10 Roof top Terrace	7,250	Open, flexible outdoor event spa
5.20 Mechanical/Electrical Rooms	2,800	
5.30 Elevator Foyer/Vestibule	450	
5.40 Vertical Circulation	680	
Total Level 5	3,930	

MEZZANINE LEVEL (Above Parking Level 1)

0.10 Storage	2,800	Event space storage - chairs, tab
5.40 Vertical Circulation	480	Service elevator access
Total Level 5	3,280	

TOTAL BUILDING AREA

65,400

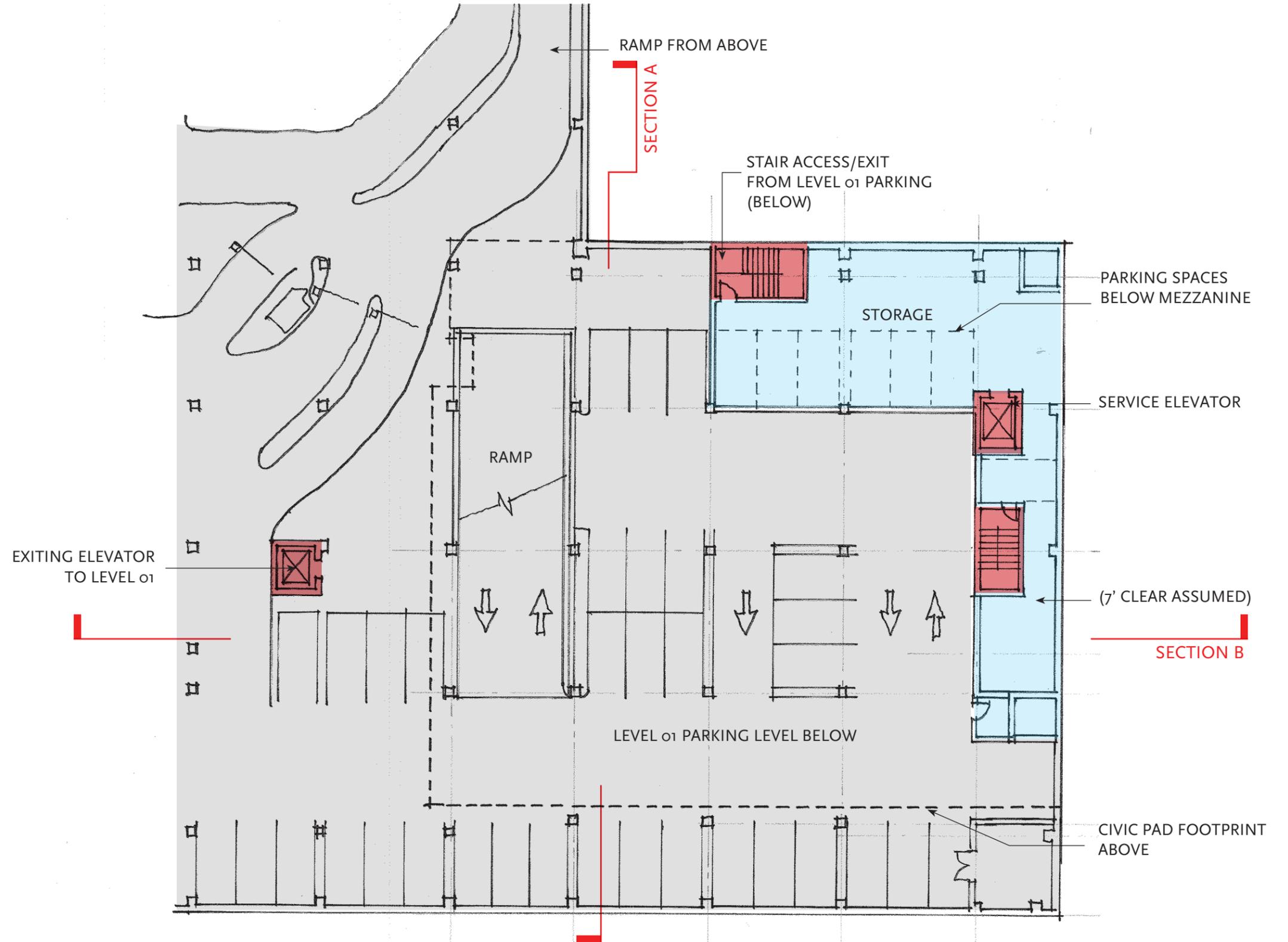
Opportunities:

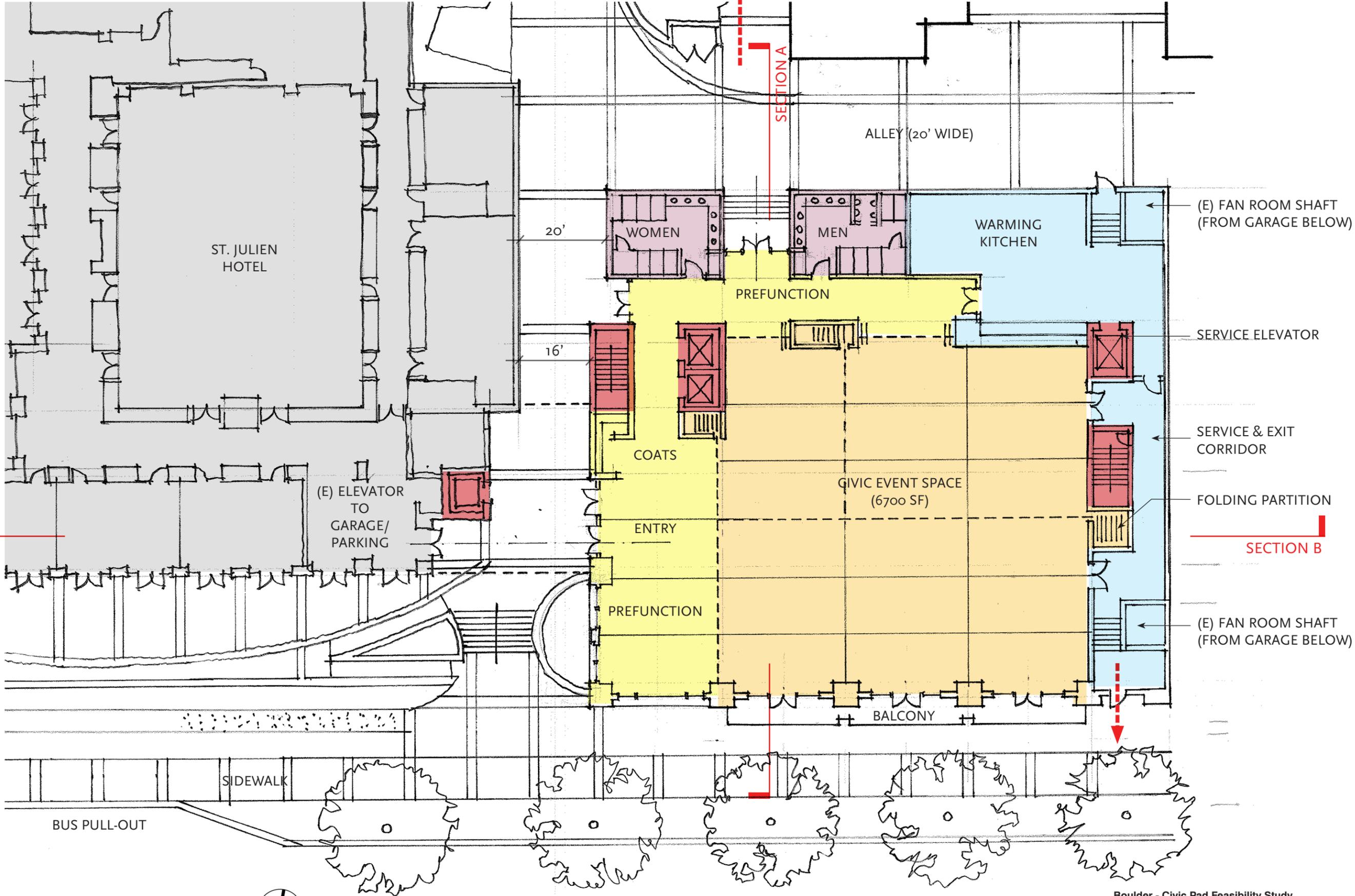
- i. Connection to West End Civic Plan
- ii. Connection to Walnut St and Mall via Alley
- iii. Connection to Civic Area (via Canyon Blvd crossing – street level or bridge)
- iv. Connection to 9th and Walnut Parking Garage and potential mezzanine storage space
- v. Large ground level multi-function public space with natural light
- vi. Roof top activity terrace
- vii. Facility sharing with St Julien Hotel
- viii. Living Building Challenge Designation

Possible Constraints:

- i. Building height limit of 55' and roof top use
- ii. Flood Conveyance zone
- iii. Bridging Canyon Blvd – State Highway (14' min clearance?)

02 Opportunities and Constraints

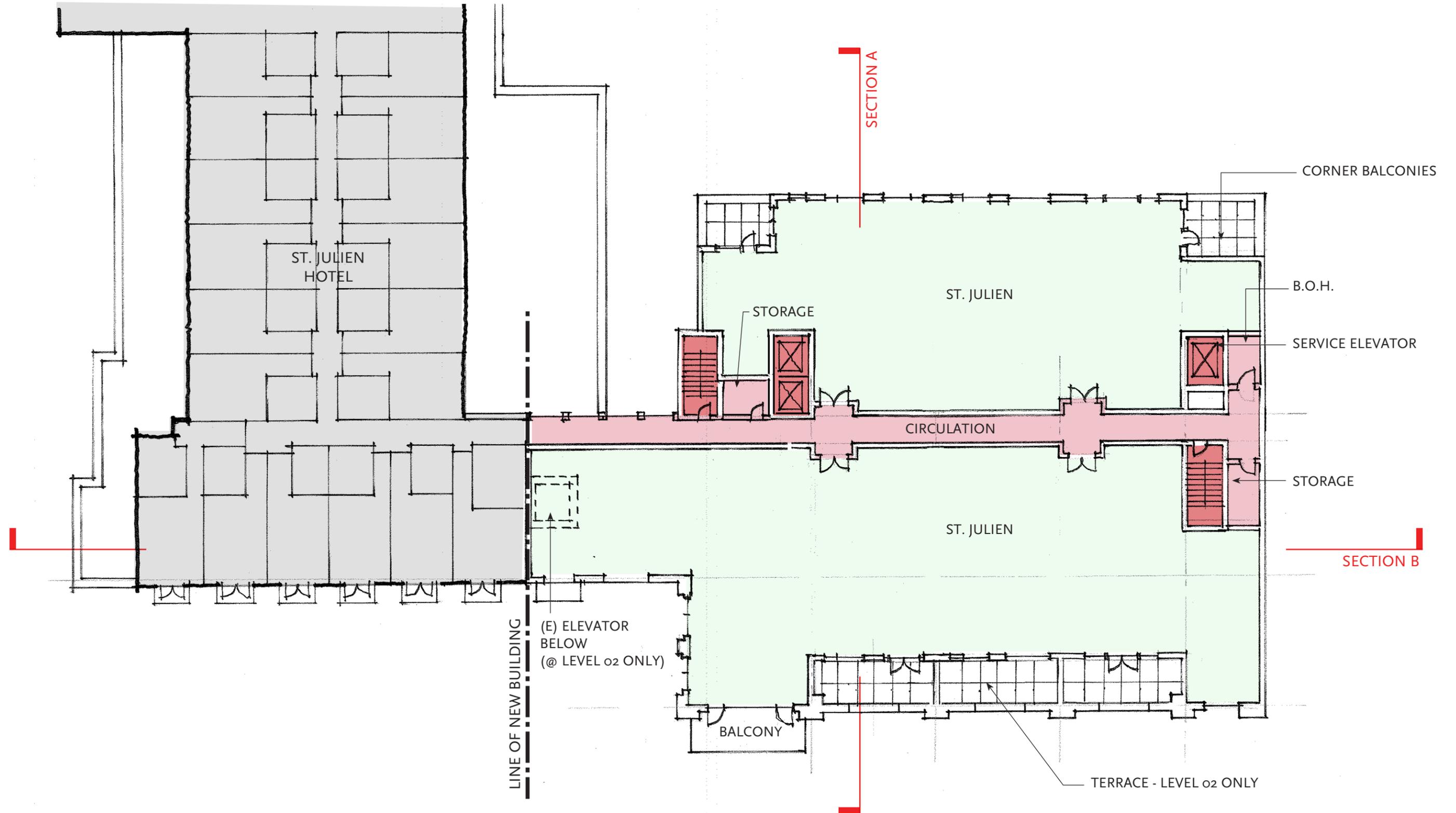


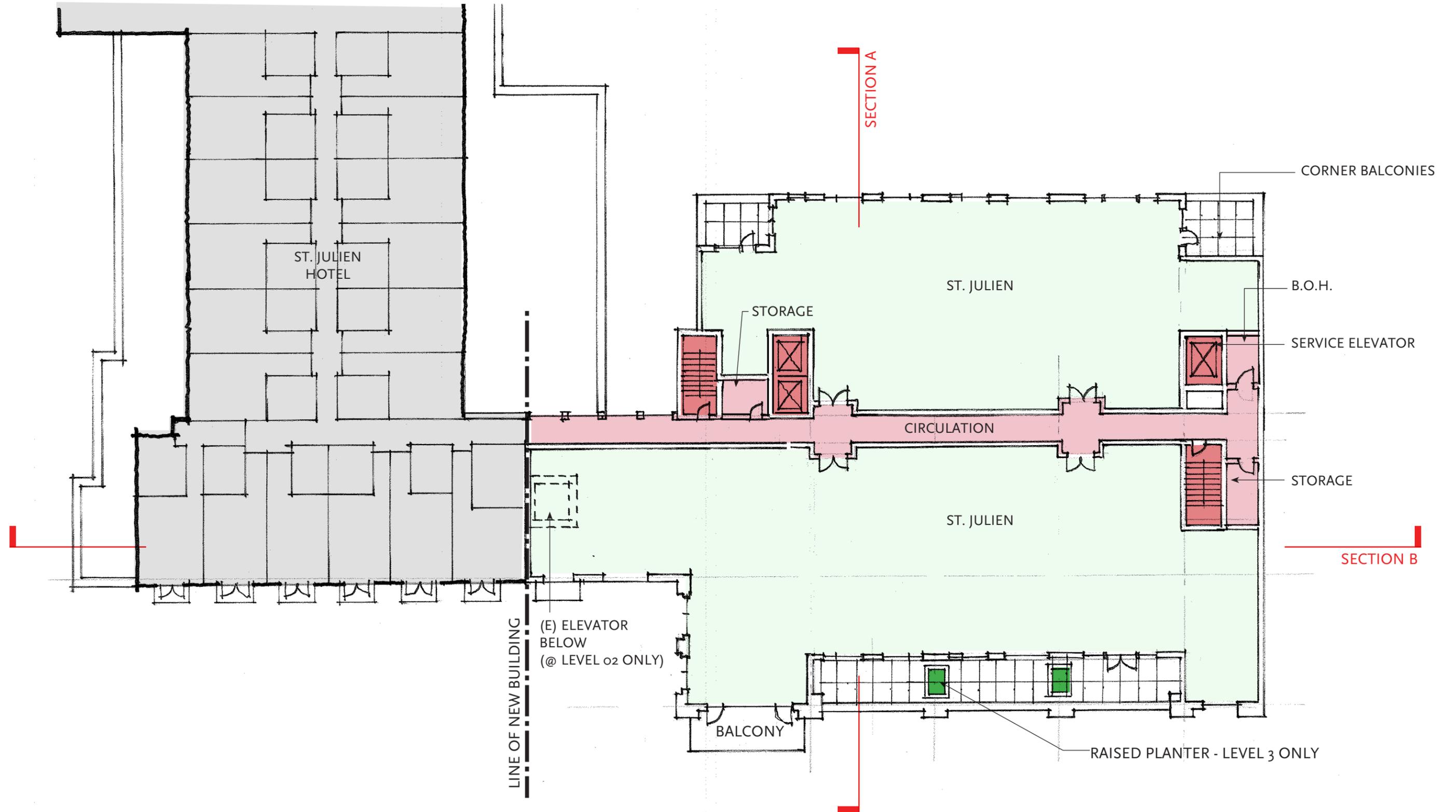


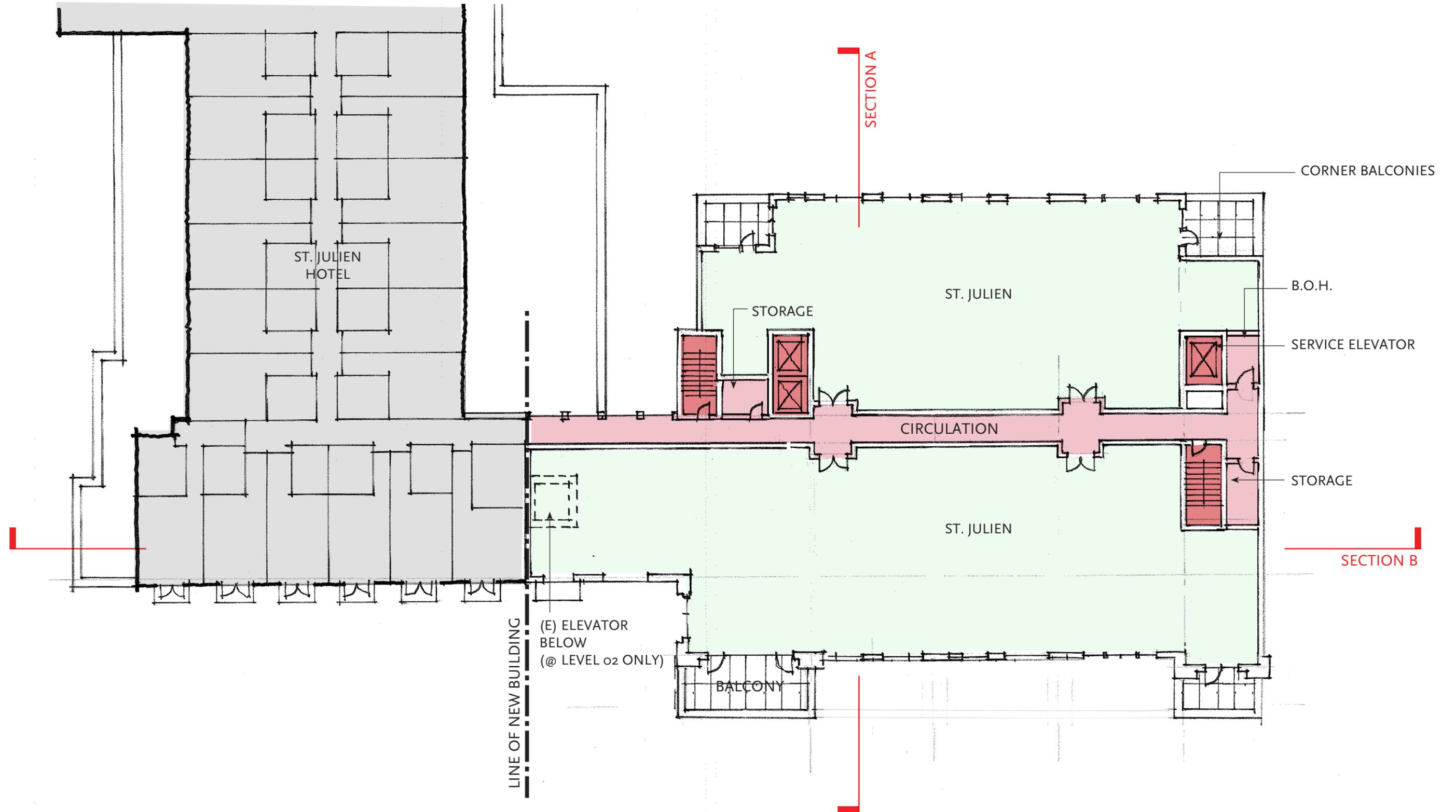
Level 01- Floor Plan

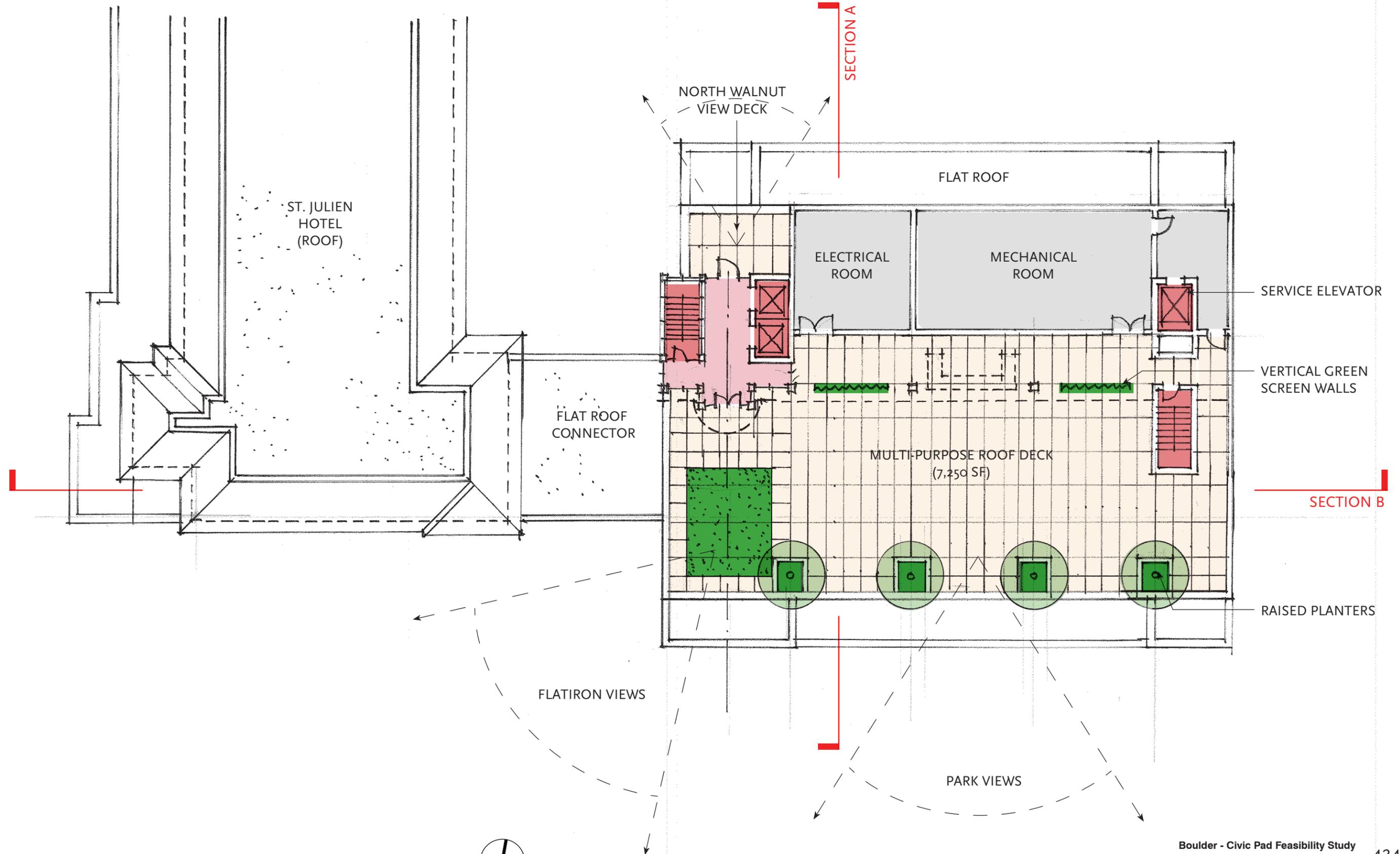


CANYON BOULEVARD



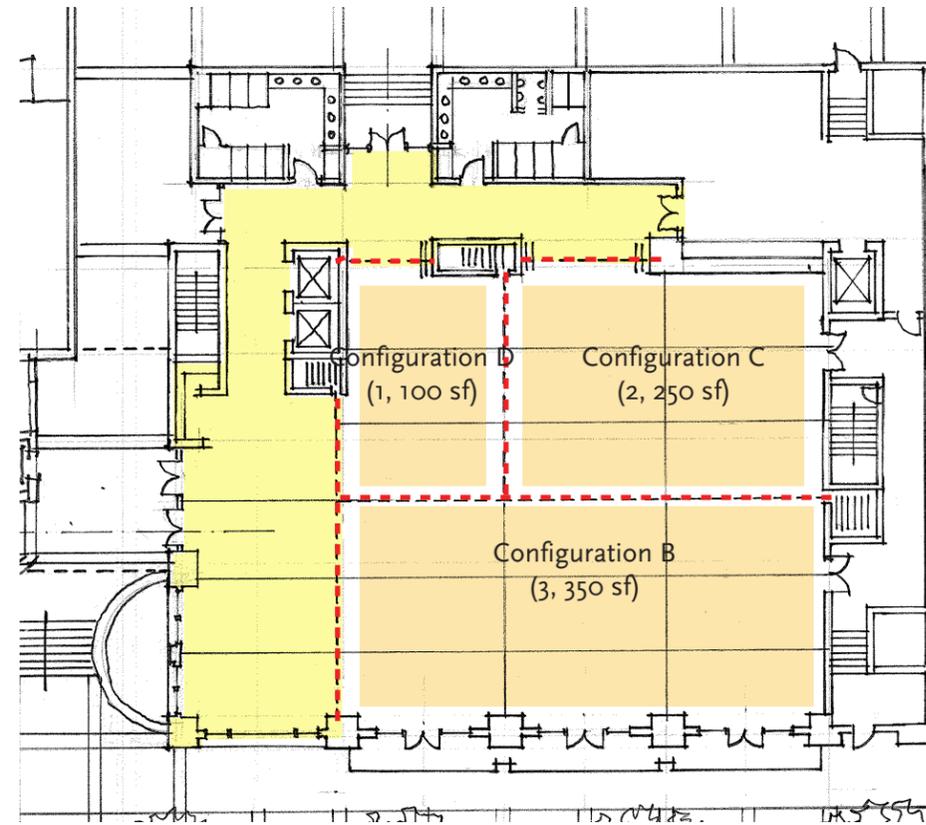




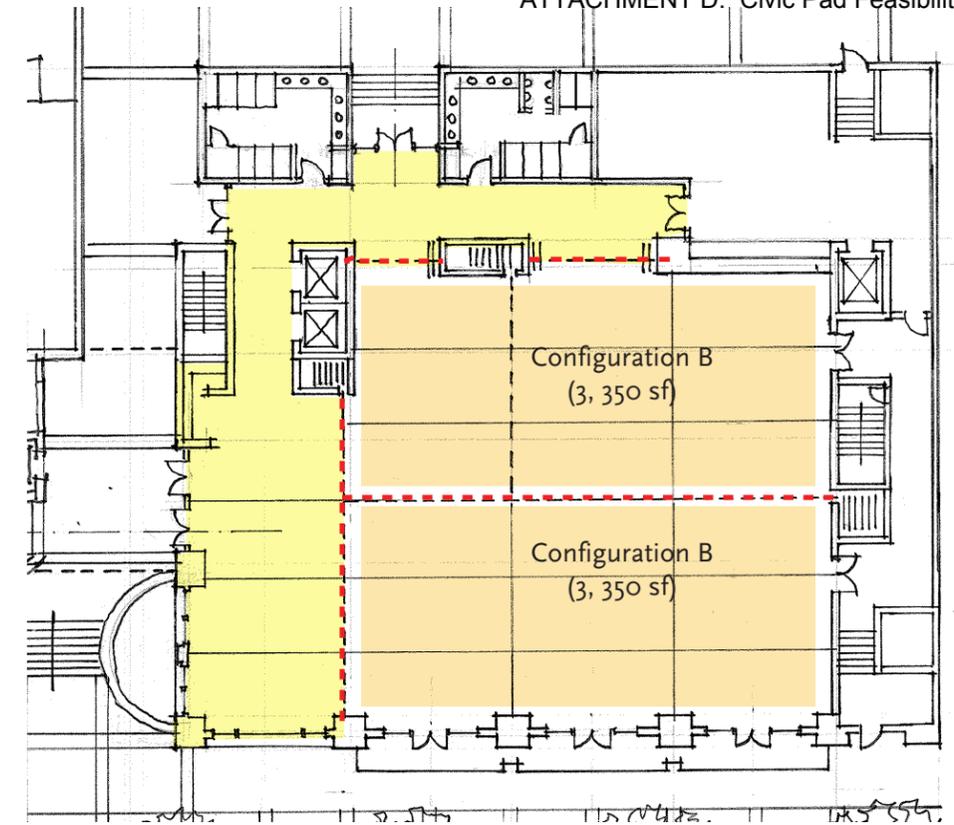


Upper Level Roof Deck Floor Plan

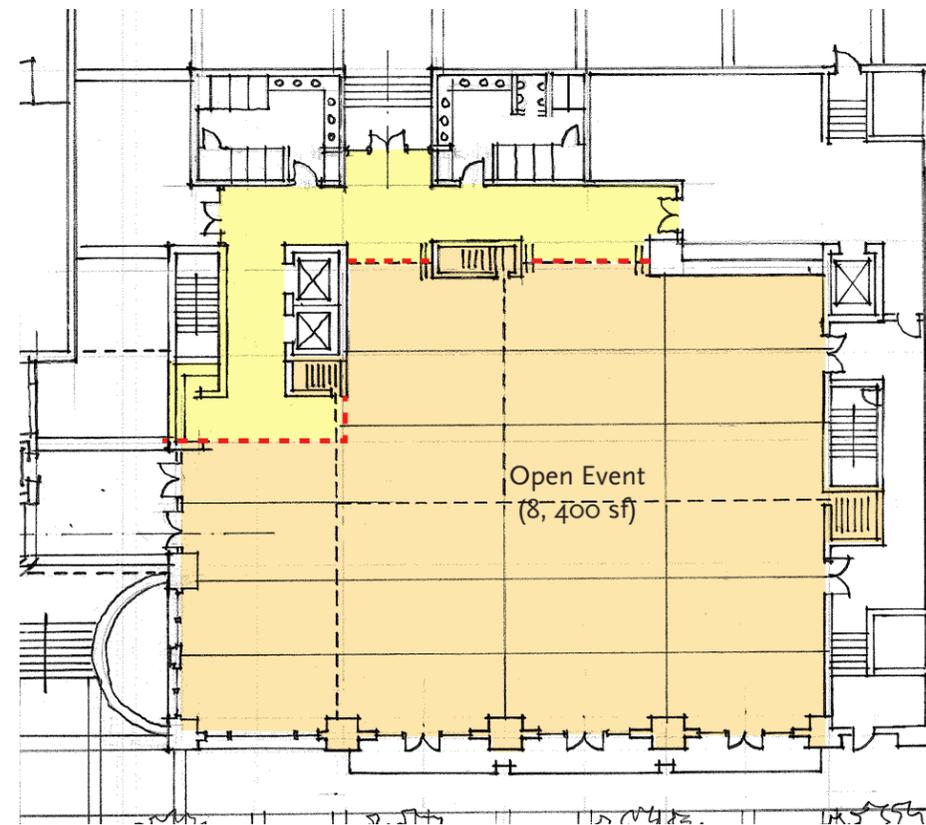




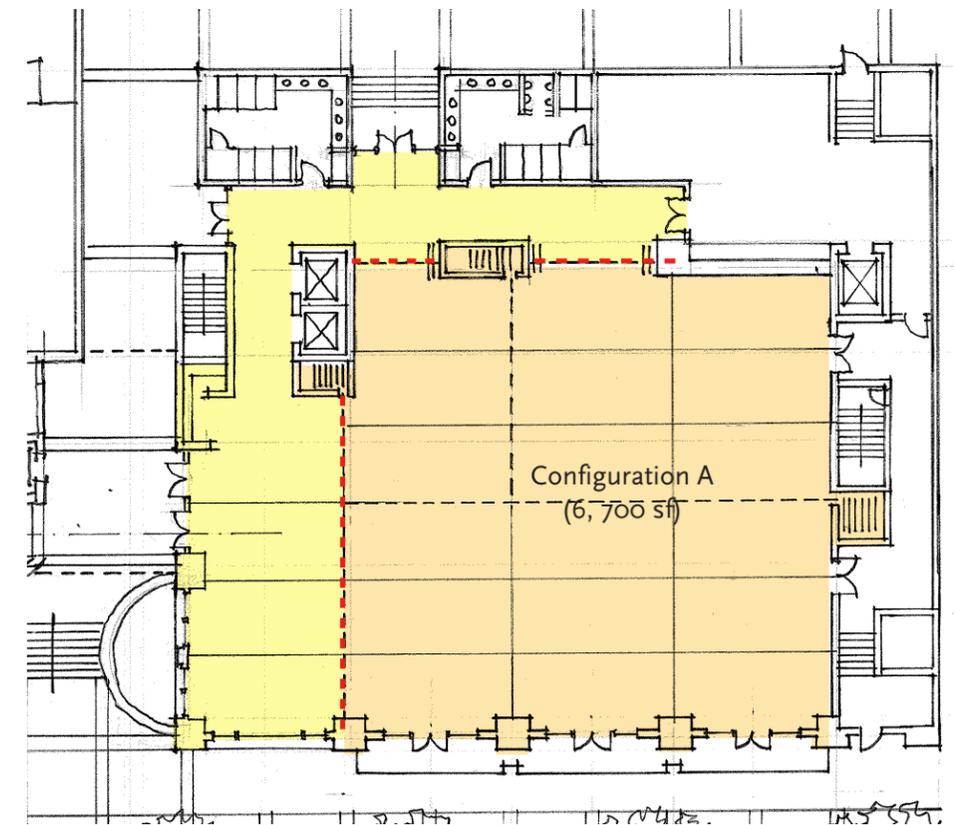
Partitioned Event - with prefunction



Partitioned Event - with prefunction

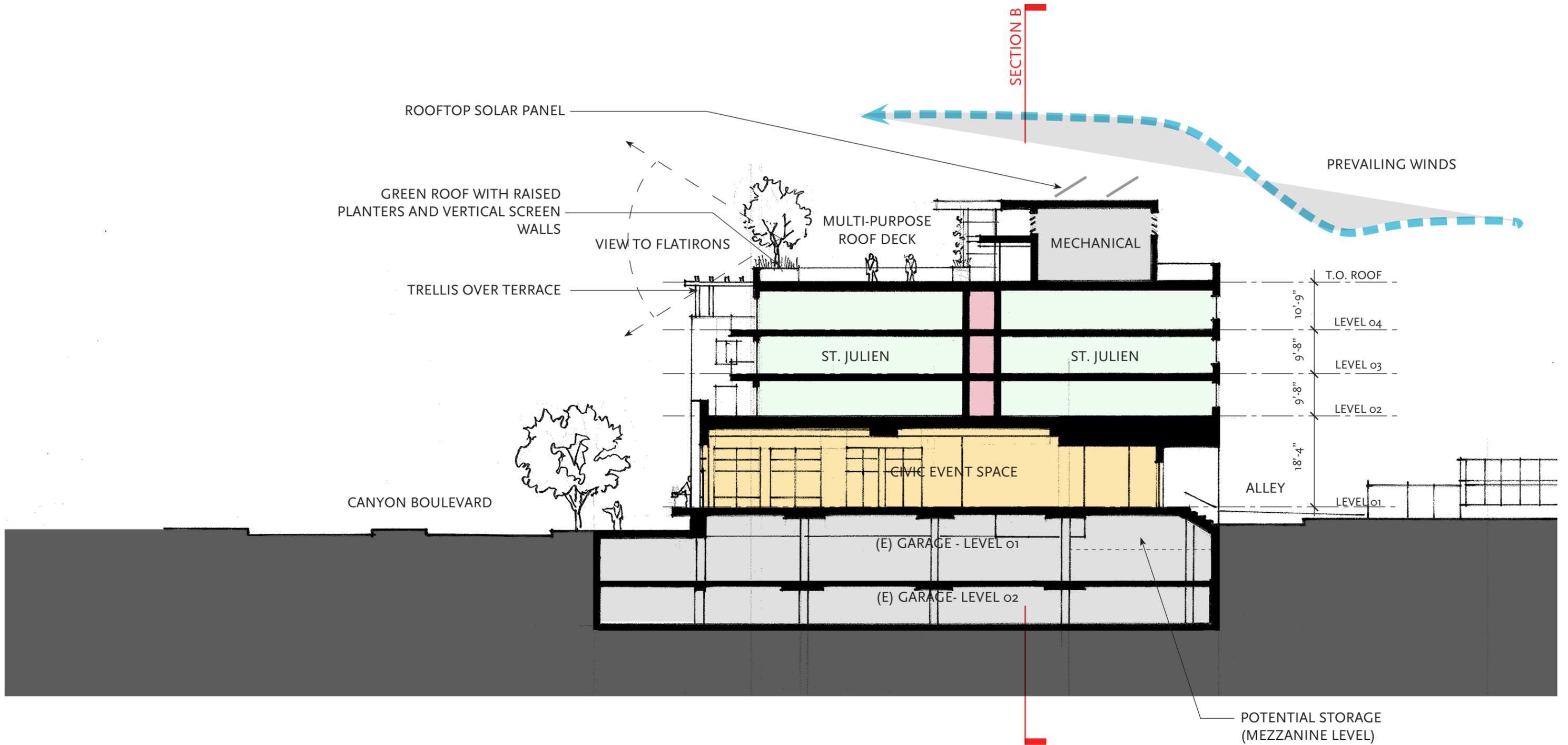


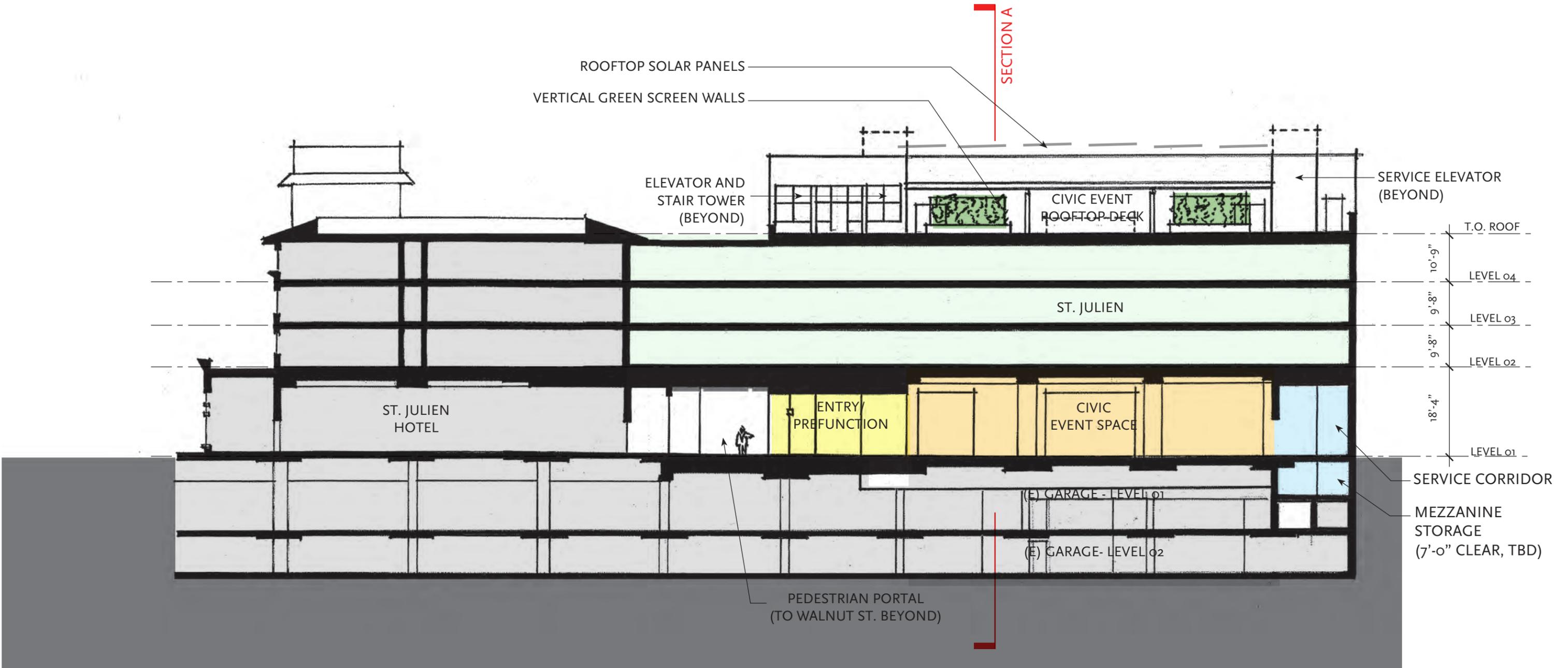
Open Event



Open Event - with prefunction

Civic Event Space Configurations





Section B





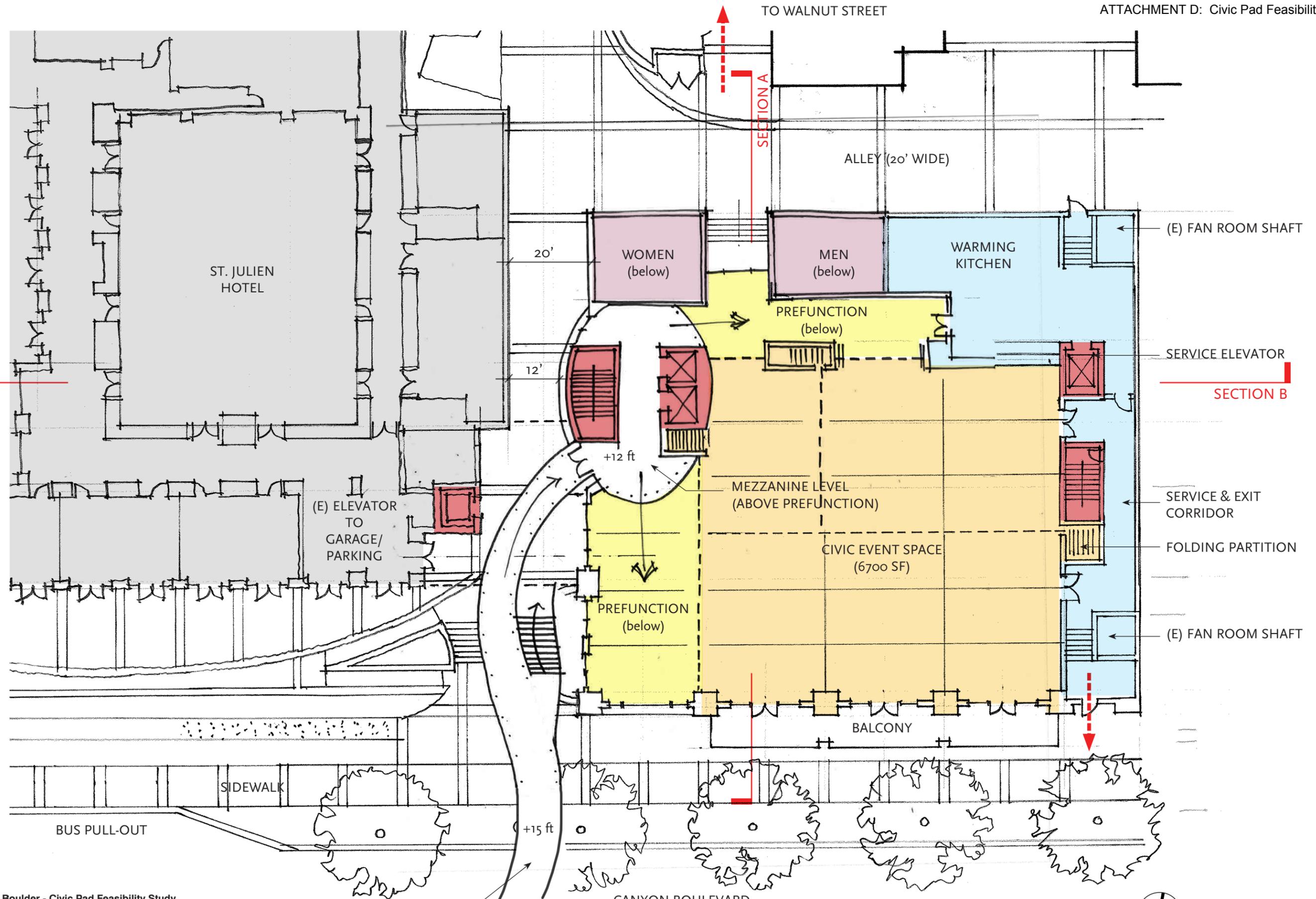
ST. JULIEN
HOTEL

MULTI-PURPOSE
ROOF DECK

CANYON BOULEVARD

Massing Model - view from southwest

o6 Optional Bridge Connection





ST. JULIEN
HOTEL

MULTI-PURPOSE
ROOF DECK

ICONIC FORM AT
VERTICAL CORE/
BRIDGE TERMINATION



LEVEL 02 BRIDGE
CONNECTION ACROSS
CANYON BLVD.



Optional Bridge Connection - Across Canyon Blvd.
Packet Page 131



Conference/Civic Event Space

Rooftop Deck- Civic Event Space



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE

Consideration of a motion to approve a twenty-year right-of-way lease for encroachments (two retaining walls and one underground snowmelt system) located at 1060 5th Street (REV2014-00025).

Applicant: Malcolm R. Fraser and Sandra K. MacLeod

PRESENTERS

Jane S. Brautigam, City Manager
Bob Eichen, Finance Director /Acting Executive Director of Administrative Services,
David Driskell, Executive Director of Community Planning and Sustainability
Charles Ferro, Land Use Review Manager
Sloane Walbert, Planner I

EXECUTIVE SUMMARY

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

The purpose of this item is to obtain City Council approval to authorize a twenty-year lease for 1,082.7 square feet in right-of-way encroachments at 1060 5th Street and authorize the City Manager to execute the necessary documents to accomplish this transaction. The encroachments include two retaining walls and an underground snowmelt system in the driveway for a single-family home. Refer to the proposed Right-of-Way Lease in **Attachment A**. The subject retaining walls and snowmelt system were installed in 1992 in association with a building permit for a new single-family home. The areas of encroachment were previously leased from the city via two separate short-term leases. However, considering the permanency of the encroachments a long-term lease is appropriate.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to approve twenty-year right-of-way lease for two retaining walls and one underground snowmelt system located at 1060 5th Street.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: No direct economic impacts are anticipated.
- Environmental: None anticipated.
- Social: No social impacts are anticipated.

OTHER IMPACTS

- Fiscal: Annual rental rate of \$100 per year, escalating annually by increase in the “Consumer Price Index” for the Denver/Boulder Metropolitan area. The lease rate was determined based on the nature of the encroachments and the single-family residential use of the property. There has been no added fiscal impact on the city, as the request has been reviewed through the provisions of the standard processes and is within normal staff work plans.
- Staff time: The applicant has paid the required application fee to cover the staff review time of the proposed lease.

PUBLIC FEEDBACK

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

BACKGROUND

Any lease term of three years or greater, up to twenty years, must be approved by the City Council. The City Manager is authorized to permit encroachments within the public right-of-way for a period of three years or less. See Section 2-2-8, “Conveyance of City Real Property Interest,” B.R.C. 1981, and the City Charter Section 111, “Terms not longer than twenty years – compensation.” The encroachments at 1060 5th Street are permanent in nature and can be leased for a period exceeding three years only upon approval of the City Council. A copy of the proposed Right-of-Way Lease is attached (see **Attachment A**).

The subject property is a 14,883 square foot lot located on the far western edge of the city, within the Grant neighborhood (refer to *Figure 1: Vicinity Map*). The property is located in a Residential – Low 1 (RL-1) zone district, which is defined as “*single-family detached residential dwelling units at low to very low residential densities*” (section 9-5-2(c)(1)(A), B.R.C. 1981). Additionally, the property is located in an area identified as steep slope and is in an area subject to potential mass movement. The property has overall slope of 30 percent and the slope on portions of the site exceed 50 percent.



Figure 1: Vicinity Map

The existing single-family home on the property was built per a building permit approved in 1991 (building permit #51659). The developer also obtained a steep slope development permit and demonstrated compliance with the city's steep slope ordinance. The foundation and drive access were placed in approximately the same locations as the previous home. Due to the steepness of the slope, encroachments were approved in the right-of-way to maintain a reasonable slope for the drive access. A short term revocable lease was approved in 1992 for a concrete and rock retaining wall around the parking area on the northwest side of the site, a concrete retaining wall along the southwest edge of the driveway, and the portion of the driveway within the right-of-way (refer to *Figure 2* below). The proposed driveway grade exceeded the maximum slope for driveways but was allowed with the provision of a heated (subsurface coils) system.

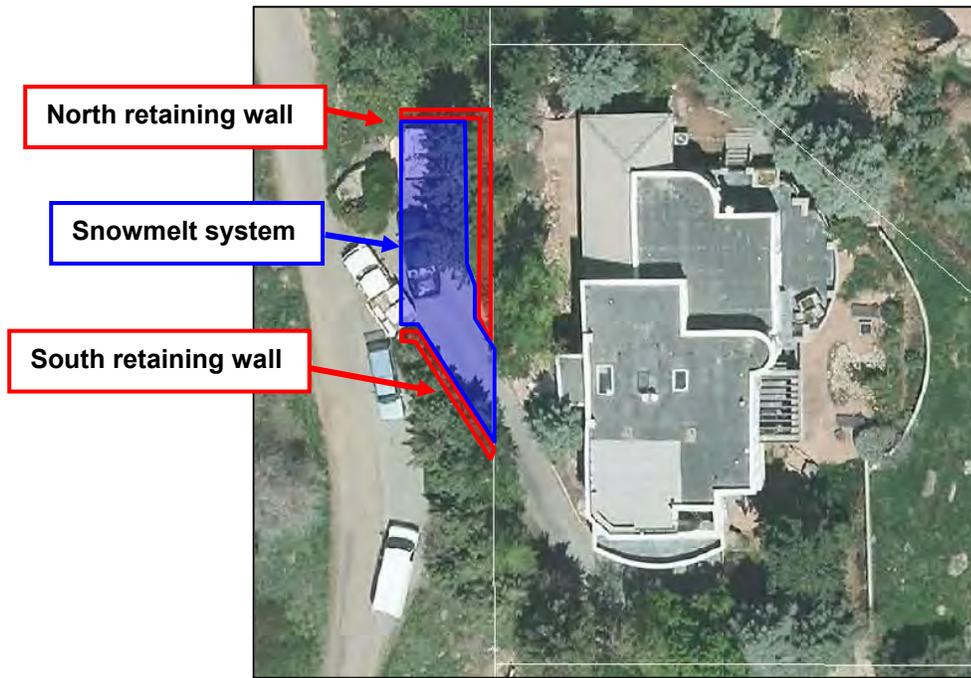


Figure 2: Map of Encroachments

The short-term lease stipulated that separate driveway heating zones be provided to ensure a separate system in the public right-of-way, thus ensuring that the encroachment could be easily removed if necessary. The encroachments were permitted to extend a maximum of 16 feet into the right-of-way. The minimum 24-foot wide section has been preserved to meet residential street standards. Therefore, adequate space has been preserved in the 5th Street right-of-way for future public roadway improvements. The short-term revocable lease was renewed in 1995 and 1998 and no changes have been made to the encroachments since they were installed.



Figure 3: The south retaining wall and snowmelt system looking south

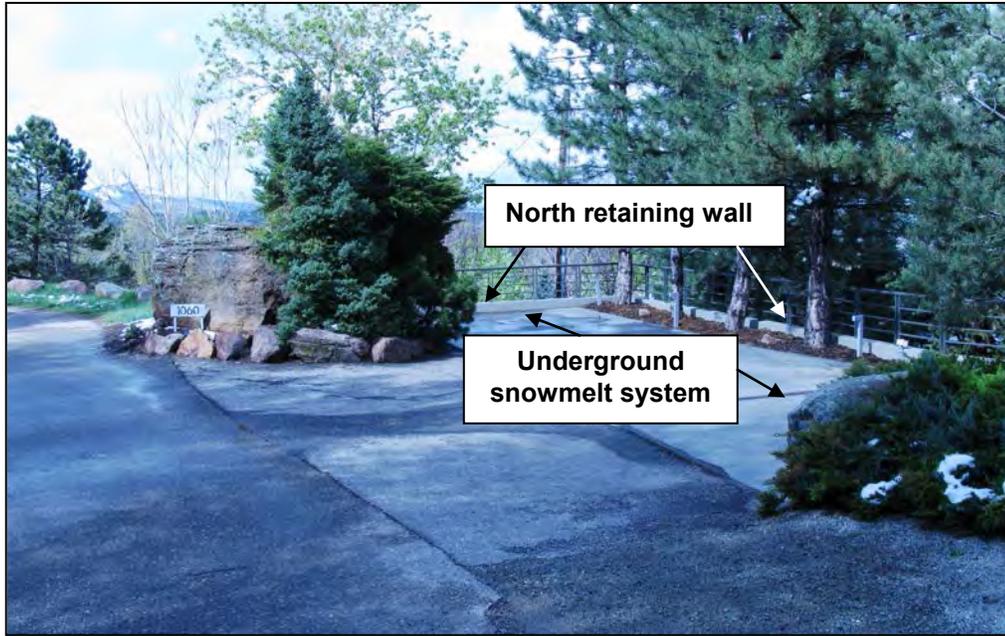


Figure 4: The north retaining wall and snowmelt system encroachments looking north

The proposed Right-of-Way Lease would cover the 36.3 square feet of public property directly beneath the north retaining wall, the 26.4 square feet of public property beneath the south retaining wall and the 1,020 square feet of public property where the snowmelt system is located. If a revocable lease is denied the property owner must resolve the area of encroachment. The encroachments may require removal at the owner's expense or purchase of enough right-of-way to accommodate the encroachments.

ANALYSIS

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

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

The retaining walls and snowmelt system do not encroach onto the established roadway and do not create a traffic hazard. The retaining walls were designed by a registered professional engineer and were approved prior to building permit approval and construction.

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

The encroachments do not impair the public use of 5th Street and the leased area is not part of the street surface. The minimum 24-foot wide section has been preserved to meet residential street standards. Therefore, adequate space has been preserved in the 5th Street right-of-way for future public roadway improvements. In addition, the

snowmelt system was installed so that the portion located in the right-of-way could be easily removed.

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

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

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

A twenty-year lease to allow for the encroachments is not contrary to the public interest. There is no contemplated public need for the leased space during the term of the lease since there are no plans to expand the roadway section on 5th Street.

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

A lease rate of \$100 per year has been established by the city, escalating annually by increase in the “Consumer Price Index” for the Denver/Boulder Metropolitan area. The lease rate was determined based on the nature of the encroachments and the single-family residential use of the property.

MATRIX OF OPTIONS

City Council may:

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

ATTACHMENTS

- A. Right-of-Way Lease, Exhibits

**CITY OF BOULDER
RIGHT-OF-WAY LEASE (REV2014-00025)**

THIS Lease ("Lease") is entered into this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule City, hereinafter called "Lessor," and Malcolm R. Fraser and Sandra K. MacLeod, herein called "Lessee."

RECITALS

A. Malcolm R. Fraser and Sandra K. MacLeod are the owners of the property and improvements located at 1060 5th Street, and more particularly described in Exhibit A; and

B. The Lessor is the owner of the public right-of-way adjacent to the property located at 1060 5th Street; and

C. The retaining walls and a driveway containing an underground snowmelt system as shown on Exhibit B attached hereto ("Encroachments") are located at 1060 5th Street, portions of which encroach into the aforementioned public right-of-way of the City of Boulder; and

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

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

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

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

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

The lease covers only the following square feet of property directly beneath the Encroachments:

North retaining wall area:	36.3 s.f.
South retaining wall area:	26.4 s.f.
Underground snowmelt system in driveway:	1,020.0 s.f.

2. Lease Term: This lease term shall be for the lesser of twenty (20) years or the life of the aforementioned Encroachments, whichever first occurs, said term

commencing at noon on _____. During the Lease Term, Lessee shall have the right to repair said Encroachments.

3. Rent. Lessee hereby agrees to pay as and for an **annual** rental for use of the above described Encroachments, the sum of \$100.00 per year, which sum shall be escalated annually by increase in the "Consumer Price Index" for the Denver/Boulder Metropolitan area. This amount is due and payable without requirement of notice or billing by Lessor.

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

4. Computation of Time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday.
5. Maintenance. The Lessee agrees to construct and maintain the Encroachments 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 1060 5th Street.

The City shall not be responsible for any maintenance in the Leased Premises. However, the City reserves the right to access the Leased Premises to maintain any and all City utilities 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, to restore public improvements in the public right-of-way to its original condition. If the Lessor determines that all or portions of the public improvements have been damaged beyond reasonable repair, Lessee agrees to replace such improvements in accordance with standards for construction in the public right-of-way prescribed by the City of Boulder Design Criteria and Construction Standards and the Boulder Revised Code, 1981. Lessee agrees to notify the City within five (5) 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 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 coverage 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 seven (7) 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 twenty (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.
11. Revocation. The City may revoke, without cause, this Lease at any time upon ten (10) days' written notice to the Lessee pursuant to Section 8-6-7, "Revocation of Revocable Permit and Order to Remove Encroachment," B.R.C. 1981, and the provision and remedies of Section 8-6-7, B.R.C. 1981 shall apply to the removal of the Encroachments.
12. Compliance with Laws. Lessee agrees to comply with all applicable laws, rules, regulations, and ordinances in conducting its installation, operation, maintenance, and removal of the Encroachments.

DATE OF ISSUANCE: _____

DATE OF EXPIRATION: _____

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

LESSEE/BUILDING OWNER:

By: *Malcolm R. Fraser*
Malcolm R. Fraser

State of Colorado)
) ss.
County of Boulder)

The foregoing instrument was acknowledged before me this 29th day of April, 2015, by Malcom Fraser.

Witness my Hand and Seal.
My Commission Expires: 10/3/2017

[SEAL]

Sandra Briggs
Notary Public

SANDRA BRIGGS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004035114
MY COMMISSION EXPIRES 10/03/2017

LESSEE/BUILDING OWNER:

By: *Sandra K MacLeod*
Sandra K. MacLeod

State of Colorado)
) ss.
County of Boulder)

The foregoing instrument was acknowledged before me this 29th day of April, 2015, by Sandra K. MacLeod.

Witness my Hand and Seal.
My Commission Expires: 10/3/2017

[SEAL]

Sandra Briggs
Notary Public

SANDRA BRIGGS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004035114
MY COMMISSION EXPIRES 10/03/2017

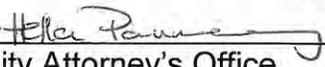
CITY OF BOULDER

By: _____
City Manager/Public Works
Development Review Manager

Attest:

City Clerk

Approved As To Form:



City Attorney's Office

Date: 4-27-2015

Exhibits:

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

EXHIBIT A

A parcel of land located on a portion of the South 1/2 of Lot 4, Block 5, and a portion of vacated Geneva Avenue, Geneva Park Addition, County of Boulder, State of Colorado, being more particularly described as follows:

Beginning at the Northwest corner of the South 1/2 of said Lot 4; thence South 89°57'00" East along the North line of the South 1/2 of said Lot 4, a distance of 40.00 feet to a point from which the Northeast corner of the South 1/2 of said Lot 4 bears South 89°57'00" East, a distance of 100.00 feet;

Thence South 49°20'55" East, a distance of 92.20 feet;

Thence South 89°57'00" East along a line parallel with the North line of the South 1/2 of said Lot 4, a distance of 30.00 feet to a point on the East line of the South 1/2 of said Lot 4 extended Southerly;

Thence South 00°03'00" West along the East line of the South 1/2 of said Lot 4 extended Southerly, a distance of 42.50 feet to the Northeast corner of Lot 1, Block 6, Geneva Park Addition;

Thence North 89°57'00" West along the North line of said Lot 1, a distance of 140.00 feet to the Northwest corner of said Lot 1;

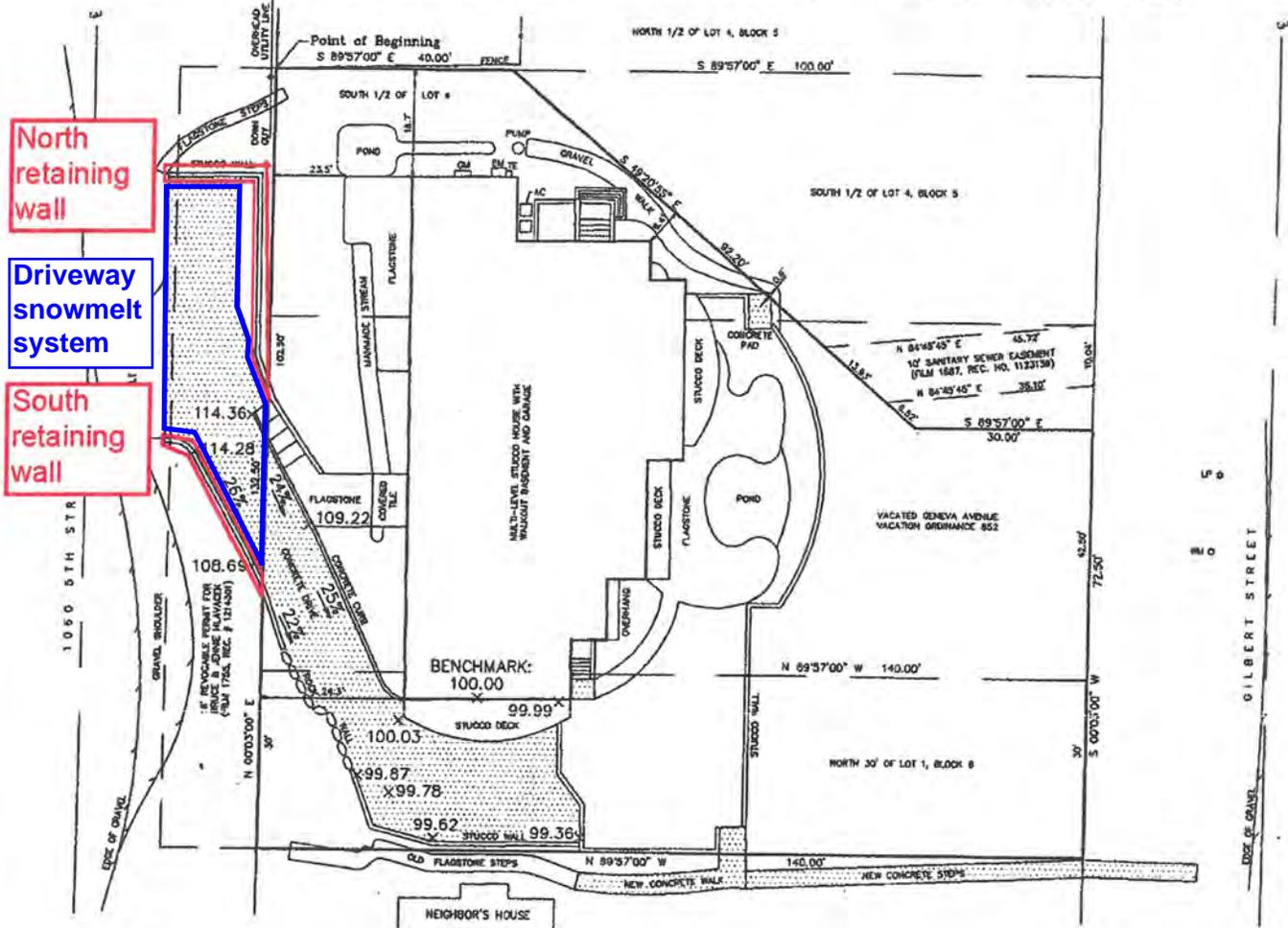
Thence North 00°03'00" East along the West line of the South 1/2 of said Lot 4 extended Southerly and along the West line of the South 1/2 of said Lot 4, a distance of 102.50 feet to the point of beginning;

Together with the North thirty (30) feet of Lot 1, Block 6, Geneva Park Addition, County of Boulder, State of Colorado.

EXHIBIT B

DRIVEWAY EXHIBIT

A PORTION OF GENEVA PARK ADDITION,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO



Legal Description
(PROVIDED BY COMMONWEALTH LAND TITLE INS. CO.)

A PARCEL OF LAND LOCATED ON A PORTION OF THE SOUTH 1/2 OF LOT 4, BLOCK 5, AND A PORTION OF VACATED GENEVA AVENUE, GENEVA PARK ADDITION, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH 1/2 OF SAID LOT 4; THENCE SOUTH 89 DEG. 57'00" EAST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF SAID LOT 4, A DISTANCE OF 40.00 FEET TO A POINT FROM WHICH THE NORTHEAST CORNER OF THE SOUTH 1/2 OF SAID LOT 4 BEARS SOUTH 89 DEG. 57'00" EAST, A DISTANCE OF 100.00 FEET;

THENCE SOUTH 49 DEG. 20'55" EAST, A DISTANCE OF 92.20 FEET;

THENCE SOUTH 89 DEG. 57'00" EAST ALONG A LINE PARALLEL WITH THE NORTH LINE OF THE SOUTH 1/2 OF SAID LOT 4, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF THE SOUTH 1/2 OF SAID LOT 4 EXTENDED SOUTHERLY;

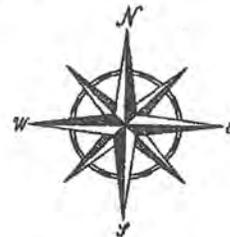
THENCE SOUTH 0 DEG. 03'00" WEST ALONG THE EAST LINE OF THE SOUTH 1/2 OF SAID LOT 4 EXTENDED SOUTHERLY, A DISTANCE OF 42.50 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 6, GENEVA PARK ADDITION;

THENCE NORTH 89 DEG. 57'00" WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 140.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 1;

THENCE NORTH 00 DEG. 03'00" EAST ALONG THE WEST LINE OF THE SOUTH 1/2 OF SAID LOT 4 EXTENDED SOUTHERLY AND ALONG THE WEST LINE OF THE SOUTH 1/2 OF SAID LOT 4, A DISTANCE OF 102.50 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE NORTH THIRTY (30) FEET OF LOT 1, BLOCK 6, GENEVA PARK ADDITION, COUNTY OF BOULDER, STATE OF COLORADO.

NOTE:
BENCHMARK: ASSUMED 100.00 FEET ON GARAGE SLAB AS SHOWN HEREON.



SCALE: 1" = 30'

JULY 5, 1995

Flagstaff Surveying, Inc.
637C S. Broadway
Boulder, CO 80303
(303)499-9737



Name and address of insured
MALCOLM FRASER AND SANDRA MACLEOD
1060 5TH ST
BOULDER, CO 80302

Effective date 11/11/14
Policy no. 13660673-05
Policy period 6/30/14 - 6/30/15
Issued by GREAT NORTHERN
INSURANCE COMPANY
a stock insurance company
incorporated in INDIANA

This certificate verifies that the company shown above has issued to the named insured the insurance coverages and limits shown below. These coverages are subject to the provisions of the policy and are in force as of the effective date shown above. This certificate does not in any way change or extend the policy coverages.

	Amount of Liability Coverage	Type of Liability Coverage
Property covered 1060 5TH STREET, BOULDER, CO 80302	\$2,000,000	PERSONAL

Included in the liability coverage is the following definition of a covered person:

A "covered person" means:

- you or a family member;
- any person using a vehicle or watercraft covered under this part of your Masterpiece policy with permission from you or a family member with respect to their legal responsibility arising out of its use;
- any person or organization with respect to their legal responsibility for covered acts or omissions of you or a family member; or
- any combination of the above.

"Any person or organization" includes CITY OF BOULDER & ITS ELECTED OFFICIALS & EMPLOYEES
1777 BROADWAY BOULDER, CO 80302

with respect to their legal responsibility for acts or omissions of you or a family member.

Payment of losses

The amount of coverage for liability is shown above. We will pay up to the amount of coverage for liability for covered damages a covered person is legally obligated to pay, unless stated otherwise or an exclusion applies.

Paul N. Morrissette
Authorized representative



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: MAY 19, 2015

AGENDA TITLE

Consideration of a motion to authorize the city manager to execute an agreement in the form that is generally described in the attachment to this memo related to the disbursement of funds associated with the “community, culture, and public safety” sales and use tax to fund improvements for the Dairy Center for the Arts located at 2590 Walnut Street, Boulder.

PRESENTER/S

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
David Gehr, Deputy City Attorney
Bob Eichem, Chief Financial Officer
Maureen Rait, Executive Director of Public Works
Joanna Crean, Public Works Projects Coordinator
Joe Castro, Facilities & Fleet Manager

EXECUTIVE SUMMARY

On November 4, 2014, Boulder voters approved Ballot Measure 2A for the purpose of funding a variety of capital improvement projects for specific Community, Culture and Safety projects, including renovation of the Dairy Center for the Arts located at 2590 Walnut Street. Pursuant to Ballot Measure 2A (Ordinance No. 7983), the City intends to appropriate \$3,850,000 for the Dairy Project. The City will appropriate the entire amount if all of the terms of the Agreement (**Attachment A**) are satisfied and the City collects all of the revenue that it anticipated in Ballot Measure 2A.

The purpose of this item is to seek city council’s authorization for the city manager to execute an agreement for the disbursement of funds for the purposes of improving the Dairy Center for the Arts, a property that is owned by the City and leased to the Dairy.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to authorize the city manager to enter into an agreement with the Dairy Center for the Arts to approve the disbursement of funds in accordance with the 2014 Ballot Measure 2A, the form which is attached to this memorandum as **Attachment A**.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Improvements to the facility are expected to increase travel and visitation to the arts, cultural, and historical facilities and to the City of Boulder.
- Environmental – Although it is expected that the improvements to the facility will generate more travel to the City of Boulder, the project includes efficient and effective improvements to infrastructure, which would help address environmental sustainability.
- Social – The project and improvement would provide more opportunities for everyone to enjoy the uniqueness of Boulder and provide more cultural, educational, and interpretative activities to enhance the quality of life in Boulder.

OTHER IMPACTS

- Fiscal – Disbursements to the Dairy will be used solely for payments directly related to the construction of the renovations at the Dairy. The funds will be used to improve a facility that is owned by the City.
- Staff time – Some staff time will be required to administer and monitor compliance with the Disbursement Agreement and to process payments to the Dairy. This can be accomplished with existing staff resources.

BACKGROUND

On November 4, 2014, at the special municipal coordinated election, Boulder voters approved Ballot Measure 2A pursuant to Ordinance No. 7983. Ballot Measure 2A authorized a temporary sales tax increase of up to 0.3 cents on every dollar from January 1, 2015 through December 31, 2017, the revenue of which could be spent on funding a variety of capital improvement projects for the purposes of community, culture and safety.

Ballot Measure 2A authorized funding for up to \$3,850,000 for improvements at the Dairy Center for the Arts in compliance with terms and conditions and approved by the City. The Dairy Center for the Arts requested funding for improving two of the current theaters, including soundproofing, the addition of dressing rooms and the reconfiguration of one theater into a black box theater, as well as expansion and modernization of the

building's lobby and façade, including an outdoor deck area as a special events space. A detailed plan and budget has been developed in concert with an architect, general contractor and acoustics consultant.

ANALYSIS

The Disbursement Agreement is intended to constitute the terms and conditions anticipated in Ballot Measure 2A (Ordinance No. 7983) for the disbursement and use of up to \$3,850,000 from the approved tax revenues allocated to the Dairy Center for the Arts. The Dairy Center for the Arts will manage the construction and renovation efforts of the project. Major points of the Disbursement Agreement are as follows:

- The City intends to appropriate \$3,850,000 for the Dairy Center for the Arts renovations and improvements pursuant to Ballot Measure 2A.
- Payments to the Dairy will be based on invoices prepared and submitted to the City for review. Prior to the first disbursement, the Dairy is required to either pay or retain (at its option) an amount equal to five percent of the total Project costs. Payment to the Dairy is subject to prior appropriation.
- The Dairy agrees to structure its agreement with its principal contractor to include payment and retainage provisions for the entire project. Mechanic liens cannot be placed on public buildings, retainage provides security for payment of claims made by subcontractors to the Project.
- The Dairy will deliver to the City quarterly reports setting forth (a) how the disbursements have been expended towards the Project, and (b) other progress made towards the completion of the Project and the estimated completion date of the Project.
- A city project manager will be assigned to the Project to represent the City in the implementation of the Agreement. The project manager will have the opportunity to review plans and will have access to the Project at all times.
- The City will be named as an additional insured on insurance policies carried by the Dairy's principal contractor.
- The Dairy agrees that its principal contractor shall obtain a performance bond and labor and material bond, or shall make other guarantee arrangements, to secure the performance of the Project.
- The Dairy's principal contractor shall be required to guarantee its work for one year after substantial completion of the Project.
- A detailed Project description is provided at attachment A to the Agreement.

ATTACHMENTS

Attachment A – Proposed Disbursement Agreement with the Dairy Center for the Arts.

**DISBURSEMENT AGREEMENT FOR BALLOT MEASURE 2A FUNDS
City of Boulder and Dairy Center for the Arts**

THIS AGREEMENT is made on May ____, 2015, between City of Boulder, a Colorado home rule city, ("City") and the Dairy Center for the Arts, a Colorado non-profit corporation (the "Dairy").

RECITALS

A. The City is the owner of real property in the city of Boulder with a street address of 2590 Walnut Street, Boulder, CO 80302, known as the Dairy Center for the Arts ("the Premises").

B. In 2000, the City and the Dairy entered into a Lease Agreement where the Dairy leased the Premises from the City to facilitate cultural events and under which the Dairy operates the Premises.

C. On November 4, 2014, at the special municipal coordinated election, Boulder voters approved Ballot Measure 2A pursuant to Ordinance No. 7983.

D. Ballot Measure 2A authorized a temporary sales tax increase of up to 0.3 cents on every dollar from January 1, 2015 through December 31, 2017, the revenue of which could be spent on funding a variety of capital improvement projects for the purposes of community, culture and safety.

E. Among other things, Ballot Measure 2A authorized funding for up to \$3,850,000 for improvements at the Premises in compliance with terms conditions and approved by the City.

F. The Dairy intends to make improvements to the Premises at a cost significantly in excess of the funds provided by the City under this Agreement.

G. The Agreement is intended to constitute the terms and conditions anticipated in Ballot Measure 2A (Ordinance No. 7983) for the disbursement and use of up to \$3,850,000 from the approved tax revenues and allocated to the Dairy.

AGREEMENT

1. Disbursements - Generally: Pursuant to Ballot Measure 2A, the City intends to appropriate \$3,850,000 towards the Project (as hereinafter defined). The City will appropriate the entire amount if all of the terms of this Agreement are satisfied. In the event that the City does not meet tax revenue collection expectations estimated for Ballot Measure 2A, the City agrees that it will not request a return of any funds previously paid as Interim Disbursements under this Agreement.

2. Interim Disbursements: Under this Agreement, the City will tender Interim Disbursements to the Dairy, **subject** to a prior appropriation of the Boulder City Council in accordance with the Budget and as follows:

a. Payments will be based upon invoices prepared by the Dairy and submitted to the City's project manager for review. The project manager shall, within ten days after receipt thereof by the City, notify the Dairy in writing if any further information is reasonably needed to process the payment, failing which the invoice shall be paid by the City to the Dairy within 20 days after receipt thereof by the City. At the time payment is tendered, payments will be made by ACH direct deposit to the Dairy account.

b. Once the Dairy has, with its own funds, paid or retained (at its option) for the Project an amount equal to five percent (5%) of the amount payable by the City under this Agreement, it shall deliver written notice thereof to the City. Thereafter, the City will pay invoices submitted by the Dairy without retaining additional funds if, in City's opinion, satisfactory progress is being made to the Project. Any funds which have been retained by the Dairy pursuant to this section shall be retained until the full amount payable by the City under this Agreement has been disbursed.

c. The Dairy shall promptly pay all bills for labor and material performed and furnished by others in performance of the Project, unless Dairy shall in good faith contest such bills. Dairy shall be responsible for all cost associated with contesting such bills unless the City otherwise agrees to participate.

d. The City is required to comply with Section 38-26-101 *et seq.*, C.R.S. Prior to final payment by the City under this Agreement the Dairy will advertise a notice of final settlement at least twice in a newspaper of general circulation in Boulder County at least ten days prior to the date of final settlement, in accordance with Section 38-26-107, C.R.S. If the City receives a verified statement of claim for unpaid work on the Project, the City will withhold final payment from the Dairy until such claim is resolved. Further, the statute allows unpaid subcontractors and suppliers who have filed verified statements of claim to file a notice of lis pendens with City, in which event the City must continue to withhold amounts from the Dairy longer than ninety days after the date of final settlement.

e. The Dairy agrees to structure its contract with its principal contractor for the Project to include payment and retainage provisions for the entire project that are consistent with the provisions of this Agreement. The purpose of this provision is to ensure that the entire Project will be managed and administered in a consistent manner.

f. The aggregate amount of the Interim Disbursements by the City to the Dairy will not exceed \$3,850,000. Once such amount has been disbursed by the City under this Agreement (herein called the "Full Disbursement Event"), the Dairy's obligations hereunder shall end and terminate, except for the Dairy's indemnity obligations set forth in subsection 13(g).

3. Use of Disbursements and Progress Reports: The Dairy will use the Interim Disbursements solely for payments directly related to the construction of the Project. Until the Full Disbursement Event, the Dairy will deliver to the City quarterly reports setting forth (a) how the Interim Disbursements have been expended towards the Project, and (b) other progress made towards the completion of the Project and the estimated completion date of the Project.

4. Other Payments Unaffected: The payments under this Agreement will not be in lieu of, reduce, or otherwise affect other payments or support that the City provides or may provide the Dairy from time to time. Any such payment made by the City shall be subject to a prior appropriation of funds by the Boulder City Council.

5. Funding Terms and Conditions. This Agreement provides the terms and conditions related to the grant of funds from the City to the Dairy. As more particularly set forth in subsection 13(b) of this Agreement, in the event that the Dairy fails to comply with the terms of this Agreement, and the Dairy fails to cure such default after receipt of written notice thereof from the City, then this Agreement may be terminated and, thereupon, shall be of no force and effect. In the event of such termination, any funds allocated to the Project and not theretofore distributed to the Dairy, shall be retained by the City for reallocation to other purposes, in the sole discretion of the Boulder City Council that are consistent with the Ballot Measure 2A.

6. Project Scope of Work and Project Budget: The Dairy agrees to abide by all the terms and conditions of this Agreement, the Project Scope of Work ("Project") as proposed by the Dairy and agreed upon by the City, and the Project Budget ("Budget"). The Project (Attachment A) and the Budget (Attachment B) are incorporated into this Agreement. Until the Full Disbursement Event, the Dairy agrees to abide by any written instructions or conditions placed on the Project or Budget by the City that do not increase the Budget or materially change the Project. The Dairy may request material changes in the Project or Budget and the City may approve or deny the request. Both the request and approval or denial shall be made in writing. No such change consent shall be necessary for (a) non-material changes, or (b) after the Full Disbursement Event.

7. Project Managers: The City shall designate a project manager ("project manager") to be responsible for supervising the implementation of the Agreement and to represent the City in all matters and questions arising under the Agreement. The project manager shall be the judge, on behalf of the City, of the City's evaluation of the performance of the Agreement as it relates to compliance with drawings and specifications and other contract documents, quality of workmanship and materials and implementation of the Agreement according to its letter and intent. The project manager shall have full access to the Project at all times. All correspondence from the Dairy to the City relating to the Agreement shall be directed to the project manager. The project manager shall make decisions on behalf of City for matters concerning this Agreement. The project manager for the City shall be the City Manager or her designee. The project manager for the Dairy shall be the Executive Director or his designee. All written notices to the City or the Dairy provided for in this Agreement shall be mailed to the following addresses until further notice in writing is given as to the change in address:

City:

Boulder City Manager
City of Boulder
P.O. Box 791
Boulder, CO 80306

Dairy: Executive Director
 Dairy Center for the Arts
 2590 Walnut Street
 Boulder, CO 80302

8. Insurance. During the term of this Agreement, the Dairy shall require its principal contractors who do any material work in connection with this Agreement, to maintain in full force and effect, with a carrier or carriers duly authorized to do business in the State of Colorado, the following insurance coverage:

Commercial General Liability

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal/Advertising Injury	\$1,000,000
Fire Damage (Any One Fire)	\$ 50,000
Medical Payments (Any One Person)	\$ 5,000

Excess/Umbrella Liability (as needed)

General Aggregate Limit	\$1,000,000
Products/Completed Operations Aggregate	\$1,000,000

Automobile Liability

Bodily Injury/Property Damage (Each Accident)	\$1,000,000
---	-------------

Workers' Compensation

Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	\$ 100,000
	\$100,000 Disease Ea. Employ
	\$500,000 Disease-Policy Limit

Contractors Pollution Liability/Environmental Impairment Liability (as needed)

Per Loss	\$1,000,000
Aggregate	\$1,000,000

All insurance policies (except Workers Compensation) shall include the City of Boulder and its officials and employees as additional insureds as its interests may appear. The additional insured endorsement should be at least as broad as ISO form CG2010 for General Liability coverage and similar forms for Commercial Auto Liability. The City requires that all policies of insurance be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the City.

9. Bonding. Until the Full Disbursement Event, the Dairy shall require its principal contractor to obtain a performance bond and a labor and material bond, or shall make other guarantee arrangements, as a guarantee for the faithful performance and completion of the Project in strict accordance with the terms of the Agreement. The performance bond or other

arrangement shall also be a guarantee for the repair or replacement of all work found by the parties to be defective or otherwise unacceptable during the contract performance time and through the guarantee period, see Section III, below. The bonds must be issued by a surety authorized by the State of Colorado to do business in Colorado and admitted in the State of Colorado with an A.M. best rating of A-VI or better and be named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in circular 570 (amended) by the Audit Staff, Bureau of Accounts, U.S. Treasury Department.

10. Warranty and Guarantee.

a. The Dairy shall require that its general contractor guarantee its work for a period of one (1) year after the date of substantial completion thereof. The establishment of the guarantee period shall relate only to the specific obligations of the contractor to correct known defects in the work which are discovered and called to the contractor's attention during the guarantee period, and has no relationship to the time within which its obligation to comply with the contract documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the contractor's liability with respect to its obligations and resulting damages.

b. The Dairy shall require the contractor to warrant and guarantee that all materials and equipment will be new, unless otherwise specified, suitable for the purpose intended and will be of the highest quality, new, merchantable, and fit for the purpose for which they are intended, and that the work will be performed using the best skills and workmanship to provide a project of the highest quality. The contractor shall be required to obtain for the benefit of the parties, all subcontractors', manufacturers' and suppliers' warranties and guarantees, expressed or implied, for any part of the work and any materials used therein, whether or not such warranties have been assigned or otherwise transferred to the parties, and enforced by the contractor during its guarantee period. The contractor shall assign or transfer such warranties and guarantees to the parties if the parties requests the contractor to do so and agree that the warranties and guarantees shall cover all materials and equipment incorporated into the Project, and shall cover the work of the contractor and any subcontractors and their employees and agents engaged in the work.

11. Records:

a. The Dairy shall maintain financial records, accounting, and purchasing information, and books and records for the Project. These books, records, and information shall comply with generally accepted accounting practices and be available for review by the City at any time, upon reasonable advance request. An advance reasonable request shall be 24 hours notice or such other time period as the parties mutually agree. The City may make electronic or photocopies of any such records at the City's expense. All invoices submitted by the Dairy to the City under this Agreement are public records and shall be retained by the City and provided as required by law, including the Colorado Open Records Act.

b. All costs shall be supported by properly executed time records, invoices, contracts vouchers, orders, and/or any other accounting documents pertaining in whole or in part to this Agreement and all such documents shall be clearly identified and accessible.

c. At the City's reasonable request, the Dairy shall provide additional information regarding any specific expenditure towards the total Project cost.

d. The Dairy shall also furnish to the City, at such time and in such forms as the City may require, such statements, records reports, data, and information as the City may reasonably request.

12. Use and Maintenance

a. The Dairy agrees to complete the portion of the Project for which the City reimburses the Dairy, and to maintain the Project in a workmanlike manner. Maintenance shall include but not be limited to the routine watering, weeding, mulching, trimming, mowing, and pruning of plant material, and the routine cleaning, oiling, repairing, painting, and refinishing of signs, equipment or structures.

b. The Dairy agrees to use the Premises for cultural and accessory uses and as its principal office and such ancillary purposes typically associated with a cultural and arts center, although some uses may be curtailed during work on the Project. The Dairy agrees to conduct its business in compliance with all statutes, ordinances, rules, orders, regulations and requirements of all federal, state, county and city governments.

13. General Conditions.

a. Payment of Bills. The Dairy shall promptly pay all bills for labor and material performed and furnished by others in performance of the Project.

b. Termination for Breach. If either Party materially defaults in the performance of any term of this Agreement (other than by nonpayment) and does not substantially cure such default within thirty (30) days after receiving written notice of such default, then the non-defaulting Party may terminate this Agreement by providing ten (10) days prior written notice of termination to the defaulting Party.

c. Laws to be Observed. The Dairy shall be cognizant of all federal and state laws and local ordinances and regulations which in any manner affect those engaged or employed in the work or which in any manner affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction over the same, and shall defend, at all times observe and comply with all such existing laws, ordinances, regulations and decrees, and shall defend, protect and indemnify the City against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by itself, its subcontractors, agents, or employees.

d. Permits and Licenses. The Dairy shall procure all permits and licenses, pay all charges, fees, and taxes and give all notices necessary and incidental to the due and lawful prosecution of their services under this Agreement.

e. No Multiple Fiscal Year Obligation. Nothing in this Agreement shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution, Article X, Section 20. Notwithstanding any other provision of this Agreement, the City's obligations under this Agreement are subject to annual appropriation by the Boulder City Council. Any failure of a City Council to annually appropriate adequate monies to finance the City's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to the Dairy of any failure to appropriate such adequate monies.

f. Independent Contractor. The relationship between the Dairy and the City is that of an independent contractor. The Dairy shall supply all personnel, equipment, materials and supplies at its own expense, except as specifically set forth in this Agreement. The Dairy shall not be deemed to be, nor shall they represent themselves as, employees, partners, or joint venturers of the City. No employee or officer of the City shall supervise the Dairy. **The Dairy is not entitled to workers' compensation benefits and is obligated to directly pay federal and state income tax on money earned under this Agreement, if any.**

g. Indemnification. The Dairy shall indemnify, defend and hold harmless the City, its directors, officers, employees, and agents and the heirs, executors, successors, and permitted assigns of any of the foregoing from and against all losses, claims, obligations, demands, assessments, fines and penalties (whether civil or criminal), liabilities, expenses and costs (including reasonable fees and disbursements of legal counsel and accountants), bodily and other personal injuries, damage to tangible property, and other damages, of any kind or nature suffered or incurred by the City directly or indirectly arising from or related to: (i) any negligent or intentional act or omission by the Dairy or its representatives in the performance of the Dairy's obligations under this Agreement, or (ii) any material breach in a representation, warranty, covenant or obligation of the Dairy contained in this Agreement.

h. Immunity. The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to the City, its officers, or its employees.

i. Prohibitions On Public Contracts For Services. The Dairy certifies that it will comply with the applicable provisions of section 8-17.5-101 et seq., C.R.S. The Dairy shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor respecting this Agreement that fails to certify to the Dairy that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. The Dairy represents, warrants, and agrees:

- i. That it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify or the Department Program;
- ii. That the Dairy is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while services under this Agreement are being performed; and
- iii. If the Dairy obtains actual knowledge that a subcontractor performing work under this Agreement for services knowingly employs or contracts with an illegal alien, the Dairy shall be required to: Notify the subcontractor and the City within three days that the Dairy has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to 8-17.5-102(2)(b)(III)(A) the subcontractor does not stop employing or contracting with the illegal alien; except that the Dairy shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The Dairy further agrees that it will comply with all reasonable requests made in the course of an investigation under section 8-17.5-102(5), C.R.S. by the Colorado Department of Labor and Employment. If the Dairy fails to comply with any requirement of this provision or applicable portions of section 8-17.5-101 *et seq.*, C.R.S. the City may terminate this Agreement for breach and the Dairy shall be liable for actual and consequential damages to the City.

j. Purchasing Procedures. The parties agree that the Project is not a public project for the purposes of using the City purchasing procedures in Chapter 2-8, "Purchasing Procedures" B.R.C. 1981. The Project shall not be subject to the requirements of law for city capital improvement projects except as expressly provided for in this Agreement.

k. Integration. This document constitutes the entire Agreement between the City and the Dairy and incorporates all prior verbal and written communications between the parties concerning the subject matter of this Agreement.

l. No Assignment. This Agreement may not be assigned by the Dairy without the prior written consent of the City. This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties.

m. Amendment In Writing. No amendment or modification shall be made to this Agreement unless it is in writing and signed by both parties.

n. Governing Law And Venue. This Agreement is governed by the laws of the State of Colorado. Any suit between the parties arising under this Agreement shall be brought only in a court of competent jurisdiction for the Twentieth Judicial District of the State of Colorado.

o. Force Majure. A party shall not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

p. No Third Party Beneficiaries. The parties intend no third party beneficiaries under this Agreement. Any person other than the City or the Dairy receiving services or benefits under this Agreement is an incidental beneficiary only.

q. No Waiver. No waiver of any breach or default under this Agreement shall be a waiver of any other or later breach of default.

r. Authority. Dairy warrants that the individual executing this Agreement is properly authorized to bind the Dairy to this Agreement.

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

[SIGNATURE PAGE FOLLOWS]

Attachment A
Project Scope of Work

The Dairy desires to make capital improvements to the Premises, creating a facility that will dramatically enhance all experiences at the Dairy. This renovation will be broken into phases. The intent of the phasing is to keep the facility operating and open to the public to the fullest extent practicable, as well as offer potential discreet projects if necessary for timing or funding, delay or elimination. The following list is representative of objectives of the Dairy as of the date of the Agreement; some items may be eliminated and other items may be added. Phase 2C is dependent on future fundraising by the Dairy.

Phase 2A (subject to change, depending on pricing)

Front Entry, Foyer, Lobby, Atrium, Box Office, Balcony

- The front of the building will be expanded and replaced by a glass wall.
- The Lobby will be enlarged and will include a café
- The Atrium will be added
- The Box Office will be moved into the new Foyer
- The Balcony will be added

Galleries

- The Polly Addison, McMahon, and In-Focus Galleries will be modernized with improved lighting, wall improvements and flooring for all exhibits.

Polk Cafe

- The Café will be built to accommodate concession, catering and possible increased food service

Lobby Bathrooms

- The fixtures and finishes will be upgraded

Performance Space (The Gordon Theater)

- Aesthetic upgrades will be considered
- Implement enhanced Audio Visual

Right of Way/landscape on 26th Street

- Improvements to the right of way on 26th Street , including sidewalks
- Landscaping including new front terrace and stair
- Grading and drainage

Overall

- Replace/upgrade mechanical and IT systems where necessary
- Acoustical/HVAC upgrades

Phase 2B (subject to change, depending on pricing)

East (The Grace Theater)

- Reconfiguration of the layout into a proscenium design accommodating approximately 116 seats
- Expand theater (tech booth) over In Focus Gallery
- Acoustical and HVAC upgrades / Soundproofing
- New lighting and sound

Carsen Theater

- Reconfiguration into a Black Box with new entrances accommodating roughly 75 seats
- Acoustical and HVAC upgrades / Soundproofing
- New lighting and sound
- Relocate Tech Booth

Dressing Rooms

- Creation green rooms with in suite bathrooms
- Expand 2nd floor to include dressing rooms, green rooms, storage area, catwalk and tech booth

Overall

- Replace/upgrade mechanical and IT systems where necessary

Phase 2C (dependent on fundraising)

West Entrance

- Addition of two stories
- Create Parents Lounge
- Relocate two bathrooms
- Install freight size elevator
- Reconfigure office/practice studios on west side lower level

Office

- Demo and build shell for new office configuration

Catering Kitchen

- Expand size and install some new equipment and counters

V-room

- Reconfigure into meeting room space
- Addition of Audio Visual

Bolles Wing

- Create two dressing rooms – no plumbing
- Create three studios

Boedecker Bathroom

- Increase size and fixtures

Attachment B
Budget and Schedule

Phase 2A:

Anticipated commencement in third quarter 2015

Currently-estimated costs are approximately \$2.6 million

Phase 2B:

Anticipated commencement in first quarter 2016

Currently-estimated costs are approximately \$2.1 million

Phase 2C: Commencement, scope, and costs dependent upon future fundraising by the Dairy



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE: Third reading and consideration of a motion to adopt Ordinance No. 8034 amending the capital facilities impact fee in Section 4-20-62, “and Chapter 8–9, B.R.C. 1981 by the addition of a new affordable housing linkage fee on non-residential development, and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager

David Driskell, Executive Director of Community Planning and Sustainability

Susan Richstone, Deputy Director of Community Planning and Sustainability

Tom Carr, City Attorney

David Gehr, Deputy City Attorney

Jeff Yegian, Division of Housing Manager

Chris Hagelin, Senior Transportation Planner

Kristin Hyser, Community Investment Program Manager

EXECUTIVE SUMMARY

The purpose of this item is third reading of an ordinance (**Attachment A**) that would put in place a citywide housing linkage fee based upon the analysis in the [2009 TischlerBise Development Excise Tax Study](#) (pp. 16-20). City Council approved first reading of the ordinance on March 3. On March 17, City Council held a public hearing, discussed the proposed ordinance, and continued second reading of the ordinance. On May 5, City Council approved second reading of the ordinance with the following amendments:

1. Effective date of September 7, 2015.
2. Phase in of the fee, starting with 25%, and increasing to 50% on December 7, 75% on March 7, and 100% on June 6, 2016.
3. In addition to the fee being assessed at time of building permit application, projects in technical document review prior to September 7 will not have the fee assessed provided they meet certain deadlines, including application for a building permit within 30 days of approval of the technical documents.
4. Credit of the Housing Excise Tax paid on non-residential development toward the linkage fee payment.

Please see the [March 17 memo](#) and [May 5 memo](#) for background and additional information.

A housing linkage fee is charged on new non-residential uses to mitigate impacts on the demand for affordable housing created by those uses. The 2009 study is the basis for the existing linkage fee in the DT-5 zoning district, currently only applied to the commercial floor area resulting from the downtown floor area ratio (FAR) bonus for office space. This fee is anticipated to be in place for an interim period until a new comprehensive housing linkage fee study is completed. The impact fee is based on the Boulder Valley Comprehensive Plan (BVCP) goal of ten percent permanently affordable housing. See BVCP, § 7.02, p. 49 (2010).

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. 8034 amending the capital facilities impact fee in Section 4-20-62, “and Chapter 8–9, B.R.C. 1981 by the addition of a new affordable housing linkage fee on non-residential development, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The proposed fee would increase the costs of constructing non-residential square footage in the city. It would increase the city’s ability to address workforce housing needs.
- Environmental – The fee would not have a direct impact on environmental issues.
- Social – The fee will provide additional funding to the city’s affordable housing program, helping to mitigate impacts on the housing needs of lower income persons in the community. It will help non residential development mitigate the impacts that it has on Boulder’s permanently affordable housing stock.

OTHER IMPACTS

- Fiscal - This fee would provide more funding for the city’s affordable housing program.
- Staff time – Implementation of the fee would be possible within the city’s current work plan.

ANALYSIS

Implementation of a Housing Linkage Fee Citywide based on the 2009 TischlerBise Study

The following chart shows the rates included in the proposed ordinance, which are based on the 2009 study adjusted for cost increases. The table below includes all of the categories of uses that would be included based on the 2009 study. Please note that for certain uses the fee would be based on demand indicators such as number of rooms, beds or students as opposed to square footage. This would be an interim measure until a new linkage fee study is prepared.

Nonresidential (Floor Area)

	<i>Fee per sq. ft.</i>
Retail/Restaurant	\$6.96
Business Park	\$7.70
Office	\$9.53
Hospital	\$8.23
School	\$2.24
Mini-Warehouse	\$0.09
Warehousing	\$3.11
Light Industrial	\$5.62

Other Nonresidential

	<i>Fee per Demand Indicator</i>
Nursing Home (per bed)	\$877.64
Day Care (per student)	\$389.60
Lodging (per room)	\$1,072.44

The fees collected would be placed in a dedicated fund and used to create additional permanently affordable housing that contributes to achieving the city's goal of increasing the proportion of permanently affordable housing units to an overall goal of at least ten percent of the total housing stock.

AMENDMENTS

The amendments included in the May 5 agenda memo and approved by Council at second reading on May 5 are described below. The first amendment phases in the linkage fee over the next year, 25 percent phase in for each three month period, beginning in September of 2015. The second amendment allows for projects in technical document review by early September to avoid paying the fee, and includes standards to ensure such applications are processed and moving towards building permit submittals. The third amendment provides a credit for the Housing Excise Tax.

1. Phase in based on building permits.

Section 5. The fees described in this ordinance shall be applied to all building permit applications that are made to the city according to the following.

- a. After September 7, 2015 and before December 7, 2015, the fee charged shall be assessed at 25 % of the rate established in subsection 4-20-62(a), "Capital Facility Impact Fee," B.R.C. 1981.
- b. Between the dates of December 7, 2015 and before March 7, 2016, the fee charged shall be assessed at 50 % of the rate established in subsection 4-20-62(a), "Capital Facility Impact Fee," B.R.C. 1981.

- c. Between the dates of March 7, 2016 and before June 6, 2016, the fee charged shall be assessed at 75% of the rate established in subsection 4-20-62(a), "Capital Facility Impact Fee," B.R.C. 1981.
- d. Beginning on June 6, 2016, the entire rate established in subsection 4-20-62(a), "Capital Facility Impact Fee," B.R.C. 1981 shall be charged.

2. Technical Document review.

Section 6. The fees described in this ordinance shall not be applied to a building permit application submitted in conjunction with a technical document review applications that is submitted before September 7, 2015 and meeting all of the requirements of this section. If an applicant fails to comply with any provision of this section, the applicant shall be required to pay the fees adopted by this ordinance.

For the purposes of this ordinance, "technical document review application" means an application that is made to the city prior to a building permit application that will result in the construction of or addition to a building pursuant Chapter 10-5, "Building Code," B.R.C. 1981.

- a. The technical document review application shall include all of the information necessary to submit prior to a building permit application, including without limitation all necessary civil engineering associated with public improvements and connections to any infrastructure system, landscape plans, site plans, architectural plans, and any submittal required as a condition of approval in an associated site review or use review approval.
- b. After the technical document is submitted, the applicant shall diligently pursue demonstrating that the proposed project is in compliance with all city development standards including without limitation the Boulder Revised Code, the Design and Construction Standards and any associated site or use review approval. If such approvals are not received within 180 days after the initial submittal, there shall be a presumption that the application was not diligently pursued and the fees described by this ordinance will be applied to subsequent building permit applications. The technical document review applicant will be entitled one extension of 90 days, if it is requested in writing before the end of the 180 day time period. The city manager will grant the extension request if the applicant can demonstrate that it used reasonable diligence in competing the technical document review process within the 180 day review process and good cause as to why the request for extension should be granted.
- c. Within 30 days after the technical document review application approval, the applicant shall apply for and diligently pursue a building permit application for the construction of a building the meets all of the requirements of Chapter 10-5, "Building Code," B.R.C. 1981.

3. Credit for Housing Excise Tax paid.

This allows housing excise tax that is charged to commercial development to be credited toward the linkage fee payment. The funds from both sources are intended for the same purposes.

Section *. Section 8-9-3, "General Regulatory Requirements." B.R.C. 1981, is amended by the addition of a new subsection (h), to read:

- (h) Housing Excise Tax Credit: The tax required to be paid as required by Chapter 3-9, "Housing Excise Tax," B.R.C. 1981 for a building permit shall be applied as a credit of the payment of that portion of the capital facilities impact fee that is described in Subsection 4-20-62(a) B.R.C. 1981 for affordable housing when assessed on the building permit application.

ATTACHMENTS

A: Ordinance No. 8034

ORDINANCE NO. 8034

AN ORDINANCE AMENDING THE CAPITAL FACILITIES IMPACT FEE IN CHAPTER 4-20-62, AND CHAPTER 8-9, B.R.C. 1981 BY THE ADDITION OF A NEW AFFORDABLE HOUSING LINKAGE FEE ON NON-RESIDENTIAL DEVELOPMENT, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Table 3 in Subsection 4-20-62(a), B.R.C. 1981, is amended to read:

4-20-62. - Capital Facility Impact Fee.

(a) Impact Fee Rate: No person engaged in nonresidential or residential development in the city shall fail to pay a development impact fee. Fees shall be assessed and collected according to the standards of Chapter 8-9, "Capital Facility Impact Fee," B.R.C. 1981, and the following rates:

Table 3: Impact Fee Rates for Nonresidential

Nonresidential Uses	Impact Fee Rates Per Square Foot of Nonresidential Floor Area				
	Municipal Facilities	Police	Fire	<u>Affordable Housing</u>	Total
Retail/Restaurant	\$0.14	\$0.50	\$0.40	<u>\$6.96</u>	\$1.048.00
Business Park	\$0.17	\$0.11	\$0.10	<u>\$7.70</u>	\$0.388.08
Office	\$0.21	\$0.17	\$0.59	<u>\$9.53</u>	\$0.9710.50
Hospital	\$0.18	\$0.15	\$0.51	<u>\$8.23</u>	\$0.849.07
School	\$0.04	\$0.08	\$0.13	<u>\$2.24</u>	\$0.252.49
Mini-Warehouse	\$0.00	\$0.02	\$0.00	<u>\$0.09</u>	\$0.020.11
Warehousing	\$0.07	\$0.04	\$0.04	<u>\$3.11</u>	\$0.153.26
Light Industrial	\$0.12	\$0.06	\$0.08	<u>\$5.62</u>	\$0.265.88

Other Nonresidential Uses	Impact Fee Rates for Other Nonresidential Uses Based on Unique Demand Indicators				
	Municipal Facilities	Police	Fire	<u>Affordable Housing</u>	Total
Nursing Home (per bed)	\$19.80	\$22.00	\$53.89	<u>\$877.64</u>	\$95.69 <u>973.33</u>
Day Care (per student)	\$7.70	\$19.80	\$24.19	<u>\$389.60</u>	\$51.69 <u>441.29</u>
Lodging (per room)	\$24.19	\$52.80	\$67.10	<u>\$1072.44</u>	\$144.09 <u>1216.53</u>

(b) Additional Floor Area—Affordable Housing Linkage Fee. Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, permits floor area components above the base floor area in the DT-5 zoning district. No person engaged in nonresidential development that is associated with constructing additional floor area components permitted under the requirements of Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, shall fail to pay a housing linkage fee of \$9.53 per sq. ft. for such floor area.

Section 2. Section 8-9-1, B.R.C. 1981, is amended to read:

8-9-1. Purpose and legislative intent.

(a) Purpose: The purpose of this chapter is to charge an impact fee to applicants for nonresidential and residential development in the City to fund capital improvements needed to address demand attributable to new development for police, fire, library, human services, general municipal facilities and parks and recreation. The purpose of this section is to also charge an impact fee to applicants for nonresidential development in the city attributable to new development for affordable housing.

(b) Legislative Intent: The city council recites the following legislative findings and statements of intent that were taken into consideration in the adoption of this chapter:

- (1) The fees collected pursuant to this chapter are not intended to fund operation, maintenance or replacement costs or otherwise fund the general costs of government.
- (2) The capital facility impact fee applies regardless of the value of the property developed. The capital facility impact fee shall be imposed in addition to the development excise taxes imposed by chapters 3-8 and 3-9 and water, sanitary sewer and storm water and flood management plant investment fees imposed by sections 11-1-52, "Water Plant Investment Fee," 11-2-33, "Wastewater Plant

1 Investment Fee," and 11-5-11, "Storm Water and Flood Management Utility Plant
2 Investment Fee," B.R.C. 1981, or other fees, taxes or charges of the City.

3 (3) The capital facility impact fee established in this chapter and section 4-20-62,
4 "Capital Facility Impact Fee," B.R.C. 1981, is based in part on the methodology in
5 the "Development Impact Fee Study" prepared by Tischler-Bise, Fiscal, Economic
& Planning Consultants, dated January 8, 2009.

6 (4) The portion of the capital facility impact fee for affordable housing established in
7 this chapter and section 4-20-62, "Capital Facility Impact Fee," B.R.C. 1981, is
8 based in part on the methodology in the "Development Excise Tax" prepared by
9 Tischler-Bise, Fiscal, Economic & Planning Consultants, dated January 9, 2009.
10 The methodology used in that study is an approach based on the Boulder Valley
11 Comprehensive Plan goal of at least ten percent of the total existing housing stock
12 as permanently affordable housing. The fee is intended to defray the costs of
13 providing permanently affordable housing that is associated with non-residential
14 development.

15 (45) The city council finds that the development impact fee study and this chapter define
16 classifications that are generally applicable to broad classes of property; quantifies
17 the reasonable impacts of proposed development on capital facilities; and
18 establishes charges at a level no greater than necessary to defray such impacts
19 directly related to proposed development.

20 (56) The city council intends that the impact fees collected pursuant to this chapter are to
21 be used to fund expenditures for capital facilities attributable to new development.

22 Section 3. The definition of "capital facility classification" in Section 8-9-2, B.R.C.

23 1981, is amended to read:

24 **8-9-2. - Definitions.**

25 Capital facility classification means each separate municipal capital facility area for which
the capital facility impact fee is charged, including library, parks and recreation, human services,
affordable housing, municipal facilities, police and fire.

1 Section 4. Section 8-9-3, “General Regulatory Requirements.” B.R.C. 1981, is amended
2 by the addition of a new subsection (h), to read:

- 3
4 (h) Housing Excise Tax Credit: The tax required to be paid as required by Chapter 3-9,
5 “Housing Excise Tax,” B.R.C. 1981 for a building permit shall be applied as a credit of
6 the payment of that portion of the capital facilities impact fee that is described in
7 Subsection 4-20-62(a) B.R.C. 1981 for affordable housing when assessed on the building
8 permit application.

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

10 **8-9-5. - Capital Facility Impact Fee to be Earmarked.**

- 11 (a) The city shall establish and maintain an impact fee account for each category of public
12 facility for which an impact fee is imposed. Each such account must be clearly identified
13 as to the category of public facility for which the impact fee has been imposed.
- 14 (b) The city shall reflect the historical allocation of the impact fee in each annual budget.
15 The funds collected will be allocated according to the following public facility
16 categories; library, parks and recreation, human services, affordable housing, municipal
17 facilities, police and fire and shall be used exclusively for the purpose of capital
18 improvements related to each particular category.

19 Section 6. The affordable housing fees described in this ordinance shall be applied to all
20 building permit applications that are made to the city according to the following:

- 21 a. After September 7, 2015 and before December 7, 2015, the fee charged shall be
22 assessed at 25 % of the rate established in subsection 4-20-62(a), “Capital Facility
23 Impact Fee,” B.R.C. 1981.
- 24 b. Between the dates of December 7, 2015 and before March 7, 2016, the fee
25 charged shall be assessed at 50 % of the rate established in subsection 4-20-62(a),
“Capital Facility Impact Fee,” B.R.C. 1981.
- c. Between the dates of March 7, 2016 and before June 6, 2016, the fee charged
shall be assessed at 75% of the rate established in subsection 4-20-62(a), “Capital
Facility Impact Fee,” B.R.C. 1981.

- 1 d. Beginning on June 6, 2016, the entire rate established in subsection 4-20-62(a),
2 “Capital Facility Impact Fee,” B.R.C. 1981 shall be charged.

3 Section 7. The fees described in this ordinance shall not be applied to a building permit
4 application submitted in conjunction with a technical document review applications that is
5 submitted before September 7, 2015 and meeting all of the requirements of this section. If an
6 applicant fails to comply with any provision of this section, the applicant shall be required to pay
7 the fees adopted by this ordinance. For the purposes of this ordinance, “technical document
8 review application” means an application that is made to the city prior to a building permit
9 application that will result in the construction of or addition to a building pursuant Chapter 10-5,
10 “Building Code,” B.R.C. 1981.
11

- 12 a. The technical document review application shall include all of the information
13 necessary to submit prior to a building permit application, including without
14 limitation all necessary civil engineering associated with public improvements
15 and connections to any infrastructure system, landscape plans, site plans,
16 architectural plans, and any submittal required as a condition of approval in an
17 associated site review or use review approval.
- 18 b. After the technical document is submitted, the applicant shall diligently pursue
19 demonstrating that the proposed project is in compliance with all city
20 development standards including without limitation the Boulder Revised Code,
21 the Design and Construction Standards and any associated site or use review
22 approval. If such approvals are not received within 180 days after the initial
23 submittal, there shall be a presumption that the application was not diligently
24 pursued and the fees described by this ordinance will be applied to subsequent
25 building permit applications. The technical document review applicant will be
entitled one extension of 90 days, if it is requested in writing before the end of the
180 day time period. The city manager will grant the extension request if the
applicant can demonstrate that it used reasonable diligence in competing the
technical document review process within the 180 day review process and good
cause as to why the request for extension should be granted.
- c. Within 30 days after the technical document review application approval, the
applicant shall apply for and diligently pursue a building permit application for
the construction of a building the meets all of the requirements of Chapter 10-5,
“Building Code,” B.R.C. 1981.

1 READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED

2 BY TITLE ONLY this 19th day of May, 2015.

5 _____
Mayor

6 Attest:

7 _____
8 City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 8046 approving supplemental appropriations to the 2015 Budget.

Consideration of a motion to adjourn from the Boulder City Council and convene as the Central Area General Improvement District Board of Directors.

PRESENTERS:

Jane S. Brautigam, City Manager
Bob Eichen, Chief Financial Officer
Cheryl Pattelli, Director Finance
Peggy Bunzli, Budget Officer
Maria Diaz, Budget Analyst

EXECUTIVE SUMMARY

As described in the *Budget Philosophy and Process* section of the annual budget document, each year at least two supplemental ordinances (known as Adjustments to Base (ATB), where the “base” is the original annual budget) are presented to City Council for review and approval. In years where new initiatives are launched and other unique circumstances become apparent after annual budget approval, additional adjustments to base may be brought forward for council consideration. This carryover and supplemental request is the third ATB that has been brought before council in 2015. The first two were:

- A supplemental for high priority Community Planning and Open Space and Mountain Parks work items, approved by council on March 17
- A supplemental to appropriate new, one time revenues from Recreational Marijuana and the three year community, culture and safety tax (ballot item 2A), approved by council on May 5.

This third supplemental request of 2015 is the **Carryover and Budget Supplemental** that council sees every year in April/May. Once the prior budget year is closed out, it is necessary to determine what ongoing projects, grants and work items, budgeted for in the

prior year, have remaining appropriation that will need to be carried over into the current budget year, in order to continue and complete work already approved and begun, such as large capital projects. An estimation of this carryover was included in the annual budget process and this request backs out the estimates, and replaces those with the final remaining appropriation balances needing to be carried over. This is also the time when appropriation is requested for the use of various new revenues, such as grants, generally in line with existing work plan items, and for other, smaller, operating budget needs identified as critical to complete the existing work plan. As always, existing budget will be used to cover even increasing costs, and regular operating tradeoffs will be made and savings sought in order to complete work plans within existing budget. Supplemental budget is only requested at this time for clearly identified, 2015 priority work items for which additional budget is needed and one-time funds are available, after all reserves have been met. As in past years, a final supplemental request will come before council later in the year to adjust for new revenues, such as grants, and other evolving budget needs identified as the year progresses.

This supplemental ordinance will adjust only the current year budget and the adjustments included are considered “one-time” only. As a result, they have no direct or immediate impact on the following year’s budget.

In summary, this packet includes the following:

- Negative appropriations removing carryover estimates included in Ordinance No. 8003 appropriating the 2015 budget
- Carryover of 2014 budgeted amounts, not fully expended
- New budgeted amounts for 2015.

Ordinance # 8046 is provided as **Attachment A** to this packet. Additional information on different types of requests is provided under the *analysis* section of this memo. Narrative information on each supplemental request was included at first reading in the [May, 5, 2015 agenda](#), item 3C, Attachment B, starting on page 36.

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. 8046 approving supplemental appropriations to the 2015 Budget.

Motion to adjourn from the Boulder City Council and convene as the Central Area General Improvement District Board of Directors.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental ordinance appropriates funding for a variety of citywide projects and services that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal: In the **General Fund** this ordinance will appropriate \$558,596 from additional revenue and \$6,639,601 from fund balance. The ordinance also includes encumbrance carryover of \$741,227 from fund balance.

In **restricted funds**, this ordinance will appropriate \$20,795,849 from additional revenue and \$70,594,713 from fund balance. It also includes encumbrance carryover of \$721,347 from additional revenue and encumbrance carryover of \$17,961,077 from fund balance, as well as an increase in revenue only of \$2,733,281.

- Staff time for this process is allocated in the Budget Division's regular annual work plan.

ANALYSIS

This section will provide details of how carryover and new budget requests, the two categories of requests contained in the supplemental ordinances, function in the city annual budget cycle.

Carryover Requests

Carryover requests are typically for projects or grant-funded programs where funding was appropriated in a previous year and then carried forward until the project or the grant-funded program is completed. Occasionally, departments request to carryover budget savings from the previous year in order to accumulate an adequate amount of funding for a large, one-time project.

Revenue to fund the unspent projects, or for large, one-time projects, will have fallen to fund balance at the end of the year. Due to accounting requirements, expenditures and revenues for a grant must equal each other within the same fiscal year. Any prior year grant revenue received above expenditure amounts has been deferred to the current year and is considered "additional revenue" in the current year.

Encumbrance carryover is simply appropriation for a project or grant that has been encumbered through a purchase order.

The following requests provide typical examples of General Fund carryover requests:

- Economic Vitality - 2014 Flexible Rebate Program
- Family Resource Schools (FRS) Program
- Spark Grant

The following requests provide typical examples of restricted fund carryover requests:

- Comprehensive Housing Strategy
- Open Space & Mountain Parks Acquisition Area (2014 Bond)
- Greenways Capital Improvement Program

New Budget Requests

Requests for new budget appropriation are typically based on a department's Master Plan or have gone through a separate City Council review process. Funding may come from fund balance, for example if savings have been built up for large projects or revenues received in advance of the expenditure being needed. Or, appropriation may be requested for initiatives associated with new sources of revenues, such as grant or bond funding.

The following requests provide typical examples of supplemental appropriations from fund balance:

- Boulder Convention and Visitors Bureau (General Fund)
- Raptor Program Bequest - Principal & Interest (Open Space Fund)
- Overlay (Road Resurfacing) Program (Transportation Fund)

The following requests provide typical examples of supplemental appropriations from additional revenue:

- VALE 2015 Grant (General Fund)
- YSI Get Fit Grant (Recreation Activity Fund)
- CDOT Safety grants (Transportation Fund)

Additional Information on Selected Adjustment to Base Requests

Affordable Housing

Included in this packet is an adjustment to base to appropriate supplemental funding in the amount of \$10,850,482 from available fund balance in the Affordable Housing Fund. Revenues deposited in this fund over the last few years have significantly exceeded projections. The funding is requested during this adjustment to base in order to allow the Division of Housing the opportunity to seek and participate in acquisition and preservation of affordable housing units or land for developing affordable units. Consistent with the ordinance establishing the Affordable Housing Fund, the funds will be utilized solely for the construction, purchase, and maintenance of affordable housing and for the costs of administering programs. Affordable housing continues to be a priority for the City of Boulder. Current market conditions require the ability to fund acquisitions of apartments or developable land quickly and nimbly. City partners are currently working on several acquisition opportunities with the potential for adding hundreds of existing or new units to the city's affordable housing stock. This adjustment to base will provide flexibility for the City to participate in these opportunities as they arise. Any funding decisions will be made in accordance with the current policies and practices for providing funding to community partners. This process includes review of

funding applications by staff and the City Manager-appointed Affordable Housing Technical Review Group with recommendations sent to the City Manager for approval and to council for information. Any funds not committed to projects through the opportunity funding or the annual competitive fund round will be carried over in to 2016.

LandLink Software Replacement

A supplemental for \$1,500,000 is being requested for the replacement of the Landlink System. The LandLink System is used to deliver essential services, manage data and operations, and track and collect revenue related to development, code enforcement and licensing activity. The city selected a vendor in 2014 and has a signed contract for Phase I, which covers GIS integration configuration, programming eight business processes, and writing the technical specifications to integrate EnerGov with Tyler Munis (the city's newly implemented financial and human resource software), Government Outreach and Planning & Development Services (P&DS) Timekeeping. Phase II starts in October 2015 with a planned implementation the first quarter of 2017. In Phase II the integrations and remaining business processes and reports will be programmed, the LandLink data migrated to EnerGov and user acceptance testing will be completed. The total estimated cost of this project is approximately \$4.0 million of which \$2.5 million has currently been appropriated. Funding for this project has been saved for over time and in advance of the project. This request will appropriate those saved funds.

HVAC Controls Upgrade for Main Library

This packet includes a request is to appropriate \$400,000 to fund upgrades of the current HVAC Controls for the Main Library. The current system is pneumatic with equipment reliability issues. The pneumatic control system is 24 years old. The plan is to replace the antiquated pneumatic system with a modern Direct Digital Control (DDC) system. The bulk of the \$400,000 will go towards removing the tubing and actuators for the pneumatic system and installing power and control wiring to the new DDC actuators. The software that controls the HVAC system will also be upgraded to be commensurate with the control systems installed during the Energy Performance Contract (EPC) work. The need for this upgrade was brought to light during the EPC work.

Chautauqua Restrooms Project

During the public outreach process related to the 2011 Capital Bond funded project to add ADA accessible restrooms at Chautauqua, it was determined that the number of toilets at the facility should be increased. Additionally, utility issues discovered during the review process, and weather delays, due to the snow storms in the area in the beginning of 2015, have increased the scope and costs of the project. In order to meet this high community priority, beyond the scope of the original plan, an additional \$210,000 is needed. Funding in the Facility Renovation and Replacement fund has been identified to supplement the original bond funding and to complete the project at the needed level. This project will provide ADA accessible restrooms with running water to a popular recreation site in the city.

Overview of Total Requests

A summary table of the carryover and supplemental requests by fund can be found in the [May, 5, 2015 agenda](#), item 3C, Attachment C, starting on page 54.

In total, the city recommends \$118,012,411 in appropriations, of which \$22,075,792 come from new revenues and \$95,936,618 from fund balance. Most of the appropriations (\$110,072,986 or 93% of the total) are in the city's restricted funds, such as the Water, Wastewater and Stormwater Utility funds, Affordable Housing Fund, Permanent Parks Fund, and Transportation Fund. These funds often have multi-year large capital projects that, depending on the timing of the project work, are likely to have capital budget carryover. For example, almost \$24 million is being carried over in the Transportation Fund. Most of the Transportation projects are partially funded from Colorado Department of Transportation (CDOT) grants and are well underway. Another example is the nearly \$11 million being carried over for Water, Wastewater and Stormwater and Flood Management capital projects.

A schedule reflecting the impact of the supplemental appropriations for 2015 on the projected fund balance for each fund can be found in the [May, 5, 2015 agenda](#), item 3C, Attachment D, on page 66.

PUBLIC AND COUNCIL FEEDBACK

There were no questions or comments at the first reading of ordinance 8046. Additional Information was provided in Attachments B, C and D of Agenda Item 3C of the May 5, 2015 City Council Agenda Packet. The packet is located at: [May, 5, 2015 agenda](#),

ATTACHMENTS

- A. Ordinance No. 8046 relating to carryover and supplemental appropriations to the 2015 Budget.

ORDINANCE NO. 8046

AN ORDINANCE RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER, COLORADO, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2015 SETTING FORTH DETAILS IN RELATION TO THE FOREGOING.

WHEREAS, Section 102 of the Charter of the City of Boulder provides that: "At any time after the passage of the annual appropriation ordinance and after at least one week's public notice, the council may transfer unused balances appropriated for one purpose to another purpose, and may by ordinance appropriate available revenues not included in the annual budget;" and

WHEREAS, the City Council now desires to make certain supplemental appropriations for purposes not provided for in the 2015 annual budget; and,

WHEREAS, required public notice has been given;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, that the following amounts are appropriated from additional projected revenues and from unused fund balances to the listed funds:

Section 1. General Fund

Appropriation from Fund Balance – Encumbrance	\$ 741,227
Appropriation from Fund Balance	\$ 6,639,601
Appropriation from Additional Revenue	\$ 558,596
Negative Appropriation - Ordinance #8003	(\$5,000,000)

Section 2. Community Housing Assistance Program Fund

Appropriation from Fund Balance	\$ 3,447,675
Negative Appropriation - Ordinance #8003	(\$3,000,000)

Section 3. Library Fund

Appropriation from Fund Balance – Encumbrance	\$ 151,804
Appropriation from Fund Balance	\$ 817,500
Appropriation from Additional Revenue	\$ 30,651

Section 4. Capital Development Fund

Negative Appropriation - Ordinance #8003	(\$400,000)
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Section 5. Lottery Fund

Appropriation from Fund Balance – Encumbrance	\$ 129,904
Appropriation from Fund Balance	\$ 1,219,451
Negative Appropriation - Ordinance #8003	(\$970,000)

Section 6. Planning & Development Services Fund

Appropriation from Fund Balance – Encumbrance	\$ 167,748
Appropriation from Fund Balance	\$ 1,885,087
Appropriation from Additional Revenue	\$ 76,000
Negative Appropriation - Ordinance #8003	(\$1,500,000)

Section 7. Affordable Housing Fund

Appropriation from Fund Balance	\$ 15,014,590
Negative Appropriation - Ordinance #8003	(\$6,000,000)

Section 8. .25 Cent Sales Tax Fund

Appropriation from Fund Balance – Encumbrance	\$ 722,753
Appropriation from Fund Balance	\$ 1,011,315
Appropriation from Additional Revenue	\$ 106,000
Negative Appropriation - Ordinance #8003	(\$1,200,000)

Section 9. Recreation Activity Fund

Appropriation from Fund Balance - Encumbrance	\$ 6,550
Appropriation from Additional Revenue	\$ 99,820

Section 10. Climate Action Plan Fund

Appropriation from Fund Balance - Encumbrance	\$ 583,199
Appropriation from Fund Balance	\$ 417,651
Negative Appropriation - Ordinance #8003	(\$1,200,000)

Section 11. Open Space Fund

Appropriation from Fund Balance - Encumbrance	\$ 1,365,724
Appropriation from Fund Balance	\$ 13,472,666
Negative Appropriation - Ordinance #8003	(\$9,830,000)

Section 12. Airport Fund

Appropriation from Fund Balance - Encumbrance	\$ 275,694
Appropriation from Fund Balance	\$ 27,103
Increase in Revenue Only	\$ 45,284
Negative Appropriation - Ordinance #8003	(\$1,000,000)

Section 13. Transportation Fund

Appropriation from Fund Balance – Encumbrance	\$ 3,656,175
Appropriation from Additional Revenue – Encumbrance	\$ 721,347
Appropriation from Fund Balance	\$ 8,115,112
Appropriation from Additional Revenue	\$ 17,770,725
Increase in Revenue Only	\$ 114,431
Negative Appropriation - Ordinance #8003	(\$25,000,000)

Section 14. Transportation Development Fund

Appropriation from Fund Balance - Encumbrance	\$ 191,836
Appropriation from Fund Balance	\$ 1,764,263
Negative Appropriation - Ordinance #8003	(\$1,800,000)

Section 15. Community Development Block Grant Fund

Appropriation from Additional Revenue	\$ 759,130
Negative Appropriation - Ordinance #8003	(\$1,000,000)

Section 16. HOME Fund

Appropriation from Additional Revenue	\$ 1,218,488
Negative Appropriation - Ordinance #8003	(\$1,000,000)

Section 17. Permanent Parks and Recreation Fund

Appropriation from Fund Balance – Encumbrance	\$ 75,442
Appropriation from Fund Balance	\$ 751,182
Appropriation from Additional Revenue	\$ 30,000
Negative Appropriation - Ordinance #8003	(\$2,300,000)

Section 18. Boulder Junction Improvement Fund

Appropriation from Fund Balance – Encumbrance	\$ 449,879
Appropriation from Fund Balance	\$ 2,272,707
Negative Appropriation - Ordinance #8003	(\$3,000,000)

Section 19. 2011 Capital Improvement Fund

Appropriation from Fund Balance – Encumbrance	\$ 4,582,175
Appropriation from Fund Balance	\$ 6,603,346
Negative Appropriation - Ordinance #8003	(\$9,528,240)

Section 20. Water Utility Fund

Appropriation from Fund Balance – Encumbrance	\$ 2,197,248
Appropriation from Fund Balance	\$ 2,147,851
Negative Appropriation - Ordinance #8003	(\$3,100,000)

Section 21. Wastewater Utility Fund

Appropriation from Fund Balance – Encumbrance	\$ 616,730
Appropriation from Fund Balance	\$ 1,854,498
Appropriation from Additional Revenue	\$ 608,035
Negative Appropriation - Ordinance #8003	(\$1,900,000)

Section 22. Stormwater/Flood Management Utility Fund

Appropriation from Fund Balance – Encumbrance	\$ 1,384,005
Appropriation from Fund Balance	\$ 7,357,119
Increase in Revenue Only	\$ 2,573,566
Negative Appropriation - Ordinance #8003	(\$8,000,000)

Section 23. Telecommunications Fund

Appropriation from Additional Revenue	\$ 97,000
Negative Appropriation - Ordinance #8003	(\$80,000)

Section 24. Workers Compensation Insurance Fund

Appropriation from Fund Balance	\$ 53,877
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Section 25. Fleet Replacement Fund

Appropriation from Fund Balance – Encumbrance	\$ 401,911
Negative Appropriation - Ordinance #8003	(\$2,000,000)

Section 26. Computer Replacement Fund

Appropriation from Fund Balance – Encumbrance	\$ 47,308
Negative Appropriation - Ordinance #8003	(\$300,000)

Section 27. Equipment Replacement Fund

Appropriation from Fund Balance – Encumbrance	\$ 14,892
Negative Appropriation - Ordinance #8003	(\$250,000)

Section 28. Facility Renovation and Replacement Fund

Appropriation from Fund Balance – Encumbrance	\$ 940,100
Appropriation from Fund Balance	\$ 2,361,721
Negative Appropriation - Ordinance #8003	(\$4,250,000)

Section 29. The City Council finds that 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 30. If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portion of this ordinance.

Section 31. The Council deems it appropriate that this ordinance be published by title only and order 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 5th day of May, 2015.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

PUBLISHED BY TITLE this 19th day of May, 2015.

Mayor

Attest:

City Clerk



**CENTRAL AREA GENERAL IMPROVEMENT DISTRICT (CAGID)
BOARD OF DIRECTORS AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE

Consideration of a motion to adopt Resolution No. 271 amending the 2015 Downtown Commercial District Fund (formerly Central Area General Improvement District Fund) Budget.

Consideration of a motion to adjourn from the CAGID Board of Directors and convene as the University Hill General Improvement District (UHGID) Board of Directors.

PRESENTERS

Jane S. Brautigam, City Manager
Bob Eichen, Chief Financial Officer
Cheryl Pattelli, Director Finance
Peggy Bunzli, Budget Officer
Maria Diaz, Budget Analyst

EXECUTIVE SUMMARY

This budget supplemental resolution is the first to be presented to City Council in 2015 for the Downtown Commercial District (DCD) Fund (formerly CAGID Fund) Budget. All supplementals adjust only the 2015 budget and are considered “one-time” adjustments. As a result, they have no direct or immediate impact on the following year’s budget. In contrast, the city assigns budget requests with “ongoing” or multi-year impacts to the annual budget process (budget planning for the coming fiscal year) and not to the budget supplemental resolution.

A proposed resolution is provided as **Attachment A** to this packet. The resolution contains requests for supplemental appropriations from fund balance, for project carryover and for encumbrance carryover. The resolution also includes a negative appropriation for estimated carryover that was included in the original 2015 Budget Resolution 269.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt a resolution approving a supplemental appropriation to the 2015 Downtown Commercial District Fund (formerly CAGID Fund) Budget.

Motion to adjourn from the CAGID Board of Directors and convene as the University Hill General Improvement District Board of Directors .

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental resolution appropriates funding for capital projects and ongoing operations that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal: This resolution appropriates encumbrance carryover of \$339,552 from fund balance, capital project carryover of \$272,067 from fund balance, and a supplemental request of \$19,200.
- Staff time for this process is allocated in the Budget Division's regular annual work plan.

ANALYSIS

This supplemental resolution appropriates funding for projects and services that were approved by council in prior year budgets and are being carried into the 2015 budget. There is one request for additional appropriations in 2015 in the amount of \$19,200. This supplemental request is to conduct a departmental assessment of the Downtown University Hill Management Division/Parking Services department. The purpose of this assessment is to create the best organizational structure and resources to support the success of DUHMD/PS and to ensure the best organizational service delivery to our customers. The total cost of the assessment is being split between the General Fund (\$7,200), the DCD fund (\$19,200) and UHCD Fund (\$4,200).

Attachment B shows the impact the carryovers and supplement request will have on the Downtown Commercial District fund balance.

ATTACHMENTS

- A. Proposed Resolution amending the 2015 DCD Fund Budget
- B. 2015 DCD Fund Activity Summary

RESOLUTION NO. 271

A RESOLUTION RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND), MAKING A SUPPLEMENTAL APPROPRIATION FOR THE FISCAL YEAR ENDING DECEMBER 31, 2015, AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the District desires to make fund balance transfers to continue and complete projects previously authorized and approved; and

WHEREAS, the District also desires to make certain supplemental appropriations for purposes not provided for in the 2015 Annual Appropriation Resolution:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, ACTING AS THE BOARD OF DIRECTORS OF THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT, THAT THE FOLLOWING BE ACCOMPLISHED:

Section 1.

Appropriation from Fund Balance	\$630,819
Negative Appropriation – Resolution #269	(\$250,000)

INTRODUCED, READ, PASSED AND ADOPTED this 19th day of May, 2015.

Chair

Attest:

Secretary

**2015 FUND ACTIVITY SUMMARY
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2015**

FUND	At January 1, 2015			Carryover & 1st Budget Supplemental		Projected Dec 31, 2015
	Projected Fund Balance	Original Estimated Revenues (Including Xfers In)	Original Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Fund Balance
Downtown Commercial District Fund (540)	5,287,435	7,950,225	9,714,556	0	630,819	2,892,284



**UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT (UHGD)
BOARD OF DIRECTORS AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE

Consideration of Resolution No. 195 amending the 2015 University Hill Commercial District Fund (formerly University Hill General Improvement District Fund) Budget.

Consideration of a motion to adjourn from the University Hill General Improvement District Board of Directors and to reconvene as the Boulder City Council.

PRESENTERS

Jane S. Brautigam, City Manager
Bob Eichem, Chief Financial Officer
Cheryl Pattelli, Director Finance
Peggy Bunzli, Budget Officer
Maria Diaz, Budget Analyst

EXECUTIVE SUMMARY

This budget supplemental resolution is the first to be presented to City Council in 2015 for the University Hill Commercial District (UHCD) Fund (formerly UHGID Fund) Budget. All supplementals adjust only the 2015 budget and are considered “one-time” adjustments. As a result, they have no direct or immediate impact on the following year’s budget. In contrast, the city assigns budget requests with “ongoing” or multi-year impacts to the annual budget process (budget planning for the coming fiscal year) and not to the budget supplemental resolution.

A proposed resolution is provided as **Attachment A** to this packet. The resolution contains a request for supplemental appropriations from fund balance and encumbrance carryover.

Attachment B shows the impact the carryovers and supplement request will have on the University Hill Commercial District fund balance.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt a resolution approving a supplemental appropriation to the 2015 UHCD Fund Budget.

Motion to adjourn from the University Hill General Improvement District Board of Directors and to reconvene as the Boulder City Council.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental resolution appropriates encumbrance carryover and budget supplemental items that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal: This resolution appropriates encumbrance carryover of \$14,050 from fund balance and budget supplemental of \$4,200 from fund balance.
- Staff time for this process is allocated in the Budget Division's regular annual work plan.

ANALYSIS

This supplemental resolution appropriates funding for projects and services that were approved by council in prior year budgets and are being carried into the 2015 budget. There is one request for additional appropriations in 2015 in the amount of \$4,200. This supplemental request is to conduct a departmental assessment of the Downtown University Hill Management Division/Parking Services department. The purpose of this assessment is to create the best organizational structure and resources to support the success of DUHMD/PS and to ensure the best organizational service delivery to our customers. The total cost of the assessment is being split between the General Fund (\$7,200), the DCD fund (\$19,200) and UHCD Fund (\$4,200).

ATTACHMENTS

- A. Proposed Resolution amending the 2015 UHCD Fund Budget
- B. 2015 UHCD Fund Activity Summary

RESOLUTION NO. 195

A RESOLUTION RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND), MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2015, AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the District now desires to make fund balance transfers to continue and complete a project previously authorized and approved; and

WHEREAS, the District also desires to make certain supplemental appropriations for purposes not provided for in the 2015 Annual Appropriation Resolution:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, ACTING AS THE BOARD OF DIRECTORS OF THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT THAT THE FOLLOWING BE ACCOMPLISHED:

Section 1.

Appropriation from Fund Balance \$18,250

INTRODUCED, READ, PASSED AND ADOPTED this 19th day of May, 2015.

Chair

Attest:

Secretary

**2015 FUND ACTIVITY SUMMARY
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2015**

FUND	At January 1, 2015			Carryover & 1st Budget Supplemental		Projected Dec 31, 2015
	Projected Fund Balance	Original Estimated Revenues (Including Xfers In)	Original Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Fund Balance
University Hill Commercial District Fund (550)	766,549	580,313	653,882	0	18,250	674,730



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE

Introduction, first reading and consideration of a motion to adopt Emergency Ordinance No. 8047 adopting Supplement No. 123, which codifies previously adopted Ordinance Nos. 8015, 8030, 8035, and 8042, and other miscellaneous corrections and amendments, as an amendment to the Boulder Revised Code, 1981.

PRESENTER:

Office of the City Attorney
Thomas A. Carr, City Attorney

EXECUTIVE SUMMARY:

The Boulder Revised Code (“B.R.C. 1981”) is the official book of laws of the City of Boulder. Four times a year (quarterly), the City Council is asked to adopt supplements to the B.R.C. 1981. An ordinance format is used to bring ordinances that the City Council adopted in the prior quarter into the B.R.C. 1981, and to ensure that there is no question regarding what constitutes the official laws of the City of Boulder. These supplement ordinances are approved as a matter of routine by the City Council.

In order to generate the printed supplements to the B.R.C. as soon as possible, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

The text of Supplement No. 123 has been previously adopted by the following ordinances:

#8015 AN ORDINANCE AMENDING CHAPTER 6-4, B.R.C. 1981, ADDING A NEW SECTION 6-4-3.5 “SMOKING PROHIBITED IN PUBLIC PLACES,” INCLUDING ELECTRONIC SMOKING DEVICES IN THE DEFINITION OF SMOKING, AND SETTING FORTH RELATED DETAILS.

#8030 AN EMERGENCY MEASURE ORDINANCE AMENDING TITLE 9, “LAND USE CODE,” B.R.C. 1981, TO LIMIT RESIDENTIAL USES WITHIN THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT WITHIN THE BMS ZONING DISTRICT AND CORRECT BMS ZONE STANDARDS, AND SETTING FORTH RELATED DETAILS.

#8035 AN EMERGENCY ORDINANCE AMENDING SECTION 4-20-68, "FLOOD RELATED FEE WAIVER," B.R.C. 1981, EXTENDING THE TIME DURING WHICH THE CITY MANAGER IS AUTHORIZED TO WAIVE CERTAIN FEES TO FACILITATE RECOVERY AND REPAIR RESULTING FROM FLOODING, AND AMENDING SECTION 9-10-2, "CONTINUATION OR RESTORATION OF NONCONFORMING USES AND NONSTANDARD BUILDINGS, STRUCTURES, AND LOTS," B.R.C. 1981, EXTENDING THE TIME TO RESUME NONCONFORMING USES AND RESTORE NONCONFORMING BUILDINGS AFFECTED BY THE SEPTEMBER 2013 FLOOD AND SETTING FORTH RELATED DETAILS.

#8042 AN EMERGENCY ORDINANCE AMENDING CHAPTER 6-4, B.R.C. 1981, TO CREATE CONSISTENCY WITH THE LEGISLATIVE INTENT IN ADOPTING ORDINANCE NO. 8015, BY AMENDING SECTIONS 6-4-3.5, 6-4-6, AND 6-4-7, AND SETTING FORTH RELATED DETAILS

FISCAL IMPACTS:

Budgetary: None

Staff Time: None beyond the time always allocated to code maintenance in the City Attorney's overall work plan.

Economic: None

COUNCIL FILTER IMPACTS:

Ongoing code maintenance is an essential and largely administrative obligation of the city.

STAFF RECOMMENDATION:

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

Motion to adopt Emergency Ordinance No. 8047 regarding Supplement No. 123.
--

FORMAT NOTES:

Code amendments (if any) may be reflected in strike out and double underline format along with a "Reason for Change" as part of this agenda item. Such amendments are intended to correct non-substantive errors discovered through review of these ordinances and/or which may have occurred in previously adopted ordinances already in the B.R.C. 1981. Major and/or substantive corrections or revisions are brought forward as a separate ordinance to City Council during the normal course of future City Council business.

DISCUSSION:

This supplement includes ordinances that were adopted by the City Council in the last supplement quarter. They are added to the official version of the B.R.C. 1981 by way of the attached supplement ordinance. The City Council adopts a quarterly supplement ordinance to ensure that a clearly identifiable version of the Boulder Revised Code is legislatively adopted.

The printed supplements to the B.R.C. may not be distributed until the proposed adopting ordinance is effective. The laws of the city should be current and available to the residents of the City of Boulder as soon as possible, therefore, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

AMENDMENTS:

1. Section 2-3-1, “General Provisions,” B.R.C. 1981 is amended to read:

(a) The city council:

- (1) At a regular meeting before April shall appoint members to city boards and commissions, who are city ~~electors~~ residents representing both sexes;

....

2. Section 2-3-2, “Arts Commission,” B.R.C. 1981 is amended to read:

(a) The City of Boulder Arts Commission consists of five members appointed by the city council for five-year staggered terms, all of whom are city ~~electors~~ residents.

....

3. Section 2-3-3, “Beverage Licensing Authority,” B.R.C. 1981 is amended to read:

(a) The City of Boulder Arts Commission consists of five members appointed by the city council for five-year staggered terms, all of whom are city ~~electors~~ residents.

....

Reason for changes: Ord. 7914 was adopted by Council in 2013 suggesting ballot language to amend City Charter Sec. 130, “**General provisions concerning advisory commissions**” to, among other changes, replace the term “electors” with “city residents.” That ballot item was approved by voters in the Nov. 5, 2013 election. Sec. 130 was amended at that time, however, related changes to Sections 2-3-1, 2-3-2 and 2-3-3, B.R.C. 1981, were not made. These amendments reflect the intent of Sec. 130.

ATTACHMENT:

A - Proposed Emergency Ordinance No. 8047

ORDINANCE NO. 8047

AN EMERGENCY ORDINANCE ADOPTING SUPPLEMENT NO. 123,
WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 8015,
8030, 8035, AND 8042, AND OTHER MISCELLANEOUS
CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE
BOULDER REVISED CODE, 1981, AND SETTING FORTH RELATED
DETAILS.

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

Section 1. Legislative Findings.

- A. Supplement No. 123 amending the Boulder Revised Code 1981 (“B.R.C.”) has been printed.
- B. The City Council intends that this supplement be codified and published as a part of the B.R.C.
- C. Supplement No. 123 to the B.R.C. is a part of this ordinance and contains all of the amendments to the B.R.C. enacted by the City Council in Ordinance Nos.8015, 8030, 8035, and 8042, and other miscellaneous corrections and amendments. The City Council intends to adopt this supplement as an amendment to the B.R.C.
- D. The ordinances contained in Supplement No. 123 are available in printed copy to each member of the City Council of the City of Boulder, Colorado, and the published text of the supplement, along with the text of those ordinances, is available for public inspection and acquisition in the office of the city clerk of the City of Boulder, in the Municipal Building, 1777 Broadway, Boulder, Colorado.

Section 2. The City Council adopts Supplement No. 123 by this reference.

Section 3. The City Council orders that a copy of Supplement No. 123 as proposed for adoption by reference herein be on file in the office of the city clerk of the City of Boulder, Colorado, Municipal Building, 1777 Broadway, City of Boulder, Boulder County, Colorado, and may be inspected by any person at any time during regular business hours pending of the adoption of this ordinance.

Section 4. The annotations, source notes, codifier’s notes, and other editorial matter included in the printed B.R.C. are not part of the legislative text. These editorial provisions are provided to give the

1 public additional information for added convenience. No implication or presumption of a legislative
2 construction is to be drawn from these materials.

3 Section 5. The B.R.C., or any chapter or section of it, may be proved by a copy certified by the
4 city clerk of the City of Boulder, under seal of the city; or, when printed in book or pamphlet form and
5 purporting to be printed by authority of the city. It shall be received in evidence in all courts without
6 further proof of the existence and regularity of the enactment of any particular ordinance of the B.R.C.
7

8 Section 6. These provisions of the B.R.C. shall be given effect and interpreted as though a
9 continuation of prior laws and not as new enactments.

10 Section 7. Unless expressly provided otherwise, any violation of the provisions of the B.R.C., as
11 supplemented herein, shall be punishable by a fine of not more than one thousand dollars or
12 incarceration for not more than ninety days in jail, or by both such fine and incarceration, as provided in
13 section 5-2-4, "General Penalties," B.R.C. 1981.
14

15 Section 8. Chapter 2-3, "Boards and Commissions" is amended as follows:

16 **2-3-1. - General Provisions.**

17 (a) The city council:

- 18 (1) At a regular meeting before April shall appoint members to city boards and commissions, who
19 are city ~~electors~~ residents representing both sexes;

20

21 **2-3-2. -Arts Commission.**

22 (a) The City of Boulder Arts Commission consists of five members appointed by the city council for
23 five-year staggered terms, all of whom are city ~~electors~~ residents.

24

25 **2-3-3. - Beverage Licensing Authority.**

26 (a) The City of Boulder Arts Commission consists of five members appointed by the city council for
27 five-year staggered terms, all of whom are city ~~electors~~ residents.

28



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only, Ordinance No. 8048 amending Section 9-6-5, “Temporary Lodging, Dining, Entertainment, and Cultural Uses,” B.R.C. 1981, by providing the city manager with authority to waive requirement that mobile food vehicles be 150 feet from restaurants if the restaurants approve, waiving the requirement for Planning Board review of this ordinance and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

Bob Eichen, Chief Financial Officer

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

Mishawn Cook, Tax and License Manager, Finance Department

EXECUTIVE SUMMARY

The purpose of this council agenda item is to amend the city’s mobile food vehicle regulations to allow the city manager authority to waive the restaurant separation requirement if any restaurant within 150 feet supports the mobile food vehicle permit application. Under the proposed ordinance, the mobile food vehicle operator would be required to provide a written statement of such support at the time of application and at each renewal. Under the current code, a permit is valid for 12 months or for such other time as established by the city manager.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce on first reading and order published by title only, Ordinance No. 8048 amending Section 9-6-5, "Temporary Lodging, Dining, Entertainment, and Cultural Uses," B.R.C. 1981, by providing the city manager with authority to waive requirement that mobile food vehicles be 150 feet from restaurants if the restaurants approve, waiving the requirement for Planning Board review of this ordinance and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Mobile food vehicles collect and remit required sales tax in accordance with the city's standard operating procedure.
- Environmental: Availability of food in city park locations would provide options that dissuade community members from driving out to purchase meal selections, then returning.
- Social: Mobile food vehicles providing goods and services at city owned facilities may lead to a greater sense of community, offering options for neighbors to gather inclusively and with fewer economic barriers to entry.

OTHER IMPACTS

Fiscal – None.

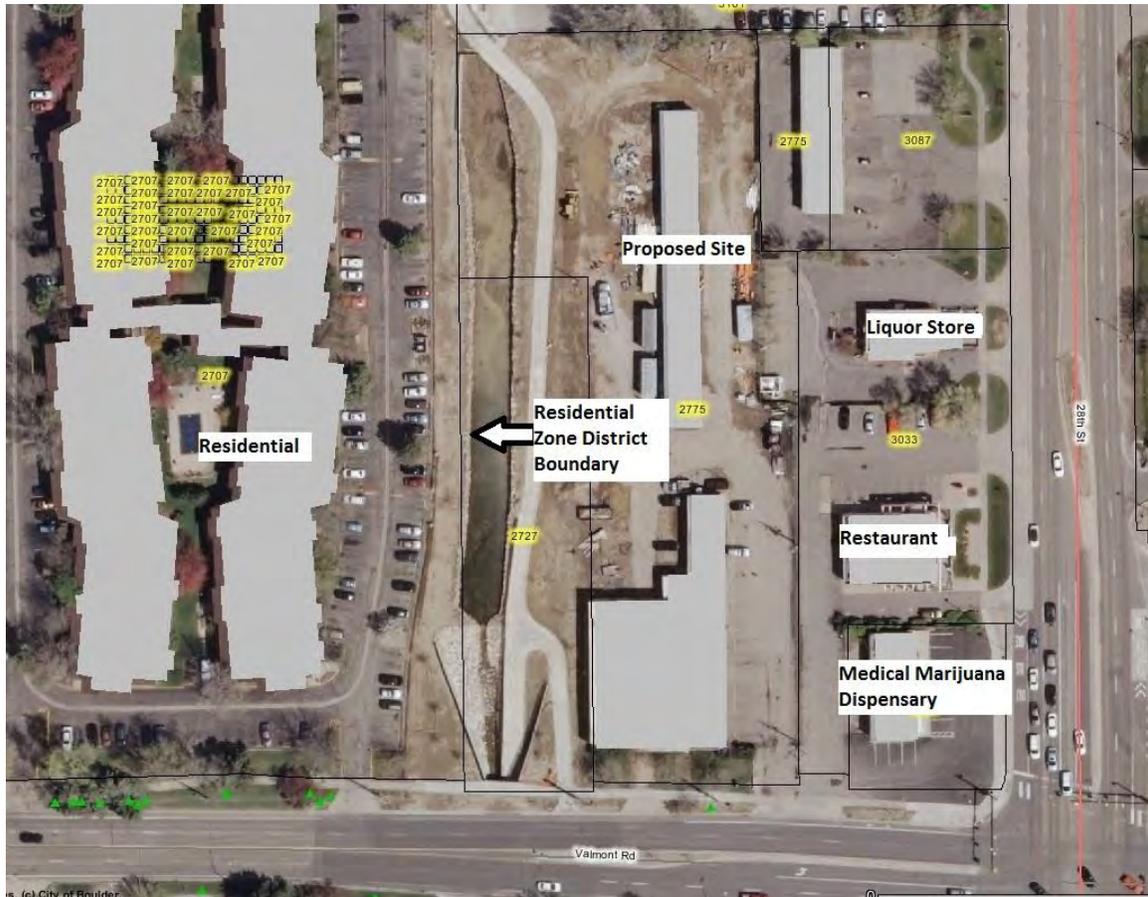
BOARD AND COMMISSION FEEDBACK

None

BACKGROUND

At the May 5, 2015 council meeting two individuals spoke during the open comment period regarding their business plan to open a tavern, which would have mobile food vehicles in an adjacent parking area. The proposed site for their establishment is within 150 feet of a restaurant. According to the presenters, the restaurant supports the new establishment and the mobile food vehicles associated with the business. Council directed staff to prepare an ordinance providing the city manager with authority to exempt mobile food vehicles from the 150-foot restaurant separation requirement when all restaurants within 150 feet consent. Council also instructed staff to bring the ordinance directly to council without seeking a planning board recommendation. The ordinance includes a finding that planning board review under Section 9-1-5, "Amendments and Effect of Pending Amendments," B.R.C. 1981, is not required.

The proposal triggering the change is seeking to establish a tavern and mobile food vehicle park at the former Rayback Plumbing Building on 2775 Valmont Road. The proposal is to create a tavern in the building with a mobile food vehicle park adjacent. The site's context is as follows:



The site borders a residential zone district. Current code prohibits mobile food vehicles within 150 feet of a residential district. Under the code, the distance is measured as follows:

Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's mobile food vehicle to the closest point of the designated residential zone or property of the restaurant.

§ 9-6-5(d)(1)(A). It appears that the plan is to park the vehicles at least 150 feet from the residential zone district boundary to the west.

The proposed ordinance would apply city-wide. It would be possible to limit this change to a particular zone district or group of zone districts. If council wishes to limit application to just the zone district in which the project is proposed, council could amend the proposed ordinance with the language attached as exhibit B.

ATTACHMENTS

Attachment A - Proposed Ordinance

Attachment B - Potential Amendment

ORDINANCE NO. 8048

AN ORDINANCE REGARDING MOBILE FOOD VEHICLE SALES, AMENDING SECTION 9-6-5, "TEMPORARY LODGING, DINING, ENTERTAINMENT, AND CULTURAL USES," B.R.C. 1981, BY PROVIDING THE CITY MANAGER AUTHORITY TO ISSUE A PERMIT ALLOWING A FOOD TRUCK WITHIN 150 FEET OF A RESTURANT WITH THE RESTAURANT'S PERMISSION, WAIVING THE REQUIREMENTS OF SECTION 9-1-5(a) "AMENDMENTS AND EFFECT OF PENDING AMENDMENTS" AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-6-5(d), B.R.C. 1981, is amended to read:

9-6-5 Temporary Lodging, Dining, Entertainment, and Cultural Uses.

...

(d) Mobile Food Vehicle Sales. The following criteria apply to any mobile food vehicle sales use:

(1) Standards: The city manager will permit mobile food vehicle sales on private property, public property, or in the public right of way if the use is permitted in the applicable zoning district and meets the following standards and conditions:

(A) The use shall be located at least:

(i) one hundred fifty feet from any residential zone districts, except as provided in subsection (d)(1)(C) below;

(ii) one hundred fifty feet from any existing restaurant except as provided in subsection (d)(1)(F) below; and

(iii) two hundred feet from any other mobile food vehicle with regard to public right of way sales, no more than four mobile food vehicles per private property in the MU-1, MU-2, MU-3, BT-1, BT-2, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3, DT-4, DT-5 zone districts, and no limitation on the number of mobile food vehicles per private property with owner's permission in the Industrial zone districts.

1 Distances shall be measured by the city on official maps as the
2 radius from the closest points on the perimeter of the applicant's
3 mobile food vehicle to the closest point of the designated
4 residential zone or property of the restaurant. For purposes of this
5 section, the term restaurant shall include "eating places" and "retail
6 bakeries" as defined by the Standard Industrial Classification
7 Manual, the edition of which shall be determined by the city
8 manager. With regard to measurement between two or more
9 mobile food vehicles in the public right of way, measurement shall
10 be in the form of standard measuring devices, including and not
11 limited to, a tape measure.

- 12 (B) No person shall operate a mobile food vehicle in a public zone district
13 unless in connection with an organized event pursuant to Section 4-18-2,
14 "Public Property Use Permits," B.R.C. 1981, or at the Boulder Municipal
15 Airport ("Airport") in such areas and manner within the Airport property
16 as approved by the city manager pursuant to Section 11-4-4, "Special
17 Airport Activity Permits," B.R.C. 1981. For purposes of this section, the
18 Airport property shall be defined as Lot 2, Airport South Subdivision.
- 19 (C) No person shall operate a mobile food vehicle in a residential zone district
20 except with prior approval by the city manager in the parking lot or the
21 public right of way adjacent to North Boulder Park or in any other park as
22 approved by the manager.
- 23 (D) No person shall operate a mobile food vehicle sales use without a permit
24 or in violation of the conditions of a permit. The permit will be valid for
25 twelve consecutive months, or such other time as the city manager may by
rule designate. Such application shall meet the following requirements:
- 26 (i) provide proof of, and maintain, a valid driver's license, vehicle
27 registration, and current motor vehicle insurance;
 - 28 (ii) provide proof of, and maintain, a Colorado retail food license for a
29 mobile unit;
 - 30 (iii) provide proof of, and maintain, a valid sales use tax license;
 - 31 (iv) provide payment of the fee prescribed by Section 4-20-66,
32 "Mobile Food Vehicle Sales," B.R.C. 1981.
- 33 (E) As a condition of accepting the permit, the applicant shall sign an
34 agreement, in a form acceptable to the city manager, in which the
35 applicant agrees to meet all requirements under this section and Chapter 4-
1, "General Licensing Provisions," B.R.C. 1981, and assume responsibility
for the actions and omissions of its agents and employees in the
performance of or failure to perform its obligation under the permit.

(F) The city manager may, in his or her discretion, waive the requirements of subsection (d)(1)(a)(ii) above if the applicant at the time of issuance, and each renewal of the permit, submits to the city manager signed statements supporting the issuance of the permit from every restaurant within 150 feet of the proposed food truck location. The city manager may deny a request for waiver for any reason, with or without good cause.

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.

Section 4. The City councils finds that time is of the essence for the passage of this ordinance and therefore review by the Planning Board would unreasonably delay adoption. Therefore the provisions of section 9-1-5(a) "Amendments and Effect of Pending Amendments," B.R.C. 1981, shall not apply to this ordinance.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 19th day of May, 2015.

Mayor

Attest:

City Clerk

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READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

PUBLISHED BY TITLE ONLY this 2nd day of June, 2015.

Mayor

Attest:

City Clerk

Attachment B

Amend proposed ordinance 8048 by substituting the following language for new subsection 9-6-5(d)(1)(f):

- (F) The city manager may, in his or her discretion, waive the requirements of subsection (d)(1)(a)(ii) above if the applicant at the time of issuance, and each renewal of the permit, submits to the city manager signed statements supporting the issuance of the permit from every restaurant within 150 feet of the proposed food truck location. The city manager may waive such requirements only for the BC-1 zone district. The city manager may deny a request for waiver for any reason, with or without good cause.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE: CONCEPT PLAN REVIEW AND COMMENT: Request for citizen, staff and City Council comment on a proposal to annex and redevelop the property located at 96 Arapahoe Ave. with a combination of single family, duplex and attached dwelling units. A total of nine dwelling units are proposed consisting of six market rate units and three affordable units that would be developed on-site upon annexation and establishment of an initial zoning of Residential Medium – 3 (RM-3), consistent with the Boulder Valley Comprehensive Plan (BVCP) land use designation of Medium Density Residential.

PRESENTER/S

Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Susan Richstone, Deputy Director of Community Planning & Sustainability
Charles Ferro, Land Use Review Manager
Elaine McLaughlin, Senior Planner
Michelle Allen, Inclusionary Housing Program Manager

On Feb. 5, 2015, Planning Board reviewed the Concept Plan for the subject site; the staff memo is provided as Exhibit A and the minutes from that hearing are provided as Exhibit B.

The City Council voted on March 3, 2015 to call-up the Concept Plan for review and discussion. In calling up the Concept Plan, council members indicated interest in considering Planning Board’s recommendation for more, smaller units on the site rather than less larger units as planned. The intent would be to potentially provide greater opportunity for market rate units of a lower price point as well as additional permanently affordable units on site. Since that time, the applicant provided a higher density Concept Plan option illustrating more, smaller units.

Because additional density on this site would require a change to the BVCP Land Use of Medium Density Residential to High Density Residential and because of impacts to useable open space on the somewhat constrained site, an analysis of the higher density Concept Plan option is provided in Exhibit C. The information is considered as a supplement to the Planning Board Memo given the topics raised by Planning Board and the interest in discussing these additional topics by the City Council. The description of the higher density plan is termed “HD Option” in the supplemental information to ensure it is distinct from an alternative (Alternative B) that the applicant provided as a part of the Planning Board memo that was intended to show relocation of the historic barn as a site design consideration.

Exhibits:

- Exhibit A: Planning Board memo with Attachment
- Exhibit B: Feb. 5, 2015 Planning Board Minutes
- Exhibit C: Supplemental Analysis of High Density (HD) Optional Concept Plan for Greater Density

Exhibit A of City Council Memo Staff Memo to Planning Board

**CITY OF BOULDER
PLANNING BOARD AGENDA ITEM
MEETING DATE: Feb. 5, 2014**

AGENDA TITLE:

CONCEPT PLAN REVIEW AND COMMENT: Request for citizen, staff and Planning Board comment on a proposal to annex and redevelop the property located at 96 Arapahoe Ave. with a combination of single family, duplex and attached dwelling units. A total of nine dwelling units are proposed consisting of six market rate units and three affordable units that would be developed on-site upon annexation and establishment of an initial zoning of Residential Medium – 3 (RM-3), consistent with the Boulder Valley Comprehensive Plan (BVCP) land use designation of Medium Density Residential.

Applicant: Jonathon Warner
Property Owner: 96 Arapahoe LLC

REQUESTING DEPARTMENT:

Community Planning & Sustainability
David Driskell, Executive Director
Susan Richstone, Deputy Director
Charles Ferro, Land Use Review Manager
Elaine McLaughlin, Senior Planner

OBJECTIVE:

1. Hear applicant and staff presentations
2. Hold public hearing
3. Planning Board discussion of Concept Plan. No action is required by Planning Board.

SUMMARY:

Proposal: CONCEPT PLAN REVIEW AND COMMENT: Request for citizen, staff and Planning Board comment on a proposal to redevelop the existing property located at 96 Arapahoe Ave. with a combination of single family, duplex and attached dwelling units. A total of nine dwelling units proposed, consisting of six market rate units and three affordable units to be built on-site. There are two existing dwelling units in a duplex on the property.

Project Name: Nuzum Gardens
Location: 96 Arapahoe Ave.
Size of Tract: 1.37 acres (59,801 square feet)
Zoning: Proposed: RM-3

Comprehensive Plan: Medium Density Residential

Key Issues: Staff is recommending three key issues for discussion of the Concept Plan:

1. Are the preliminary plans consistent with the BVCP Planning Area, Land Use & Policies?
2. Are the conceptual plans for redevelopment consistent with the planned RM-3 zoning?
3. Is the Site Plan responsive to constraints and opportunities, and surroundings?

I. INTRODUCTION

According to the Land Use Code, section 9-2-13, the purpose of the Concept Plan review is,

“to determine a general development plan for the site, including, without limitation, land uses, arrangement of uses, general circulation patterns and characteristics, methods of encouraging use of alternative transportation modes, areas of the site to be preserved from development, general architectural characteristics, any special height and view corridor limitations, environmental preservation and enhancement concepts, and other factors as needed to carry out the objectives of this title, adopted plans, and other city requirements. This step is intended to give the applicant an opportunity to solicit comments from the planning board authority early in the development process as to whether the concept plan addresses the requirements of the city as set forth in its adopted ordinances, plans, and policies.”

Per land use code section 9-2-14(b), B.R.C., 1981, the minimum size for a voluntary Site Review process is that, *“five or more units are permitted on the property.”* Because density in the RM-3 zoning is based upon the requirement for 3,000 square feet of open space per dwelling unit, up to 10 units would be permitted on the property in the area below the Blue Line. An application for annexation with an initial zoning of RM-3, Residential Medium – 3, consistent with the Boulder Valley Comprehensive Plan (BVCP) land use designation of Medium Density Residential (shown in Figure 2 below) is being processed separately and will be reviewed by the Planning Board at a later date.

II. PROJECT DESCRIPTION SUMMARY

The applicant intends to annex the property, to be considered at a later date. However, as currently proposed the applicant has discussed with staff several community benefits currently under consideration including:

- Seek individual landmark designation and adaptive re-use of the existing barn
- Seek individual landmark designation and adaptive re-use of the existing house
- Provision of in excess of 42 percent of the units as permanently affordable
- Dedication of a scenic easement for the area of the property above the Blue Line

As shown in Figure 1 below, the applicant is proposing nine residential units on the site clustered at the front (north) portion of the site: six market rate units with five constructed as new and reuse of the existing duplex on the site, converted into a single family dwelling unit of approximately 3,000 square feet. Also proposed as part of the nine total are three permanently affordable units. A total of 26 parking spaces are also proposed.

The initial schematic site plan (Alternative A) shown in Figure 1, illustrates retaining the existing equipment shed on the site, located above the Blue Line, and relocating the potentially historic barn/warehouse from the center of the site to the front along Arapahoe Avenue with conversion to three affordable residential units. The plan also illustrates preservation of the existing long lived oak tree on the site.



Figure 1: Schematic Site Plan (Alternative A)

CONCEPT PLAN REVIEW AND COMMENT (Section 9-2-13, B.R.C. 1981)

(g) Guidelines for Review and Comment: The following guidelines will be used to guide the planning board's discussion regarding the site. It is anticipated that issues other than those listed in this section will be identified as part of the concept plan review and comment process. The Planning Board may consider the following guidelines when providing comments on a concept plan:

- (1) **Characteristics of the site and surrounding areas, including, without limitation, its location, surrounding neighborhoods, development and architecture, any known natural features of the site including, without limitation, mature trees, watercourses, hills, depressions, steep slopes and prominent views to and from the site;**

As shown in Figure 4, the 1.37 acres site is located at the western periphery of the city limits in an area that demarks transition into the Boulder Canyon. As such, the upper reaches on the south side of the property have steeper slopes, and development on the property has created a series of terraces as can be seen in the site's topography.

The upper portion of the site that is located above the Blue Line (described in greater detail on page 7) and it transitions from terraced topography to extremely steep slopes: some at a 1 to1 slope. Figure 5 illustrates the topography of the site. Above the Blue Line, the site is also densely forested with various conifer tree species predominately ponderosa pine with some Douglas fir.

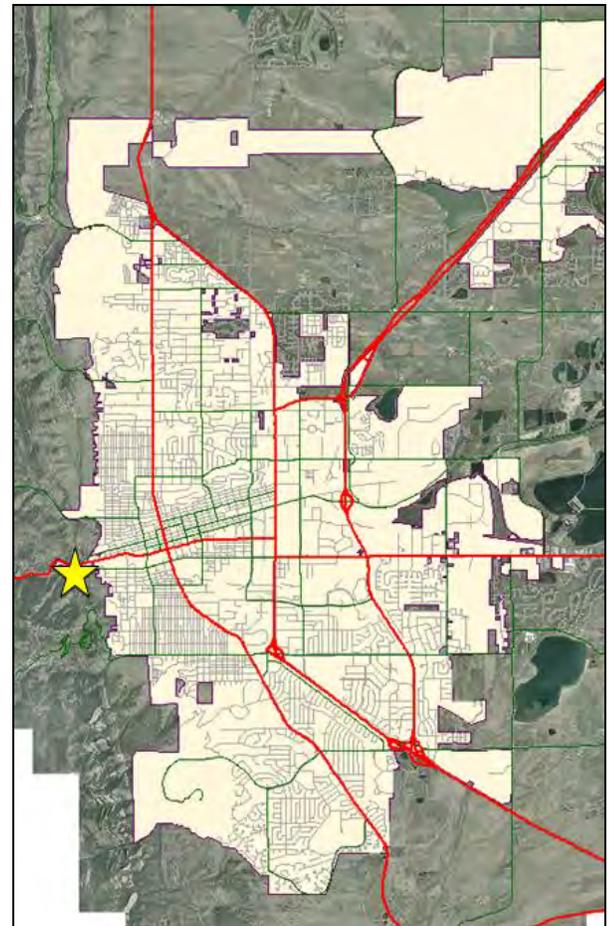
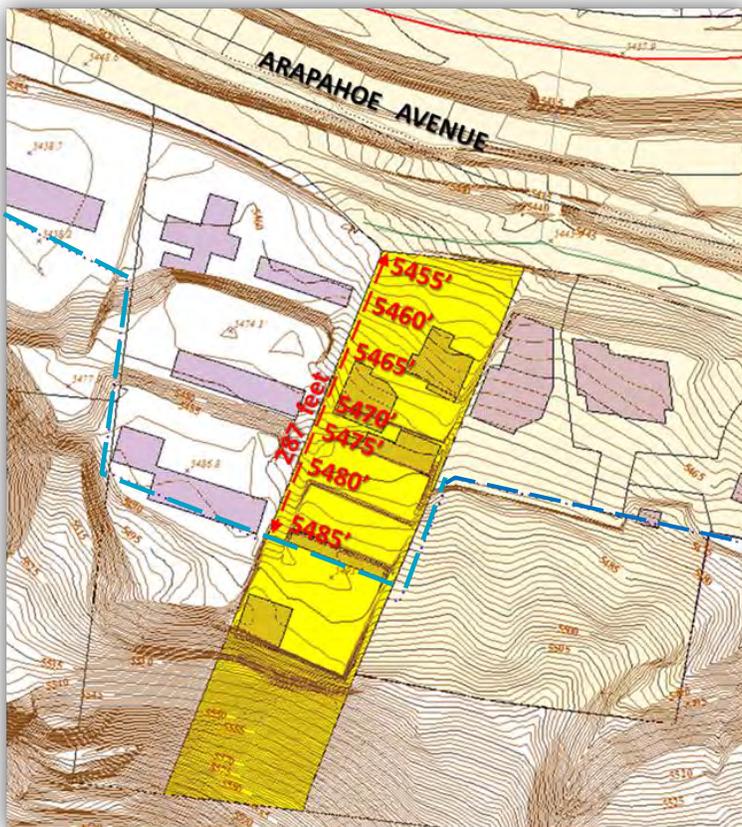


Figure 4: Location of Site on Western Edge



The lower terraced areas of the site, were cleared in earlier times, and include various native and non-indigenous deciduous tree species as well as herbaceous flowering plants and grasses.

At the base of the property is a portion of the concrete lined Anderson Ditch that aligns Arapahoe Lane along with various shrubs aligning the ditch. The ditch is shown to the right in Figure 6.

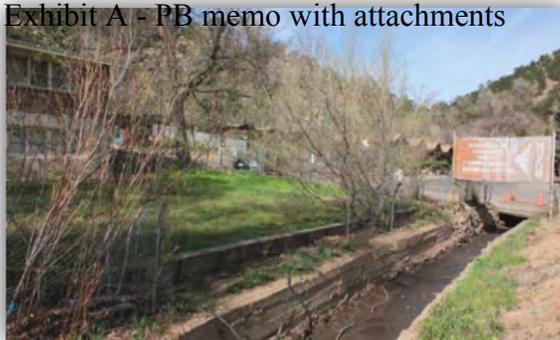


Figure 6: Existing Residence with ditch in Foreground

The site was originally developed in the 1940s and 1950s by Wayne Nuzum who operated a nursery and landscaping business at the property for over 50 years and is considered one of Boulder's most premier gardeners. Located on the property is a large warehouse/barn used for Nuzum's nursery. This building was most likely built in the mid to late 1940s. In 1956, an addition was constructed onto the north side of this building. The Tax Assessor card notes that, "the back wall of one of the buildings on the property is of native moss stone." This note most likely refers to the warehouse shown in photos to the right, Figures 7a thru 7d. The south wall of the barn is built into the hillside terrace.



Figures 7a, b, c, d: Barn/Warehouse Photos
(Historic Images left and Present Day Image right two photos)

Nuzum built as his primary residence a 1½ story masonry ranch house. According to the Tax Assessor card, Nuzum took several years to build the home, beginning in the late 1940s and completing it sometime after 1956. Shown below in Figures 8a and 8b are the home, historically and today.



Figures 8a, b, c:
Existing Residence: historic photo (left) and present day (right)

Surrounding Context. Located directly west of the site is the roughly 3.2 acre Silver Saddle Motel property at 90 West Arapahoe Lane. The motel was built in the mid 1940s with nine log cabin style motel units. According to the tax assessor card, construction finished by 1949.



Figures 9a,b,c,d:
Adjacent Silver Saddle Motel to the west of site: historic photos on left, present day on right

To the east of the property is Canyonside Office Park, located at 100 Arapahoe. During the September 2013 Flood, the easternmost portion of the property was destroyed by a mud flow as shown in Figure 10a and 10b. There are two remaining office buildings on the site that remain functional today.

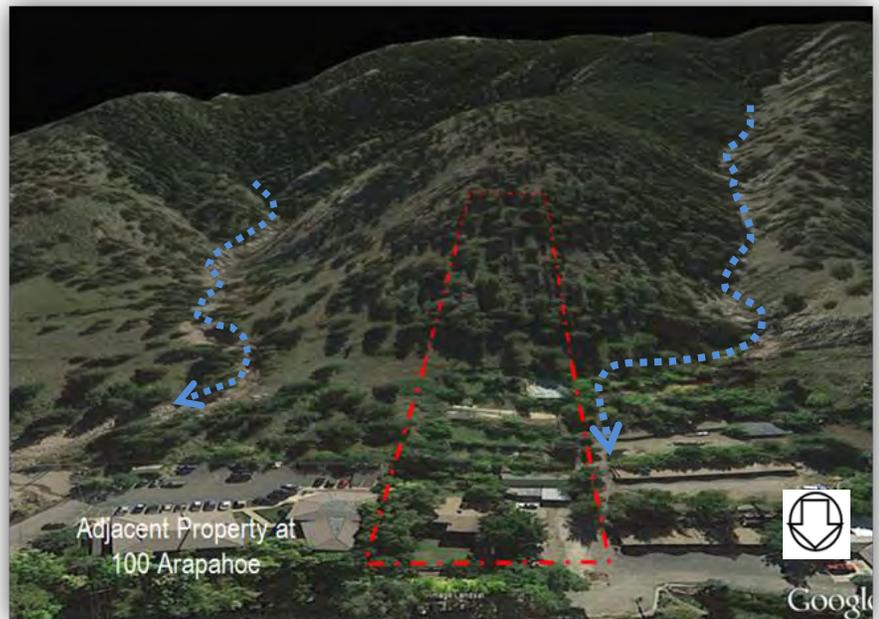
As can be seen in the Google Earth image of Figure 11, the 100 Arapahoe Lane property that suffered destruction in the flooding is at the base of a distinct drainage basin that is incised into the hillside.

Similarly, the property at 90 Arapahoe has a distinct drainage swale that is also incised into the hillside. According to the property owners of 90 Arapahoe, the flood flows in 2013, passed down the hillside and flowed onto the existing road on that property that is lower in elevation than the existing site that was not impacted by flooding during the 2013 flood event.

Further east, at 210 Arapahoe is a 13-unit, medium density condominium development, Park Gables, annexed in 2006 and built in 2007. The density of the site is similar to the density proposed for the project site. Refer to Figures 12a and 12 b that illustrate the development from Arapahoe Avenue as well as in an aerial photo.



**Figures 10 a and 10b:
Aerial of Adjacent Property and Photo of Building destroyed in 2013 Flood Event**



**Figure 11:
Google Earth Image showing site in relation to adjacent drainage swales**



**Figures 12a and 12b:
Recently developed medium density Park Gables Development located further east of site**

- (2) **Community policy considerations including, without limitation, the review process and likely conformity of the proposed development with the Boulder Valley Comprehensive Plan and other ordinances, goals, policies, and plans, including, without limitation, sub-community and sub-area plans;**

Approximately 35 percent of the site is located above the Blue Line which is a development boundary line created through a city charter amendment approved by voters in 1959. The Blue Line defines a specific topographic contour above which extension of the water utility is not permitted. As is apparent in the figure ground plane map shown in Figure 13, the Blue Line is continuous throughout most of the western portion of the city. However, in the area where the site is located, the contour wasn't well established, possibly due to grading that had occurred on the site prior to the charter amendment. In the area adjacent to the site, a 1981 amendment was approved that provided a specific legal description that was mapped for that portion. Shown in Figure 14 is the legal mapped description of the Blue Line within the property.

The Blue Line is defined per the City's Charter, Article VIII: Franchises and Public Utilities, Section 128A, "The City of Boulder shall not supply water for domestic, commercial, or industrial uses to land lying on the westward side of the following described line, except as specifically stated herein."

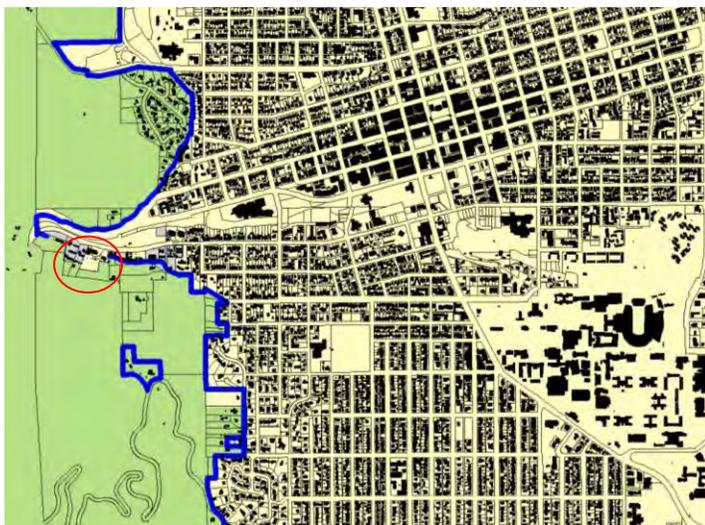


Figure 13:
Portion of the Blue Line on west side of the City of Boulder

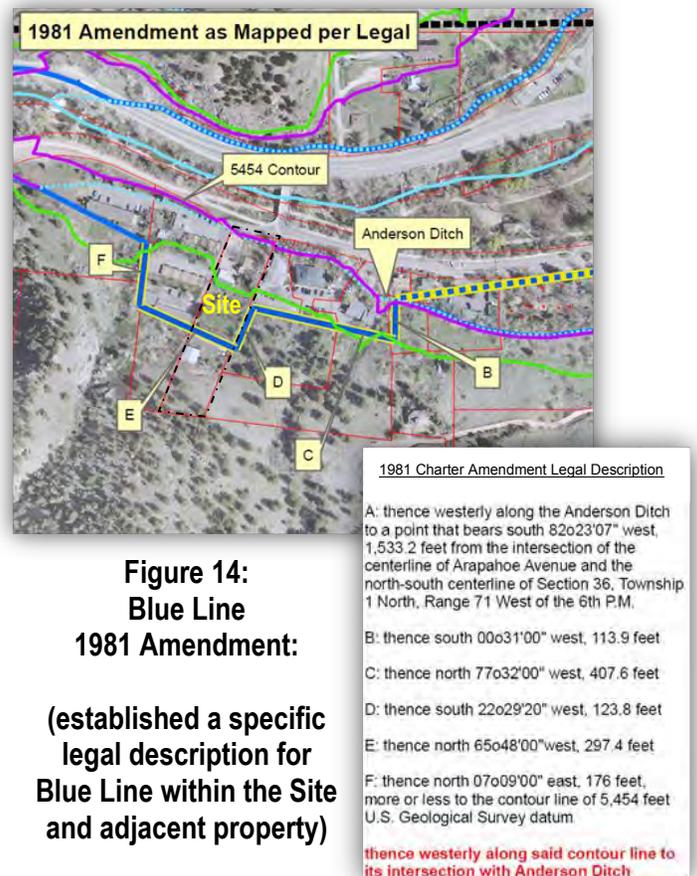


Figure 14:
Blue Line
1981 Amendment:
(established a specific legal description for Blue Line within the Site and adjacent property)

The portion of the site that is above the Blue Line is also designated under the Boulder Valley Comprehensive Plan as, "Planning Area III Rural Preserve" shown in Figure 15 and as described on page 27 of the BVCP,

a) *The Area III-Rural Preservation Area is that portion of Area III where rural land uses and character will be preserved through existing and new rural land use preservation techniques and no new urban development will be allowed during the*

planning period. Rural land uses to be preserved to the greatest possible extent include: rural town sites (Eldorado Springs, Marshall and Valmont); existing county rural residential subdivisions (primarily along Eldorado Springs Drive, on Davidson Mesa west of Louisville, adjacent to Gunbarrel, and in proximity to Boulder Reservoir); city and county acquired open space and parkland; sensitive environmental areas and hazard areas that are unsuitable for urban development; significant agricultural lands; and lands that are unsuitable for urban development because of a high cost of extending urban services or scattered locations, which are not conducive to maintaining a compact community.

Because the intent of the Area III Rural Preserve is to preserve areas such as undevelopable steep slope and the intent of the Blue Line is to limit extension of water utility above the Blue Line, density is not intended for that part of the site. Therefore, density calculations must be limited to only the area below the Blue Line.

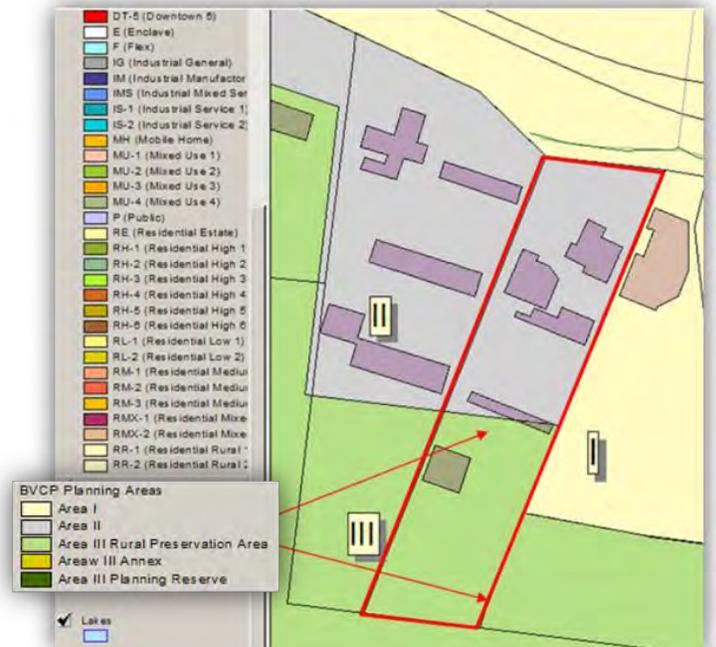


Figure 15: BVCP Planning Areas

As shown below, the Boulder Valley Comprehensive Plan (BVCP) land use map (Figure 16) identifies the property along West Arapahoe Avenue that includes the property and that to the east and west, for Medium Density Residential, which is defined as having six to 14 dwelling units per acre.

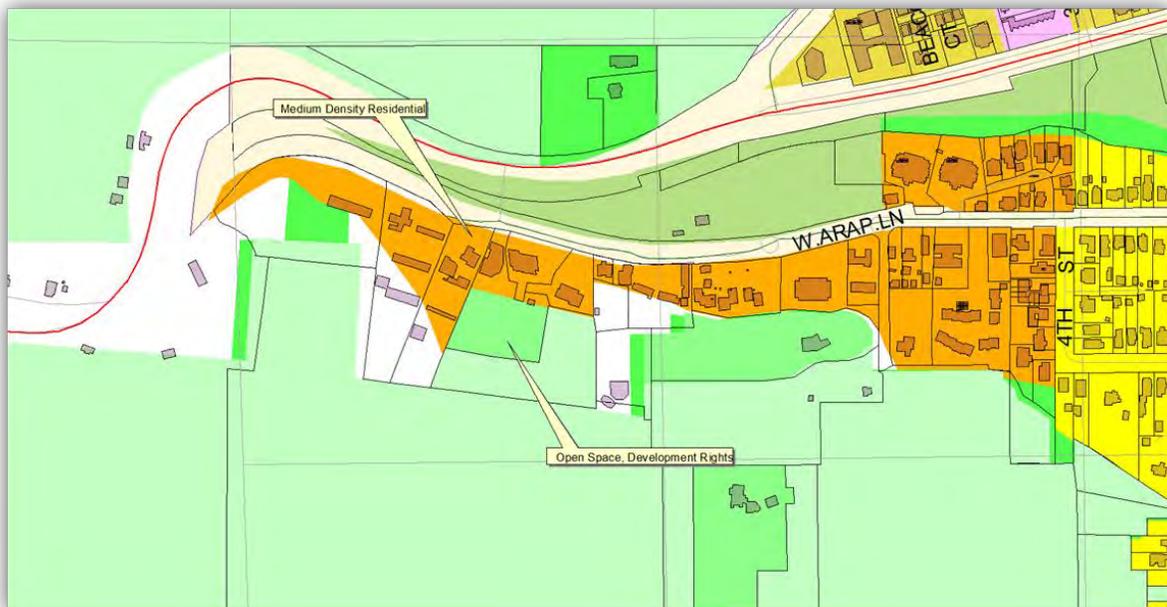


Figure 16: BVCP Land Use Designations

(3) Applicable criteria, review procedures, and submission requirements for a site review;

An application for Annexation and initial zoning is also currently under consideration. Upon annexation, the application would be subject to Site Review if specific modifications to the development standards are proposed. As proposed in the Concept Plan, there is no requirement for Site Review approval.

(4) Permits that may need to be obtained and processes that may need to be completed prior to, concurrent with, or subsequent to site review approval;

As currently shown, the proposed building layout may necessitate a Site Review process due to modifications to the setback standards on the site. Therefore, following annexation are the reviews and permits required as the project plans progress:

- Site Review
- Technical Document for final plans (i.e. landscape, irrigation, architecture, lighting, engineering)
- Subdivision: Preliminary and Final Plat
- Building Permits

Regarding proposed subdivision, the preliminary and final plat will be required to meet the Subdivision Standards of the Land Use Code Section 9-12-12, B.R.C. 1981 found [here](#). There are several standards that the conceptual subdivision (shown in Figure 17), currently does not meet. There is a provision for Planning Board to waive the requirements, pre section 9-12-12(b)(2), B.R.C. 1981,

“Upon the request of the subdivider if the subdivider provides an alternative means of meeting the purposes of this chapter, which the board finds: (A) is necessary because of unusual physical circumstances of the subdivision; or (B) provides an improved design of the subdivision.”

While the applicant has noted the unusual physical circumstances with the subdivision being the existing historic structures on the site along with the Blue Line encompassing a large portion of a Medium Density designated lot as well as an existing large oak tree. However, among the standards that the conceptual subdivision currently does not appear to meet are as follows:

- Each lot has access to a public street (Concept Plan illustrates a “private driveway access for Lot A)
- Each lot has at least thirty feet of frontage on a public street.
- Side lot lines are substantially at right angles or radial to the centerline of streets, whenever feasible.
- Residential lots are shaped so as to accommodate a dwelling unit within the setbacks prescribed by the zoning district. (Meets this requirement but one of the residential units will require a 3-foot adjustment)
- Placement of Open Space and Streets: Open space areas are located wherever practical to protect buildings from shading by other buildings within the development or from buildings on adjacent properties. Topography and other natural features and constraints may justify deviations from this criterion.
- Building Form: The shapes of buildings are designed to maximize utilization of solar energy. Existing and proposed buildings shall meet the solar access protection and solar siting requirements of section [9-9-17](#), "Solar Access," B.R.C. 1981.



Figure 17: Proposed Subdivision Lot Layout

Because of the current subdivision and layout of the lots (shown in Figure 17), setback modifications would likely be required. Table 1 illustrates the standards for RM-3 setbacks compared to the current proposal are as follows:

**Table 1:
Setbacks Required and Currently Proposed**

	REQUIRED	CURRENTLY PROPOSED	
		LOT A	LOT B
FRONT	15 feet	18 feet	84 feet
FRONT FOR PARKING	20 feet	n/a	n/a
SIDE ADJ. TO A STREET	1' per 2' of building height, 10' minimum	7 to 12 feet (Market 6 doesn't meet minimum)**	n/a
INTERIOR SIDE	0 or 5 feet	3 feet**	3 feet**
REAR	15 feet	25 feet	27 feet
REAR ACCESSORY STRUCTURE	0 or 3	n/a	0 feet for garage

* would require redesigning the proposed or approval through a Site Review or Annexation

- (5) **Opportunities and constraints in relation to the transportation system, including, without limitation, access, linkage, signalization, signage, and circulation, existing transportation system capacity problems serving the requirements of the transportation master plan, possible trail links, and the possible need for a traffic or transportation study;**

In accordance with Section 2.04(M) of the City of Boulder Design and Construction Standards (DCS), a public access easement over a portion of the private driveway will be required should the lot be subdivided. The length of the public access easement will be dependent on where the lot is subdivided and the location of the off-street parking intended to serve the subdivided lot. In addition, pursuant to Section 2.10 of the DCS, an emergency access easement will be required for the private driveway(s) in order to accommodate emergency vehicle access. Pedestrians and bicyclists must also be accommodated within the site as well as connecting to the existing multi-use path.

At time of technical document submittal, short-term and long-term bicycle parking must be provided in accordance with the requirements of section 9-9-6 of the Boulder Revised Code, 1981.

If a Site Review submittal is necessary for the project, a TDM plan in accordance with section 2.03(I) of the DCS and section 9-2-14(h)(2)(D) of the Boulder Revised Code is required to be submitted which outlines strategies to mitigate traffic impacts created by the proposed development and implementable measures for promoting alternate modes of travel. The applicant must submit the TDM plan as a separate document with Site Review submittal in addition to incorporating the TDM plan into the traffic impact study as an appendix to the study.

- (6) **Environmental opportunities and constraints including, without limitation, the identification of wetlands, important view corridors, floodplains and other natural hazards, wildlife corridors, endangered and protected species and habitats, the need for further biological inventories of the site and at what point in the process the information will be necessary;**

There are no known special status species on the property, however, there are a number of large, mature trees, and in particular there is a large oak tree that is intended to be preserved on the site. The large oak preservation will likely require a larger envelope of protection than shown. The larger and older a tree, the more sensitive it is to impacts and therefore, a licensed arborist must be consulted during the project planning.

Because the site, particularly below the Blue Line, has been terraced and developed with residential and outbuildings over time, much of the native setting has been altered. With the proposed preservation of the area above the Blue Line, in the form of a scenic easement, much of the southern part of the site has the opportunity to remain part of the greater mixed forest biome.

(7) Appropriate ranges of land uses; and

As indicated above, the BVCP land use designation identifies the project site as being suitable for medium density residential for up to 14 dwelling units per acre. However, the western portion of the site is above the Blue Line where density is not anticipated. Therefore, the density calculation must be made based upon the net acreage after the area above the Blue Line is removed.

8) The appropriateness of or necessity for housing

There is a city-wide need for housing. The comprehensive plan policy 7.06 points to provision of a variety of housing types. The applicant indicates intent to provide several types of units on site including single family and attached units both as affordable housing and market rate.

The Comprehensive Housing Strategy was initiated in 2013 when City Council recognized that the city's housing challenges require more than minor adjustments to current programs. In May 2013, Council crafted a draft project purpose statement, key assumptions, and guiding principles. As project plans move forward, the appropriateness of housing within the Concept Plan should be evaluated upon how well the plans address the guiding principles of the Comprehensive Housing Strategy (CHS) as follows:

1. Strengthen Our Current Commitments

Reach or exceed Boulder's goals to serve very-low, low- and moderate-income households, including people with disabilities, special needs and the homeless.

2. Maintain the Middle

Prevent further loss of Boulder's economic middle by preserving existing housing and providing greater variety of housing choices for middle-income families and for Boulder's workforce.

3. Create Diverse Housing Choices in Every Neighborhood

Facilitate the creation of a variety of housing options in every part of the city, including existing single-family neighborhoods.

4. Create 15-minute Neighborhoods

Foster mixed-income, mixed-use, highly walkable neighborhoods in amenity rich locations (e.g., close to transit, parks, open space and trails, employment, retail services, etc.).

5. Strengthen Partnerships

Strengthen current partnerships and explore creative new public-private-partnerships to address our community's housing challenges (e.g., University of Colorado, private developers, financing entities, affordable housing providers, etc.)

6. Enable Aging in Place

Provide housing options for seniors of all abilities and incomes to remain in our community, with access to services and established support systems.

While the specific, programmatic aspects of the housing planned on the site have not yet been finalized, the applicant is proposing a mix of single family and attached multi-family units. The applicant will be required to meet the terms of the Inclusionary Housing ordinance, and the applicant has already begun discussions with staff in that regard on how best to achieve community benefit of IH as well as address the principles of the CHS.

The goal for creating a 15-minute neighborhood can be partially met with this site due to the ¼ to ½ mile proximity of the property (shown in Figure 18 below) to nearby bus stops and Eben G. Fine Park. The shops of West Pearl, near Spruce Bakery and others is slightly further, but still within walking distance of the site.

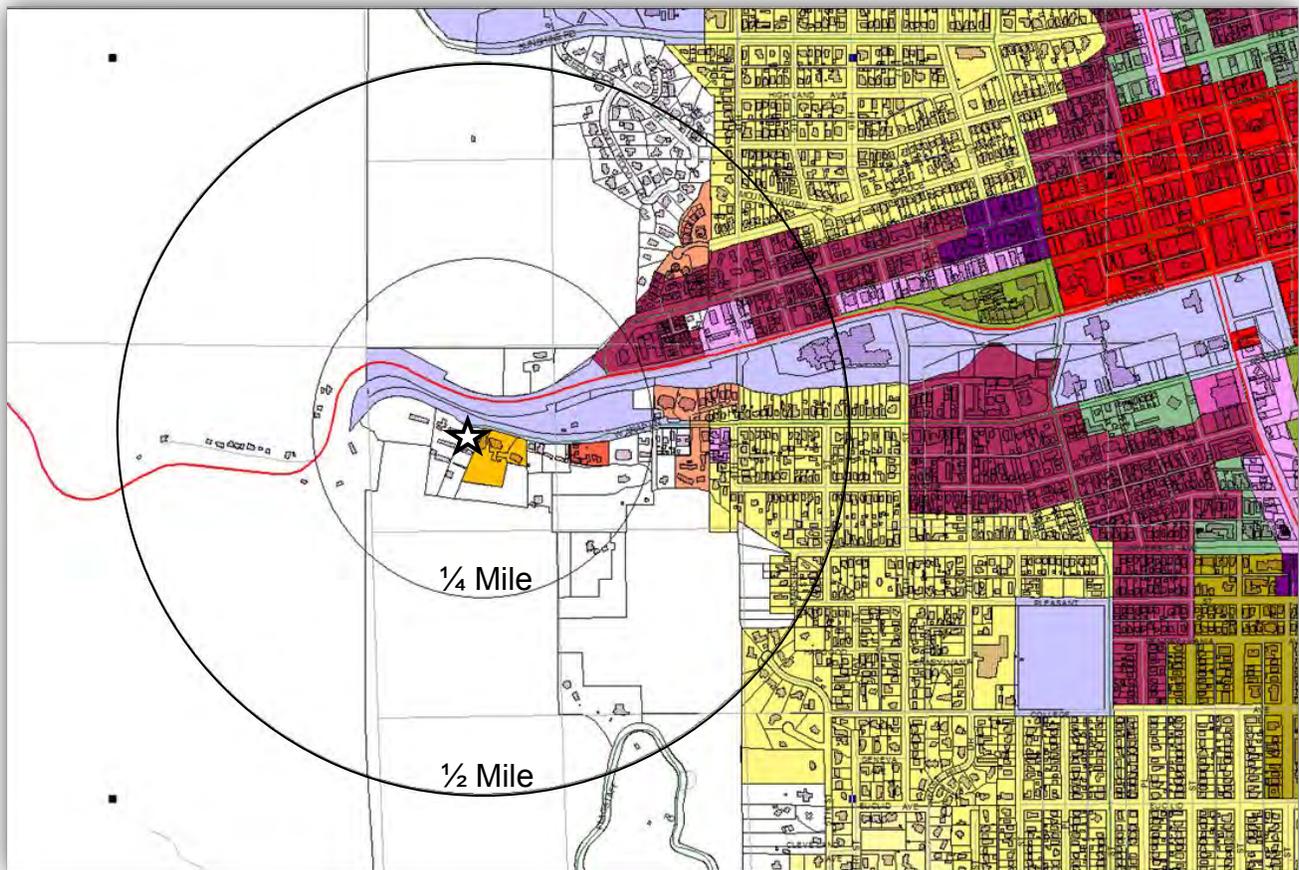


Figure 18
Walking Distances: ¼ and ½ mile radius around the site

The following Key Issues are provided by staff to help guide the Concept Plan review discussion. There may be other issues that the Planning Board would want to discuss, these are suggested issues identified by staff.

Key Issue 1. Are the preliminary plans consistent with the BVCP Planning Area, Land Use & Policies?

Planning Area II Property. The proposed annexation was evaluated under a separate application and staff found that the site is eligible for annexation in that a majority of the site is located within Planning Area II, defined in the BVCP on page 13 as follows, “Area II is the area now under county jurisdiction, where annexation to the city can be considered consistent with policies 1.16 Adapting to Limits on Physical Expansion, 1.18 Growth Requirements, & 1.24 Annexation.” For reference, the policy analysis for annexation is provided in **Attachment A**.

BVCP Land Use. The Boulder Valley Comprehensive Plan (BVCP) land use designation for the property is Medium Density Residential, which is defined as having six to 14 dwelling units per acre. The applicant is proposing nine dwelling units on slightly more than one acre, well within the BVCP land use limits for density in the Medium Density Residential. The maps in Figures 19a, 19b, and 19c provide a comparison of the regulatory framework for the site: 19a is the BVCP land use map; 19b are nearby annexations over time, and 19c the city's zoning map for properties that have been annexed.

As can be noted the BVCP identifies a portion of the site for Medium Density Residential and the adjacent property has the same designation along with "Open Space Development Rights." The properties to the north and east were annexed in the 1980s with an initial zoning of RM-3 while the property located at 210 Arapahoe Ave. that was constructed at a medium density, was annexed in the 2000s with an RM-2 zoning designation. The applicant is proposing RM-3 that would be one of the corresponding zoning designations for the property, consistent with the BVCP Land Use Designation. The proposed RM-3 zoning intent is defined in the Land Use Code section 9-5-2, B.R.C. 1981 as follows,

"Medium density residential areas primarily used for small-lot residential development, including without limitation, duplexes, triplexes, or townhouses, where each unit generally has direct access at ground level.

The proposed project with the planned single family residential along with duplex and attached residential meets the proposed zoning and land use designations.

Consistency with BVCP Policies. There are a number of BVCP policies (found in entirety [here](#)) that the proposed project as the provision of residential in a compact form would be consistent with including:

- | | | | |
|------|----------------------------------|------|--|
| 1.19 | <i>Jobs:Housing Balance</i> | 2.32 | <i>Physical Design for People</i> |
| 2.01 | <i>Unique Community Identity</i> | 2.33 | <i>Environmentally Sensitive Urban Design</i> |
| 2.03 | <i>Compact Land Use Pattern</i> | 2.37 | <i>Enhanced Design for Private Sector Projects</i> |

Key Issue 2. Are the conceptual plans for an redevelopment consistent with the planned RM-3 zoning?

The RM-3 zoning permits up to 12.4 dwelling units per acre. There's also a minimum lot area per dwelling unit of 3,500 square feet. Because the upper reaches of the site are above the Blue Line and within Planning Area III Rural Preserve that area of the site has to be deducted from the overall developable area. In addition, those areas also coincide with very steep, undevelopable slopes. As a result, the net developable area on the site, from which density can be calculated is 30,299 square feet. In dividing the required 3,500 square feet into the developable area, the resulting unit count is 8.65 units, and under the city's municipal code section 1-1-22(a), B.R.C, 1981 that figure must be rounded down to eight. The applicant is illustrating nine units and would need the unit count down by one in order to meet the RM-3 standards. There is no mechanism through Site Review to increase density in the RM-3. Opportunity to increase density through annexation is occasionally an option, however, in this case staff finds that the topographically constrained land doesn't have the carrying capacity to include additional density.

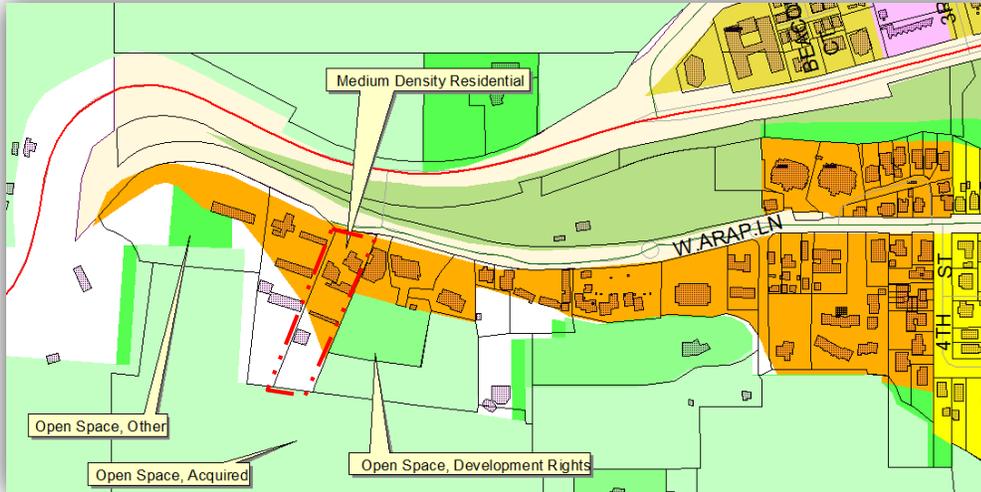


Figure 19a
Land Use

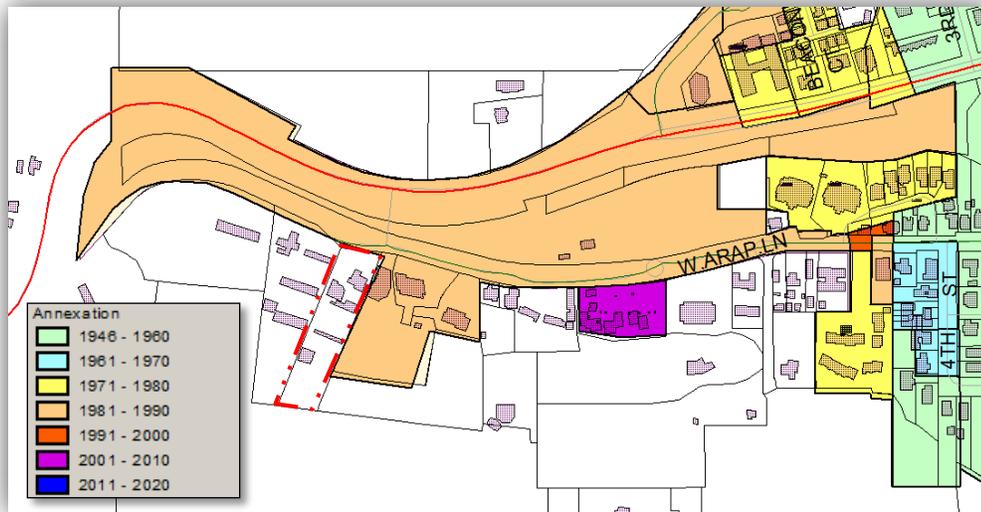


Figure 19b
Annexations

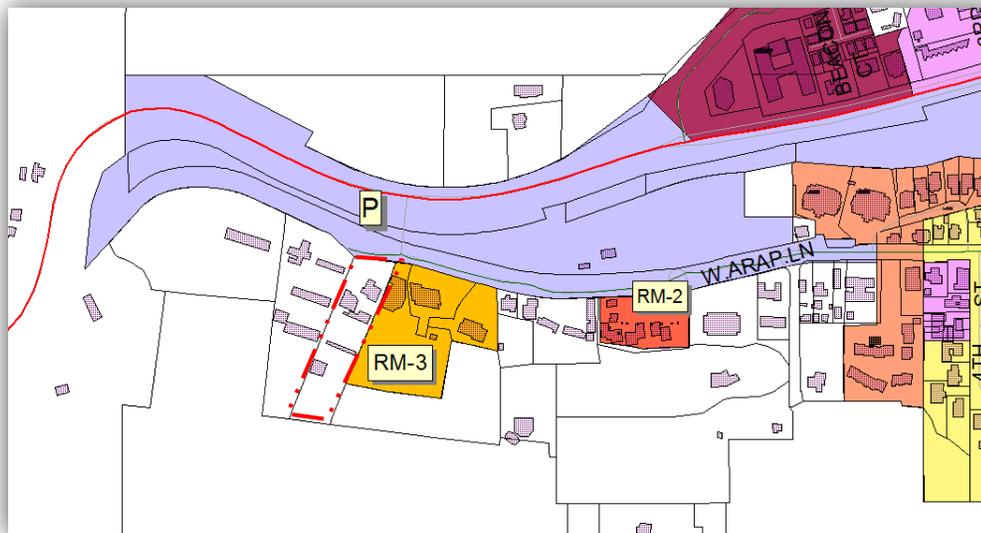


Figure 19c
Zoning

Key Issue 3. Is the Site Plan responsive to constraints and opportunities, and surroundings?

Responsiveness to Constraints and Opportunities: As noted, the site has a fairly consistent slope of 12 percent, although it has been terraced over the years. The plan alternatives both illustrate a curvilinear street that is intended to provide a more gentle slope of eight percent which would also conform better to the sloping topography by traversing the slopes and terraces and be consistent with the Land Use Code section 9-12-12(a)(2)(B) that states, “*streets are designed to bear a relationship to the topography, minimizing grade, slope and fill.*” The roadway layout appears to be appropriate given the context and works better with the topography than a more grid like configuration of roadways.

The applicant illustrates home prototypes that would utilize the terracing by stepping the building massing down the slope and also creating opportunities for roof deck amenities on the residential buildings. The applicant’s most recent concept sketch (Alternative B), provided after staff review comments, does illustrate the existing barn/warehouse retained but moved slightly to the west and still integrated into the terraced slope. While the applicant is proposing to move the barn slightly to the west, this approach would help to maintain the barn more closely in its current location, and would allow for the roadway to traverse the slope. Similarly, the approach to positioning the barn in its current location also provides better opportunity to retain and adaptively reuse the historic structure on the site and in turn, potentially requiring the applicant to seek individual landmark designation of the building through annexation.

On the second schematic (Alternative B) the applicant is also illustrating a market rate single family unit in the location where the applicant originally planned to relocate the barn (Alternative A), refer to the thumbnail comparisons in Figure 20a and 20b. Staff notes that the location of that unit would block views toward the historic residence, that staff is recommending be retained as part of the annexation, and landmarked. In addition, a large and healthy oak tree is located adjacent to the existing home. Staff finds this as an important site amenity and opportunity, and preservation of the oak would be a requisite in annexation as preservation of the historic home and barn. Therefore, staff recommends eliminating that market rate unit on the north end nearest Arapahoe Ave. to not only serve to preserve the viewshed to the potential landmark, but to also better preserve the existing oak and to meet the RM-3 density provisions.

Staff recently completed a pre-application for 90 Arapahoe located just west of this site. That property owner has expressed interest in annexation as well. In that regard, staff highly recommends the applicant look at combining efforts for access into the two sites and/or cross access between sites. As currently designed, the site access is essentially a dead-end. With the combined annexation and redevelopment of the two properties, both sites benefit from cross-access. Staff understands that the property owner for 90 Arapahoe, while interested in annexation, may not be prepared to redevelop the site. Staff’s understanding of the property to the west is that there is an existing drainage pattern on that property and that, that property owner must establish a more efficient and well defined drainage ditch close to the property line to be able to handle storm and flood water flows in the future. However, staff highly recommends that the two sites must respond to one another particularly with regard to shared access and/or cross access.

PUBLIC COMMENT AND PROCESS:

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject site and a sign posted on the property for at least 10 days. All notice requirements of section 9-4-3, B.R.C. 1981 have been met. There were no comments received on the application.

Consistency with State Annexation Law (31-12-101 et seq., C.R.S.) and City of Boulder Policy 1.24 for Annexations

Meets Criteria	Specific Criteria: State Annexation Law
<u>Yes</u>	(1) Minimum Required Contiguity: At least one-sixth of the perimeter of the area to be annexed shall be contiguous to the city limits. <i>The property has 1/6th contiguity to the city limits on the north and east perimeter of the site.</i>
<u>Yes</u>	(2) Annexation by Petition: A petition must be presented by more than half of the landowners owning more than fifty percent of the area to be annexed. For enclaves and municipally owned property, the City may take the initiative without petition. <i>A petition was provided.</i>
<u>n/a</u>	(3) Annexation by Election: Under certain conditions, an election may be held by the property owners and registered electors within the area to be annexed. <i>Not applicable</i>

Meets Criteria	Specific Criteria: City of Boulder Policy 1.24 for Annexations
<u>Yes</u>	a) Annexation will be required before adequate facilities and services are furnished. <i>The site will be required to pay appropriate fees and install utility line infrastructure commensurate with annexation.</i>
	b) The city will actively pursue annexation of county enclaves, Area II properties along the western boundary, and other fully developed Area II properties. County enclave means an unincorporated area of land entirely contained within the outer boundary of the city. Terms of annexation will be based on the amount of development potential as described in (c), (d), and (e) of this policy. Applications made to the county for development of enclaves and Area II lands in lieu of annexation will be referred to the city for review and comment. The county will attach great weight to the city's response and may require that the landowner conform to one or more of the city's development standards so that any future annexation into the city will be consistent and compatible with the city's requirements. <i>The parcel would be considered of high priority to annex since it is an Area II property along the western boundary.</i>
<u>Yes</u>	c) Annexation of existing substantially developed areas will be offered in a manner and on terms and conditions that respect existing lifestyles and densities. The city will expect these areas to be brought to city standards only where necessary to protect the health and safety of the residents of the subject area or of the city. The city, in developing annexation plans of reasonable cost, may phase new facilities and services. The county, which now has jurisdiction over these areas, will be a supportive partner with the city in annexation efforts to the extent the county supports the terms and conditions being proposed. <i>The property is not considered substantially developed because the additional development potential under an initial zoning of RM-3 through annexation.</i>
<u>Yes, prelim.</u>	d) In order to reduce the negative impacts of new development in the Boulder Valley, the city will annex Area II land with significant development or redevelopment potential only if the annexation provides a special opportunity or benefit to the city. For annexation considerations, emphasis will be given to the benefits achieved from the creation of permanently affordable housing. Provision of the following may also be considered a special opportunity or benefit: receiving sites for transferable development rights (TDRs), reduction of future employment projections, land and/or facilities for public purposes over and above that required by the city's land use regulations, environmental preservation, or other amenities determined by the city to be a special opportunity or benefit. Parcels that are proposed for annexation that are already developed and which are seeking no greater density or building size would not be required to assume and provide that same level of community benefit as vacant parcels unless and until such

time as an application for greater development is submitted.

w. As currently proposed, the applicant intends to seek individual landmark status for both the existing barn and the existing house; over 42 percent of the proposed residential units will be permanently affordable; and the area above the Blue Line will be offered as a Scenic Easement, Preliminarily, the proposed benefit package appears consistent with the subject criterion.

Yes,
prelim.

e) Annexation of substantially developed properties that allows for some additional residential units or commercial square footage will be required to demonstrate community benefit commensurate with their impacts. Further, annexations that resolve an issue of public health without creating additional development impacts should be encouraged.

As currently proposed, the applicant intends to seek individual landmark status for both the existing barn and the existing house; over 42 percent of the proposed residential units will be permanently affordable; and the area above the Blue Line will be offered as a Scenic Easement, Preliminarily, the proposed benefit package appears consistent with the annexation criteria. A final analysis of the proposed impacts and benefits would occur through the annexation process.

yes

f) There will be no annexation of areas outside the boundaries of the Boulder Valley Planning Area, with the possible exception of annexation of acquired open space.

n/a

The property is within Area II of the Boulder Valley Planning Area.

g) Publicly owned property located in Area III and intended to remain in Area III may be annexed to the city if the property requires less than a full range of urban services or requires inclusion under city jurisdiction for health, welfare and safety reasons.

n/a

Not Applicable, the property is not publicly owned.

h) The Gunbarrel Subcommunity is unique because the majority of residents live in the unincorporated area and because of the shared jurisdiction for planning and service provision among the county, the city, the Gunbarrel Public Improvement District and other special districts. Although interest in voluntary annexation has been limited, the city and county continue to support the eventual annexation of Gunbarrel. If resident interest in annexation does occur in the future, the city and county will negotiate new terms of annexation with the residents.

Not applicable, property not located within Gunbarrel Subcommunity.

Meets Criteria

Specific Criteria: City of Boulder Land Use Code section 9-2-17 policy for zoning of annexed land

Yes

(a) Generally: Zoning of annexed land or land in the process of annexation shall be considered an initial zoning and shall be consistent with the goals and land use designations of the Boulder Valley Comprehensive Plan.

The planned initial zoning of RM-3 (Residential Medium 3) is consistent with the Medium Density Residential land use designation of the Boulder Valley Comprehensive Plan.

Yes

(b) Public Notification: When zoning of land is proposed in the process of annexation, the city manager will provide notice pursuant to [section 9-4-3](#), "Public Notice Requirements," B.R.C. 1981.

A public notice was sent per section 9-4-3, B.R.C. 1981 indicating proposed zoning of the land.

Yes

(c) Sequence of Events: An ordinance proposing zoning of land to be annexed shall not be finally adopted by the city council before the date of final adoption of the annexation ordinance, but the annexation ordinance may include the zoning ordinance for the annexed property.

Appropriate sequencing will occur at the time the ordinance is prepared.

Yes

(d) Placement on Zoning Map: Any land annexed shall be zoned and placed upon the zoning map within ninety days after the effective date of the annexation ordinance, notwithstanding any judicial appeal of the annexation. The city shall not issue any building or occupancy permit until the annexed property becomes a part of the zoning map.

Relevant upon annexation.

Yes

(e) Nonconformance: A lot annexed and zoned that does not meet the minimum lot area or open space per dwelling unit requirements of [section 9-7-1](#), "Schedule of Form and Bulk Standards," B.R.C. 1981, may be used notwithstanding such requirements in accordance with this code or any ordinance of the city, if such lot was a buildable lot under Boulder County jurisdiction prior to annexation.

The lot to be annexed will not be considered non-conforming upon annexation and initial zoning.

Yes

(f) Slopes: Notwithstanding the provisions of subsection (a) of this section, any land proposed for annexation that contains slopes at or exceeding fifteen percent shall not be zoned into a classification which would allow development inconsistent with policies 3.10, 3.15, and 3.16 of the Boulder Valley Comprehensive Plan.

Approximately 0.1 acres of land on the property is contained in slopes that exceed 15 percent. The remaining lower area of the site is approximately 12 percent with some areas terraced to be somewhat flatter.

Attachment B: Concept Plan

Note: Due to the size of the plans, a paper set of plans is available for review within the City Council Office of the City Manager's Office

**Exhibit B of City Council Memo:
Planning Board Signed Meeting Minutes**

**CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
February 5, 2015
1777 Broadway, Council Chambers**

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

PLANNING BOARD MEMBERS PRESENT:

Aaron Brockett, Chair
Bryan Bowen
Crystal Gray
John Gerstle
Leonard May
Liz Payton
John Putnam

PLANNING BOARD MEMBERS ABSENT:

STAFF PRESENT:

David Driskell, Director of CP&S
Susan Richstone, Deputy Director of CP&S
Charles Ferro, Development Review Manager for CP&S
Hella Pannewig, Assistant City Attorney
Susan Meissner, Administrative Assistant III
Sloane Wlabert, Planner I
David Thompson, Civil Engineer II- Transportation
Lesli Ellis, Director of Comprehensive Planning
Beth Roberts, Housing Planner
Molly Winter, DUHMD Executive Director
Karl Guiler, Senior Planner
Ruth McHeyser, Temporary Senior Planner
Ted Harberg, Comprehensive Planning Intern

1. CALL TO ORDER

Chair, **A. Brockett**, declared a quorum at 5:07 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **B. Bowen** and seconded by **L. Payton**, the Planning Board approved the December 18, 2014 Planning Board meeting minutes.

3. PUBLIC PARTICIPATION

No one from the public spoke.

**DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/
CONTINUATIONS**

A. Call Up: Floodplain Development Permit (LUR2014-00101) 595 Aurora Avenue Breakaway Fence. Expires 02/06/2015.

B. Call Up: TEC2014-00033: Final plat to combine three separate parcels into one 2.9 acre building site at 1715 and 1725 28th Street for the Eads/Golden Buff redevelopment project approved per application # LUR2013-00066. Expires 02/05/2015.

C. Call Up: (Correction): USE REVIEW for a 3,509 square foot tavern located at 921 Pearl Street with an outdoor patio of no greater than 712 square feet in size, and closing no later than 2:00 a.m. (LUR2014-00081). Proposal will establish a 'tavern' with outdoor seating where there is currently a 'restaurant' with outdoor seating (Bacaro). Property is located in the DT-2 (Downtown 2) zone district. The call-up period expires on Feb. 17, 2015.

C. Gray called up item 4C.

- **C. Gray** asked if the emails sent to Planning Board requesting a call up of the Use Review were enough for it to be called up. Staff said they did not consider those emails to be worded correctly to constitute a call up. **C. Gray** said she would call it up on behalf of the residents.
- **C. Gray** expressed concern that only property owners, not tenants, were receiving public notices. She said that the public notice issue had been raised to Planning Board in relation to other projects around town.

On a motion by **L. Payton**, seconded by **J. Gerstle**, the Planning Board voted 6-1 (**J. Putnam** opposed) to request that public notices be sent to all residences, not only property owners, in the notification area.

- Staff currently uses a third party to send public notifications and will look into means for changing the procedure with that company.
- **A. Brockett** agreed that it did not make sense to prioritize property owners over tenants. For consistency, he would like to see this notification process extended to other projects as well.
- **J. Putnam** opposed the motion because he did not know the full consequences or why this should constitute a special case over other projects. He worried about getting ahead of code requirements.

5. PUBLIC HEARING ITEMS

A. CONCEPT PLAN REVIEW AND COMMENT: Request for citizen, staff and Planning Board comment on a proposal to annex and redevelop the property located at 96 Arapahoe Ave. with a combination of single family, duplex and attached dwelling units. A total of nine dwelling units are

proposed, consisting of six market rate units and three affordable units that would be developed upon annexation and establishment of an initial zoning of Residential Medium – 3 (RM-3), consistent with the Boulder Valley Comprehensive Plan (BVCP) land use designation of Medium Density Residential. Under Concept Plan review, no decision will be made by the Planning Board for approval or denial, rather the intent is to provide the applicant with feedback on the proposal.

Staff Presentation:

E. **McLaughlin** presented the item to the board.

Board Questions:

E. **McLaughlin**, **D. Thompson** and **B. Roberts** answered questions from the board.

Applicant Presentation:

Jonathan Warner, the applicant, presented to the board.

Public Hearing:

No one from the public spoke.

Board Comments:

- Board members agreed that the design is generally consistent with the BVCP and land use policies. It still needs some work with relation to the historic elements, the amount of proposed impervious circulation and parking area, and affordable housing.
- Members agreed with the request for a solar exemption; it has virtually no impact.
- Most members were comfortable with obscuring the view of the existing duplex. **A. Brockett** liked the views of the duplex and would prefer that the views, if obscured, be by trees as opposed to buildings.
- Most members did not have an opinion about the architectural style. **L. Payton** would prefer that be a bit more rustic and modest to fit with its context at the edge of the city. **C. Gray** requested non- reflective building materials.
- Preserve the historical features of the site as much as possible, namely the retention walls per preservation guidelines and the barn. Most members agreed that the barn could be moved slightly, but would prefer that it stay close to its current location.
- The board encouraged the applicant to either keep the existing road or to work with the adjacent property to share a driveway and access point. Both options would allow the barn location to be preserved and would greatly reduce the amount of paving on the site.
- Members generally thought that the amount of impervious surface area was excessive. Look for other means to accommodate vehicular access and parking. There is too much parking on the site.
- Board members encouraged the applicant to remove the hammerhead parking area; find another location for a fire truck turnaround.
- **J. Gerstle** suggested that the applicant consider contributing the area above the blue line to Open Space.

- **J. Putnam** cited some potential Open Space issues. He felt that a conservation, not just scenic, easement would be appropriate given the habitat conservation area behind it. Add a condition to the easement to make it difficult for residents to access the Open Space from that area.
- This will be a wildlife corridor. Consider thoughtful wildlife management strategies and vegetation so as to avoid creating problem bears. Comply with the defensible space recommendations.
- Board members agreed that the site plan currently lacks useable open space. Consider opportunities for common green space in the current hammerhead location.
- **B. Bowen** recommended revisions to the site plan to reduce impervious surfaces and to increase common open space area. Move the larger units toward the back of the property, attach the units and aggregate the parking adjacent to the buildings in the lower third of the site. This would provide space for a common green, maintain the same amount of development potential, preserve the historical buildings, eliminate significant amounts of hardscape, connect better with natural scene above, and create more community connections. It would be important to find a different way to calculate height if the board encouraged attached units.
- The board will need to see more community benefit in Site Review. The amount will depend on the size and scope of the project.
- Consider means for achieving energy savings and strive for near net-zero energy opportunities. This could be a good site for a ground source heat pump system.
- Improve the affordable housing options. There are currently large market-rate units and small affordable units. Make the unit sizes more commensurate.
- The board recommended that the applicant build more and smaller units. Affordability is of primary importance.
- **C. Gray** asked why onsite affordable housing was less than the 50% for the annexation.

B. Public Hearing and Consideration of Recommendations to City Council regarding the University Hill Commercial District moratorium project, including: 1. An ordinance amending the BMS zoning district standards to limit new residential uses within the University Hill Commercial District, except for permanently affordable units or housing for persons 62 years or older; and 2. Other strategies to consider further as part of the on-going Uni Hill Revitalization Strategy and the Community Planning and Sustainability Work Plan.

Staff Presentation:

R. McHeyser introduced the item.

K. Guiler presented the item to the board.

Board Questions:

R. McHeyser, K. Guiler and M. Winter answered questions from the board.

Matt Prosser, a consultant from Economic and Planning Systems, answered questions from the board.

Public Hearing:

1. **Rishi Raj, 863 14th Street**, a resident of Uni Hill since 1973, noted that the Hill is already a diverse place where groups work well together. The historic district would create a synergy. A performing arts or community center, similar to the Dairy Center, with underground parking could bring about change in the way residents and students interact.
2. **John Arndt, 1121 Broadway**, is a business owner and resident of the Hill. He sees more partying occurring in the residential area as opposed to the commercial district. Parking is the biggest deterrent to business on the Hill. He did not think that the proposals would reach the core issues.

Board Comments:

Part 1. An ordinance amending the BMS zoning district standards to limit new residential uses within the University Hill Commercial District, except for permanently affordable units or housing for persons 62 years or older.

- Board members generally supported the ordinance as drafted. They did not think that it was the final solution, but would serve as a good first step in making a change and would have minimal unintended consequences.
- Several members doubted whether seniors would choose to live on the Hill but felt it was harmless to leave it in the ordinance.
- **J. Putnam** questioned whether it made sense to prohibit, as opposed to discourage, uses.
- **C. Gray** thought it made sense to change the land use tables to encourage desired uses. Consider options for developing city-owned sites as well.
- **A. Brockett** was excited by the changes to the BMS zone and thought that they would also benefit Pearl Street and North Boulder.
- **B. Bowen** would prefer to keep all housing types as conditional but would support the ordinance as drafted.

Motion:

On a motion by J. Putnam, seconded by C. Gray, the Planning Board voted 7-0 to recommend that City Council adopt an ordinance to revise the BMS zone district standards for the Uni Hill commercial area to limit new residential uses, except for permanently affordable units or housing for persons 62 years or older.

Part 2. Other strategies to consider further as part of the on-going Uni Hill Revitalization Strategy and the Community Planning and Sustainability Work Plan.

- The board supported the idea of designating the Hill as a local historic district. Focus on outreach efforts to get community support.
- Consider tenants that would provide daytime and nighttime activities not involving alcohol and that would keep within the character of the Hill. Swallow Hill in Denver could provide a good example. The Harbeck House could also provide similar

opportunities.

- The board liked the idea of moving some city offices to the Hill.
- **L. May** felt that moving city offices to the Hill would be a viable way for the city to invest in the area. He was skeptical about using public funds to create financial incentives for private enterprise in the absence of economic analysis to assure that the investment would be returned.
- A possible Public-Private Partnership between the Grandview Conference Center and city parking lot to the north could provide an enormous catalyst for the area.
- Clarify the information about financial incentives and tax credits.
- Holistically integrate desired programmatic elements; an anchor tenant like the Grandview Conference Center, bike lanes, pedestrian interest, transit, scale, and façade improvement should be considered early in the process.
- **J. Putnam** suggested utilizing a design competition and creative partnerships to incentivize desired uses on the Hill. He liked the idea of an event street that engages different groups and pulls people from different parts of town; something like Ciclovía could achieve this aim.

5. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

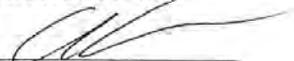
- Staff asked board members to notify **S. Meissner** if they were interested in attending the 2015 APA Conference
- **L. May** and **C. Gray** volunteered to serve on the Housing Process Committee.
- Staff will interview consultants for Form Based Code on February 20th from 12 – 4pm. **L. Payton** volunteered to attend.

6. DEBRIEF MEETING/CALENDAR CHECK

7. ADJOURNMENT

The Planning Board adjourned the meeting at 9:52 p.m.

APPROVED BY


Board Chair

3/19/15

DATE

**Exhibit C of City Council Memo:
Supplemental Analysis of Higher Density Optional Concept Plan**

The Concept Plan that was evaluated by the Planning Board on Feb. 5, 2015 included nine single family residential dwelling units, three of which were proposed to be permanently affordable dwelling units with credit for two existing units, equating to 43 percent affordable. The plan for nine units on the site was intended to meet the density requirements of the proposed initial zoning request of RM-3 and the BVCP land use of Medium Density Residential (refer to Exhibit A, Planning Board memo, Key Issue 2). Among the comments made by the Planning Board was the suggestion that the applicant explore a greater number of smaller-footprint units on the site rather than fewer large-footprint units; the intent being to determine if more, smaller market rate units would create a lower price point as well as more permanently affordable units. The following analysis concludes that a higher density on the site would not necessarily produce that result.

Analysis of Two Options

The applicant provided the High Density Optional (HD) Concept Plan, Figure A on the following page. While it is not typical to submit an alternative as a part of Concept Plan after Planning Board review, this was intended to assist with the question that Planning Board posed. It is important to note that this option *does not* address the Planning Board's interest in preserving the existing stone retaining walls (refer to the Planning Board minutes). For comparison, the original concept plan is also provided in Figure B, on the following page. Table A, on the following page, summarizes the comparison between the two Concept Plan options in terms of number and percentage of both market rate and affordable units, their respective range of sizes, and density.

Comparison of the Percentage of Affordability. As can be seen in the comparison, the Original Concept Plan illustrated three of the nine units as permanently affordable equating to 43 percent (when credit is given to the existing duplex). Planning Board recommended credit for only one existing unit which instead resulted in 37.5 percent permanently affordable units. The HD Option illustrates a total of 16 units, six units of which are proposed as permanently affordable and assuming credit for one existing unit equates to 40 percent affordable units.

The policy and practice for annexations for the past several years has been that 40 to 60 percent of new residential development proposed be permanently affordable to low- and middle-income households depending upon the level of other community benefit provided. The resulting affordable units would typically be split evenly between low/moderate price and middle income pricing. Based on the other community benefits proposed, approximately 50 percent of the units would be expected to be permanently affordable. Neither option meets the 50 percent standard.

Size Comparison. In the Original Concept Plan, the average building footprint size for market rate units is 1,700 square feet compared to the HD Option which is shown to be reduced to 1,180 square feet. Because the units could potentially be built to a maximum three stories, these footprints could result in a maximum floor area ranges of 4,800 to 7,500 square feet for the Original Concept Plan and 2,700 to 5,400 square feet for the HD Option. Also, within the HD Option, several of the permanently affordable units are shown to be undersized: six of the seven affordable units are shown with building footprints between 480 and 575 square feet and floor area that would range from 575 to 1,220, given that two of the units would be within the one-story rehabilitated barn structure. It is important to note that within the HD Option, the affordable units are aggregated at the center of the site in two adjacent triplexes both of which are 100 percent affordable, instead of distributed more broadly throughout the site in both duplexes and triplexes. Additionally, parking for only the affordable units is provided in a lot while the market units all have private garages.

Density Comparison. As also shown in Table A, the original Concept Plan illustrates the nine units at the density of RM-3 which requires a minimum lot area per dwelling unit of 3,500 square feet. The HD Option would result in a higher density of 1,900 square feet per dwelling unit.

Exhibit C - Supplemental Analysis of HD Optional Concept Plan for Greater Density



Figure A: High Density Option Concept Plan



Figure B: Original Concept Plan

Table A:
Unit Size Comparison of Concept Plan to the High Density (HD) Option Concept Plan

	No. of Units	No. of Afford. Units	Typical 50% affordable unit standard (assuming 1 unit credit)	Average Size of Building Footprints (square feet)		Range of Size of Units* (square feet)		Density Min. Lot Area per Dwelling Unit (square feet)
				Market Rate	Affordable	Market Rate	Affordable	
Original	9	3	4	1,700	650	4,800 – 7,500	650	3,500
HD OPTION	16	6	7.5	1,180	618	2,700 – 5,400	575 to 1,220	1,900

*assumes maximum three stories as shown in applicant's precedent images.

Exhibit C - Supplemental Analysis of HD Optional Concept Plan for Greater Density

Potential for Higher Density on the Site. There is no mechanism to modify density in any of the Residential Medium zoning districts. Therefore, to achieve the density shown in the HD Optional Concept Plan, the applicant would be required to request a Comprehensive Plan Land Use change from Residential Medium to Residential High. From a land use compatibility standard as well as considering the topography and other site characteristics, staff believes the existing land use designation is appropriate. However, a land use designation change could be considered as a part of either the five year update to the BVCP that is currently underway, or concurrently with the annexation and initial zoning. Additionally, some of the concerns being raised relate more to unit size and relative affordability. Unit size and type are issues that could be addressed through the annexation and site plan.

Potential for Smaller Market Rate Units with Lower Price Point.

To determine if additional smaller market rate units on the site would result in potentially lower price points, staff looked at a similar Medium Density residential development that was built recently nearby. The Park Gables Condominiums located at 210 Arapahoe, less than one-half mile from the site and was built in 2007 with 13 attached and detached units. Figures C and D below illustrate an aerial and a photo of that development



Figures C and D: Park Gables Aerial and Site Photo

Based on real estate data, in combination with city Inclusionary Housing records, the following summary information was found regarding unit size and sales price of the medium density Park Gables Condominiums, as presented in Table B:

**Table B:
Example of Nearby Comparable Medium Density Residential Development
Market Rate Residential Units
versus Affordable Residential Units**

Unit Type	Unit Size	Selling Price	Income Range (persons per household)
Affordable Units:	1,200 – 1,500 sf	\$149,000 to \$179,000	\$47,600 - \$56,600
Market Rate Units:	1,600 – 2,025 sf	\$778,000 to \$825,000	\$203,000 - \$228,000
	2,140 – 2,500 sf	\$1 million to \$1.4 million	\$279,000 - \$358,000

As can be noted from Table B, the permanently affordable units in the nearby example are affordable to low/moderate income households consistent with Inclusionary Housing pricing and middle income households. However, in comparison to the affordable unit prices, the market rate units jump up in price by \$600,000 to \$1 million dollars. In this instance, it is evident that there is very little advantage for smaller market rate units impacting affordability likely due to the location near the mouth of Boulder Canyon and surrounded by open space.

Conclusion. While the applicant could still request a change to the BVCP Land Use to high density, the challenge to such a change would be the constrained site with steep slopes and historic resources, as well as the existing medium density surroundings. Additionally, a higher density with smaller units would likely not produce lower price points for market rate units. Instead, given the request for annexation, the terms of an annexation agreement could include proportionally more permanently affordable units to low, moderate and/ or middle incomes and given the constrained site, potentially restrictions on unit size.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE: Update on the transfer of ownership of 4525 Palo Parkway to Boulder Housing Partners to develop affordable housing on the 3.2 acre site.

PRESENTERS

Jane S. Brautigam, City Manager
David Gehr, Deputy City Attorney
David Driskell, Executive Director of Community Planning and Sustainability, Interim Housing Director
Jeff Yegian, Division of Housing Manager
Susan Richstone, Deputy Director of Community Planning and Sustainability
Jay Sugnet, Project Manager, Housing Boulder
Betsey Martens, Executive Director, Boulder Housing Partners
Steve Pate, Development Director, Boulder Housing Partners
Lauren Schevets, Project Manager, Boulder Housing Partners
Susan Lythgoe, Executive Director, Flatirons Habitat for Humanity

EXECUTIVE SUMMARY

On February 17, City Council authorized the City Manager to convey the 3.2 acre property located at 4525 Palo Parkway to Boulder Housing Partners for affordable housing upon such terms and conditions as she finds reasonable and advantageous to the city. For background information, please refer to the [February 17 memo](#). As part of the motion, Council also requested the City Manager to share the transfer agreement with Council prior to conveying the land.



The attached agreement includes the terms and conditions of the transfer. Most notably, the agreement states that if BHP is not able to produce an economically viable project by the time of annexation, the land will revert back to the City. This memo provides a summary of the transfer agreement and responds to questions about the site that were raised by Council members on February 17.

BACKGROUND

The city purchased the site from the Boulder Valley School District in 2006 with the goal of developing affordable housing. It is located at the eastern end of Palo Parkway and roughly northwest of the Pleasant View Soccer Fields. The property is located in Unincorporated Boulder County (Area IIA of the Boulder Valley Comprehensive Plan). It is vacant and has a medium density residential land use designation (see **Attachment A – Palo Park Vicinity Map**).



The site is in Area II. Because it has contiguity with Area I land, it is eligible for annexation.

- Land Use Designation:** Area II, Medium Density Residential
- Zoning:** Not Applicable (zoning would be established at annexation)
- Parcel Size:** 3.2 acres
- Potential new units:** A maximum of 44, based on BVCP Land Use Designation
- Process:** Annexation and Site Review

TRANSFER AGREEMENT

The transfer agreement (see **Attachment B**) includes the general terms and conditions of the transfer. Specifically, the agreement includes language detailing how the land will revert back to the City if BHP is not able to produce a viable project.

RESPONSES TO QUESTIONS FROM COUNCIL

Council asked two specific questions on February 17 that required additional staff research.

Off-Leash Enforcement at East Palo Park

East Palo Park is owned by the City but is located in Unincorporated Boulder County. Numerous neighbors testified about concerns with dogs at the park due north of the site. A question was raised about responsibility for enforcing the off-leash laws at the park. Staff has determined that the City does have authority to enforce off-leash regulations at the park.

Sediment in Four Mile Canyon Creek

The second question was related to sediment in the creek deposited during the 2013 floods. The section of Four Mile Canyon Creek north of the project is owned by the City’s Open Space and Mountain Parks but is located within Unincorporated Boulder County. The sediment, although substantial, does not pose any immediate threat to structures and was therefore not deemed an eligible expense by the Federal Emergency Management Agency (FEMA). The estimated cost to remove the sediment is several million dollars.

The City will continue to clear the multi-use path crossing of the creek after storms. The crossing is designed to be overtopped, and it will continue to need to be cleaned. There are many other crossings around the city that are in the same situation. Transportation maintenance crews visit within a few days after every major storm.

The city and the county are in discussions about options for future mitigation along this stretch of Four Mile Canyon Creek in conjunction with the Urban Drainage and Flood Control District. For

more information on the status of these discussions, please contact the city's project manager, Ward Bauscher at BauscherW@bouldercolorado.gov.

NEXT STEPS

Once the City Manger conveys the property, the following timeline is anticipated to develop the site.

May 2015 – December 2015

- Continuation of community engagement process
 - Community design charrette and community meetings
- Application for annexation and Concept Plan review
- Planning Board meeting review of Concept Plan and proposed annexation and draft annexation agreement
- City Council first reading
- City Council second reading
- Submit application for Site Review and Subdivision (detailed impact studies required, e.g. transportation, airport, flood issues)

2016

- Applications for funding
- Site Review approval finalized
- Final review of Technical Documents and Subdivision approval
- Groundbreaking ceremony in summer

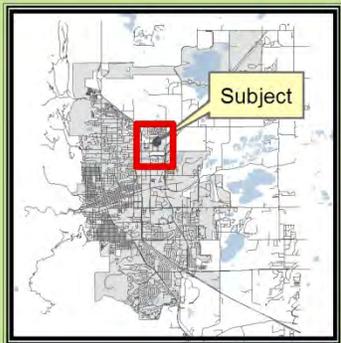
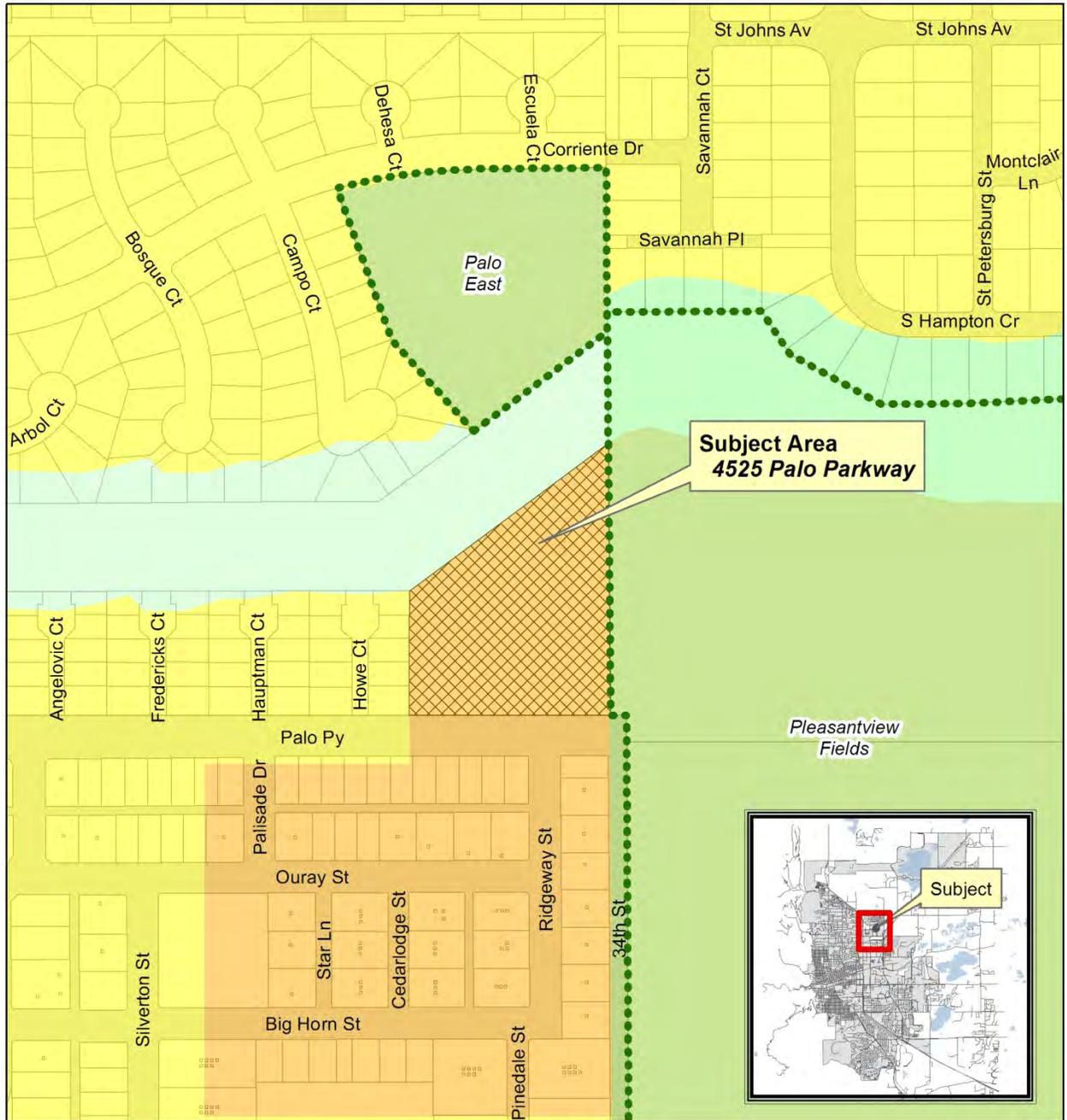
2017

- Grand opening in summer/fall

ATTACHMENTS

- A. Palo Park Vicinity Map
- B. Draft Transfer Agreement
- C. Community Engagement Process

City of Boulder Vicinity Map

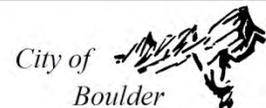


Location: 4525 Palo Parkway

- | | |
|----------------------------|-------------------------------|
| Urban Parks | Open Space and Mountain Parks |
| BVCP Land Use | Open Space, Acquired |
| <i>Residential</i> | Open Space, Other |
| Low Density Residential | <i>Other</i> |
| Medium Density Residential | Park, Urban and Other |



1 inch = 250 feet



The information depicted on this map is provided as graphical representation only. The City of Boulder provides no warranty, expressed or implied, as to the accuracy and/or completeness of the information contained herein.

LAND TRANSFER AGREEMENT

This Agreement is made this _____ day of _____, 2015 between the Housing Authority for the City of Boulder Colorado, doing business as Boulder Housing Partners, ("BHP"), and the City of Boulder, a Colorado home rule city ("City").

RECITALS

- A. BHP builds owns, and manages affordable housing for low and moderate income residents;
- B. The City would like to foster the development of affordable housing on the city-owned site in Unincorporated Boulder County, Colorado, to wit:

OUTLOT E, PALO PARK FILING NO. 4,
located at 4525 Palo Parkway, Boulder, Colorado,

hereinafter referred to as the "Property";

- C. The City purchased the Property in 2006 with the intent of using it for an affordable housing development;
- D. The City intends to convey the Property to BHP for the purposes of developing permanently affordable housing provided that BHP meets the conditions of this agreement;
- E. The Property will be secured as affordable housing through the recording of a permanently affordable low-income housing covenant;
- F. The City and BHP intend to work closely in concept planning, engaging the community, and developing options for the Property (the "Project"). Through an open, inclusive and transparent process, the City and BHP will identify options that optimize the following desired outcomes:

- 1. Collaborative public process from concept planning through the final development approval;
- 2. Design that is compatible with the existing neighborhood character and development patterns;
- 3. 100% permanent affordability with a mixture of ownership and rental housing;
- 4. Mixed-income affordability from very low to moderate income;
- 5. Housing that is consistent with the land use designation and policies of the Boulder Valley Comprehensive Plan;
- 6. Development that furthers the following two goals of Housing Boulder: Strengthen Our Current Commitments and Create Diverse Housing Choices;
- 7. Financial viability and sustainability;
- 8. Housing designs suitable for families and multiple generations; and
- 9. Energy efficient and green building practices and outcomes.

COVENANTS

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

- 1. **Expected Services from BHP:** BHP agrees to apply for and pursue annexation of the Property into the City within 12 months of the title transfer from the City to BHP. The annexation will be considered complete upon the effective date of the annexation ordinance that brings the property within the municipal limits of the City of Boulder. BHP will provide the services described in **Exhibit A – Scope of Services**.
- 2. **Use of the Property:** After the property is conveyed to BHP, the Property will be used for permanently affordable housing for income and asset eligible homebuyers and home renters. This use will be secured through the recordation of a permanently affordable low-income housing covenant on the Property prior to transfer to eligible homebuyers and home renters. The income limit for eligible households will be 60 percent of the Area Median Income.

The land and all improvements shall be used only in such manner as to promote or facilitate the above use. BHP expressly agrees that it shall not utilize the Property for any purpose except as affordable housing.

3. **Development:** BHP agrees to construct or cause to be constructed the Project. The Project is generally described as including the following:

- a. Annexation of the property into the City,
- b. Architectural and engineering design of the housing project,
- c. Design and implementation of public process meetings,
- d. All predevelopment work necessary for the construction of residential units, including procurement, supply, construction management, commissioning, ancillary services and work that is reasonably inferable as being necessary to produce the intended results including but not limited to the fine grading of the entire site, infrastructure, installation of water, sewer, and all other utility connections, shared and private drives, sidewalks, paving and concrete walks, curbs and gutters, parking spaces, fencing, landscaping, and residential buildings,
- e. Securing development financing.

4. **Title Transfer:** The City shall transfer title to the Property to BHP after this Agreement is signed and as follows: Transfer of title shall be by Special Warranty Deed, with title to be conveyed free of all encumbrances other than those specifically set forth in the Title Commitment (defined below). Closing of transfer of title shall occur on a date mutually acceptable to the parties (the "Closing"). Not less than 10 days prior to the Closing, the City will secure for the benefit of BHP a title commitment (the "Title Commitment") reflecting good and marketable title to the Property by the City, free and clear of all liens and encumbrances other than those specifically consented to by BHP as reflected in Schedule B to the Title Commitment. The Title Commitment will be issued by Heritage Title Company (the "Title Company").

5. **Contingent Return of Property to City as Security for the City:** As collateral security for performance by BHP of its commitments under this Agreement, BHP will at Closing execute and deliver to the Title Company a Special Warranty Deed conveying the Property to the City (the "Security Deed"). The Title Company will hold the Security Deed in a document escrow pending occurrence of an "Uncured Default" (defined below). If the Title Company should receive from the City written notice describing the occurrence of an Uncured Default (such notice to be provided in writing simultaneously to BHP) AND no written objection thereto is provided by BHP to the Title Company and the City within ten business days of thereof, the Title Company shall release and deliver the Security Deed from the document escrow to the City. If the Title Company should receive from BHP written notice stating that BHP has successfully secured financing to complete the Project (such notice to be provided in writing simultaneously to the City) AND no written objection thereto is provided by the City to the Title Company and BHP within ten business days of thereof, the Title Company shall release and deliver the Security Deed from the document escrow to BHP. An "Uncured Default" shall mean the occurrence of one or more of the following events and the failure by BHP to remedy and correct such event within 60 days of written notice of the occurrence thereof provided by the City to BHP:

- a. Except as expressly permitted by this Agreement, all or part of BHP's interest in the Property is sold or otherwise transferred without the City's advanced, written consent;
- b. The filing of a petition for any proceeding under federal or state bankruptcy acts or other similar type of proceedings seeking protection from creditors by BHP, or by any other person against BHP, and such filing is not dismissed within 60 days of the filing thereof;
- c. The giving of an assignment for the benefit of creditors by BHP;
- d. The dissolution of BHP as a corporate entity, other than in conjunction with a merger or consolidation of said entity into another or surviving entity, which shall thereby become the owner of the Property and meets the same obligations regarding the use of the Property;
- e. The failure of BHP to use the Property for any purposes other than the use as permanently affordable housing;
- f. BHP fails to pay promptly any uncontested cost of expense required to be paid under the terms of this Agreement;
- g. BHP transfers or assigns its interest in this Agreement without the consent of the City;
- h. BHP fails to successfully apply for annexation within 12 months of the title transfer from the City to BHP;
- i. BHP fails to secure financing for the construction of the affordable units ("Financial Closing") within 24 months of annexation.

The City acknowledges and agrees that the Security Deed will NOT be recorded unless and until release thereof from the document escrow by the Title Company.

6. **City's Right to Acquire BHP's Interest:** In the case of potential or actual foreclosure by a third party against the Property, the City shall reserve the option to cure any default and acquire the Property.

7. **Future Interests:** This Agreement will cease to have any force or effect as to that portion of the Property that is sold to a third-party who qualifies as an asset and income eligible homebuyer under the terms set forth in the Memorandum to Covenant and associated Covenants. This Agreement is not intended to create a future interest in land. If any court finds that this agreement creates an impermissible future interest in land, such interest shall vest, if at all, during the lives of the undersigned plus 20 years and 364 days.

8. **Additional Remedies:** No default shall occur until BHP has been given 60 days notice and the opportunity to cure the default. In the event of default the City shall elect to regain title to the Property as provided by this Agreement.

9. **Conveyance of Property:** BHP shall not transfer its interest in the Property, including to any successor in interest, without the express written agreement of the City. The City will not unreasonably withhold its written agreement to such transfer, provided that the City, in its good faith judgment, determines that the City's interest in the Property will not be jeopardized by such transfer. In any case, prior to any potential transfer of BHP's interest in the Property, BHP shall offer the City the right of first refusal to purchase the Property on substantially the same terms and conditions as the proposed transferee.

10. **Reporting Information:** BHP agrees to provide the City quarterly progress updates on the progress of the Project or otherwise upon request and with reasonable notice, any information that might be required by the City for purposes of being kept apprised of plans and the development process of the affordable units.

11. **Termination of this Agreement:** This agreement will terminate upon release and delivery of the Security Deed from document escrow to BHP, which shall occur at Financial Closing. If BHP terminates this Agreement prior to the Financial Closing, it shall provide the City and the Title Company written notice of its intent to do so at which time the Title Company will release the Security Deed from the document escrow to the City. This Agreement shall then become null and void.

12. **Relationship of the Parties:** Nothing in this Agreement shall be deemed to create an agency, partnership, joint venture, or employment relationship between the City and BHP.

13. **Entire Agreement:** This document represents the complete Agreement between BHP and the City. Neither part shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. No amendments or modifications shall be made to this Agreement unless they are in writing and signed by both parties.

14. **Enforcement Actions:** This Agreement may be specifically enforced against BHP or any successor in interest in BHP. Venue for such action shall be proper in Boulder County, and service may be made or notice may be given by posting such service or notice on the Property.

15. **Governing Law:** The provisions of this Agreement shall be interpreted and enforced in accordance with Colorado law. This Agreement may be modified by mutual consent of both parties.

IN WITNESS WHEREOF, BHP and City have caused this Agreement to be duly executed as of the day and year first written above.

SIGNATURE PAGE TO FOLLOW

Boulder Housing Partners

By: _____

Name:
Title: President

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this ___ day of _____,
2015, by _____ as _____ and by
_____ as _____ of BHP.

Witness my hand and official seal.

Notary Public: _____
My commission expires: _____

CITY OF BOULDER
A Colorado home rule city

Attest

By: _____
Jane Brautigam
City Manager

By: _____
City Clerk on behalf of the Director of
Finance and Record

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this ___ day of _____,
2015, by _____ as _____ and by
_____ as _____ of the City of Boulder, a Colorado home
rule City.

Witness my hand and official seal.

Notary Public _____
My commission expires: _____

Approved as to legal form:

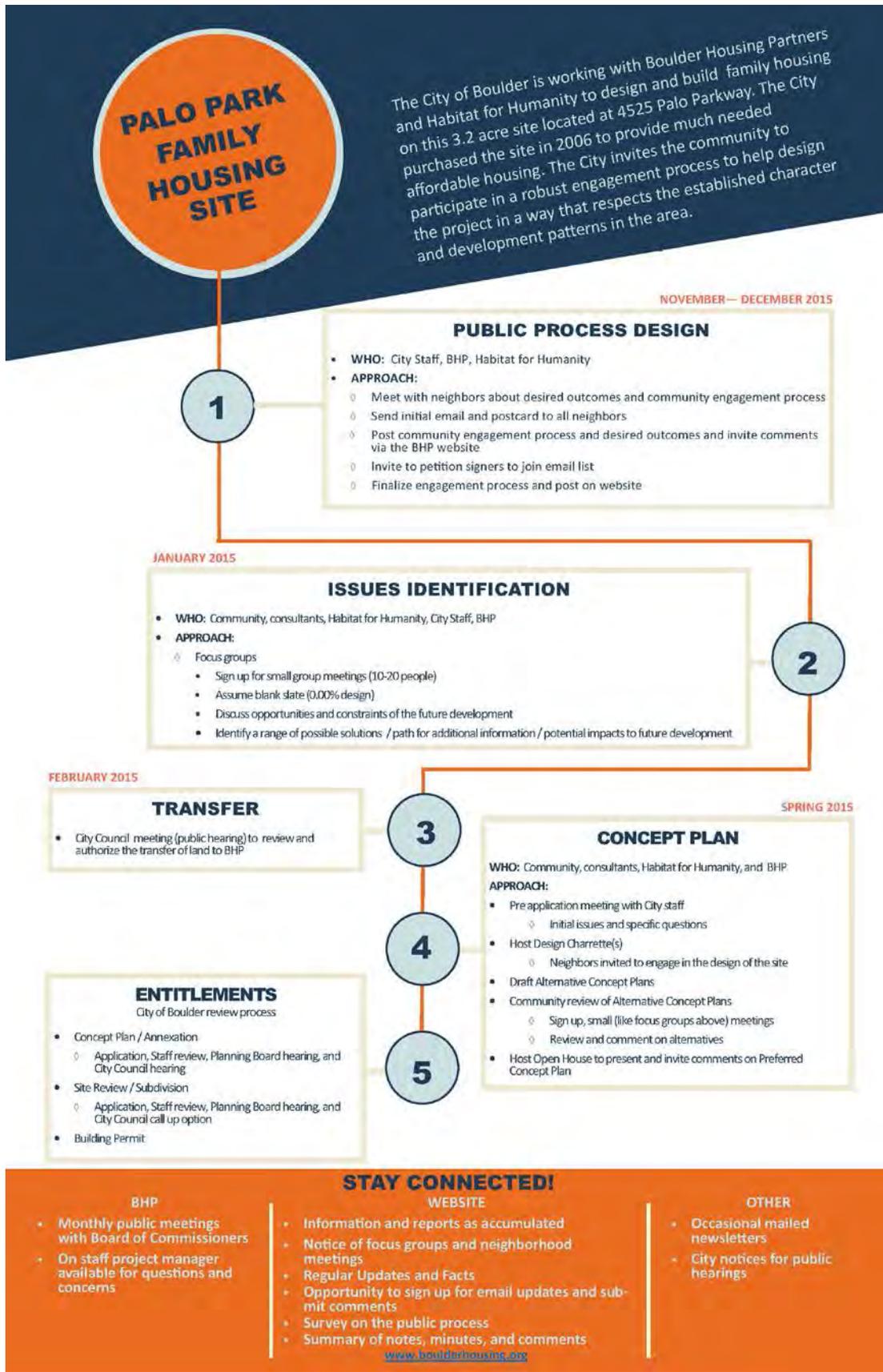
By: _____
City Attorney

EXHIBIT A

SCOPE OF SERVICES

Boulder Housing Partners will provide project related services from a design and development team that includes community engagement, architectural, civil engineering, landscaping, estimating and construction services. BHP shall:

- A.** Work with city staff and members of the community to design a financially viable and socially sustainable, 100 percent permanently affordable housing project including but not limited to the following:
 - 1. Neighborhood open houses and meetings:
 - a. Dreams and fears for the site to put together a preliminary site plan that may be similar or quite different than as originally proposed;
 - b. Individual and small group meetings as needed;
 - c. Community design charrette; and
 - d. Planning Board and City Council hearings;
 - 2. Monthly opportunities to address the BHP Board of Commissioners on the proposed plan;
 - 3. Inclusion of minutes/comments from those meetings in applications and reports to the City, Planning Board and City Council;
 - 4. Website updates including copies of plans, reports, applications, etc;
 - 5. Email updates or notices on a regular basis to interested people who sign up online or at meetings; and
 - 6. Close cooperation with the Housing Division and the Parks Department to be responsive to neighborhood wide concerns such as parking and look for ways to address those in the plan.
- B.** Develop and manage the design and public process meetings, where the project design and public process serves a specific, underserved segment of the community in need of affordable housing.
- C.** Estimate pricing, quality and build-time for a range of construction methods in order to determine the most cost-effective and sustainable method for this project.
- D.** Prepare and submit the required city development review applications, including without limitation, annexation request, Concept Plan, Site Review, Technical Documents and building permits.
- E.** Prepare and complete all detailed design work, including estimates and construction drawings for the final, approved project.
- F.** Secure development financing, including both debt and equity, adequate to complete the project. As the city is providing the land at no cost, the expectation is that non-city sources of funding will be the priority and that BHP will work to minimize the need for additional city funding.





**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 19, 2015

AGENDA TITLE

Report of the City Attorney Regarding February 19, 2015 Planning Board Meeting.

PRESENTERS

Thomas A. Carr, City Attorney

At the March 3, 2015, council meeting, council directed me to look into allegations that there were irregularities relating to the planning board's recommendation on ordinance number 8028. There was a concern expressed that the motion may have been the result of a pre-agreement among several planning board members. Such a meeting could have been a violation of the Colorado Open Meetings Act. I have reviewed the video of the meeting and spoken with all planning board members. In addition, I have asked for and reviewed all emails relating to the motion. Based on all of the information that I have obtained, I am convinced that Crystal Gray drafted the motion herself, without the assistance or prior knowledge of any other planning board member.

Based on all of the evidence that I have seen, I am convinced that there was no wrongdoing at the February 19, 2015 planning board meeting. In fact, because much of the planning board's work involves quasi-judicial matters, board members are scrupulous about not discussing matters with one another. In my conversations with the planning board members, whether they supported or opposed the motion, there was unanimous agreement that there was nothing improper.

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.

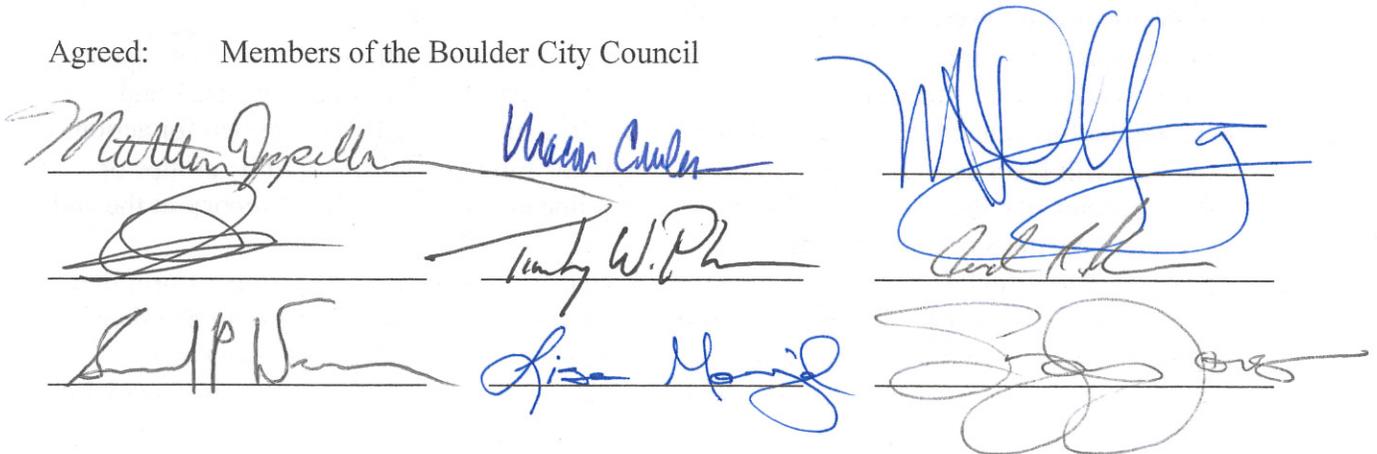
Council Committees:

- 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].

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Climate and Energy	Energy Future and Associated Projects	Council	CC: Open Access Transmission Tariff			
			SS: Power Supply	SS (2): Rates, Energy Services, Power Supply	Project update	Project update
		Staff Activities	Budget update	Budget update	Budget update	Budget update
	Climate Commitment	Council	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan
			SS: Review interim goals, targets and strategies			
		Staff Activities	Launch action plan	Energy system transformation; blue print convening	Implementation based on action plan	Implementation based on action plan
Housing/Land Use Planning	Comprehensive Housing Strategy (Housing Boulder)	Council	Briefing	SS (2)		
		Staff Activities	Housing Matters launch event, engagement activities	Draft strategy development	Implementation based on adopted strategy	Implementation based on adopted strategy
	Sustainable Streets and Centers/ East Arapahoe	Council	SS: Direction of preferred scenario	SS : Draft plan and action plan		
		Staff Activities	Develop East Arapahoe action plan	Next Corridor - 30th St or Colorado		
	Resilience	Council	SS	Direction or IP	Direction or IP	Direction or IP
		Staff Activities	Develop scoping plan	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	Boulder Valley Comprehensive Plan	Council		SS	Direction or IP	Direction or IP
		Staff Activities	Issues identification	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
Transportation	Transportation Master Plan Implementation	Council	Update and coordinate with BVCP		Update and coordinate with BVCP	
		Staff Activities				
	Regional Travel	Council		Briefing		Briefing
		Staff Activities	Staff and elected official activities ongoing			
	Access Management and Parking Strategy (AMPS)	Council		SS : Review options & Update; including recommendations for TDM tool kit for new development	Council action on TDM Tool Kit for new development	Recommendations including planning code changes
						SS: Review options and update
		Staff Activities	Ongoing work plan in 7 focus areas	Ongoing work plan	Ongoing work plan	Ongoing work plan
			Alternatives analysis and specific option development		Specific option development/refinements	
	Joint Board workshop & public engagement		Joint Board workshop & public engagement			

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	
Civic Area	Civic Area Implementation	Council	SS: Parkland Concepts Plan	CC: Approval of Concept Plan			
		Staff Activities	Outreach to community & partners; create delivery plan for spring, summer, fall events	Deliver spring events	Deliver summer activities and events	Review 2015 activation; compare lessons from 2014 and revise for 2016	
			Draft of parkland concept plan options for public workshop, Boards, Council review	Board/Commission input on Concept Plan	Begin detailed design work on park improvements	Complete detailed design work for bidding	
			Develop overall site master plan concepts, begin to formulate major capital projects	Initial feasibility planning on major capital projects	Continue to develop capital projects, identify potential partners, explore financing options	Continue to develop capital projects, identify potential partners, explore financing options	
Local Food	Sustainable Agriculture and Local Foods	Council	IP and local meals for Council Pilot		Council consideration of Local Food Procurement Policy; Review and acceptance of Ag Resources Management Plan	Council consideration of Local Food Procurement Policy; Review and acceptance of Ag Resources Management Plan	
		Staff Activities					
Livability	University Hill Moratorium	Council	SS: Review options		IP		
			CC: Public Hearing and Decision				
		Staff Activities	Recommendation & development of ordinances, changes and recommend other strategies to address Moratorium goals	Follow up on other strategies & coordination with Hill Reinvestment Strategy; incorporate strategies into other work plan			
			Board review & public engagement		Board review & public engagement		
	University Hill Reinvestment Strategy	Council			Direction on 14 th Street redevelopment proposal		SS
					SS: Update on strategy		
		Staff Activities	Residential service district (RSD) pilot program	RSD pilot program	RSD pilot program	RSD pilot program	
			Work plan implementation	Work plan implementation	Work plan implementation	On-going work plan implementation	
			Establish benchmarks and evaluation criteria	Commercial district: Eco Pass Study & Commercial bear dumpsters	Implement volunteer program for clean up	Evaluate existing programs	
			14 th Street Lot public/private partnership redevelopment options re: work force affordable housing	14 th Street Lot public/private partnership redevelopment options re: work force affordable housing	Research options for sustainable governance & funding	Develop options for sustainable governance & funding	
		Stakeholder engagement	Stakeholder engagement	Stakeholder engagement	Stakeholder engagement		
	Homeless Action Plan	Council	IP: 2014 Accomplishments	SS: As part of Human Services strategy update		IP - Services and Regional coordination update	
Staff Activities							
Community Cultural Plan	Council	Council update and input on testing phase	Briefing	SS: Adoption of Community Cultural Plan			
	Staff Activities	Research phase complete. Drafting phase complete. Testing phase begins	Testing phase complete. Certification phase begins	Implementation begins. New public art policy drafting	Public Art Policy drafting		

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Projects		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Other	Boulder Junction	Council				
		Staff Activities	Ongoing redevelopment coordination	North Side of Pearl and Goose Creek bridge landscaping install. Bridge opens		Depot Square opens
	Capital Projects Activity	Council	Ongoing and Wastewater Collection System Rehabilitation program begins	Ongoing	SS: 2016-2021 CIP	Ongoing
		Staff Activities				
	CityWide Special Events	Council	Report on 2015 City Events			Summary of 2015 City Events
		Staff Activities	Implement new events application and internal review process	Refine systems as needed	Refine systems as needed	Improve events application for new online Landlinks System in 2016
	Community Broadband	Council	SS			SS
		Staff Activities	Broadband Action Group formation and consultant assessment	Consultant assessment continued	Consultant assessment continued	Present findings and recommendations
	Design Excellence	Council	SS: Staff Recommendations design tools/process changes	IP	CC: Draft recommendations/Adopt strategy	
		Staff Activities	Issues identification/ preliminary work on design tools/ process changes	Technical analysis /develop options	Draft recommendations	
			Public engagement	Boards/public engagement	Boards/public engagement	
	Flood-related Annexations	Council				
		Staff Activities	Flood Annexations - Individual	Flood Annexations - Old Tale Rd	Ongoing	Ongoing
	Human Services Strategy	Council		SS		Public Hearing
		Staff Activities				
	Flood Management	Council			IP: Stormwater Master Plan and Wastewater Collection System Master Plan consideration	
		Staff	Stormwater Master Plan and Wastewater Collection System Master Plan updates continue	Stormwater Master Plan and Wastewater Collection System Master Plan updates continue		
	Smoking Ban - Implementation	Council	CC: Second reading			
		Staff Activities	Education campaign	Enforcement begins	Monitor Outcomes	Monitor Outcomes
	Vacation Rental by Owner (VRBO)	Council	SS			
Staff Activities		Research regulations and possible fees or taxes				

COUNCIL MEMBERS

Matthew Appelbaum	Mayor
Suzanne Jones	Mayor Pro Tem
Macon Cowles	Council Member
George Karakehian	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	Executive Director of Energy Strategy and Electric Utility Development
Michael Calderazzo	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
Tracy Winfree	Acting Open Space and Mountain Parks Director
Yvette Bowden	Parks and Recreation Director
Greg Testa	Police Chief
Maureen Rait	Executive Director of Public Works
Cheryl Pattelli	Director of Fiscal Services
Mike Sweeney	Acting Transportation Director
Jeff Arthur	Utilities Director

2015 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass (Castillo – staff alternate)
Boulder County Consortium of Cities	Young, Morzel (alternate)
Colorado Municipal League (CML) – Policy Committee	Jones, Cowles (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	Jones

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	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
Housing Strategy Process Sub-Committee	Morzel, Shoemaker, Young
Legislative Committee	Jones, Karakehian, Weaver
School Issues Committee	Morzel, Plass, Shoemaker

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llaza, Tibet	Shoemaker
Dushanbe, Tajikistan	Weaver
Yamagata, Japan	Plass
Mante, Mexico	Young
Yateras, Cuba	Karakehian, Cowles (alternate)
Sister City Sub-Committee	Morzel, , Karakehian

2015 Study Session Calendar

	A	B	C	D	E	F	G	H	I
1	Date	Status	Topic		Location	Contacts	Materials Due	Draft Summary Due	Final Summary Due
33	05/12/15	Approved	Boulder's Energy Future	6-6:45 PM	Chambers	Heidi Joyce/Heather Bailey	04/30/15	05/21/15	05/27/15
34		Approved	Commercial and Industrial Energy Efficiency Ordinance Options	6:45-8:15 PM	Chambers	Kendra Tupper/Melinda Melton	04/30/15	05/21/15	05/27/15
35		Approved	Resilience	8:15-9 PM	Chambers	Greg Guibert/Melinda Melton	04/30/15	05/21/15	05/27/15
36									
37	05/26/15	Approved	Briefing: Form Based Code	5:30-6:30 PM	Chambers	Sam Assefa/Melinda Melton			
38		Approved	Update on the Community Cultural Plan	6:30-7:30	Chambers	Matt Chasansky/Carrie Mills	05/14/15	06/04/15	06/10/15
39		Approved	AMPS Update	7:30-9PM	Chambers	Molly Winter/Ruth Weiss	05/14/15	06/04/15	06/10/15
40									
41	06/09/15	Approved	Housing Boulder	6-7:30 PM	Chambers	Jay Sugnet/Edy Urken	05/28/15	06/18/15	06/24/15
42		Approved	BVCP/Resilience	7:30-9 PM	Chambers	Lesli Ellis/Melinda Melton			
43									
44	06/23/15	Council Recess June 17-July 12							
45	06/30/15	Council Recess June 17-July 12							
46									
47	07/14/15	Approved	Ballot Measures	6-7:30 PM	Chambers	Elena Lazarevska/Bob Eichem	07/02/15	07/23/15	07/29/15
48		Approved	Discussion on Potential Head Tax	7:30-9 PM	Chambers	Elena Lazarevska/Bob Eichem			
49									
50	07/28/15		Briefing: Civic Area Park Site Plan Update	5:30-6 PM	Chambers	Jeff Haley/Melinda Melton	N/A	N/A	N/A
51		Approved	Climate Commitment Goal and Strategy Proposal	6-7:30 PM	Chambers	Brett KenCairn/Melinda Melton	07/16/15	08/06/15	08/12/15
52			West Fourmile area (Ponderosa MHP) planning grant	7:30-9 PM	Chambers	Chris Meschuk/Melinda Melton	07/16/15	08/06/15	08/12/15
53									
54	08/11/15	Approved	2016 CIP Study Session	6-7:30 PM	Chambers	Elena Lazarevska/Bob Eichem	07/30/15	08/20/15	08/26/15
55		Approved	Form-Based Code Pilot	7:30-9 PM	Chambers	Sam Assefa/Melinda Melton	07/30/15	08/20/15	08/26/15
56									
57	08/25/15	OPEN	Briefing:	5:30-6 PM	Chambers		N/A	N/A	N/A
58		Approved	TMP Implementation Follow Up (pending first check-in on 2/24)	6-7:30 PM	Chambers	Randall Rutsch/Rene Lopez	08/13/15	09/03/15	09/09/15
59		Approved	Envision East Arapahoe Transportation Analysis and Medical Office Use	7:30-9 PM	Chambers	Randall Rutsch/Rene Lopez	08/13/15	09/03/15	09/09/15
60									
61	09/08/15	Approved	2016 Budget Study Session	6-7:30 PM	Chambers	Elena Lazarevska/Bob Eichem	08/27/15	09/17/15	09/23/15
62		Approved	Emerald Ash Borer	7:30-9 PM	Chambers	Kathleen Alexander/Sally Dieterich	08/27/15	09/17/15	09/23/15
63									
64	9/17/2015 (tentative)	OPEN	Briefing:	5:30-6 PM	Chambers		N/A	N/A	N/A
65		Approved	2016 Budget Study Session	6-7:30 PM	Chambers	Elena Lazarevska/Bob Eichem	09/10/15	10/01/15	10/07/15
66		Approved	Mobile Home Parks	7:30-9 PM	Chambers		09/10/15	10/01/15	10/07/15
67									
68	09/29/15		No Meeting	6-7:30 PM	Chambers		09/17/15	10/08/15	10/14/15
69				7:30-9 PM	Chambers				
70									
71	10/13/15	Approved	Resilience Strategy Study Session	6-7:30 PM	Chambers	Greg Guibert/Melinda Melton	10/01/15	10/22/15	10/28/15
72		Approved	30th and Pearl City-owned Site Options (moved from 7/28, 9/29)						
73		OPEN		7:30-9 PM	Chambers				
74									
75	10/27/15	OPEN	Briefing:	5:30-6 PM	Chambers		N/A	N/A	N/A
76			Human Services Strategy Update	6-7:30 PM	chambers	Karen Rahn	10/15/15	11/05/15	11/11/15
77			Homelessness	7:30-9 PM	Chambers	Karen Rahn	10/15/15	11/05/15	11/11/15
78									
79	11/10/15		AMPS Update	6-7:30 PM	Chambers	Molly Winter/Ruth Weiss	10/29/15	11/19/15	11/25/15
80			Broadbank Working Group Status Update	7:30-9 PM	Chambers	Don Ingle			
81									
82	11/24/15	Thanksgiving Holiday Week							
83									
84	12/08/15	Approved	Utility Rate Study: Preliminary Findings	6-7:30 PM	Chambers	Eric Ameigh/Jeff Arthur/Rene Lopez	11/25/15	12/17/15	12/23/15
85			Hill Reinvestment Strategy Update4	7:30-9 PM	Chambers	Molly Winters/Ruth Weiss	11/25/15	12/17/15	12/23/15
86									
87	12/22/15	Christmas Holiday Week							
88	12/29/15	New Years Holiday Week							

May 28, 2015 Start Time: 6:00 PM Special Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 5/14 :: Final 5/20
Agenda Section	Item Name	Time	Minutes			
PUBLIC HEARINGS	Council Decision on proposed landmarking of 747 12th St. (public hearing was closed on 4/14)	60	Minutes		yes	Susan Richstone/Melinda Melton
	Request for Direction on Occupancy	60	minutes	no	yes	Tom Carr/Heather Hayward
	2nd Reading and Consideration of Approval of Amendments to Title 9 for Medical Office	60	Minutes	no	yes	Jeff Hirt/Melinda Melton
	Total Estimated Meeting Time (Hours:Minutes)	3:00				

June 2, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 5/21 :: Final 5/27
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	Notice of Sale for Stormwater/Flood Bonds	15	Minutes		no	Bob Eiche/Elena Lazarevska
	Study Session Summary for 5/12 Commercial and Industrial Energy Efficiency Ordinance Options			no	no	Kendra Tupper/Melinda Melton
	Study Session Summary 4/14: Fire Dept Operations					Mike Calderazzo/Laurie Ogden
	Study Session Summary 4/28: Human Services Strategy			no	no	Todd Jorgensen/Linda Gelhaar
	Study Session Summary 5/12: Resilience Item			yes	no	Greg Guibert/Melinda Melton
	20-year lease for ROW encroachment (portion of historic garage) at 1900 Bluebell Ave					Sloan Walber/Melinda Melton
	Four items related to Authorization of Parks Disposal and conveyance of city easements to BWRD Co			no	no	Kurt Bauer/Laurel Olsen-Horen
PUBLIC HEARINGS	1st Rdg Ordinance Regulating Short Term Rentals	90	Minutes			Tom Carr/Heather Hayward
	2nd Reading Ordinance 8045 for Zero Waste Requirements	90	Minutes	yes	yes	Kara Mertz/Melinda Melton
	2nd Rdg re Food Truck Ordinance	60	Minutes	yes	no	Tom Carr/Heather Hayward
MATTERS FROM CITY MANAGER						
MATTERS FROM CITY ATTORNEY						
MATTERS FROM MEMBERS OF COUNCIL						
CALL-UPS	Potential Call-up for concept plan review for a proposed mixed-use development (Alexan Flatirons) located at McKenzie Junction, 3600 Hwy 119.					Elaine McLaughlin /Melinda Melton
	Total Estimated Meeting Time (Hours:Minutes)	5:00				

June 16, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 6/4 :: Final 6/10
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	May 12 Study Session Summary - Boulder Energy Future	15	Minutes			Heather Bailey/Heidi Joyce
	Study Session Summary: 4/14 Finance					Bob Eiche/Elena Lazarevska
	Bond Ordinance - Sale of the Stormwater/Flood Bonds				no	Bob Eiche/Elena Lazarevska
	Disposal of a Utility Easement					Jim Schmidt/Cecil Fenio
	Lefthand Canyon property disposal and construction easement					Jim Schmidt/Cecil Fenio
	Ordinance re Council Pay Ballot Measure			yes		Tom Carr/Heather Hayward
	Ordinance re Charter Revisions for the Library			yes		Dave?
	GOCO Grant for Northfield Village			yes		Tina Briggs/Sally Dieterich

PUBLIC HEARINGS	Public Hearing and Acceptance of Updated Civic Area Master Plan/Discussion of BCH (Boulder Community Hospital Property)	60	Minutes		yes	Joanna Crean/Melinda Melton
	Living Laboratory Phase II Complete Streets pilot projects	45	Minutes	no	yes	Marni Ratzel/Erin Raney
MATTERS FROM CITY MANAGER	Consideration of Guiding Principles for the Form Based Code (FBC)	45	Minutes	no	yes	Karl Guiler/Melinda Melton
	Neighborhood Grant Guidelines	10	Minutes	no	no	Mary Ann Weideman/Dianne Marshall
MATTERS FROM CITY ATTORNEY						
MATTERS FROM MEMBERS OF COUNCIL						
CALL-UPS						
	Total Estimated Meeting Time (Hours:Minutes)	3:40				

Council Recess - June 17 to July 12

July 21, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 7/9 :: Final 7/15
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	Study Session Summary for 6/9 BVCP/Resilience item	15	Minutes			Lesli Ellis/Melinda Melton
	Study Session Summary for 6/9 Housing Boulder item					Jay Sugnet/Melinda Melton
	2nd Rdg Ordinance re Regulating Short Term Rentals					
	1st Rdg Ordinance re Short Term Rental Tax			yes		Tom Carr/Heather Hayward
	1st Rdg Ordinance re Acquisition of prop 28th st fm Pearl to Glenwood for Transportation Improvement projects					Noreen Walsh/Erin Raney
	1st Rdg Ordinance re Occupancy Extension Tax			yes		Tom Carr/Heather Hayward
PUBLIC HEARINGS	BVCP schedule, work plan, and process for landowners and the general public to submit requests for changes to the plan	45	Minutes	no	yes	Lesli Ellis/Melinda Melton
	Flood Mapping Studies for Upper Goose and Twomile Canyon Creek and Skunk, King's Gulch and Bluebell Creeks	50	Minutes	no	yes	Annie Noble/Erin Raney
	Community Cultural Plan Final Review	90	Minutes	no	yes	Matt Chasansky/Carrie Mills
MATTERS FROM CITY MANAGER						
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
	Total Estimated Meeting Time (Hours:Minutes)	4:05				

August 4, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 7/23 :: Final 7/31
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT		15	Minutes			
PUBLIC HEARINGS	South Boulder Creek Mitigation Plan	120	Minutes	no	yes	Annie Noble/Erin Raney
	Ballot Measures Placeholder	90	Minutes	yes		
MATTERS FROM CITY MANAGER			Minutes			
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
Total Estimated Meeting Time (Hours:Minutes)		4:30				

August 18, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 8/6 :: Final 8/12
Agenda Section	Item Name	Time	Minutes			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	Water and Sewer Bonds Notice of Sale	15	Minutes			Bob Eiche/Elena Lazarevska
	Study Session Summary for July 28 Climate Commitment					Brett KenCairn/Melinda Melton
						David Driskell/Melinda Melton
PUBLIC HEARINGS	Final Reading Ballot measures	60	Minutes			
			Minutes			
MATTERS FROM CITY MANAGER	Key Questions and Guiding Principles for the Utility Rate Structure Analysis (moved from 6/16)	45	Minutes	no	yes	Eric Ameigh/Erin Raney
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL	Update from Council Employee Evaluation Committee	30	Minutes	no	no	Aimee Kane
CALL-UPS			Minutes			
Total Estimated Meeting Time (Hours:Minutes)		3:15				



TO: Members of Council
FROM: Mary Moline, City Clerk's Office
DATE: May 19, 2015
SUBJECT: Information Packet

1. CALL UPS

- A. Landmark Alteration Certificate to remove a second-story gambrel roof at the rear addition and, in its place, to construct a 529 sq. ft. second story at the contributing house at 801 Maxwell Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2015-00080)

2. INFORMATION ITEMS

- A. Boulder's Energy Future Budget Update

3. BOARDS AND COMMISSIONS

- A. Landmarks Board, April 1, 2015
- B. Water Resources Advisory Board, March 16, 2015

4. DECLARATIONS

None



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: May 19, 2015

Call-up Item: Landmark Alteration Certificate to remove a second-story gambrel roof at the rear addition and, in its place, to construct a 529 sq. ft. second story at the contributing house at 801 Maxwell Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2015-00080). This Landmark Alteration Certificate is subject to City Council call-up no later than **May 19, 2015**.

Executive Summary

The proposal to remove a second-story gambrel roof at the rear addition and, in its place, to construct a 529 sq. ft. second story at the contributing house at 801 Maxwell Ave. in compliance with approved plans dated 05/06/15, as approved with conditions by the Landmarks Board (3-1), **M. Schreiner** objecting, at the May 6, 2015 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 **May 19, 2015**.

ATTACHMENTS:

- A. Notice of Disposition dated May 19, 2015
- B. Photographs and Drawings of 801 Maxwell Ave.

Notice of Disposition

You are hereby advised that on May 6, 2015 the following action was taken:

- ACTION:** Approved by a vote of 3-1, **M. Schreiner** objecting
- APPLICATION:** Public hearing and consideration of a Landmark Alteration Certificate to remove a second-story gambrel roof at the rear addition and in its place to construct a 529 sq. ft. second story at the contributing house at 801 Maxwell Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2015-00080).
- LOCATION:** 801 Maxwell Ave.
- ZONING:** RL-1 (Residential Low-1)
- APPLICANT/OWNER:** Kristin Lewis / Michael and Susan Shepard

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 Shepard, 801 Maxwell Ave., applicant, spoke in support of Landmark Alteration Certificate.

Abby Daniels, Historic Boulder, 1123 Spruce St., spoke in support of Landmark Alteration Certificate.

Motion:

On a motion made by **F. Sheets**, seconded by **D. Yin**, the Landmarks Board approved (3-1) (**M. Schreiner** opposing) the proposed removal of the second story addition and construction of a new second story addition as shown on plans dated May 6, 2015 finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Section 9-11-18, B.R.C. 1981, subject to the conditions below, and adopts the staff memorandum dated May 6, 2015 as findings of the board with the following conditions:

CONDITIONS OF APPROVAL

1. The applicant shall be responsible for constructing the house in compliance with the approved plans dated May 6, 2015, except as modified by these conditions of approval.

2. Prior to submitting a building permit application and final issuance of a Landmark Alteration Certificate, the applicant shall submit design details to the Landmarks design review committee (Ldrc) including: window and door details, wall material details, siding material details, paint colors, roofing material details, 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.

This recommendation is based upon staff's assessment that the modification of the roof form of a contributing building will be consistent with Section 9-11-18, Boulder Revised Code 1981, the *Mapleton Hill Historic District Design Guidelines* and the *General Design Guidelines*.

M. Schreiner objected stating that he considers that the existing gambrel roof is a unique character defining architectural feature that contributes to the special character of the house. The Boulder Revised Code, General Design Guidelines and Mapleton Design Guidelines state that any proposed work should not damage external architectural features.



Figure 1. 801 Maxwell Ave. Tax Assessor Card photograph, c.1949
Photograph Courtesy the Carnegie Branch Library for Local History.

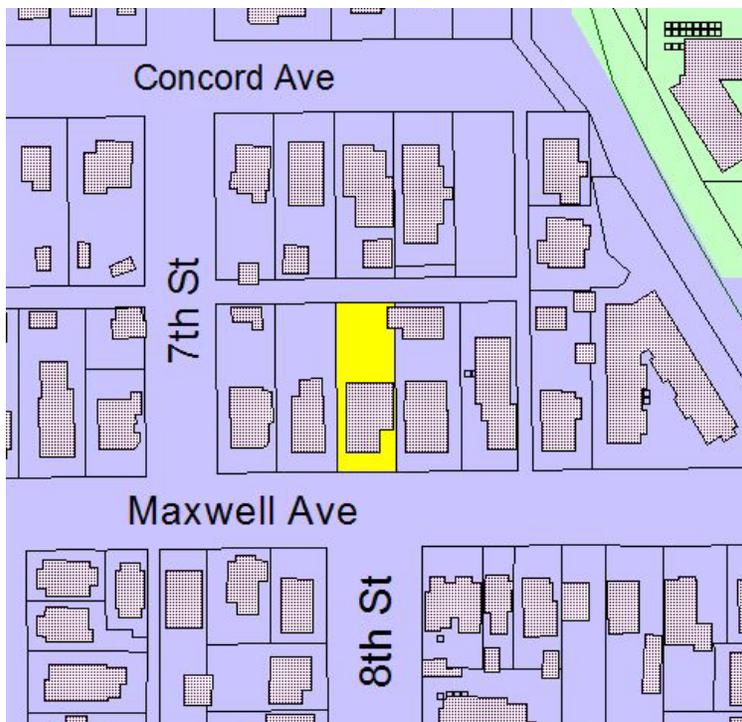


Figure 2. Location map, 801 Maxwell Ave.



Figure 3. View of south elevation (façade), 2015.

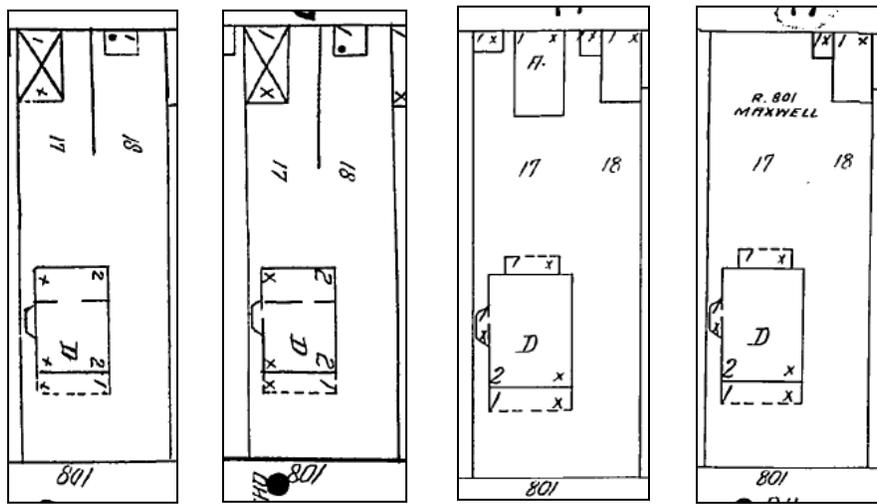


Figure 4. Sanborn Maps L-R: 1906, 1922, 1931, and 1931-1960. Both the rear porch and existing accessory building were constructed between 1922 and 1931.



Figure 5. 1922 Sanborn Map (left) and 2013 aerial view of 801 Maxwell Ave. Red outlined area depicts the Gambrel roof section of the house.



Figure 6. View of north elevation (rear), 2015.

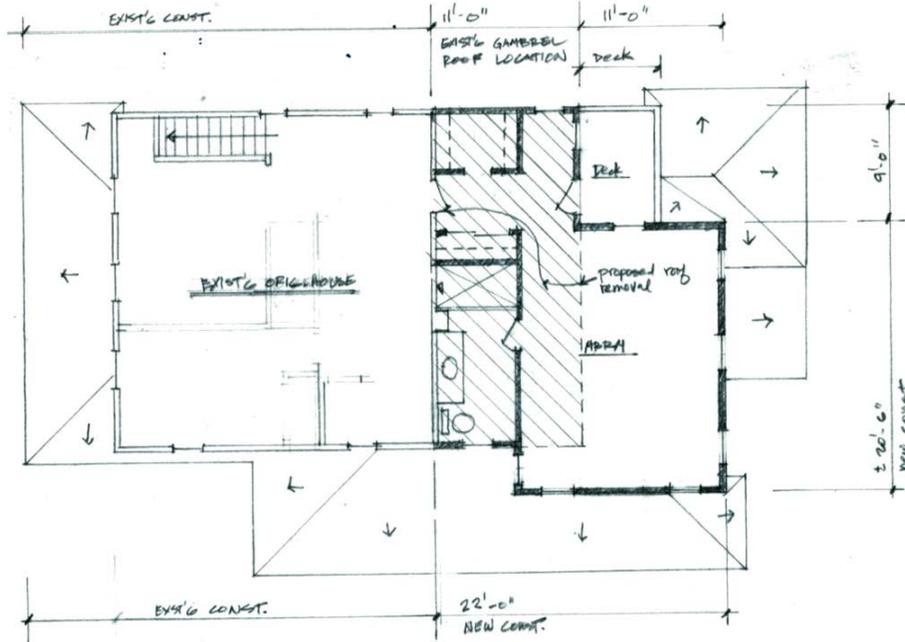


Figure 7. Proposed second level addition, 2015.

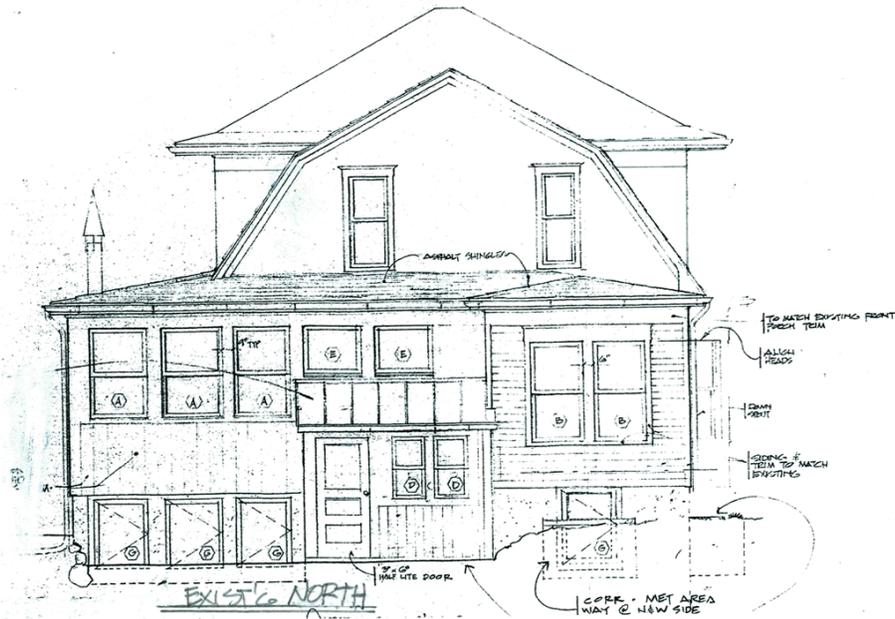


Figure 8. Existing north elevation, 2015



Figure 9. Proposed north elevation, 2015



Figure 10. Existing south elevation (façade), 2015

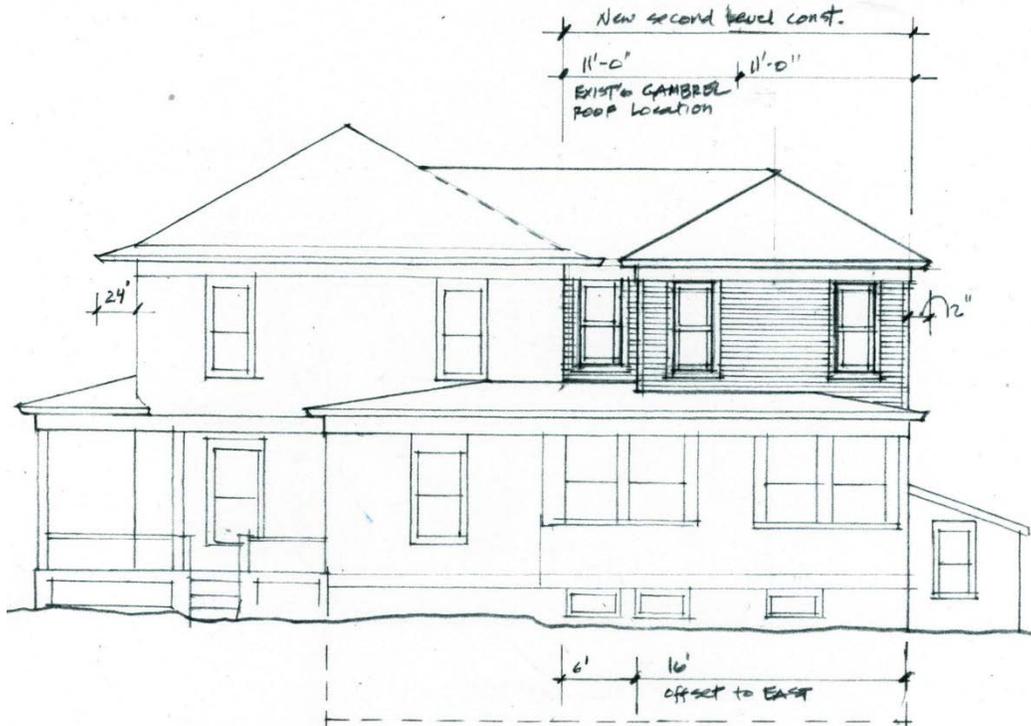


Figure 13. Proposed east elevation, 2015



Figure 14. South and east elevations, 2015



Figure 15. Existing west elevation, 2015



Figure 16. Proposed west elevation, 2015



Figure 17. West elevation, 2015.



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development

Date: May 19, 2015

Subject: Information Item: Boulder's Energy Future Budget Update

Budget Update

The municipalization transition work plan represents a significant undertaking. In particular, the legal and technical work necessary to prepare for the potential acquisition of the local distribution system and launch of a municipal utility will be a considerable investment. Recognizing this, in 2011, city voters approved an increase to the Utility Occupation Tax in the amount of \$1.9 million a year. The use of this tax revenue has been allocated to the following categories:

- Legal services (condemnation and FERC Counsel)
- Consulting services related to municipalization and separation of Xcel Energy's (Xcel) system (engineering and appraisal services)
- Salary and benefits (executive director of Energy Strategy and Electric Utility Development)
- Purchased services and supplies (office space and supplies)

Following voter approval in November 2011, the city has focused its "energy future" work efforts on exploring municipalization. This memo is intended to provide a program and budget update for October 2014-March 2015. Work plan items completed since the last budget update to council include:

- Implementation of the Energy Future Transition Work Plan
 - Customer Experience
 - Assessment of the capability of current billing system to handle electric billing
 - Financing, Accounting and Rates
 - Working with city insurer to identify insurance requirements for electric system
 - Formation of rates working group to develop criteria and rate strategy for Day 1

- Solicited bids for development of utility cash flow/budget modeling tool
 - Planning and Engineering
 - Drafting an Open Access Transmission Tariff
 - Formation of reliability and safety working group to review reliability standards and best practices
 - Construction, Operations and Maintenance
 - Developed and issued an RFQ for ongoing utility operation services
 - Received vendor responses and evaluating qualifications
 - Power Supply
 - Initiating discussion on power supply with providers
 - Contracted with experts to assist in developing RFP and contracts for power supply
 - Developed and issued an RFP for power supply from Xcel
 - Formation of a resource acquisition working group
 - Support Services
 - Issued RFP and selected consultant for utility automation services
 - Working with other utilities to identify detail system operation and maintenance needs and identifying best practices
- Participation in a number of regional, national and international collaborations in support of the Boulder community's climate and energy goals (**Attachment A**).

2014 Budget

A summary of the 2014 year-end budget is provided below.

2014	Budget	Expenditures	Encumbrances	Balance
Staffing	658,919	601,275	0	57,644
Consulting and Contract Services - Legal and Regulatory	1,826,248	1,025,573	472,762	327,913
Consulting and Contract Services - Other	205,036	147,394	22,969	34,672
Consulting and Contract Services	2,031,284	1,172,967	495,731	362,586
Purchased Services and Supplies	189,341	168,209	0	21,132
TOTAL	2,879,544	1,942,452	495,731	441,361

2015 Budget

The 2015 total budget of \$7,880,327 is funded from the 2015 Utility Occupation Tax, \$2,015,710; a one-time general fund request of \$4,927,525 which will be repaid from future Utility Occupation Tax collections for 2016 and 2017; 2015 encumbrance carryover of \$495,731; and 2015 Operating Carryover of \$441,361. These funds will be allocated to support high priority tasks, salaries and benefits related to acquiring necessary assets and preparing to launch and operate an electric utility. Expenditures for 2015, (January through March) total \$416,817 and are below year to date budget targets.

The 2015 sources and uses for this effort are provided in the chart below.

2015 SOURCES	
2015 Utility Occupation Tax	2,015,710
2015 One-time General Fund Request	4,927,525
2015 Encumbrance Carryover	495,731
2015 ATB Carryover Request	441,361
TOTAL	7,880,327

USES	2015 Revised Budget	Expenditures	Encumbered	Balance
Staffing	891,900	167,151	0	724,749
Consulting and Contract Services - Transition Plan	837,500	0	0	837,500
Consulting and Contract Services - Legal and Regulatory	1,831,093	219,792	1,391,361	219,939
Consulting and Contract Services	2,668,593	219,792	1,391,361	1,057,439
Systems	390,000	0	0	390,000
Capital	0	0	0	0
Purchased Services and Supplies	216,252	29,874	40,800	145,578
Contingency	343,998	0	0	343,998
Subtotal	4,510,742	416,817	1,432,161	2,661,764
Future Planned Expenditures	3,369,585			
TOTAL	7,880,327			

Other staff resources assigned to this effort have been allocated within existing budgets and are separate from the \$7,880,327 budget. This is in alignment with the overall priority of this effort and existing roles, responsibilities and funding, as well as the approach historically taken with other significant and cross-departmental city projects. As a reminder, an organizational chart showing those assigned to this project and their areas of focus is included as **Attachment B**. A list that includes staff working on this effort, the percentage of time spent in 2014 on the project and associated budget allocation is provided in **Attachment C**.

Attachments:

Attachment A: Regional, National and International Collaboration

Attachment B: Organizational Chart

Attachment C: Staffing Resources

Regional, National and International Collaboration

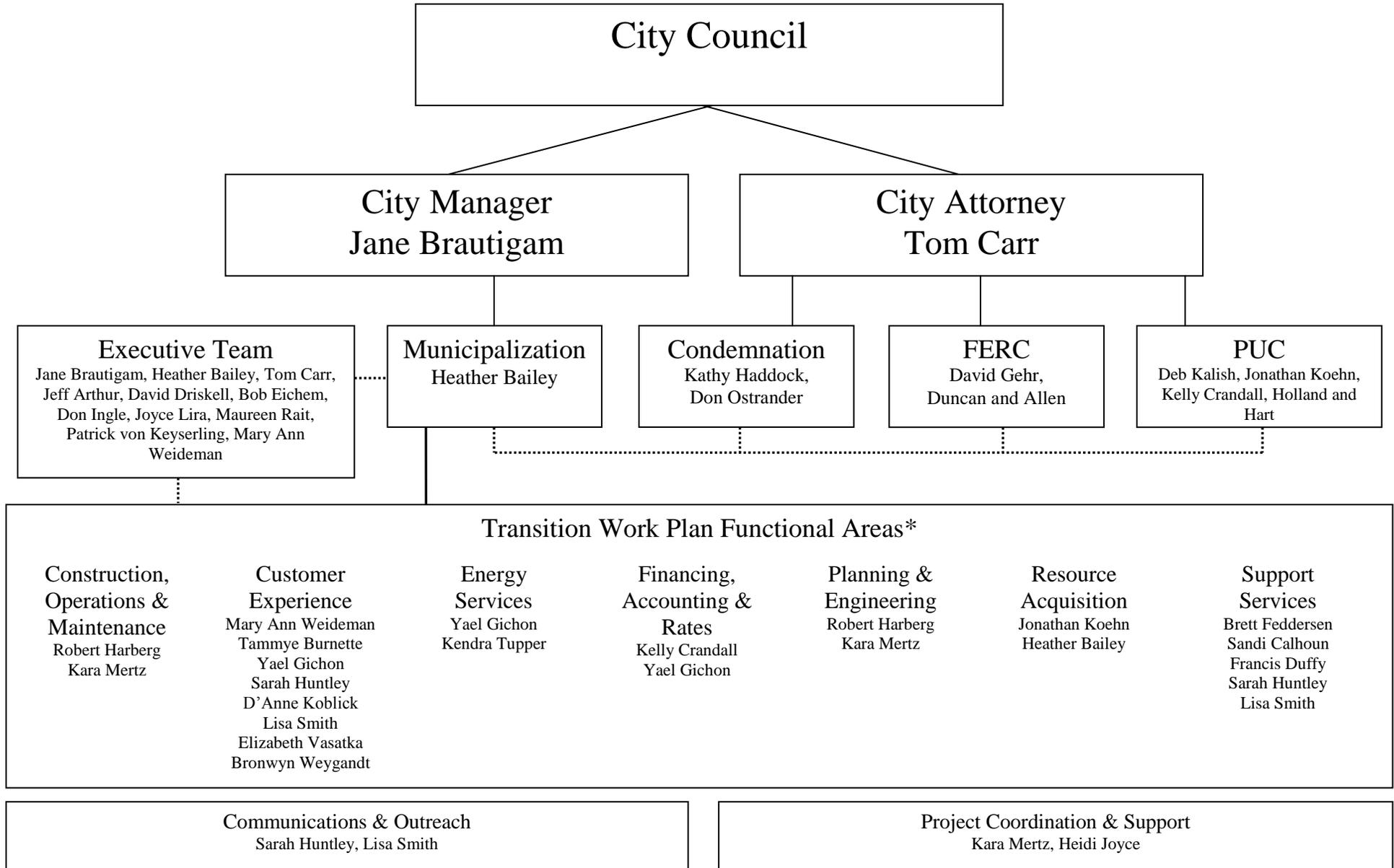
Detailed description of initiatives, may be found in the [April 29 City Council Study Session Memorandum, Attachment C](#)

Area of Collaboration	Relevant Activities in 4 th Qtr. 2014 and 1 st Qtr. 2015
Legislative & Regulatory	<ul style="list-style-type: none"> • Staff provided testimony supporting HB 15-1250, which asks the Colorado Public Utilities Commission to investigate performance-based regulation. Performance-based regulation could encourage utilities to invest in energy efficiency, renewable energy, and resilient infrastructure, by reshaping how they recover costs. • Colorado Public Utilities Commission (PUC) Proceeding No. 14AL-0660E (2014 Rate Case) Staff participated in the proceeding including the settlement discussions. • Monitored Bills introduced in 2015 Legislative Session • Colorado Public Utilities Commission (PUC) Proceeding No. 14R-0394EG (Rulemaking on Energy Data Access and Privacy Rules)— Created a coalition of eight local governments to recommend rule changes to facilitate climate action planning; current redline of rules requires utilities to make available standard annual community energy reports for local governments; receiving assistance from the Energy Information Administration on statistical best practices for providing aggregated data. • In partnership with Boulder County, developed the Colorado Climate Future Coalition to lead efforts to advocate for policy and regulatory changes that promote and support local decision making in pursuit of a low carbon energy future including those that would simultaneously promote community resilience, economic vitality and job creation.
Regional Technical and Outreach Working Groups	<ul style="list-style-type: none"> • Colorado Climate Networking Steering Committee—The Colorado Climate Network and the Colorado Municipal League are convening a statewide Local Resilience Project to help improve the resilience of Colorado local governments and local resources to possible climate change impacts. As of September 10, 2014, 39 jurisdictions with close to 100 representatives have signed on to participate in the project. • Local Government Working Group on Public Utilities Commission Issues—Developed strawman community energy report and participated in meetings with Xcel Energy technical staff to refine list of energy consumption and programmatic metrics that will be provided to local governments for climate and energy planning. • Boulder Sustainability Alliance—Representatives from CU Boulder, BVSD, Boulder County and the city have continued to meet to discuss sustainability related issues; particularly issues associated with energy. • Boulder, Boulder County & City/County of Denver Collaboration— Staff from the four agencies meet quarterly to discuss ongoing issues

ATTACHMENT A

	<p>related to energy and climate, waste reduction and transportation alternatives.</p> <ul style="list-style-type: none"> • Colorado Clean Energy Cluster—Colorado Clean Energy Cluster (CCEC) is a project-driven, nonprofit economic development organization aimed at growing primary jobs in Colorado in the area of clean energy through formal partnerships between clean energy companies, the public sector and higher education. The board is made up of cities, businesses and universities – the city’s membership includes board seats for the city, Boulder Chamber, and the University of Colorado Boulder. The city is collaborating with CCEC on the following efforts: <ul style="list-style-type: none"> ▪ Organizing and tracking the local clean tech energy sector ▪ Identifying and developing high profile/high impact pilot projects that engages our local clean energy companies ▪ Ensuring the success of the Boulder Energy Challenge grant recipients ▪ Identify ways that the city can help our local clean tech innovators effectively network and export their products and services to larger regional/national/international markets.
<p>National Technical and Outreach Working Groups</p>	<ul style="list-style-type: none"> • American Council for an Energy Efficient Economy (ACEEE) Local Energy Efficiency Self-Scoring Tool—Provided ACEEE with 2013 update of new activities, programs and policies the city engaged in beyond those previously submitted for 2012 and the beta release of the tool. • iUrban Smart City Advisory Group—Participated in two collaborative webinars with international advisory group members. • USDN Utility-Data User Group—Participated in bi-monthly webinars on topics from EPA Portfolio Manager to an overview of ACEEE tools and resources.
<p>Conferences & Presentations</p>	<ul style="list-style-type: none"> • October 9, Boulder Chamber Presentation • October 15, Empower our Future Presentation • October 22 Presentation to CU, Center for Science & Technology • November 3 Visioning Session – Utility of the Future • February 24-23, Panel and Presentation at COSEIA Conference • March 5, Presentation at Law Seminars International Conference • March 25-27, Planning Committee for the second annual Maui Energy Conference • March 31, 2015, Presentation to CU Policy Class • April 20, Hosted presentation by Hubert Fechner head of Renewable Energy at the Inst. of Applied Science in Vienna • May 4, Presentation at Sustainable Alliance Town and Gown Event

ATTACHMENT B
Organizational Chart



ATTACHMENT C

Boulder's Municipalization Exploration Project

2015 Staffing Resources

January - March, 2015

Executive Director	Source of Funding	% of Time
Heather Bailey	Utility Occupation Tax	100
\$90,032 Utility Occupation Tax		
Executive Team	Source of Funding	% of Time
Jeff Arthur	PW Utilities	2
Jane Brautigam	CMO Budget	6
Tom Carr	CAO Budget	5
David Driskell	CP&S Budget	4
Bob Eiche	Finance Budget	5
Don Ingle	IT Budget	10
Joyce Lira	HR Budget	5
Maureen Rait	PW Budget	5
Patrick von Keyserling	Communications Budget	2
Mary Ann Weideman	CMO Budget	9
\$29,800 Estimated Cost		
Project Team	Source of Funding	% of Time
Sandi Calhoun	HR Budget	7
Carl Castillo	CMO Budget	<1
Kelly Crandall	CAP Budget	80
Francis Duffy	IT Budget	1
Brett Feddersen	IT Budget	17
David Gehr	CAO Budget	35
Yael Gichon	CAP Budget	100
Kathy Haddock	CAO Budget	68
Robert Harberg	PW Budget/General Fund	60
Sarah Huntley	Communications Budget	40
Heidi Joyce	General Fund	100
Deb Kalish	CAO Budget	43
Jonathan Koehn	CP&S Budget	80
Kara Mertz	CP&S Budget	10
Cheryl Pattelli	Finance Budget	<1
Lisa Smith	General Fund	100
\$236,860 Estimated Cost		
Support	Source of Funding	% of Time
Tammye Burnette	HR Budget	1
Marion Down	IT Budget	4
Daniel Fairchild	IT Budget	3
Elizabeth Hanson	CP&S Budget	5
Brett Hill	PW Budget	<1
Elesha Johnson	CMO Budget	5
D'Anne Koblick	General Fund	25
Sandra Llanes	CAO Budget	10
Sean Metrick	PW/CP&S Budget	<1
John Miller	General Fund	100
Laurie Nading	CAO Budget	47
Joanna Paradiso	P&DS Budget	3
Penn Richman	IT Budget	31
Lindsay Sandoval	General Fund	100
Kendra Tupper	CAP Budget	13
Elizabeth Vasatka	CAP Budget	12
Bronwyn Weygandt	PW Budget	2
\$45,403 Estimated Cost		

\$90,032 Utility Occupation Tax**\$52,165 One-time General Fund Request****\$259,898 Other Funding Sources**

**CITY OF BOULDER
LANDMARKS BOARD
April 1, 2015
1777 Broadway, Council Chambers Room
6 p.m.**

The following are the minutes of the April 1, 2015 City of Boulder Landmarks Board meeting. Due to a power outage, an audio recording of the meeting was not made and the following minutes more extensive due to the lack of a recording.

BOARD MEMBERS:

Kate Remley, Vice Chair
Mike Schreiner
Fran Sheets

STAFF MEMBERS:

Debra Kalish, Senior Assistant City Attorney
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner
Angela Smelker, Historic Preservation Intern
Cindy Spence, Landmarks Board Secretary

1. CALL TO ORDER

The roll having been called, Vice Chair **K. Remley** declared a quorum to be present at 6:20. Because there were no lights in Council Chambers, the meeting was convened in the Municipal Building Lobby.

2. APPROVAL OF MINUTES

On a motion by **K. Remley**, seconded by **M. Schreiner**, the Landmarks Board approved (3-0) the minutes of the March 4, 2015 board meeting.

3. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA

There was no public comment.

**4. DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION
APPLICATIONS ISSUED AND PENDING**

- **Statistical Report**

There was no discussion of the statistical report.

5. ACTION ITEMS

A. Structures of Merit Informational Session

M. Cameron gave a presentation regarding information on the Structures of Merit program. Approximately 12 people attended and staff answered questions about the program. At the conclusion of the Structures of Merit discussion, a short break was taken. The lights having come back on, the meeting was reconvened in Council Chambers at 6:54 p.m.

B. Public hearing and consideration of a Landmark Alteration Certificate to expand existing carriage house into a larger garage at 541 Highland Ave. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2015-00029). Applicant: Barbee James. Owners: Christopher and Jennifer Centeno.

All board members made site visits.

Staff Presentation

J. Hewat presented to the board, recommending that the Landmarks Board deny the application or the applicant withdraw and redesign.

Applicant's Presentation

Barbee James, 1800 Commerce St., Ste. D, architect for the project, spoke in support of the Landmark Alteration Certificate application. **B. James** spoke to the proposed location of the garage doors along the alley, the re-use of the original bricks, and that she would prefer that the design not impact the historic rose garden, walking pad or swimming pool.

Public Hearing

Caroline Stepanek, 720 11th St., resident of Boulder, spoke in opposition of the Landmark Alteration Certificate application. She stated that the site creates a unique dimension of its own with the house, carriage house and yard. The carriage house is special and has a unique feature, noting that there is a grease pit which was used to change the oil of cars in early years. **C. Stepanek** stated that if the carriage house is altered it would destroy the integrity of the historic property.

Abby Daniels, 1123 Spruce St., Executive Director of Historic Boulder, Inc., spoke in support of the staff recommendations to deny the Landmark Alteration Certificate application. She stated that the alleyscapes are an important part of Boulder and the proposed plan does not meet the design guidelines.

Applicant's Rebuttal

Barbee James, rebutted and stated that the owners would not let the remodel be cheap, but would take great care in the design and materials.

Board discussion

M. Schreiner supports staff recommendation and stated that the proposed modifications to the north elevation are not in compliance with the provisions of the ordinance. The modifications would not enhance or restore the architecture and the proposed work would adversely affect the character of the landmarked building. In addition, they would distract from the historic character. **M. Schreiner** suggested the applicant either withdraw or reconfigure the proposed plans.

F. Sheets agreed with the staff recommendation that the proposal does not meet the design guidelines. The proposal will alter the historic and architectural integrity of the carriage house.

While she understands that the plan will be a better way to fill the needs of the owner, she cannot find anything in the Mapleton Guidelines to support the project.

K. Remley agreed with the staff recommendation and stated that she sympathizes with the owner's needs, but urges the owner and applicant to withdraw and return to the Board with a redesign that meets the design guidelines. While she acknowledges that the owners have done a great job with the house since they purchased it in 2005, the guidelines are very specific.

J. Hewat asked the applicant if they would want a garage door on the south elevation. **B. James** stated that she cannot find another design to get a car in the garage and that a different type of door would be necessary. **K. Remley** stated that changing the opening on the existing structure would not be supported by the guidelines. **F. Sheets** stated that it would be destroying the structure and rebuilding it. **J. Hewat** suggested that the opening to the doors be analyzed. Alleys in Boulder have been identified as important and on this carriage house, the north, east and west elevations are all primary. **J. Hewat** suggested modifying the doors and to make them more operable. **K. Remley** stated that staff would be available for consultation for recommendations and encouraged the applicants to withdraw the application. If denied by the board, an application that is substantially similar could not be submitted for 1 year.

The applicant withdrew their application for redesign.

C. Public hearing and consideration of a demolition permit for the house and five accessory buildings located at 1035 Kalmia Ave., non-landmarked buildings over 50 years old, pursuant to Section 9-11-23 of the Boulder Revised Code (HIS2014-00364). Applicant/ Owner: Carlo Gallegos, AGR Building.

All board members made site visits.

Staff Presentation

M. Cameron presented to the board, recommending that the Landmarks Board issue a stay of demolition.

Questions for Staff

K. Remley stated that there were a number of outbuildings included on the property and asked if there are other properties similar to this with this number of outbuildings intact. **M. Cameron** stated that this is a unique number of stone buildings that are intact and that remain from Boulder's early agricultural period. **K. Remley** inquired if it would be possible to use the outbuildings or structures as owner accessible units. **M. Cameron** stated that it would be dependent upon the amount of repair needed and the regulations of the zoning district.

K. Remley inquired if the roof on the flat roof structure was viable. **M. Cameron** stated that it does slope for drainage and that the north side has retained severe water damage. At this time, there is a hole in the roof and she is uncertain as to what the extent of repairs is needed.

Applicant's Presentation

The applicant was not present.

Public Hearing

Pia Gerstle, 920 Jasmine Circle, spoke in opposition to the demolition permit. She expressed concern over the proposed demolition and wishes to see the buildings saved and to potentially landmarked. She stated that stone structures could be rehabilitated and that they are important to the character of Boulder.

Abby Daniels, 1123 Spruce St., Executive Director of Historic Boulder, Inc., spoke in support of the staff recommendation and stated that the property is worthy of landmarking. She continued to state that all of these types of buildings are disappearing and this gives a unique opportunity to explore creative alternatives to demolition.

Board discussion

F. Sheets stated that all of the buildings are contributing and that all are worthy of the Board's investigating. She will support staff recommendation.

M. Schreiner stated that he supports staff recommendation and that it meets the criteria for landmarking. The buildings relate to the character of the neighborhood. While he expressed concern for the condition of the buildings, this could be explored during the stay.

K. Remley supports staff recommendation and stated that it meets several of the criteria and supports a stay of demolition. . She stated that these are unique buildings and that alternatives to demolition should be explored as well as alternative uses. The criteria states that the board may not consider the condition of the building due to owner neglect, which may be the case for some of these buildings.

Motion

On a motion by **M. Schreiner**, seconded by **K. Remley**, the Landmarks Board issued (3-0) a stay of demolition for the building located at 1035 Kalmia Ave., for a period not to exceed 180 days from the day the permit application was accepted by the city manager, in order to explore alternatives to the demolition of the building, and adopted the following as findings of the board:

A stay of demolition for the house at 1035 Kalmia Ave. is appropriate based on the criteria set forth in section 9-11-23(f) B.R.C, in that the identified property:

1. May be eligible for individual landmark designation based upon its historic, architectural, and environmental significance;
2. Contributes to the character of the neighborhood as an intact representative of the area's past;
3. Has not been demonstrated to be impractical or economically unfeasible to rehabilitate and add onto the existing house.

6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

A. Update Memo

- a. 747 12th St. - City Council has asked the Landmarks Board to agree to a tolling agreement to waive the time requirements in the landmark designation of 747 12th St.
 - i. On a motion by **K. Remley**, seconded by **F. Sheets**, the Landmarks Board (3-0) approved the tolling agreement.
 - ii. The Landmarks Board rebutted points regarding 747 12th St. and would like the City Council to consider OAU's and alternative land use. The board decided to address City Council at the April 14 meeting.
- b. Board members all agree on the three nominations for Preservation Awards that will be presented in May 2015.

B. Subcommittee Update

- 1) Demolition Review Process
- 2) Design Guidelines and Code Revisions
- 3) Outreach and Engagement
- 4) Potential Resources

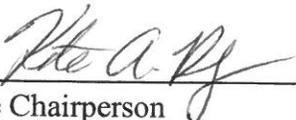
7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The meeting adjourned at 8:41 p.m.

Approved on May 6, 2015

Respectfully submitted,



Vice Chairperson

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

Name of Board / Commission: Water Resources Advisory Board	
Date of Meeting: 16 March 2015	
Contact Information of Person Preparing Minutes: Andrea Flanagan 303.413.7372	
Board Members Present: Vicki Scharnhorst, Mark Squillace, Dan Johnson, Lesley Smith, Ed Clancy Board Members Absent: None	
Staff Present: Jeff Arthur, Director of Public Works for Utilities Bob Harberg, Principal Engineer-Utilities Annie Nobel, Flood and Greenways Engineering Program Coordinator Bret Linenfelser, Water Quality and Environmental Services Manager Kurt Bauer, Engineering Project Manager Kristin Dean, Utilities Planner Christin Shepherd, Civil Engineer Andrea Flanagan, Board Secretary	
Cooperating Agencies Present: Craig Jacobson, Consultant with ICON Engineering, Inc. Brian Ledoux, Consultant with ICON Engineering, Inc. Shea Thomas, Urban Drainage and Flood Control District	
Meeting Type: Regular	
Agenda Item 1 – Call to Order	[7:00 p.m.]
Agenda Item 2 – Approval of the 23 February 2015 Meeting Minutes: Motion to approve minutes as amended from February 23 as presented. Moved by: Squillace; Seconded by: Johnson Vote: 5:0	[7:01 p.m.]
Agenda Item 3 – Public Participation and Comment	[7:05 p.m.]
Public Comment:	
Carl Norby Resident of Frasier Meadows. Provided a letter to board secretary that he read aloud to the Board. August 28 th , 2014 the supervisor for C&L to install the last section of sewer line for Frasier Meadows lining project. Carl showed the inspector the ground water level line, which is 22 inches below the basement floor in his home. The inspector said he would replace the line but not cure it until he was certain that the basement would not flood. The pump was turned on and working every few minutes in order to maintain the 17 inch water level The ground water level has been stable for the past 40 years. He has experienced minimal moisture in the basement area since flood event. It was recently discovered that groundwater is leaking into the base of a nearby manhole due to the increased groundwater levels, causing the water level to rise another five inches. One week ago neighbor’s basement flooded, water entered between wall and floor. Seems logical for something like this to happen again. He requests that a Hydrologist evaluate the groundwater in the Frasier Meadows area.	
Fleet White Basement flooded a week ago. No question in his mind based on behavior of sump pump that ground water has risen significantly since last summer. Likely cause is lining of neighborhood’s sanitary sewer system. He attributes rise in groundwater to this. With recent rapid melt of heavy snow, they had dramatic rise in groundwater, as clearly indicated by operation of sump pump. His understanding is that there was no analysis or study on what the hydrological impact would be in the area with the lining of the sanitary sewer. Suggests that the city look into this issue further. Lining the sewer to the homes will likely will have further impact on level of ground water. Requests city give consideration to this impact. He has a deep basement and it’s likely they will experience flooding again in the future.	
Rick Mahan Representing South Boulder Creek Action Group Would like to thank board members who have seen the group’s presentation. Primary goal is to prevent issues to the health and public safety to residents with regard to US36. Extends invitation to board members to view group’s presentation that discusses the overtopping in 2013 at US36 and addresses health and public safety concerns. The presentation’s primary goal is to prevent this from happening again in the	

future.

Agenda Item 4 –

[7:12 p.m.]

Public Hearing and Consideration of a Recommendation to City Council regarding the Upper Goose Creek and Twomile Canyon Creek Floodplain Mapping Update

Kurt Bauer and Utilities staff presented the item to the board.

Executive Summary from the Packet Materials:

The purpose of this memorandum is to provide a brief summary of the history and revised results of the Upper Goose Creek and Twomile Canyon Creek floodplain remapping study and request a motion from the WRAB to recommend to City Council to adopt the mapping. The study includes the area located west of Folsom Street to the city limits as shown by the blue areas in the figure below:



The Upper Goose Creek and Twomile Canyon Creek floodplain mapping update began in 2011. The initial draft revised mapping was presented to WRAB in May 2013. Based on a WRAB recommendation, the mapping was remodeled using the new city LiDAR topographic mapping information and presented to WRAB on November 17, 2014. The maps have been further revisited and revised to address issues raised by the public and the WRAB including changes to the High Hazard Zone, Conveyance Zone and limited changes to the 100-year floodplain. As a result of these changes, no structures would be located in the revised draft High Hazard Zone, 13 structures would no longer be added to the Conveyance Zone and 15 structures would no longer be added to the 100-year floodplain. The proposed Upper Goose Creek and Twomile Canyon Creek floodplain mapping would result in a net:

- Decrease of 130 structures identified in the 100-year floodplain;
- Decrease of 97 structures identified in the Conveyance Zone and;
- Decrease of 64 structures identified in the High Hazard Zone.

The WRAB review of the floodplain mapping update does not require board members to verify the analysis and calculations, but accepts the overall mapping study process and that results are reasonable and acceptable. The WRAB is being asked to make a recommendation to City Council on whether to adopt the mapping update and forward it for consideration by FEMA.

WRAB Discussion Included:

- Commented that staff has listened well to residents' questions, which is appreciated.
- Requested further clarification on "roughness coefficient" and how they were developed.
- Questioned if GIS and standard approaches were used to make selections without doing onsite mapping. Asked whether or not fences are mapped.
- Commented that surprised that the models were one-dimensional and asked if that is the recommended approach to mapping for regulatory purposes.
- Curious about changes with Crestview and Foothills Elementary School and what that means for the school with regard to expansion.
- Reminded audience that the 2013 flood event was a very different scenario then what is being mapped in the current study.
- Questioned related to policy updates that would include the new technology and modeling and what that would look like.
- Questioned whether the model includes the berm in front of Foothills and Crestview Elementary

Schools.

- Questioned whether additional input was received from other firms and incorporated into the study.
- Requested clarification on changes to the high hazard zone with regard to Blue Bell and Gregory Canyon models and if they were in fact 1-D models? Questioned if it is likely for a 2-D model to be requested as well.
- Commends staff and feels that the continuous discussions about Twomile Creek mapping has been productive and staff has been very responsive throughout this process. These discussions have put us in a much better place to make better informed decisions regarding these important changes.
- Questioned how the city should proceed with providing information about flood risk, even if they are no longer in the floodplain
- Question about Urban Drainage and if other agencies have experience using the 1-D vs. 2-D modeling. Recommends reporting this feedback to FEMA on other agencies' responses.
- Question about suggestion by audience member about adding sidewalks on Juniper, Kalmia and Linden Ave. and about the possibility of using streets as conveyances? Requests also doing this on Evergreen, if so.
- Stated that there are multiple ways that residents can collaborate with staff regarding the process of tweaking individual site parcels.

Public Comment:

Len Berg

Has been following procedures over the past 2 years. Property is not in new flood zone. Impact financially is significant. Has spent \$17,400 on flood insurance over the past 14 years. Considering the scientific research that has been conducted, he implores the Board to get this approved and on to Council so he can move on. He is interested in updating his 16-year old house, but he is experiencing restrictions as to what he can do to update it due to this designation.

Jonathan Hager

Is part of the 275 residents who are being removed from the floodplain mapping. Excited because there is light at the end of the tunnel. His employer uses LiDAR mapping on transmission lines, which is incredibly accurate and cutting edge. He feels intuitively that his home is not in the floodplain and feels it would be unfair to pay flood insurance, so he appreciates Board taking burden off of these 275 residents.

Kirk R. Vincent, PhD

Has experience as hazard geologist and hydrologist. States that the Two-mile Creek area, west of Broadway, between Linden and past Juniper is unique area in town and most resembles an un-urbanized state because it does not have any sidewalks or culverts. Uncertainty in knowing where floodwaters will actually go. The results could most resemble terrible flood of 1909, as well as in 2013. Floodwaters took up a much larger area than what was depicted on the map. Objection is that the section of the acting channel between Kalmia and Broadway is being excluded from the floodplain. Feels that this would be a nationally unprecedented policy change. Encourages the city to designate Linden, Kalmia and Juniper to be the flood overflow channel and shunt the water to Broadway, rather than letting floodwater flow through people's back yards and homes.

Peter Mayer

Spoke to Board in November. Home was touched by water in 2013 and then removed from high hazard zone in the reanalysis. Feels this is a much more fair assessment and is very grateful for the revision. Feels that there is still a discrepancy with what he observed in 2013 from what was mapped. Did research on 1-dimensional modeling verses 2-dimensional and urges city to utilize both models. Does not feel there are fatal flaws and does not feel this is ever going to be a perfect process.

John Gerstle

Has had a variety interactions with staff with regard to this process. House remained completely dry during the flood. Was interested to find out how their home would be classified in the revised modeling. Staff visited in February and maps were provided showing the status of his house in relationship to the floodplain and conveyance zone. He was pleased with the findings, but then in March, they were told that the status

had changed and that his home was now in the floodplain again. Not enough time to act, as he was out of town. Feels it would be premature to adopt these plans now without the ability for those affected to have more interaction with staff about these revisions. Requests the option be considered for these residents to have more time.

Steve Silberman

Feels the revised maps are fantastic and his home is now being removed from high hazard and conveyance zones. Residents have not had a chance to talk about the event with each other. Debris blocked easement during the flood. Residents dug channel so water could drain, which it did once cleared. Water then drained within hours. Concerned that conveyance drawn for Alpine is too broad on these maps. It is in the city's best interest to look at the grading in this area and take this into consideration.

Tim Martin

Lives behind Columbine Elementary. Received letters in 2013 that their home fell in flood zone. Did not observe flooding in the areas of 19th, Floral and 20th during the 2013 event. Based on his experience, his home is not in the flood zone. Thanks the Board for volunteering for this effort. It is important that people know accurately whether or not they fall in the flood zone. Read comments on previous minutes and questions whether or not those comments have been addressed. The majority of the people affected want to move forward. Concerned that FEMA may take up to 3 years to approve this data. Recommends moving it forward quickly. Heart goes out to residents whose homes are now in the flood zone.

Luciano Mazzaro

Was in the 100-year floodplain. Thanks everyone for being honest, as it is very important to say where we were before and where we are now. As an engineer, he knows that this simulation is just a model that will never be perfect. Has no hesitation that a 2-D model would be better than a 1-dimensional model. States that residents should feel good that this process has happened. This is about safety and he appreciates all that the Board has done throughout this process.

Patrick Cameron

Thanks Board and Kurt for their efforts. Deck was originally mapped in high hazard zone. Resident feedback was very helpful to help mitigate issues on property. The recent decision to remove the deck from the high hazard zone makes sense and is impactful.

Julia Hicks

Huge amount of repairs were done to home due to flood damage. Experienced massive river in backyard and in street, which is partially due to high grade of backyard. Home is now out of flood zone, which makes them happy they don't have to pay flood insurance, but may be something to consider that their home actually did flood during this event.

Jane Monson

Home was in high hazard zone in the 2014 zoning map. Received notice right before Christmas that they were removed from the high hazard zone as a result of models not correlating. Would like to remind the Board that Wright Water did a study after the flood event and even though this was close-to a 100-year flood, their home experienced nothing close to what would be a high hazard experience on their property. Very happy to hear that high hazard was taken off property and urges Board to approve this motion.

Motion by: Johnson; **Seconded:** Squillace

Vote: 5:0, Motion Passes

Motion to recommend that City Council adopt the Upper Goose Creek and Twomile Canyon Creek floodplain mapping update.

Agenda Item 6 – Matters from Staff:

[8:48 p.m.]

- March 17, Council will hold elections for newly appointed WRAB member.
- Bob Harberg has agreed to take on temporary position with Boulder's Energy Future project.
- Douglas Sullivan will become Acting Principal Engineer for Water, Wastewater, and Stormwater and Annie Noble will become Acting Principal Engineer for Flood and Greenways, splitting Bob's previous duties.
- Discussion on future scheduled WRAB meetings and upcoming availability.

<ul style="list-style-type: none"> Eric Ameigh approached board about public engagement process and requested feedback from Board about memos that were sent in February. Two open house events will be scheduled, with the intention of gathering feedback from the public about their utility bills, as well as other general feedback. An additional opportunity for obtaining feedback online for residents who cannot attend open houses will be provided. 	
<p>Agenda Item 7 – Future Schedule [9:18 p.m.]</p> <ul style="list-style-type: none"> Due to a high volume of information items projected for the next couple of months, some items will be presented only as memos and questions will be discussed under matters. <p>April:</p> <ul style="list-style-type: none"> Annual drought status and water supply update will be presented in the form of a memo Presentation on Capital Improvements Overview Board recommendation on Gregory Creek Mitigation Bear Creek Mitigation will be presented in the form of a memo April will be first meeting for new board member Board will be contacted to determine if a quorum will be met for forthcoming spring and summer meetings, otherwise may need to reschedule meetings. 	
<p>Adjournment [9:22 p.m.]</p> <p>There being no further business to come before the Board at this time, by motion regularly adopted, the meeting was adjourned at 9:22 p.m.</p> <p>Motion to adjourn by: Squillace; Seconded by: Smith</p> <p>Motion Passes 5:0</p>	
<p>Date, Time, and Location of Next Meeting:</p> <p>The next WRAB meeting will be Monday, 27 April 2015 at 7:00 p.m., at the City's Municipal Services Center, 5050 Pearl St., Boulder, CO 80301</p>	

APPROVED BY:

ATTESTED BY:

Board Chair

Board Secretary

Date

Date

An audio recording of the full meeting for which these minutes are a summary, is available on the Water Resources Advisory Board web page.

<https://bouldercolorado.gov/boards-commissions/water-resources-advisory-board-next-meeting-agenda-and-packet>